

CHAPTER XXXIV DEVELOPMENT REGULATIONS^{*}

Article I Title, Purpose and Definitions

34-1 TITLE.

This chapter may be cited and referred to as the "Matawan Borough Development Regulations." (Ord. No. 98-21 § 304.1)

34-2 PURPOSE.

Pursuant to N.J.S.A. 40:55D-1 et seq., it is the intent and purpose of this chapter to:

- a. Encourage municipal action to guide the appropriate use and development of lands in the Borough in a manner which will promote the public health, safety, morals and general welfare.
- b. Secure safety from fire, flood, panic and other natural and manmade disasters.
- c. Provide adequate light, air and open space.
- d. Ensure that the development of Matawan Borough does not conflict with the development and general welfare of its neighboring municipalities, the County of Monmouth and the State of New Jersey as a whole.
- e. Promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment.
- f. Encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies.

- g. Provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all citizens.
 - h. Encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight.
 - i. Promote a desirable visual environment through creative development techniques and good civic design and arrangements.
 - j. Promote the conservation of open space and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land.
 - k. Encourage planned development which incorporates the best features of design and relates the type, design and layout of residential, commercial and recreational development to the particular site.
 - l. Encourage senior citizen community housing construction.
 - m. Encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land.
- (Ord. No. 98-21 § 304.2)

34-3 DEFINITIONS.

Word usage. The term "shall" indicates a mandatory requirement, and the term "may" indicates a permissive action.

For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them in this section unless the context otherwise requires:

Accessory use or structure shall mean use or structure subordinate of the principal use of a building or structure on the same zone lot and serving a purpose customarily incidental to the use of the principal building. Where an accessory building is attached in a substantial manner by a wall or roof to a principal building or structure, it shall be considered a part of the principal structure or roof.

Administrative Officer shall mean the designated Borough Official or as defined by State Statute.

Adult entertainment uses shall mean and include:

- a. **Adult bookstore** shall mean an establishment having as a substantial or significant portion of its stock in trade books, magazines, other periodicals or any tangible items and objects, not necessarily of a reading or photographic nature, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to, specified sexual activities or specified anatomical areas, as defined below, or an establishment with a segment or section devoted to the sale or display of such material.
- b. **Adult motion picture theater** shall mean an enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined below, for observation by patrons therein.
- c. **Adult mini motion picture theater** shall mean an enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined below, for observation by patrons therein.
- d. **Specified sexual activities** shall mean human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; and fondling or other erotic touching of human genitals, pubic region, buttock or female breasts.
- e. **Specified anatomical areas** shall mean less than completely and opaquely covered human genitals, pubic region, buttock or female breast, below a point immediately above the top of the areola, and human male genitals in a discernibly phallic state, even if completely and opaquely covered.
- f. **Cabaret** shall mean an establishment which features go-go dancers, exotic dancers, strippers or similar entertainers.

Alley shall mean a right-of-way other than a street, road, crosswalk or easement designated for access or special accommodation of the property it reaches.

Alteration, structural shall mean and include:

- a. Any change in the supporting members of a building, such as bearing walls, column, beams or girders, except such change as may be required for safety, or any substantial change in the roof or in the exterior walls, not including, however, changes in doors or windows or alterations which affect primarily the appearance and not the life of the structure.
- b. Any addition to a building, any change in use from that of one zoning classification to another or moving a building from one site, location or position to another.

Applicant shall mean a developer submitting an application for development.

Application for Development shall mean the application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to this chapter.

Approving authority shall mean the Unified Planning Board of the Borough, unless a different agency is designated by this chapter when acting pursuant to the authority of this chapter.

Automotive service station or gasoline station shall mean a place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public, and deliveries are made directly into motor vehicles, including sale of accessories, greasing, oiling and light motor service on the premises.

Basement shall mean and include:

- a. With reference to occupancy or use and to regulate the height and bulk of buildings, the portion of a building in which the ceiling averages less than four (4) feet above the finished grade where such grade meets the outside walls of the building, and which shall not be considered a story and habitable.
- b. If the ceiling height averages more than four (4) feet above such grade and has a clear height of seven (7) feet or more, such space shall be considered a story and habitable.

Buffer strip or screen shall mean a combination of lawn and a landscape screen or densely planted (or having equivalent natural growth) evergreen shrubs or trees at least four (4) feet high at the time of planting of a type that will form a year-round dense screen at least six (6) feet high, which shall be maintained in good condition at all times. Where required in the district regulations, a screen shall be installed along or within the lines of a lot as a protection to adjoining or nearby properties.

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

Building coverage shall mean that area of a lot which is occupied by a building or structure, but not including uncovered walkways, steps, patios or a parking lot or area or any similar improvements thereto.

Building height shall mean the vertical distance measured from the mean elevation of the finished grade along the front of the building to the highest point of the roof for flat roofs, to the mean height level (between the eaves and ridge) for gable and hipped roofs and to the deck line for mansard roofs.

Capital improvement shall mean a governmental acquisition of real property or a major construction project.

Carport shall mean a roofed structure providing space for the parking of motor vehicles and enclosed on not more than three (3) sides.

Cellar shall mean a story partly underground and having more than one-half (1/2) of its clear height below the mean elevation of the finished lot grade at the front building line.

Channel shall mean a watercourse with a definite bed and banks which confine and conduct continuously or intermittently flowing water.

Church, cathedral or other place of worship shall mean one (1) or more of the following: church, manse, house, temple, synagogue, rectory, convent, parish or similar building incidental to the particular use; school for religious education, convents, teachers, communicants and domestic or maintenance employees; but not including business offices, except administrative offices incidental to the operation of the particular use, rescue missions or the occasional use for religious purposes or properties not regularly so used.

Circulation shall mean systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits and the handling of people and goods by such means as terminals, stations, warehouses and other storage buildings or transshipment points.

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

Complete application shall mean the form prescribed by the Borough which is designated "Application for Development," completely filled out and signed by the applicant, accompanied by all required documents and information in form and content as prescribed by the applicable sections of this chapter with sufficient copies of each to comply with this chapter and accompanied by payment of the requisite fees.

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

Conventional shall mean development other than planned development.

Court shall mean any open, unoccupied area which is bounded by three (3) or more attached building walls.

Critical area shall mean any area which is environmentally sensitive, or which if disturbed during construction would adversely affect the environment, including but not limited to stream corridors, flood hazard areas, slopes greater than twenty (20%) percent, highly acidic or highly erodible soils, area of high water table and mature stands of native vegetation.

Cul-de-sac or dead-end street shall mean a street or portion of a street in which accessibility is limited to only one (1) ingress and egress.

Days shall mean calendar days.

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

Development shall mean the division of a parcel of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to this chapter.

Development regulation shall mean a Zoning Ordinance, Subdivision Ordinance, Site Plan Ordinance, Official Map Ordinance or other municipal regulation of the use and development of land, or amendment thereto, adopted and filed pursuant to this chapter.

Disturbance shall mean any activity involving the clearing, excavating, storing, grading, filling or transporting of soil or any other activity which causes soil to be exposed to the danger of erosion.

Diversion shall mean a channel, with or without a supporting ridge on the lower side, constructed across or at the bottom of a slope.

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

Drive-in restaurant shall mean a building where food and/or beverages are sold in a form ready for consumption and where a portion of the consumption of same takes place or is designed to take place outside of the confines of the building but on the building lot.

Dwelling shall mean a building or portion thereof designed for and used exclusively for residential occupancy, including one-family, two-family and multiple-family dwellings, and not including apartment hotels, hospital hotels, boardinghouses, multiple homes, residential clubs, rooming houses, tourist courts, trailers and the like.

Dwelling, one-family shall mean a detached building containing only one (1) dwelling unit for exclusive use by one (1) family.

Dwelling Unit shall mean one (1) or more living or sleeping rooms with cooking and sanitary facilities for one (1) person or one (1) family. The dwelling unit shall be self-contained and shall not require passing through another dwelling unit or other indirect route(s) to get to any other portion of the dwelling unit, nor shall there be shared facilities with another family.

Environmental Commission shall mean a municipal advisory body created pursuant to N.J.S.A. 40:56A-1 et seq.

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

Family shall mean one (1) or more persons occupying a dwelling unit who prove by clear and convincing evidence that the dwelling unit is occupied as a single nonprofit housekeeping unit.

Fence or Wall shall mean a constructed barrier of wood, masonry, stone, wire, metal or any other nonvegetative material, or combination of such materials, erected for the enclosure or screening of yard area or other areas on a lot.

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

Flood damage potential shall mean the susceptibility of a specific land use at a particular location to damage by flooding and the potential of the specific land use to increase off-site flooding or flood-related damages.

Flood-fringe area shall mean that portion of the flood hazard area outside of the floodway.

Flood hazard area shall mean the floodplain or the total area inundated during the flood of record, or the area delineated by the Department of Environmental Protection, by Housing and Urban Development, or by analysis of soil condition characteristics of floodplains, whichever is greater.

Flood hazard design elevation shall mean the highest elevation, expressed in feet above sea level, of the flood of record or as determined by the criteria set forth in "flood hazard area" above.

Flood Map shall mean a map prepared by the Department of Environmental Protection showing the channel, floodway and fringe area, or, in the event such map has not been prepared, maps showing the flood hazard area.

Flood of record shall mean the greatest flood in a given area for which accurate records are available or the flood hazard area, whichever is greater.

Floodplain shall mean same as the "flood hazard area."

Floodway shall mean the portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream. The floodway shall be delineated by the Department of Environmental Protection.

Floor area, first shall mean measured by using the outside dimensions of a residential portion of a building, excluding the area of an attached garage. For a split-level or a tri-level dwelling, the area shall be considered to be the sum of the areas of two (2) largest adjoining levels.

Floor area, gross shall mean the sum of the gross horizontal areas of the several floors of the building or buildings measured from the exterior facing of exterior walls, or from the center line of walls separating two (2) buildings. In addition, for retail and commercial uses, gross floor area is the area used or intended to be used for service to the public as customers, patrons, clients or tenants, including areas occupied by fixtures and equipment, and used for the display or sale of merchandise, but not including storage area.

Garage, private shall mean a detached accessory building or portion of a main building for the parking or temporary storage of automobiles of occupants of the main building, and wherein not more than one (1) space is rented to persons not residents of the lot, or not more than one (1) commercial vehicle not to exceed one (1) ton rated capacity or four (4) wheels may be parked.

Garage, public shall mean a building or part thereof, other than a private garage, used for the storage, care or repair of motor vehicles for profit, or where any such vehicles are kept for hire.

Garden apartment shall mean a structure housing more than two (2) dwelling units and in which each unit shares certain service facilities, including but not all inclusive of utility services, parking areas, walkways, open areas, laundry and the like.

Gazebo shall mean a pavilion or belvedere, a structure, such as a summerhouse or an open-roofed gallery.

General office shall mean a room or group of rooms used for conducting the affairs of a business, service, industry or government.

Governing Body shall mean the Mayor and Council of the Borough of Matawan.

Grade, established shall mean the elevation of the center line of streets as officially established by the Township, County or State authorities.

Grade, finished shall mean the completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs related thereto.

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

Home occupation shall mean a physician, surgeon, dentist, lawyer, bookkeeper, accountant, auditor, architect, engineer, seamstress, artist, tutor, broker or member of a design profession. The sale of goods or merchandise not produced on the premises shall not be considered a home occupation.

Hotel, motor hotel or motel shall mean a building designed for occupancy as a temporary residence of one (1) or more persons who are lodged with or without meals.

Interested party shall mean and include:

a. In a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey.

b. In the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the municipality, whose right to use, acquire or enjoy property is or may be affected by any action taken under this chapter or whose rights to use, acquire or enjoy property under this chapter or under any other law of this State or of the United States have been denied, violated or infringed by an action or a failure to act under this chapter.

Junkyard shall mean any area or structure used or intended to be used for the conducting and operating of the business of selling, buying, storing or trading in used or discarded metal, glass, paper, cordage or any used or disabled fixtures, vehicles or equipment of any kind.

Land shall mean and include improvements and fixtures on, above or below the surface.

Loading space shall mean an off-street space or berth abutting upon a street or other appropriate means of access intended for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

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

Lot area shall mean the total area within the lot lines of a lot, expressed in terms of square feet or acres. Any portion of a lot in a public right-of-way, existing or proposed, shall not be included in calculating lot area.

Lot, corner shall mean a parcel of land at the junction of and fronting on two (2) or more intersecting streets.

Lot coverage shall mean the amount of a lot, stated in terms of percentage, that is covered by all buildings, structures, impervious coverage located thereon but shall not be deemed to include fences, walls or hedges used as fences, ponds, or above ground pools.

Lot depth shall mean the average distance between the front and rear lot lines measured in the mean direction of the side lot lines.

Lot, interior shall mean a lot other than a corner lot.

Lot line, front shall mean in the case of an interior lot, a line separating the lot from the street, and in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street.

Lot line, rear shall mean a lot line which is opposite and most distant from the front lot line, and in the case of an irregular shaped lot, the line which is most nearly parallel to and at the greatest average distance from the street line.

Lot line, side shall mean any lot boundary line not a front lot line or a rear lot line.

Lot, revised corner shall mean a corner lot, the rear of which abuts upon the side of another lot.

Lot, width shall mean the distance between the side lot lines, measured at right angles to the lot depth at a point which constitutes the rear line of the required front yard space.

Maintenance guaranty shall mean any security which may be accepted by a municipality for the maintenance of any improvements required by this chapter, including but not limited to surety bonds, letters of credit under the circumstances specified in N.J.S.A. 40:55D-53.3 and cash.

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

Master Plan shall mean a composite of one (1) or more written or graphic proposals for the development of the Borough adopted pursuant to this chapter.

Mayor shall mean the chief executive of Matawan Borough.

Minor subdivision shall mean a subdivision of land that does not result in more than two (2) lots or involve a planned development, any new street or the extension of any off-tract improvement.

Mixed use building shall mean a building within a mixed use development containing both residential and nonresidential uses.

Mixed use development shall mean a tract of land developed with a variety of complementary and integrated uses in a compact urban form.

Mulching shall mean the application of plant or other suitable materials on the soil surface to conserve moisture, hold soil in place and aid in establishing plant cover.

Municipal agency shall mean the Unified Planning Board, Governing Body or any agency created by or responsible to the Borough when acting pursuant to this chapter.

Municipality shall mean the Borough of Matawan.

Nonconforming lot shall mean a lot the area, dimensions and location of which were lawful prior to the adoption, revision or amendment of this chapter, but that fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

Nonconforming structure shall mean a structure the size, dimensions and location of which were lawful prior to the adoption, revision or amendment of this chapter, but that fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

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

Nuisance shall mean an offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion or disturbance of another's rights, including the actual or potential emanation of any physical characteristics or activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as but not limited to:

- a. Noise;
- b. Dust;
- c. Smoke;
- d. Fumes;
- e. Odor;
- f. Glare;
- g. Flashes;
- h. Vibrations;
- i. Shock waves;
- j. Heat;
- k. Electronic or atomic radiation;
- l. Objectionable effluent;
- m. Noise of congregation of people, especially at night;
- n. Passenger traffic;
- o. Transportation of things by truck, rail or other means;
- p. Invasion of nonabutting street frontage by parking;
- q. The obscuring or marking of adjacent or nearby property by projecting signs, marquees or canopies;
- r. Any adverse effect on value or desirability of nearby property caused by such matters as incongruous appearance, exposed storage of inoperable automobiles, junk, materials and neglect.

Editor's Note: See also Chapter III, Police Regulations, Section 3-5 Abandoned Motor Vehicles.

Nursery school shall mean a school designed to provide daytime care or instruction for two (2) or more children from two (2) to six (6) years of age, inclusive, and operated on a regular basis.

Nursing home shall mean a building providing shelter and/or supplemental health care for the elderly or infirm and meeting the standards of the New Jersey State Department of Institutions and Agencies to operate as a nursing home.

Obstruction shall mean and include but not be limited to any structure, fill, excavation, channel modification, rock, gravel, refuse or matter in, along, across or projecting into any channel, watercourse or flood area which may impede, retard or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water or that is placed where the flow of water might carry the same downstream to pose a danger to life or property.

Official County Map shall mean the map, with changes and additions therein, adopted and established, from time to time, by resolution of the Board of Chosen Freeholders of the County, pursuant to N.J.S.A. 40:27-5.

Official Map shall mean the Official Map, with changes and additions therein, adopted pursuant to this chapter.

Off-Site shall mean located outside the lot lines of the lot in question but within the property (of which the lot is a part) that is the subject of a development application or within a contiguous portion of a street or right-of-way.

Off-Tract shall mean located neither on the property that is in the subject of a development application nor on a contiguous portion of a street or right-of-way.

On-Site shall mean located on the lot in question.

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

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

Owner shall mean an individual, firm, association, syndicate, copartnership or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to develop the same under this chapter.

Parking area shall mean an area other than a street, used for the parking of motor vehicles.

Parking, shared shall mean the joint utilization of a parking area for more than one use in which the spaces are used at different times by different uses resulting in a lower peak demand than would otherwise result from a cumulative addition of the individual parking requirements of all permitted uses on site.

Parking stall shall mean a space in a garage or parking area reserved for the parking of only one (1) automobile. This space is exclusive of driveways, ramps, columns, office and work area.

Performance guaranty shall mean any security which may be accepted by the Borough, including but not limited to surety bonds, letters of credit under the circumstances specified in N.J.S.A. 40:55D-53.5 and cash.

Permitted use shall mean any use which shall be allowed subject to the provisions of this chapter.

Planning Board shall mean the Unified Planning Board of the Borough of Matawan, which shall have the authority to exercise the powers of a Zoning Board.

Plat shall mean a map or maps of a subdivision or site plan.

Play house, fort or play platform shall mean a children's temporary structure.

- a. A play house, fort or play platform cannot be used for storage of any material.
- b. A play house, fort or play platform cannot be used for sleeping quarters.
- c. A play house, fort or play platform cannot be placed in the front yard.
- d. A play house, fort or play platform cannot be placed on the property where it would cause deprivation of a neighbor's privacy.

Preliminary approval shall mean the conferral of certain rights as to site plans and major subdivision prior to final approval and after specific elements of a development plan have been agreed upon by the Unified Planning Board and the applicant.

Preliminary floor plans and elevations shall mean architectural drawings prepared during early and introductory stages of the design of a project, illustrating in a schematic form its scope, scale and relationship to its site and immediate environs.

Principal building shall mean a building in which is conducted the main or principal use of the lot on which the building is situated.

Professional office shall mean the office of a recognized profession, including architects, artists, authors, dentists, doctors or physicians, landscape architects, lawyers, ministers, optometrists, professional engineers and such other professional occupations which may be so designated by the Unified Planning Board upon finding by such Board that such occupation is truly professional in character by virtue of the need of similar training, and especially as a condition for the practice thereof. The issuance of a State or local license for regulation of any gainful occupation need not be deemed indicative of professional standing.

Prohibited use shall mean any use which shall not be allowed under any circumstances.

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

Public Development Proposal shall mean a Master Plan, capital improvement program or other proposal for land development adopted by the appropriate public body, or any amendment thereto.

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

Public open space shall mean an open space area conveyed or otherwise dedicated to the Borough, a municipal agency, the regional Board of Education, a State or County agency or any other public body for recreational or conservational uses.

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

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

Residential density shall mean the number of dwelling units per gross acre of residential land area, including streets, easements and open space portions of a development.

Residential solarium shall mean a structure attached to a single-family residential structure for the purpose of occupancy as a sunroom or parlor principally enclosed in glass, plastic or other transparent design. The repair, replacement or renovation of any existing approved residential solarium shall not be subject to Planning Board or Zoning Board approval if the existing footprint of the structure is not changed or expanded as a result of the repair, replacement or renovation of the new solarium.

Resubdivision shall mean the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law or the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law. Not included are conveyances merely combining existing lots by deed or other instrument.

Screenhouse shall mean a temporary structure capable of being stored, a movable device, especially a framed construction designed to keep out insects, usually with a canvas roof.

Sediment shall mean solid material, both mineral and organic, that is in suspension, is being transported or has been removed from its site or origin by air, water or gravity as a product of erosion.

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

Sediment basin shall mean a barrier or dam built across a waterway or at other suitable locations to retain rock, sand, gravel or silt or other material.

Shed shall mean a storage building, either freestanding or attached to a larger structure, where supplies, household articles, lawn equipment or odds and ends may be stored. The maximum door(s) width may not exceed six (6) feet. The maximum size of the floor area will not exceed one hundred sixty (160) square feet. The maximum height will not exceed twelve (12) feet, or one hundred sixty-five (165) square feet, outside dimensions.

- a. Any structure larger than one hundred sixty-five (165) square feet outside dimension will be an accessory building.
- b. A shed can be installed in an R-100, R-75 or R-50 Zone.
- c. A shed may be installed no closer than one (1) foot from the rear or side lot line.
- d. Only one (1) shed will be permitted on a lot; a second shed on the same lot will be considered an accessory building and must meet all the requirements of an accessory building for that zone.
- e. A shed cannot be used as a sleeping quarters.
- f. A shed cannot be used for storage of contractor equipment.
- g. A shed cannot be placed in the front yard.
- h. A shed must meet all the requirements of front yard setbacks of an accessory building.
- i. No shed will have sanitary facilities.
- j. No business can be conducted from a shed.
- k. A building permit must be taken out to install a shed.

Shopping center shall mean a group of commercial establishments planned, constructed and managed as a unit with customer and employee off-street parking, truck loading and unloading facilities, landscaping, pedestrian walkways, utilities and sanitary facilities provided on the property. The integrated development, planned as an architectural unit, shall be related in location, size and type of shops to the trade area which the unit serves and may include such uses as retail stores and shops, personal services establishments, professional and business offices, banks, post offices, restaurants, theaters and auditoriums housed in an enclosed building or buildings.

Sign shall mean any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.

Sign advertising shall mean a sign which directs attention to a business, commodity, service or other facility conducted, sold or offered elsewhere than on the premises where the sign is located.

Sign, business shall mean a sign which directs attention to a business, commodity, service or other facility conducted, sold or offered upon the premises where such sign is located or to which it is affixed.

Sign, flashing shall mean a sign in which the artificial light is not maintained constant in intensity, color or frequency at all times when such sign is in use.

Sign, gross advertising area shall mean the entire space within a single continuous perimeter enclosing the extreme limits of a sign.

Site plan shall mean a development plan of one (1) or more lots on which is shown:

- a. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, floodplains, marshes and waterways.
- b. The 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 and screening devices.
- c. Any other information that may be reasonably required in order to make an informed determination pursuant to this chapter.

Soil shall mean all unconsolidated mineral and organic material of whatever origin that overlies bedrock.

Soil erosion and sedimentation control plan shall mean a plan developed in accordance with the broad principles contained in this chapter, based on the specific standards and specifications of the latest edition of Standards for Soil Erosion and Sediment Control in New Jersey, and designed to prevent soil erosion and sedimentation.

Special permit shall mean a permit directed to be issued pursuant to N.J.S.A. 40:55D-76 for a building or structure in the bed of a mapped street or public drainageway or flood control basin or public area, or for the erection of a building or structure on a lot that does not abut a street.

Standards of performance shall mean and include standards which are:

- a. Adopted by this chapter regulating noise levels, glare, earth-borne or sonic vibrations, heat, electronic or atomic radiation, noxious odors, toxic matters, explosive and inflammable matters, smoke and airborne particles, waste discharge, screening of unsightly objects or conditions and such similar matters as may be reasonably required by the Borough; or
- b. Required by applicable Federal or State laws or municipal ordinances.

Standby generator. A standby generator is a back-up electrical system that automatically supplies power in the event of a utility outage. After utility power returns, the standby generator transfers the electrical load back to the utility, shuts itself off, and returns to a standby mode and awaits the next outage.

- a. Minimum side yard setbacks for standby generators shall read as follows:

Generators must be enclosed by a sound attenuated weather proof box or cabinet and shall be no closer than three (3) feet to any lot line provided that all screening and noise-reduction requirements are met. Standby generators shall conform to the requirements of the current International Building Code (both commercial and residential edition) approved by the State of New Jersey.

- b. The above provisions or requirements shall pertain to all zones with the Borough of Matawan, and shall include but be not limited to, residential, commercial, general business, special business, as defined in the General Zoning Ordinance of the Borough.

Stormwater detention shall mean any storm drainage technique which retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells or any combination thereof.

Story shall mean that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

Story, half shall mean a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four (4) feet above the floor of such story.

Stream Encroachment Permit shall mean a permit issued by the New Jersey Department of Environmental Protection under the provisions of N.J.S.A. 58:16A-55.

Street shall mean any street, avenue, boulevard, road, parkway, viaduct, drive or other way:

- a. Which is an existing State, County or municipal roadway; or
- b. Which is shown upon a plat heretofore approved pursuant to law; or
- c. Which is approved by official action as provided by this chapter; or
- d. Which is shown on a plat duly filed and recorded in the Office of the County Recording Officer prior to the appointment of a Unified Planning Board and the granting to such Board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulder, gutters, curbs, sidewalks, parking areas and other areas within the street lines. For purposes of this chapter, streets are hereby classified as follows:
 1. Controlled access highways are those that are used by heavy-duty traffic and which permit no access from abutting property.
 2. Major thoroughfares are those which are used primarily for heavy and through traffic.
 3. Collector streets are those which carry traffic from minor streets to the major thoroughfares, including the principal entrance streets of a residential development and streets for circulation within such a development.
 4. Minor streets are those which are used primarily for access to the abutting properties.
 5. Marginal service streets are those which are parallel or adjacent to controlled access highways or major thoroughfares and which provide access to abutting properties and protection from through traffic.

Street line shall mean the line which separates the publicly-owned or controlled street right-of-way from the private property which abuts upon the street as distinct from a sidewalk line, curblin or edge-of pavement line.

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

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

- a. Divisions of land found by the Unified 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.
- b. Divisions of property upon court order, including but not limited to judgments of foreclosure.
- c. Divisions of property by testamentary or intestate provisions.
- d. Consolidation of existing lots by deed or other recorded instrument.
- e. The conveyance of one (1) or more adjoining lots, tracts or parcels of land owned by the same person or persons and all of which are found and certified by the Administrative Officer to conform to the requirements of this chapter and are shown and designated as separate lots, tracts or parcels on the Tax Map of the Borough. The term "subdivision" shall also include the term "resubdivision."

Subdivision Committee shall mean a committee of at least three (3) Unified Planning Board members appointed by the Chairman of the Board for the purpose of reviewing subdivisions in accordance with the provisions of this chapter and such duties relating to land subdivision which may be conferred on this Committee by the Board.

Use shall mean the specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

Variance shall mean permission to depart from the literal requirements of this chapter.

Yard shall mean an open space which lies between the principal or accessory building or buildings and the nearest lot line, unoccupied and unobstructed from the ground upward except as herein permitted.

Yard, front shall mean an open space extending the full width of the lot, measured from and at right angles to the front lot line, unoccupied and unobstructed from the ground upward.

Yard, rear shall mean a yard extending across the full width of the lot measured from and at right angles to the rear lot line, unoccupied and unobstructed from the ground upward except as may be specified in this chapter.

Yard, side shall mean an open, unoccupied space measured from and at right angles to the side lot line of the lot and extending from the minimum front yard to the minimum rear yard, except as may be specified elsewhere in this chapter.

Zoning Official shall mean a qualified person appointed by the municipal appointing authority or the Commissioner pursuant to N.J.S.A. 40:55D-1 et seq. and the regulations to enforce and administer the regulations within the jurisdiction of the enforcing agency.

(Ord. No. 98-21 § 304.4; Ord. No. 09-04 § 1; Ord. No. 10-14; Ord. No. 12-15 § 4; Ord. No. 13-09)

Article II Enforcement and Administration

Editor's Note: The Borough Construction Official has been designated as the Borough Zoning Official.

34-4 ENFORCEMENT.

It shall be the duty of the Zoning Official to administer and enforce the provisions of this chapter. (Ord. No. 98-21 § 304.4)

34-5 DUTIES OF ZONING OFFICIAL.

a. It shall be the duty of the Zoning Official to receive and maintain a record of all applications for permits and a record of all permits issued with notation of all plans submitted, and the same shall form a part of the records of his office and shall be available for the use of the Borough Council and other Borough officials. The Zoning Official shall not issue a permit for the construction of any building or for the use of any property unless such building or use conforms to the provisions of this chapter and all other ordinances of the Borough; provided, however, that nothing herein contained shall require any change in plans, construction or designated use of a building for which a building 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 shall have 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 date of this chapter.

b. The Zoning Official shall prepare a monthly report for the Borough Council, summarizing for the period since his last previous report all zoning permits issued and certificates countersigned by him and all complaints of violations and the action taken by him consequent thereon. A copy of each such report shall be filed with the Borough Tax Assessor and Unified Planning Board at the same time it is filed with the Borough Council.

c. Should the Zoning Official be in doubt as to the meaning or intent of any provision of this chapter or as to the location of a zone boundary line on the Zoning Map, or as to the propriety of issuing a zoning or building permit or occupancy permit in a particular case, he shall appeal the matter to the Unified Planning Board for interpretation and decision.
(Ord. No. 98-21 § 304.5)

34-6 ZONING PERMITS.

Zoning permits shall be secured from the Zoning Official prior to construction, erection or alteration of any building or part of the building involving a construction or value in excess of one hundred (\$100.00) dollars and for any change in the use of land. All requests for zoning permits shall be made in writing by the owner or his authorized agent on a form to be supplied by the Zoning Official and shall include a statement of the use or intended use of the building or land and shall be accompanied by a plan which shall be prepared and submitted in accordance with the standards established by Article III, Site Plan Review, of this chapter. Zoning permits shall be issued within forty-five (45) days of application and shall have a one (1) year life. These may be renewed annually with approval by the Unified Planning Board and without the payment of additional fees for a period not to exceed three (3) years.
(Ord. No. 98-21 § 304.6)

34-7 OCCUPANCY PERMITS.

a. No land shall be occupied or used, in whole or in part, and no building hereinafter constructed, erected or altered shall be occupied or used, in whole or in part, for any use whatsoever, until an occupancy permit has been issued by the Construction Official certifying that the use and building, if any, comply with the provisions of this chapter. In addition, no land shall be reoccupied or reused, in whole or in part, and no building shall be reoccupied or reused, in whole or in part, for any use whatsoever until an occupancy permit has been issued by the Construction Official certifying that the proposed use complies with the provisions of this chapter.

b. Occupancy permits shall be granted or denied within ten (10) days from date of written application therefor.

c. An occupancy permit issued in accordance with the State Uniform Construction Code shall satisfy also the purposes of this chapter.

d. Upon receiving an application for an occupancy permit, the Construction Official shall refer the application to the Health Official or an officer designated by it where sanitary sewers and/or public water is not available and to the Fire Official and shall not issue the requested occupancy permit until he has received certification from the Health Official or an officer designated, where required, that the use and building, if any, comply with all ordinances and regulations of the County Health Offices and a certification from the Fire Department that the use and building, if any, comply with the New Jersey Uniform Fire Safety Code.

e. An occupancy permit shall be required whenever a use variance is granted.

(Ord. No. 98-21 § 304.7)

34-8 APPLICATION FEES.

Editor's Note: For fees for easements and rights upon Borough Property, see Chapter XXX, Section 30-6.

The applicant shall, at the time of permit application in the Construction Department, pay the following non-refundable fees to the Borough of Matawan by cash, certified check, bank money order or check.

a. Zoning permits:

1. Residential dwelling: \$35.00 per unit*
 2. Nonresidential construction: \$100.00
 3. Fences or walls: \$35.00
 4. Sheds and accessory structures: \$25.00
 5. Above ground swimming pools and spas: \$35.00
- In ground swimming pools: \$75.00**

*A single-family dwelling where there was no dwelling prior or grade changes substantially. A \$750.00 escrow is to be posted with the Borough Clerk for the purpose of review of topographic survey, and inspections of the site. The unused portion will be returned to the applicant; however, additional escrow may have to be posted as to the extent and required inspections.

**A \$750.00 escrow to be posted to the Borough Clerk for the purpose of review of topographic survey, and inspections of the site. The unused portion will be returned to the applicant; however, additional escrow may have to be posted as to the extent and required inspections.

b. Certificates of Occupancy: See Chapter XIII, Building and Construction.

c. Demolition permit: See Chapter XIII, Building and Construction.

d. Permit to move and relocate structure: See Chapter XIII, Building and Construction.

e. Site plan review:

1. Conceptual site plan: \$100.00.
2. Preliminary approval: \$200.00 for each acre or portion thereof.
3. Final approval: 1/2 of the preliminary site plan fee.
4. Resubmission of revised plan: 1/3 of the original submission fee.

f. Subdivisions:

1. Sketch plans or minor subdivision: \$50.00.
2. Preliminary approval of major subdivision: \$100.00, plus \$50.00 per lot.
3. Final approval of major subdivision: \$100.00, plus \$25.00 per lot.

g. Variances/appeals:

1. Hear and decide appeals: \$50.00.
2. Interpretation of zoning regulations: \$50.00.
3. Hardship or bulk variances: \$50.00 per variance.
4. Use variance: \$250.00.
5. Building permit for lot not related to a street: \$ 100.00.
- h. Conditional use permit: \$200.00.
- i. Sign permits: See Chapter XIII, Building and Construction.
- j. Informal submissions: \$50.00 per hearing.
- k. Inspection fees for on-site and off-site improvements.

1. When any development proposal approved by the Unified Planning Board includes the construction of on-site or off-site improvements, the developer, owner or applicant shall post with the Borough Clerk a performance bond in the amount estimated by the Unified Planning Board Engineer. Said bond shall be for one hundred twenty (120%) percent of the estimated cost of the improvements. The developer, owner or applicant shall also post with the Borough Clerk cash or a certified check in the amount of ten (10%) percent of the estimated cost of improvements. Said moneys shall be placed in an escrow account to be drawn against by the Borough Engineer for his required construction, administration and inspection fees. The required performance bond, cash bond and inspection fees shall be posted with the Borough Clerk prior to the issuance of any building permits or the commencement of any construction. Any inspection fee escrow account residual shall be returned to the developer at the time of the maintenance bond release.

2. The minimum inspection fee shall be three hundred (\$300.00) dollars.

(Ord. No. 98-21 § 304-8)

34-9 ESCROW DEPOSITS.

Editor's Note: For fees for easements and rights upon Borough Property, see Chapter XXX, Section 30-6.

a. Escrow fees are required to be deposited in an escrow account in accordance with the provisions of this section. Such escrow fees shall be utilized to pay the cost of any professional fees incurred for review of and/or testimony concerning an application for development. Subject to provisions of paragraph a,3 below, each applicant shall, prior to the application being ruled complete pursuant to the provisions of the Municipal Land Use Law, submit the following sum(s) to be held in escrow in accordance with N.J.S.A. 40:55D-1 et seq. the provisions hereof:

1. Variances:
 - (a) Bulk variance not requiring site plan or subdivision approval: \$350.00.
 - (b) Use variance: \$1,000.00.
2. Site Plan Applications. Fees shall be in addition to any fees for required variances.
 - (a) Residential site plan:

- (1) Preliminary approvals:

Number of Dwelling Units	Fee
1 to 9	\$2,500.00
10 to 25	4,000.00
26 to 25	5,000.00
51 to 100	6,000.00
Over 100	7,500.00

- (2) Final approval: 20% of preliminary approval escrow fee or a minimum of \$1,000.00 whichever is greater.

- (b) Nonresidential site plan:

- (1) With principal building at least 1,000 square feet of gross floor area:

Square Feet Gross Floor Area	Fee
1,000 to 2,500	\$ 2,500.00
2,501 to 5,000	3,500.00
5,001 to 10,000	5,000.00
10,001 to 15,000	6,000.00
15,001 to 20,000	8,000.00
20,001 to 25,000	10,000.00
Over 25,000	12,500.00

- (2) With principal building less than 1,000 square feet gross floor area:

Lot Area (acres)	Fee
Up to one	\$2,500.00
1 to 5	3,500.00
5 to 10	4,000.00
Over 10	5,000.00

- (3) Final approval: 20% of preliminary approval's escrow fee or a minimum of \$1,000.00, whichever is greater.

3. Subdivision Applications. Fees shall be in addition to any required variances.

- (a) Minor subdivisions: \$2,000.00.

- (b) Preliminary subdivisions:

Number of Lots	Fee
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3 to 10	\$ 2,500.00
11 to 25	4,000.00
26 to 100	6,000.00
More than 100	10,000.00

(c) Final subdivisions:

Number of Lots	Fee
3 to 25	\$1,500.00
26 to 100	2,500.00
More than 100	3,500.00

4. Request for Rezoning. Any applicant seeking a rezoning of property shall deposit a \$1,500.00 escrow fee.

5. Completeness review: \$250.00.

b. Within forty-five (45) days after the filing of an application for development, the Unified Planning Board may review the application to determine whether the escrow amount set forth above is adequate. In conducting such review, the Board shall consider the following criteria:

1. The presence or absence of public water and/or sewer servicing the site.
2. Environmental considerations, including but not limited to geological hydrological and ecological factors.
3. Traffic impact of the proposed development.
4. Impact of the proposed development on existing aquifer and/or water quality.

c. Upon completion of the review and within the forty-five (45) day period, the Board shall adopt a resolution specifying whether the escrow amount specified above is sufficient, excessive or insufficient. In the event that the Board shall determine that the amount is excessive, it shall in the resolution, specify the amount that shall be deemed sufficient, including a specification, if appropriate, that no escrow be posted. In the event the Board shall determine the amount specified above insufficient, it shall so specify and shall further set forth the amount required to be posted in light of the criteria specified herein.

d. Where an escrow deposit is required, no application for development shall be deemed complete until the applicant has posted with the Borough the escrow deposit amount determined in accordance with the provisions above.

e. All such escrow funds shall be utilized by the Board to pay the cost of any professional fees incurred by the Board for review and/or testimony in connection with the particular application for development. All sums not actually so expended shall be refunded to the applicant within sixty (60) days after the final determination by the appropriate Board with respect to the application.

f. The escrow deposit shall be deposited by the Borough in an interest-bearing account pending completion and review of the application. In the event that a refund is to be made to the applicant, interest earned shall be included in the refund.

g. *Findings.* The Borough Council (the Council) of the Borough of Matawan (the Borough) finds that applications for development require that the various Borough professionals review such applications. The Council also finds that the developer should bear the responsibility of such costs and not the Borough. Further, the Council finds that a lien should be placed on the property which is the subject of the development to provide for any deficiency.

h. *Regulation.*

1. General Requirements.

(a) In addition to the submission of application filing fees, which are charged to cover general Borough administrative costs, as set forth hereinabove, development applications which meet the criteria established herein shall be accompanied by a deposit of escrow funds in accordance with the provisions of this section and the execution by the applicant and owner of the real property which is the subject of the development of a consent to and a waiver of any defenses to the placement of a lien or a municipal lien for the cost of any professional and nonprofessional services herein described and not fully provided for by the escrow deposit.

(b) The escrow funds shall be utilized to cover the municipal costs of professional and nonprofessional services incurred during the development review process. Professional and nonprofessional fees and salaries incurred in connection with review of plans, consultation, site inspections, written report and resolution preparation, meeting attendance, general preparation, research, testimony and other work performed by the Board Planner, Board Attorney, Municipal Engineer and other professional consulting services as may be required due to the nature of the applications shall be paid from escrow funds. Escrow fees shall not be utilized to pay inspection costs required during the construction process.

2. Procedural Requirements.

(a) An applicant appearing before the Unified Planning Board, Site Plan Committee or other Review Committees shall deposit all escrow funds, and the applicant and owner of the subject real property shall execute the consent and waiver, both as previously described herein, before the applicant's appearances before that committee. No meeting or hearing with the applicant shall be held by said boards or committees until all escrow funds, required fees, consents and waivers have been deposited and executed, respectively, in accordance with this section. The escrow sums shall be in the form of cash, certified check or money order. All deposits of escrow funds shall be made to the Borough Administrative Official.

(b) Additional escrow funds may be required when the escrow has been depleted to twenty (20%) percent of the original escrow amount. The Borough shall notify the appropriate board when escrow funds have been so depleted. Professionals and nonprofessionals being paid from escrow funds shall notify the Board or other review committee as to additional costs anticipated to be incurred. The Board or other review committee shall not take any further action on the application until adequate additional fees have been deposited by the applicant with the Borough.

(c) Escrow deposits shall be placed in an interest-bearing account and the same shall be administered in accordance with the requirements of N.J.S.A. 40:55D-53.1.

(d) All disbursements to consulting professionals and applicable charges from Borough-employed professionals and nonprofessionals for services involved in processing an application which requires the deposit of escrow funds shall be charged against the escrow account.

(e) All bills submitted by consulting professionals, relative to said applications, shall specify the services performed for individual applications and the time expended relative thereto. The bills shall also set forth the hourly billing amount which will be the amount charged to the Borough pursuant to the consultant's contract.

(f) All charges by Borough-employed professionals and nonprofessionals enumerated hereinbelow shall specify the services performed for individual applications and the time expended relative thereto. The hourly billing rate for the Borough-employed professionals and nonprofessionals shall be 1/35 of their weekly compensation, plus thirty (30%) percent to reimburse the Borough for the benefits supplied to that employee.

(g) The Borough shall provide the applicant with an accounting of escrow funds within ninety (90) days after the Board has taken action on the application.

(h) All sums not actually expended shall be refunded to the applicant within 90 days after the Board has taken action on the application.

(i) No resolution approving any development application which is subject hereto shall be passed by the Unified Planning Board until all fees and escrow sums required hereunder have been paid in full.

(j) Any charges or fees for consulting professionals or Borough-employed professionals and nonprofessionals enumerated above which remain unpaid shall be assessed against and become a lien on the subject property pursuant to N.J.S.A. 54:5-7 and 54:5-8 and/or N.J.S.A. 2A:44-66 and shall be enforced pursuant to the provisions of N.J.S.A. 54:5-18.6 and/or N.J.S.A. 2A:44-97 and 2A:44-98.

(Ord. No. 98-21 § 304.9; Ord. No. 06-12)

Article III Site Plan Review

34-10 REQUIREMENT.

No development shall take place within the Borough nor shall any land be cleared or altered nor shall any watercourse be diverted or its channel or floodplain dredged or filled, nor shall any parking areas, accessory or otherwise, be constructed, installed or enlarged nor shall any building permit, zoning permit, Certificate of Occupancy or other required permit be issued with respect to any such structure, land or parking area except in accordance with an approval of such development granted pursuant to this Article unless exempted in accordance with Section 34-11. (Ord. No. 98-21 § 304.10)

34-11 EXEMPTIONS.

a. Single-family residential structures and structures and uses incidental thereto permitted as of right under applicable zoning regulations are exempt from the requirements of this Article, unless the property has characteristics which may result in environmental problems.

b. The following additional developments are also exempt from the requirements of this Article:

1. The construction of a parking area for less than three (3) vehicles.

2. Any structure or use for which a site plan review application was made to the Unified Planning Board prior to the effective date of this chapter under municipal ordinances and regulations then in effect and superseded by this chapter and that is developed in accordance with an approval of such application heretofore or hereafter given by the Unified Planning Board pursuant to such prior ordinances and regulations.
(Ord. No. 98-21 § 304.11)

34-12 INTERPRETATION; VARIANCES.

The rules, regulations and standards set forth in this Article shall be considered the minimum requirements for the protection of the public health safety and welfare of the citizens of the Borough. Any action taken by the Unified Planning Board under the terms of this Article shall give primary consideration to such matters and to the welfare of the entire community. However, if the applicant clearly demonstrates that, because of peculiar conditions pertaining to his land, the literal enforcement of this chapter is impracticable or will exact undue hardship, the Unified Planning Board may permit such variances as may be reasonable, within the general purpose and intent of the rules, regulations and standards established by this Article. (Ord. No. 98-21 § 304.12)

34-13 WAIVER OF REQUIREMENTS.

The Unified Planning Board may waive the requirements of this chapter if the proposed development:

- a. Involves normal maintenance or repair or replacement, such as a new roof, painting, new siding or similar activity; or
- b. Does not affect existing circulation, drainage, building arrangements, landscaping, buffering, lighting and other considerations of site plan review.

(Ord. No. 98-21 § 304.13)

34-14 RESERVATIONS OF PUBLIC AREAS.

a. If the Master Plan or the Official Map provides for the reservation of designated streets, public drainageways, flood-control basins, parks or other public areas within the proposed development, before approving a site plan the Unified Planning Board may further require that such streets, ways, basins or areas be shown on the plan in locations and sizes suitable to their intended uses. The Unified Planning Board may reserve the location and extent of such streets, ways, basins or areas shown on the plan for a period of one (1) year after the approval of the final plan or within such further time as may be agreed to by the developer. Unless during such period or extension thereof the Borough shall have entered into a contract to purchase or institute condemnation proceedings according to law for the fee or a lesser interest in the land comprising such streets, ways, basins or areas, the developer shall not be bound by such reservations shown on the plan and may proceed to use such land for private use in accordance with applicable development regulations. The provisions of this section shall not apply to the streets and roads, flood-control basins or public drainageways necessitated by the land development and required for final approval.

b. The developer shall be entitled to just compensation for actual loss found to be caused by such temporary reservation and deprivation of use. In such instance, unless a lesser amount has previously been mutually agreed upon, just compensation shall be deemed to be the fair market value of an option to purchase the land reserved for the period of reservation, provided that determination of such fair market value shall include but not be limited to consideration of the real property taxes apportioned to the land reserved and prorated for the period of reservation. The developer shall be compensated for the reasonable increased cost of legal, engineering or other professional services incurred in connection with obtaining site plan approval caused by the reservation.

(Ord. No. 98-21 § 304.14)

34-15 SITE PLAN REQUIREMENTS.

The site plan shall be prepared by a professional engineer, land surveyor, architect, landscape architect or professional planner at a scale not smaller than one inch equals 50 feet (1" = 50'). The site plan shall be based on the latest Tax Map information and shall be consistent with the size permitted under the New Jersey Map Filing Act, (N.J.S.A. 46:23-9.9 et seq.). The site plan shall contain the following information:

- a. The name and address of the applicant and the owner and the name, address and title of the person preparing the plan, maps, including appropriate map titles and accompanying data.
- b. The Tax Map lot and block numbers of the lot or lots, tax sheet number and key location map of the site with reference to surrounding areas and existing street locations.
- c. An appropriate place for the signatures of the Secretary of the Unified Planning Board and where applicable, the County Engineer, County Planning Board Secretary and County Planning Director.
- d. A date, scale, including a graphic scale, and North arrow on any map.
- e. The zone district in which the lot or lots are located.

- f. Lot line dimensions.
- g. Location of all buildings and structures, streets, easements, driveways, entrances and exits on the site and within one hundred (100) feet thereof.
- h. Proposed location and dimensions of proposed buildings and structures, roads, driveways, parking areas, etc.
- i. Building setback, side line and rear yard distance.
- j. All existing physical features on the site and within two hundred (200) feet thereof, including streams, watercourses, existing woodlands, trees over six (6) inches in diameter and significant sod and hydrological conditions, such as swamp, rock and water flows.
- k. Topography showing existing and proposed contours at a maximum of two (2) foot contour intervals where slopes are less than ten (10%) percent and at a maximum of five (5) foot contour intervals where slopes are greater than ten (10%) percent.
- l. Parking, loading and unloading areas indicating dimensions, traffic patterns, access aisles and curb radii.
- m. Improvements, such as roads, curbs, bumpers and sidewalks, indicated with cross sections, design details and dimensions.
- n. Location and design of existing and proposed stormwater systems, sanitary waste disposal systems, potable water supply and methods of solid waste storage and disposal.
- o. Landscaping and buffering plan showing what will remain and what will be planted, indicating botanical and common names of plants, trees and dimensions, approximate time of planting and maintenance plans.
- p. Lighting details indicating type of standards, location, radius of light and intensity in footcandles.
- q. Location, dimensions and details of signs.
- r. Any and all other information and data necessary to meet any of the requirements of this chapter not listed above.
- s. Signature and seal of the licensed professional responsible for the preparation of the site and construction plans.
- t. For all site plan applications involving twenty-five (25) or more multifamily residential dwelling units, or any commercial or industrial developments, provision for the collection, disposition and recycling of recyclable materials consistent with the requirements of Chapter XX Solid Waste Management.

u. An applicant proposing a site plan application for commercial and industrial developments that utilizes one thousand (1,000) square feet or more of land shall provide the Unified Planning Board with estimates of the quantity of mandated recyclable materials, including but not limited to newspaper, glass bottles, aluminum cans, tin and bimetal cans, high grade paper and corrugated cardboard, that will be generated by the development during each week. A separated storage area must be provided to accommodate one (1) to four (4) weeks of accumulated recyclable materials. The Unified Planning Board may require the location of one (1) or more common storage areas at convenient locations within the development. (Ord. No. 98-21 § 304-15)

34-16 OTHER INFORMATION.

The Unified Planning Board may require other information and data for specific site plans. These data may include but are not limited to geologic information, water yields, flood data, other environmental information, traffic counts, road capacities, market information, economic data and similar exhibits. (Ord. No. 98-21 § 304-16)

34-17 WAIVER OF REQUIREMENTS FOR EXHIBITS OR SITE PLANS.

The Unified Planning Board may waive submission of any required exhibits in appropriate cases and for specific site plans. (Ord. No. 98-21 § 304-17)

34-18 PROCEDURE FOR SITE PLAN APPROVAL.

a. *Filing and Referral.* The Clerk of the Unified Planning Board shall, after an applicant for preliminary or final approval has submitted an application in proper form with twelve (12) copies and the required fees, notify the applicant of the hearing date so that he can comply with the notice requirements and refer the site plan and exhibits to the Borough Unified Planning Board and County Planning Board. The Unified Planning Board may also designate other local, County, State or other governmental officials or agencies to receive copies of any application for review and recommendation.

b. *Planning Board Action.* The Unified Planning Board shall review the application within thirty (30) days after receipt. In the event an application is found to be incomplete or in violation of any applicable codes and ordinances, the applicant shall be notified within thirty (30) days of submission by the Unified Planning Board by certified mail as to the items omitted or ordinances violated.

c. *Sketch Site Plan Review.* Applicants for preliminary approval shall be encouraged to submit for review by the Unified Planning Board sketch site plans for informal discussions and recommendations. The sketch site plans shall be used as a basis for changes and redesign and to avoid undue expense and delay in preparing more detailed plans and specifications. The Unified Planning Board shall not be governed by any statutory time limits in its review of sketch site plans, and it is expressly understood that compliance with the recommendations shall not bind the Unified Planning Board in subsequent deliberations.

d. *Preliminary Approval.* The Unified Planning Board shall grant or deny preliminary approval within forty-five (45) days of the date of submission of a completed application for a site plan for ten (10) acres of land or less and within ninety-five (95) days of the date of submission of a completed application for a site plan of more than ten (10) acres. Otherwise, the Unified Planning Board shall be deemed to have granted preliminary approval of the site plan. Public notice of applications shall be required for all site plans in excess of four (4) acres and all site plans requiring a variance by the Unified Planning Board.

e. *Effect of Preliminary Approval.* Preliminary approval of a site plan shall, except as provided in Subsection F of this section 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 on-site and off-tract improvements; and any requirements peculiar to the specific site plan. The Borough may modify by ordinance such general terms and conditions of a preliminary approval as they may relate to public health and safety, provided that such modifications are in accord with amendments adopted by ordinance subsequent to approval.

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 site plan.

f. *Extensions of Preliminary Approval.*

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

2. Site Plans for Areas of Fifty (50) Acres or More.

(a) In the case of a site plan for an area of fifty (50) acres or more, the Unified Planning Board may grant the rights referred to above for such period of time, longer than three (3) years, as shall be determined by the Planning Board to be reasonable taking into consideration the number of dwelling units and nonresidential floor area permissible under preliminary approval, economic conditions and the comprehensiveness of the development.

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

3. Whenever the Unified Planning Board grants an extension of preliminary approval pursuant to paragraphs f,1 and f,2 of this section and preliminary approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.

4. The Unified Planning Board shall grant an extension of preliminary approval for a period determined by the Board but not exceeding one (1) year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the governmental entities and that the developer applied promptly for and diligently pursued the required approvals. A developer shall apply for the extension before what would otherwise be the expiration date of preliminary approval or the ninety-first (91st) day after the developer receives the last legally required approval from other governmental entities, whichever occurs later. An extension granted pursuant to this subsection shall not preclude the Unified Planning Board from granting an extension pursuant to paragraphs f,1 and f,2 of this section.

g. *Variances; Unified Planning Board.* The Unified Planning Board may, when exercising its powers pursuant to this section, grant variances as provided in N.J.S.A. 40:55D-60.

h. *Planning Board Action on Final Site Plan Approval.* The Unified Planning Board shall, within forty-five (45) days after submission of a complete application, approve the application for final site plan approval with or without conditions, provided that the following requirements are met:

1. That the detailed drawings and specifications meet all applicable codes and ordinances.
2. That the final plans are substantially the same as the approved preliminary site plans.
3. That all improvements have been installed or bonds posted to ensure the installation of improvements.
4. That the applicant agrees in writing to all conditions of final approval.
5. That proof has been submitted that all taxes and assessments for local improvements on the property have been paid.

i. *Effect of Final Approval.*

1. Final approval of a site plan shall terminate the time period of preliminary approval for the section granted final approval and shall guarantee the applicant that the zoning requirements applicable to the preliminary approval and all other rights conferred upon the applicant as part of preliminary approval shall not be changed for a period of two (2) years from the date of final approval unless the applicant has secured a building permit to commence construction. The Unified Planning Board may extend final approval and the protection offered under paragraph e,1 above for one (1) year. Up to three (3) such extensions may be granted. Applicants shall be required as a condition of any extension to reestimate improvement costs and to resubmit revised bonds in accordance therewith.

2. Planned units of residential development, residential clusters of fifty (50) acres or conventional site plans for one hundred (150) acres or more.

(a) In the case of a site plan for a planned unit residential development, or residential cluster of fifty (50) acres, or conventional site plan for one hundred fifty (150) acres or more, the Unified Planning Board may extend the rights granted under final approval for such period of time, longer than two (2) years, as shall be determined by the Unified Planning Board to be reasonable taking into consideration the number of dwelling units and nonresidential floor area permissible under final approval, economic conditions and the comprehensiveness of the development.

(b) The developer may apply for thereafter, and the Planning Board may thereafter grant, an extension of final approval for such additional period of time as shall be determined by the Unified Planning Board to be reasonable taking into consideration the number of dwelling units and nonresidential floor area permissible under final approval, the number of dwelling units and nonresidential floor area remaining to be developed, economic conditions and the comprehensiveness of the development.

j. *Conditions of Final Approval.* The Planning Board^{*} may, as a condition of final approval:

1. Grant final approval only for designated geographic sections of the development.
2. Grant final approval for certain work but require resubmission for final approval for designated elements, such as but not limited to landscaping, signs, street furniture, etc., and require approval of these elements as a prerequisite for a Certificate of Occupancy or zoning permit.
3. Condition the granting of a Certificate of Occupancy or zoning permit subject to the applicant or developer or subsequent heirs or assignees meeting certain requirements within a designated period of time, not to exceed one (1) year, from the date of issuance of the Certificate of Occupancy or zoning permit. This may include but is not limited to the installation of landscaping, erection of signs, installation of improvements, reevaluation of circulation patterns, etc. (Ord. No. 98-21 § 304-18)

34-19 UNIFIED PLANNING BOARD REVIEW.

The Unified Planning Board shall review the site plan and proposed development to determine that the plan and development will compare favorably with Borough standards, other neighborhood improvements and the properly intended and planned appearance throughout any neighborhood or along any street. In making such determination, the Unified Planning Board shall consider:

- a. The height, bulk and area of buildings.
- b. The setback distances from all property lines and spacing of buildings on the site.
- c. The size, location and type of signs.
- d. The size, location, construction and proposed improvement of all buffer strips, screening and areas to be landscaped.
- e. The size, location and arrangement of all off-street parking areas and loading areas.

f. The relation of the proposed development to the existing buildings and structures in the general vicinity and area.

g. The lighting of buildings, signs and grounds.

h. All provisions of this chapter not mentioned specifically above and the relationship of the proposed project to the health, safety and general welfare of the public, and specifically the relationship of the proposed development for overall conformance with the Borough Master Plan and with applicable Borough ordinances. (Ord. No. 98-21 § 304-19)

34-20 REQUIRED PERFORMANCE GUARANTY.

The Unified Planning Board may require as a condition of site plan approval that the applicant post with the Borough suitable performance guaranties covering the installation of required improvements. (Ord. No. 98-21 § 304-20)

34-21 SITE PLAN REVIEW COMMITTEE.

The Unified Planning Board may appoint a Site Plan Review Committee, consisting of three (3) of its members, to review any site plans submitted to the Unified Planning Board. The Committee shall exercise all of the powers granted to the Unified Planning Board relating to site plan review for structures containing less than ten thousand (10,000) square feet in floor area and, when the decision of the members of the Committee on any site plan referred to the Committee is unanimous, the action of the Committee shall be deemed the final action of the Unified Planning Board, unless the applicant requests that the action of the Committee be reviewed by the Unified Planning Board. If the decision of the members of the Committee is not unanimous, the site plan shall be reviewed by the Unified Planning Board. (Ord. No. 98-21 § 304.21)

Article IV Subdivisions

34-22 INTERPRETATION; VARIANCES.

The rules, regulations and standards set forth in this Article shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Borough. Any action taken by the Unified Planning Board under the terms of this Article shall give primary consideration to such matters and to the welfare of the entire community. However, if the applicant can clearly demonstrate that, because of peculiar conditions pertaining to his land, the literal enforcement of this chapter is impracticable or will exact undue hardship, the Unified Planning Board may permit such variances as may be reasonable, within the general purpose and intent of the rules, regulations and standards established by this Article. (Ord. No. 98-21 § 304-22)

34-23 PRIOR TO ISSUANCE OF PERMIT OR CERTIFICATE.

No zoning permit or Certificate of Occupancy shall be issued unless all improvements required by this Article have been installed, except as noted in Section 34-24. (Ord. No. 98-21 § 304-23)

34-24 PERMIT OR CERTIFICATE ISSUANCE.

a. A zoning permit or Certificate of Occupancy may be issued if all improvements have been installed except the finish course of the road and the Borough Engineer warrants that completion of the road is in the Borough's interest after the subdivider has completed construction of dwellings and structures. The maintenance guaranty required hereafter shall not begin until the finish course has been installed.

b. The Unified Planning Board may also authorize the issuance of a temporary certificate or permit if the following improvements have been bonded but not yet installed: landscaping, sidewalks or other similar improvements. Prior to the issuance of more than fifty (50%) percent of the Certificates of Occupancy for a subdivision, all improvements shall have been constructed or installed.

(Ord. No. 98-21 § 304-24)

34-25 PROCEDURE FOR SUBDIVISION APPROVAL.

a. Any applicant wishing to subdivide or resubdivide land within the Borough shall apply for and obtain the approval of the Unified Planning Board in accordance with the following procedure. The applicant or his agent shall appear at all regular meetings of the Unified Planning Board whenever the application is being considered. Failure to appear shall give the Unified Planning Board the right to postpone action on the application for that particular meeting if applicant or his agent's absence deprives the Unified Planning Board of information necessary to make a decision.

1. Preapplication Conference. Applicants for subdivision approval are encouraged to attend a preapplication conference prior to submitting any application for subdivision. The conference shall be designed to assist applicants in the expeditious processing of all applications and to provide for a mutual exchange of information. Applicants shall be informed of special problems or proposals relating to a particular site.

2. Submission of Sketch Plat. An applicant for the subdivision of land shall submit to the Zoning Official an application for subdivision, the required application fee as specified herein and sufficient copies of a sketch plat containing the information required at least two (2) weeks prior to a regular meeting of the Unified Planning Board. The Zoning Official shall determine if the application is complete and, if not, inform the applicant of any deficiencies. If complete, the application shall be referred to the Subdivision Committee.

3. Classification. The Subdivision Committee shall review the plat prior to the Planning Board meeting and classify it as a minor or major subdivision. Subdivisions failing to receive a unanimous vote as a minor exempt subdivision shall be considered a major subdivision. No plat shall be classified as a minor if it results in any remaining lands capable of being resubdivided into one (1) or more building lots.

4. Distribution of Plats.

(a) If classified as a minor subdivision, two (2) copies of the plat shall be forwarded to the following for review and comment:

- (1) Borough Engineer.
- (2) County Planning Board.
- (3) County Health Officer.
- (4) Borough Zoning Official.
- (5) Borough Tax Assessor.
- (6) Environmental Commission.
- (7) Fire Official.
- (8) Other agencies as may be determined by the Unified Planning Board.

(b) The applicant shall be responsible for forwarding copies of all plats and required exhibits to the County Planning Board and should furnish a receipt indicating the delivery to the Borough Unified Planning Board.

5. Action. The Subdivision Committee shall act within forty-five (45) days on a minor subdivision of complete application to the Zoning Official. The Committee shall not approve or conditionally approve the minor subdivision prior to receipt of comments by the above agencies or officials, or after thirty (30) days has elapsed from referral without any comments. If approved, a notation to that effect shall be made on the plat and it shall be signed by the Unified Planning Board Chairman and the Unified Planning Board Secretary and returned to the subdivider within one (1) week following the next regular meeting of the Planning Board. If rejected, the reasons for rejection shall be noted on all copies of the application form, one (1) of which shall be returned to the applicant. The Subdivision Committee may attach conditions of approval to any minor subdivision.

6. Filing with County Recording Officer. If approved as a minor subdivision, a plat drawn in compliance with N.J.S.A. 46:23-9 et seq. or a deed stamped with the date of the Unified Planning Board approval shall be filed with the County Recording Officer within one hundred ninety (190) days from the date of approval. Failure to file within one hundred ninety (190) days shall void subdivision approval.

7. Lands Resulting From Minor Subdivisions. Any lands, lots or parcels resulting from a minor subdivision shall not be resubmitted as a minor subdivision.

8. Approved Minor Subdivisions Distribution. Before the Unified Planning Board Clerk returns any approved minor subdivision to the subdivider, the applicant shall provide the Clerk with a certificate of filing from the County Clerk's office. The Clerk shall distribute copies of the approved subdivision to each of the following:

- (a) Borough Clerk.
- (b) Borough Engineer.
- (c) Borough Zoning Official.
- (d) Borough Tax Assessor.
- (e) Fire Official.

9. Effect of Minor Subdivision Approval. The granting of minor subdivision approval shall guarantee that 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 as provided herein.

10. Submission of Major Subdivision for Preliminary approval. If classified as a major subdivision, applicant shall submit at least twelve (12) prints of the plat containing all data required herein together with three (3) completed applications for preliminary approval and all appropriate fees as required herein to the Unified Planning Board Clerk at least three (3) weeks prior to the regular Unified Planning Board meeting at which it is to be considered.

11. Exhibits Required with the Preliminary Plat. The following exhibits shall be filed with all preliminary plats:

- (a) Two (2) copies of an affidavit of ownership or letter from owner authorizing submission of the plat.
- (b) Two (2) copies of a letter of intent stating the following information if known:
 - (1) Type of structure(s) to be erected.
 - (2) Approximate date of start of construction.
 - (3) A tentative section plan for the entire subdivision indicating all facilities, including the estimated number of lots on which final approval will be requested for the first section.

(c) For all subdivisions involving fifty (50) or more single-family lots, provisions for the collection, disposition, and recycling of recyclable materials consistent with the requirements of the Matawan Borough Mandatory Recycling Ordinance.⁴

12. Distribution. Copies of the preliminary plan and exhibits shall be forwarded upon receipt to the following persons or agencies:

- (a) Borough Engineer.
- (b) County Health Officer.
- (c) Borough Zoning Official.
- (d) County Planning Board.
- (e) Environmental Commission.

(f) Borough Fire Official.

(g) Any other official or agency which may be affected by the proposed subdivision or required to be notified by law. The applicant shall be responsible for forwarding all preliminary plans and exhibits to the County Unified Planning Board and other required agencies required hereunder.

13. Review. The officials and agencies cited shall forward their views and recommendations in writing to the Unified Planning Board within thirty (30) days from the receipt of the plat. The preliminary plat shall be referred to the Subdivision Committee for review and recommendations. The Subdivision Committee may recommend certain changes based on their review and the comments of other officials and agencies. A full report of all meetings, recommendations and discussions shall be forwarded to the Unified Planning Board within thirty (30) days after receipt of the plat by the Committee. If the application is found to be deficient, the applicant shall be notified within forty-five (45) days of submission, and such notification shall constitute a rejection of the application.

14. Notice of Public Hearing. After all comments have been received, or after thirty (30) days have elapsed, and after the applicant has revised the plat to meet required changes, the Unified Planning Board shall, after a review of the plat, and if all requirements are met and the application is complete, set the date for the public hearing and shall notify the applicant of such date.

15. Exhibits Required Prior to Public Hearing. The following shall be submitted to the Planning Board by the applicant:

(a) Notice and proof of publication.

(b) Affidavit of notice of public hearing to persons and agencies served giving a list of the names, addresses and lot and block number of owners so notified, how served, date of service and a copy of the notice and mail receipt.

(c) Water supplier. If appropriate, a letter from the water supplier stating that the water system as proposed is adequate for the development and all future extensions thereof. The letter shall state the present safe daily yield of the system, the expected demand by the development on the system and the remaining safe daily yield of the system.

(d) Fire Official. If appropriate, a letter from the Fire Official, stating that the proposed water lines and fire hydrants are adequate for protection from fire in the proposed development and that the type of hydrant to be installed has been approved.

(e) Health Officer. A letter from the Borough Health Officer or appropriate municipal authority approving the proposed individual sewage disposal facility and individual water supply systems.

16. Time Limitation; Resubmitting Plat.

(a) The Unified Planning Board shall act on the plat within the applicable time period set forth in this section. Failure of the Unified Planning Board to act within the applicable time periods or within a time extension mutually agreed upon shall be considered an approval. If the Unified Planning Board disapproves a plat, the reasons for the disapproval shall be communicated in writing to the applicant within ten (10) days of the date of the decision and advertised as required by this Article. No action shall be taken until receipt of County Planning Board review or until thirty (30) days have elapsed from date of referral to the County.

(b) If substantial changes or amendments are required, such as changes to the drainage and circulation pattern, lot configuration or number of lots, as a result of the public hearing or of the Planning Board deliberations, the applicant may be required to resubmit the plat for preliminary approval.

17. Unified Planning Board Action.

(a) The Unified Planning Board shall approve, conditionally approve or reject the application. Approval or conditional approval confers upon the applicant the following rights for a three (3) year period from the date of approval or conditional 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; except that nothing therein shall be construed to prevent the Borough from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety.

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

(b) If either the Unified Planning Board or County Planning Board disapproves a plat, the reasons for disapproval shall be remedied prior to further consideration. If approval is required by any other officer or public body, the same procedure as applies to submission and approval by the County Planning Board shall apply. The Unified Planning Board may grant conditional approval subject to the subsequent approval of other officers or public bodies.

18. Extension.

(a) The applicant may apply for and the Unified Planning Board 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.

(b) In the case of a subdivision for an area of fifty (50) acres or more, the Unified Planning Board may grant the rights referred to in paragraph a, 17 above for such period of time, longer than three (3) years, as shall be determined by the Unified Planning Board to be reasonable taking into consideration the number of dwelling units and nonresidential floor area permissible under preliminary approval, economic conditions and the comprehensiveness of the development.

(c) The applicant may apply for thereafter and the Unified Planning Board may thereafter grant an extension to preliminary approval for such additional period of time as shall be determined by the Unified Planning Board to be reasonable taking into consideration the above factors, provided that if the design standards have been revised, such revised standards may be required by the Unified Planning Board

19. Submission of Final Plat of Major Subdivision.

(a) The final plat shall be submitted for final approval within three (3) years from the date of preliminary plan approval or within such extension as provided herein. One (1) original tracing, one (1) translucent cloth copy, two (2) cloth prints and ten (10) black-and-white prints as required herein shall be submitted to the Borough Clerk at least two (2) weeks prior to the regular meeting of the Unified Planning Board

(b) Unless the preliminary plat was approved without changes, the final plat shall have incorporated all changes or modifications required by the Unified Planning Board, including conditions or preliminary approval. The applicant shall submit an affidavit indicating no changes or those changes noted.

20. Exhibits Required Prior to Final Approval. The following exhibits shall accompany the application for final approval, in addition to any other exhibits that may have been required by the Board as a condition of final approval:

(a) Borough Engineer. A letter from the Borough Engineer indicating:

(1) That the engineer is in receipt of a map showing all utilities in exact location and elevation, identifying those portions already installed and those to be installed.

(2) That the subdivider has either completed the installation of all improvements in accordance with the requirements of this chapter or posted with the Borough Clerk a performance guaranty in an amount sufficient to cover the cost of all improvements herein, or uncompleted portions thereof, as estimated by the Borough Engineer, and assuring the installation of such improvements on or before an agreed date.

(3) All items and amounts required for the corporate surety maintenance guaranty.

(4) That the final plat conforms to the preliminary plat as submitted and approved.

(b) Tax Collector. That all taxes have been paid to date on the property.

(c) Borough Clerk.

(1) A letter from the Borough Clerk indicating that the amount, form and content of the maintenance guaranty has been accepted by the governing body.

(2) A letter from the Borough Clerk, where appropriate, pursuant to this chapter, that moneys as provided therein have been paid the borough as reimbursed for engineering inspection costs of improvement construction or installation incurred since preliminary approval.

21. Distribution. Copies of the final plat shall be distributed to the following:

(a) Borough Clerk.

(b) Borough Engineer.

(c) Borough Zoning Official.

(d) Borough Tax Assessor.

(e) County Planning Board.

(f) Borough Fire Official.

(g) County Health Officer.

(h) Other municipal, County, agencies or authorities as may be required.

22. Review. No action shall be taken until such time as the above officials review said plat or thirty (30) days has elapsed from date of referral.

23. Time Limitation. The Unified Planning Board shall act within the applicable time period set forth in this chapter computed from the date of submission of a completed application at a regular meeting or within such further time as may be mutually agreed upon. If the Unified Planning Board approves the final plat, a notation to that effect shall be made on each plat and signed by the Chairman and Secretary of the Unified Planning Board. Failure of the Unified Planning Board to act within the allotted time or a mutually agreed upon extension shall be deemed to be favorable approval, and the Borough Clerk shall issue a certificate to that effect.

24. County Planning Board. Any plat which requires County Planning Board approval, pursuant to N.J.S.A. 40:27-6.2, shall be forwarded to the County Planning Board for its action. The Unified Planning Board may grant final approval subject to approval by the County Planning Board.

25. Filing. The final plat approval shall be filed by the subdivider with the County Recording Officer within ninety-five (95) days from the date of such approval. If any final plat is not filed within that period, the approval shall expire. For good cause, the Unified Planning Board may extend the time for the filing of the plat for an additional period not to exceed ninety-five (95) days. No plat shall be accepted for filing by the Clerk of the County of Monmouth unless it has been duly approved by the Borough Unified Planning Board and signed by its Chairman and Secretary.

26. Effect of Final Approval. The granting of final approval shall confer upon the applicant that the zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer, whether conditionally or otherwise, shall not be changed for a period of two (2) years after the date of final approval, provided that these rights shall expire if the plat has not been duly recorded within the prescribed time period.

27. Extensions. If the developer has followed the standards prescribed for final approval and has duly recorded the plat as required by this chapter, the Unified Planning Board may extend such period of protection for extensions of one (1) year but not to exceed three (3) extensions. Notwithstanding any other provisions of this chapter, the granting of final approval terminates the time period of preliminary approval for the section granted final approval.

(Ord. No. 98-21 § 304-25)

34-26 PLAT DETAILS.

a. *Sketch Plats.* All plats shall be based on accurate information at a scale of not less than one inch equals one hundred (1=100) feet and shall show or include the following information, except that the Unified Planning Board may waive any requirement or request additional information where it is clearly appropriate to the particular application:

1. Location and Key Map. The entire tract to be subdivided, giving the accurate location of all existing and proposed property and street lines and including a key map at a scale where one (1) inch equals not more than one thousand (1,000) feet showing the entire subdivision and its relation to all features shown on the Official Map and Master Plan and located within one-half (1/2) mile of the extreme limits of the subdivision and the zoning classification of the proposed subdivision and of adjacent land.

2. Structures, Wooded Areas and Topography. The location of existing houses, buildings and other structures with accurate dimensions from all existing and proposed lot lines, wooded areas and isolated trees more than ten (10) inches in diameter and topography within the portion to be subdivided and within two hundred (200) feet thereof at ten (10) foot contours.

3. Owners. The name of the owner, all adjoining property owners and those across existing or proposed streets as disclosed by the most recent municipal tax records.

4. Identify. The Tax Map sheet, date of revision, block and lot numbers and zone district.

5. Streets, Easements, Watercourses, Rights-Of-Way. The location of existing or proposed streets, roads, easements, public rights-of-way, streams, bridges, culverts, drainage ditches and natural watercourses in and within five hundred (500) feet of the subdivision.

6. Lots. The original and proposed lot layout, lot dimensions, all required setback lines and lot area of each lot in square feet and acreage.
7. Percolation Tests. If individual sewerage disposal systems are proposed, the plat shall show the location of all percolation tests and test results, including those that failed, and soil logs.
8. Other Information Required. Date of original preparation and date of revision, if any, of plat, as well as old name if submitted previously under different title.
9. Information Required for Minor Subdivision Plats. If the sketch plat is being submitted for minor subdivision approval, it shall contain the information required under this section and shall be a certified survey map drawn by a licensed New Jersey land surveyor. The plat shall provide for endorsement by the Chairman and Unified Planning Board Secretary. If the plat is to be filed it shall meet the requirements of the Map Filing Law, (N.J.S.A. 46:23-9.9 et seq.).
- b. Plat Submitted for Preliminary Approval. The preliminary plat shall be clearly and legibly drawn or reproduced at a scale of not less than one inch equals one hundred feet (1"=100'). Preliminary plats shall be drawn by a licensed New Jersey professional engineer or land surveyor. Contour maps and preliminary construction plans, including road profiles and utility plans, shall be submitted as part of the preliminary plat. Separate maps may be required by the Board of Topography, Utilities and Road Details. A soil erosion and sedimentation control plan and a grading plan shall be included. The plat shall be designed in compliance with the provisions of this chapter and shall show or be accompanied by the following information:
 1. Location and Key Map. The entire tract to be subdivided giving the accurate location of all existing and proposed property and street lines and including a key map at a scale where one inch equals not more than one thousand feet (1"=1,000') showing the entire subdivision and its relation to all features shown on the Official Map and Master Plan and located within one-half (1/2) mile of the extreme limits of the subdivision and the zoning classification of the proposed subdivision and of adjacent land.
 2. Lots. Lot layout, lot dimensions, all required setback lines and individual lot areas in square feet and acreage. Lots shall be designated by consecutive numbers until given an official lot number designated by the Borough.
 3. Other Contents. The tract name, Tax Map sheet and date or revision, block and lot numbers, date of plat preparation, reference meridian, scale, graphic scale and the following names and addresses:

- (a) Record owner or owners of property to be subdivided; if other than individual, the corporate officers or partners or other statutory agent.
 - (b) Subdivider.
 - (c) Person who prepared map, official seal and license numbers.
 - (d) Owners of property within two hundred (200) feet of entire tract being subdivided.
4. Acreage. Acreage of tract to be subdivided.
5. Elevations and Contours. Sufficient elevations and contours at five (5) foot vertical intervals for slopes averaging ten (10%) percent or greater and at two (2) foot vertical intervals for land of lesser slope to determine the general slope and natural drainage of the land and the high and low points for a distance of two hundred (200) feet around the entire tract boundary.
6. Existing and Proposed Locations. The location of existing and proposed property lines, streets, buildings, watercourses, railroads, bridges, culverts, drain pipes, sanitary sewers, water mains, gas mains, power lines and any natural features, such as wooded areas, large trees over ten (10) inches in diameter and rock formations. This data shall be determined by field and/or photogrammetric survey.
7. Streets. Preliminary plans and profiles at a scale of not less than one inch equals fifty feet (1=50) horizontally and one inch equals five (1=5) feet vertically, including cross sections every fifty (50) feet or as specified by the Borough Engineer, of all proposed streets, curbs and gutters within the subdivision and proposed connection with existing or future continuing streets. The distances and radii of all curves along all street lines shall be shown.
8. Utilities. Preliminary plans and profiles of proposed utility layouts shall be at a scale of not less than one inch equals fifty feet (1=50) horizontally and one inch equals five feet (1=5) vertically (water, storm and sanitary sewers) showing connections to existing or proposed utility systems. The applicant shall indicate the general location of the gas, telephone and electrical lines.
9. Sewers, Drains, Ditches. Preliminary plans and profiles at a scale of one inch equals fifty (1=50) feet horizontally and one inch equals five (1=5) feet vertically of all proposed and existing sanitary sewers, storm drains, drainage ditches and streams within the subdivision, together with the locations, sizes, elevations, grades and capacities of any existing sanitary sewer, storm drain, drainage ditch or stream or watercourse to which the proposed facility shall be connected. When brook or stream channel improvements are proposed or required, the plans for such improvement shall be approved by the State Department of Environmental Protection or the Monmouth County Planning Board where applicable.
10. Percolation Tests and Soil Logs. When an individual sewage disposal system is proposed, the following requirements shall be met:
 - (a) Percolation tests shall be made on each lot to determine the ability of the soil to absorb effluent. Such tests shall be made as directed by the Health Officer. The percolation test shall be approved by the Health Officer. No lot shall be approved as a building lot unless a passing percolation test has been secured.
 - (b) If the percolation rate meets the Borough requirements, the Health Officer shall prescribe the type and extent of the disposal system in accordance with Borough Health regulations.
 - (c) In areas of questionable percolation, the Health Officer may establish the conditions under which the percolation tests may be undertaken, including the month of the year and locations.
 - (d) The Planning Board may require, in areas of questionable suitability for individual sewage disposal systems, soil logs to be undertaken under the direction of the County Health Officer.
11. Private Sewage Disposal. Plans for a typical individual or package sewage disposal system where same is proposed. The plans shall be approved by the appropriate local and/or State agency.
12. Off-Site Improvements. When the development of the subdivision or improvements within the subdivision are contingent upon improvements outside the boundaries of the subdivision, information shall be supplied by the subdivider prior to Unified Planning Board consideration for preliminary approval that the improvements outside the subdivisions are installed and will be available to the subdivider.
13. Setback Lines. All front, rear and side yard lines shall be shown for all lots.
14. Deed Restrictions. A copy of any protective covenants or deed restrictions applying to the land being subdivided shall be submitted with the preliminary plat.

15. Open Space. Any open spaces proposed to be dedicated for public use of playgrounds or other public purpose and the location and use of all such property shall be shown on the plat.

16. Support Capability. When deemed necessary to determine the suitability of the soil to support new construction, the Unified Planning Board shall require test holes or borings to be made by a New Jersey licensed engineer or an approved testing laboratory at the expense of the subdivider under the direction of the Borough Engineer.

17. Conservation Plans. Plans showing measures designed to minimize soil erosion and sedimentation, such as berms, siltation ponds, sediment traps, detention and retention basins, landscaping, natural cover, energy dissipaters and rip-rap. Plans may also include:

(a) A storm drainage schedule, including a description of all temporary and permanent structures, negative measures and other techniques for the control of stormwaters, together with a time table for the construction or installation of such structures, negative measures or other techniques.

(b) A schedule containing the timing of and description of temporary and permanent soil stabilization measures, including tracking, scarification, serratation of slopes, roughening, mulching, silting, chemical binders and other suitable methods of soil stabilization.

(c) The location and description of water interception and diversion measures, such as diversion ditches, dikes, barriers and disposal structures such as flexible or sectional downdrains, flumes, lineal spreaders and the like.

c. *Final Plat.* The final plat and all final plans and profiles of improvements and other original exhibits shall be filed with the Borough Clerk at least two (2) weeks prior to the regular meeting of the Planning Board when the plat is to be considered. The plat shall be drawn in compliance with the provisions of the Map Filing Law, (N.J.S.A. 40:23-9.9 et seq.). The final plat shall show or be accompanied by the following:

1. Identification. Date, name and key map of the subdivision, name of owner, scale, graphic scale and reference meridian. The final plat shall be drawn at a scale of not more than one (1) inch equals one hundred (100) feet.

2. Other Contents. Tract boundary lines, rights-of-way lines of streets, street names, easements and other rights-of-way, land to be reserved or dedicated to public use, all lot lines with accurate dimensions, bearings, distances, arc lengths, central angles, tangents and radii of all curves and areas of each lot in square feet.

3. Public Use. The purpose of any easement or land reserved or dedicated for any use shall be indicated, and the proposed use of sites other than residential shall be noted.

4. Blocks and Lots. All block, lot and house numbers shall be approved by the Borough Engineer and the Tax Assessor and shall be related to existing block and lot numbers as shown on the Official Tax Map of the Borough.

5. Monuments. Location and description of all monuments shall be shown.

6. Consent of Owner. Certification that the applicant is agent or owner of the land or that the owner has given consent to file the map.

7. Approval. When approval of a plat is required by any officer or body, whether municipal, County or State, approval shall be certified on the plat.

8. Certifications. The following certifications shall appear on the final plat:

(a) I hereby certify that this map and the survey have been made under my immediate supervision and comply with the provisions of the Map Filing Law (include the following if applicable). I do further certify that the monuments as designed and shown hereon have been set.

Licensed Land Surveyor (Affix Seal)

_____ Date

(If monuments are to be set at a later date, the following endorsement shall be shown on the map.)

I certify that a bond has been given to the Borough of Matawan guaranteeing the future setting of the monuments shown on this map and so designated.

_____ Borough Clerk

_____ Date

(b) I hereby certify that all of the requirements of the Borough of Matawan Health Regulations have been complied with.

_____ County Health Officer

_____ Date

(c) I have carefully examined this map and find it conforms with the provisions of the Map Filing Law and the municipal ordinances and requirements applicable thereto.

(d) This application No. _____ is approved by the Borough of Matawan Unified Planning Board as a major subdivision.

Chairman

Date

Secretary

Date

9. Affidavit. An affidavit signed and sworn to by the applicant that the final plat is drawn and presented exactly the same as the preliminary plat approved by the Unified Planning Board, and, if there be any, changes shall be set forth in the affidavit as exceptions to the general statement. The affidavit shall be submitted in an original and two (2) copies.

(Ord. No. 98-21 § 304-26)

34-27 DESIGN STANDARDS.

The subdivider shall observe the following requirements and principles of land subdivision in the design of each subdivision or portion thereof.

a. *Development Pattern.* The subdivision plat shall conform to design standards that will encourage the most appropriate development pattern within the Borough.

b. *Reservation of Public Areas.*

1. If the Master Plan or the Official Map provides for the reservation of designated streets, public drainageways, flood control basins, bikeways, walkways or public areas within the proposed development, before approving a subdivision or site plan the Unified Planning Board may further require that such streets, ways, basins or areas be shown on the plat in locations and sizes suitable to their intended uses. The Unified Planning Board may reserve the location and extent of such streets, ways, basins or areas shown on the plat for a period of one (1) year after the approval of the final plat or within such further time as may be agreed to by the developer. Unless during such period or extension thereof the Borough shall have entered into a contract to purchase or institute condemnation proceedings according to law for the fee or a lesser interest in the land comprising such streets, ways, basins or areas, the developer shall not be bound by such reservations shown on the plat and may proceed to use such land for private use in accordance with applicable development regulations. The provisions of this subsection shall not apply to the streets and roads, flood control basins or public drainageways necessitated by the subdivision or land development and required for final approval.

2. The developer shall be entitled to just compensation for actual loss found to be caused by such temporary reservation and deprivation of use. In such instance, unless a lesser amount has previously been mutually agreed upon, just compensation shall be deemed to be the fair market value of an option to purchase the land reserved for the period of reservation, provided that determination of such fair market value shall include but not be limited to consideration of the real property taxes apportioned to the land reserved and prorated for the period of reservation. The developer shall be compensated for the reasonable increased cost of legal, engineering or other professional services incurred in connection with obtaining subdivision approval or site plan approval, as the case may be, caused by the reservation.

c. *Streets.*

1. General. The arrangement of streets not shown on the Master Plan or Official Map shall be such as to provide for the appropriate extension of existing streets, and where necessary in order to promote the orderly flow of traffic and for the safety, welfare and convenience of the public, shall be such as to provide for appropriate extensions to adjoining properties.

2. Right-of-way and Pavement Widths. The right-of-way and pavement widths shall be measured from abutting lot line to abutting lot line and shall not be less than the following:

(a) Arterial and primary road right-of-way: as required by State or County.

(b) Secondary roads right-of-way: as required by State or County.

(c) Collector streets.

(1) Right-of-way: fifty (50) to sixty (60) feet.

(2) Pavement: twenty (20) feet to forty (40) feet.

(d) Minor and marginal access streets.

(1) Right-of-way: fifty (50) feet.

(2) Pavement: twenty (20) feet to thirty (30) feet.

(e) Cul-de-sac or Dead-End Turnarounds. Cul-de-sacs or dead-end turnarounds shall have a minimum radius of forty (40) feet on the curb, right-of-way minimum of fifty (50) feet and pavement width of eighteen (18) feet to twenty-four (24) feet. Landscaped islands shall be provided where required by the Planning Board.*

(f) Internal or Service Roads. The right-of-way and pavement widths for internal roads in multifamily, commercial and industrial developments shall be determined by the Unified Planning Board on an individual basis and shall in all cases be of sufficient width and design to safely accommodate the maximum traffic, parking, loading and access for emergency equipment, but in no case shall the pavement be less than twenty (20) feet in width for two-way traffic.

d. *Widening Existing Streets.*

1. Subdivisions that include existing streets which do not conform to pavement and/or right-of-way widths, as shown on the Master Plan or Official Map, shall be dedicated and improved to Borough specifications the additional width from the center line of the road abutting the property being subdivided. If the subdivision adjoins one (1) side of an existing road which does not meet standards, only one-half (1/2) of the required extra width shall be dedicated and improved to Borough specifications.

2. When, in the interests of traffic safety, health, convenience and good planning, a postponement of the installation or construction of a widened roadway is desirable, the Unified Planning Board may authorize such postponement, provided that the developer shall deposit with the Borough the cost of the improvement in lieu of actually constructing or installing same in the same manner as required in this chapter.

e. *Street Design Standards.*

1. Grades. Grades of arterial, primary and secondary roads shall be determined by the State or County. Collector streets shall not exceed eight (8%) percent. Grades on other streets shall not exceed ten (10%) percent. No street shall have a minimum grade of less than one (1%) percent.

2. Intersections. Street intersections shall be laid out as nearly at right angles as possible and in no case shall be less than sixty (60°) degrees. The block corners at intersections shall be rounded at the right-of-way line with a twenty-five-foot radius curve and at the curbline with a curve having a radius of not less than thirty-five (35) feet.

3. Jogs. Street jogs with center-line offsets of less than one hundred twenty-five (125) feet shall be prohibited.

4. Reverse Curves. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.
5. Connecting Streets. When connecting street lines deflect from each other at any one point by more than ten (10°) degrees and not more than forty-five (45°) degrees, they shall be connected by a curve with a center-line radius of not less than three hundred (300) feet for minor streets and six hundred (600) feet for arterial and collector streets.
6. Dead-end Streets. Dead-end streets shall not be longer than one thousand (1,000) feet unless approved by the Planning Board. They shall have a turnaround installed with a curb radius of forty (40) feet and shall be tangent wherever possible to the right side of the street. The dead-end street should extend to the adjoining property line to permit its extension to serve adjacent properties with adequate provision made for the future extension of the street to meet Borough standards. Wherever a turnaround is proposed on any street, the front yard setback line shall be measured so as to maintain the front yard setback of adjacent properties.
7. Names. Streets shall not have a name which will duplicate or so nearly duplicate as to be confused with the names of existing streets. The continuation of an existing street shall have the same name. All street names shall be approved by the Planning Board.*
- f. *Lots*. Lot dimensions, front, side and rear yards and total area in square feet shall not be less than the requirements contained in this chapter.
 1. Side Lines. Insofar as is practical, side lot lines shall be at right angles to streets and radial to curved streets.
 2. Frontage. Each lot must front upon a street and the frontage shall not be less than required by this chapter as measured along the building setback line and street right-of-way line. The minimum frontage along a cul-de-sac shall be measured at minimum required building setback line.
 3. Setbacks. Where land has been dedicated for a widening of existing streets, lots shall begin at such new street line as may have been established, and all setbacks shall be measured from such line.
 4. Substandard Suitability. Where there is a question of the suitability of a lot or lots for their intended use due to factors, such as rock formations, flood conditions, high water table, sewage disposal, excessive topographic slope or similar circumstances, the Unified Planning Board may, after adequate investigation, with professional assistance, if deemed necessary, withhold approval of such lots.

5. Driveways. Driveways shall not have a grade in excess of fifteen (15%) percent over the entire length. On arterials, the grade shall not be more than five (5%) percent for the first twenty-five (25) feet from the road unless otherwise approved by the Unified Planning Board. Driveways shall not be located where visibility is limited because of curves or topography.

6. Lots on Arterial or Collector Streets. Lots fronting on arterial or collector roads shall, at the discretion of the Unified Planning Board, be serviced by a marginal access road or reverse frontage or be required to provide driveways with turnarounds.

g. *Public Use, Service Areas and Utility Placement.*

1. Utility Easements. In any major subdivision, or where unusual circumstances warrant as determined by the Unified Planning Board, easements may be required for utility installations. Such easements shall be at least twenty (20) feet wide and located after consultation with the utility companies or Borough agencies concerned.

2. Drainage and Conservation Easements. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, or where it is desirable to preserve other areas within a subdivision because of soil conditions, rock outcroppings, tree masses, wildlife habitat, vistas or other significant horticultural, environmental or natural features, there shall be provided a drainage and/or conservation easement of sufficient area and width to protect and preserve the aforementioned features. The extent of such easements shall be determined by the Environmental Commission, and the easements shall be deeded to the Borough prior to final subdivision approval and carry the following limitations:

- (a) No trees or shrubs shall be removed or destroyed on lands in the easement, except in accordance with approved forest management practices.
- (b) No topsoil, sand, gravel or minerals shall be excavated or removed except as may be required to build a pond and then only if the Borough approves the design and structure of the pond, it being the intent to preserve the natural function of the floodplain.
- (c) No buildings of any description shall be erected.
- (d) No fill of any kind shall be permitted except as may be required to build a road and then only after the Borough approves the design.

3. Underground Utilities.

(a) In all subdivisions, all utility distribution lines or mains and all services shall be installed underground. In all such subdivisions, the applicant shall arrange with the serving utility for underground installation of the utilities distribution supply lines, in accordance with the provisions of the applicable standard terms and conditions incorporated as a part of its tariff, as the same are then on file with the State of New Jersey Board of Public Utility Commissioners, and shall submit to the Unified Planning Board prior to the granting of final approval a written instrument from each serving utility which shall evidence full compliance with the provisions of this paragraph; except, however, that lots which, in such subdivisions, abut existing streets where overhead electric or telephone distribution supply lines have heretofore been installed on any portion of the street involved may be supplied with electric and telephone service from those overhead lines, but the service connections from the utilities' overhead lines shall be installed underground.

(b) In any particular situation where the applicant can clearly demonstrate that because of unusual topographic conditions or other unusual conditions having to do with the land, the installation of such utilities underground is impractical or otherwise not feasible due to such conditions, then the Unified Planning Board, in its discretion, may waive this requirement for underground installation.

4. Street Lights. Street lights shall be installed as required by the Unified Planning Board.

h. *Conservation, Erosion and Sediment Control.* Measures used to control erosion and reduce sediment shall as a minimum meet the standards, specifications and recommendations of the Monmouth County Soil Conservation District and Matawan Borough. The following measures shall be included where applicable in the soil erosion and sedimentation control plan:

- 1. Stripping of vegetation, regrading or other development shall be done in such a way as to minimize erosion.
- 2. Development shall preserve salient natural features, keeping cut-fill operations to a minimum, and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff.
- 3. When feasible, natural vegetation shall be retained, protected and supplemented.
- 4. The disturbed area and the duration of exposure shall be kept to a practical minimum.
- 5. Disturbed soils shall be stabilized as quickly as practical.

6. Temporary vegetation or mulching shall be used to protect exposed critical areas during development.
7. The permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practical in the development.
8. Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development. Where necessary the rate of surface water runoff will be mechanically retarded.
9. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.
10. Maintenance of all drainage facilities and watercourses within any major subdivision is the responsibility of the developer until they are accepted by the Borough or other approving agency.
11. It is the responsibility of any person doing any act on or across a communal stream, watercourse or swale or upon the floodway or right-of-way thereof to maintain as nearly as possible in its present state the stream, watercourse, swale, floodway or right-of-way during the duration of such activity and to return it to its original or equal condition after such activity is completed.
12. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.
13. No person shall block, divert, disturb, impede the flow of, alter or construct any structure or deposit any material or thing or commit any act which will affect normal or flood flow in any communal stream or watercourse without having obtained prior approval from the Borough and the New Jersey Department of Environmental Protection, Division of Water Resources.
14. Rights-of-way or easements, having a minimum width of twenty (20) feet, shall be provided for all drainage facilities and watercourses which are proposed for acceptance by the Borough or other official agency.
15. Each person who makes any surface changes shall be required to:
 - (a) Collect on-site surface runoff and dispose of it into the common natural watercourse of the drainage area.

(b) Handle existing off-site runoff through his development by designing the stormwater system to adequately handle storm runoff from a fully developed area upstream.

i. All stormwater management measures for development regardless of use, including structural stormwater management strategies, detention basins and other stormwater management facilities and stormwater collection and conveyance structures, shall be designed in accordance with and comply with the provisions of Article XIII, Stormwater Control and Stormwater Management Procedures and the Residential Site Improvement Standards (N.J.A.C. 5:21-7 et seq.) (Ord. No. 98-21 § 304-27; New)

Article V Provisions Applicable to Both Site Plans and Subdivisions

34-28 IMPROVEMENT GUARANTIES.

a. Before recording of final subdivision plats or as a condition of site plan approval or as a condition to the issuance of a zoning permit pursuant to N.J.S.A. 40:55D-65, the approving authority may require and shall accept in accordance with the standards adopted by ordinance for the purpose of assuring the installation and maintenance of on-tract improvements:

1. The furnishing of a performance guaranty in favor of the municipality in an amount not to exceed one hundred twenty (120%) percent of the cost of installation, which cost shall be determined by the Municipal Engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4, for improvements which the approving authority may deem necessary or appropriate including: streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyor's monuments, as shown on the final map and required by the Map Filing Law, (N.J.S.A. 46:23-9.9 et seq.), water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, erosion control and sedimentation control devices, public improvements of open space and, in the case of site plans only, other on-site improvements and landscaping. The Municipal Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guaranty, which itemized cost estimate shall be appended to each performance guaranty posted by the obligor.

2. Provision for a maintenance guaranty to be posted with the Governing Body for a period not to exceed two (2) years after final acceptance of the improvement in an amount not to exceed fifteen (15%) percent of the cost of the improvement, which cost shall be determined by the Municipal Engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guaranty to another governmental agency, no performance or maintenance

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

b. The time allowed for installation of the improvements for which the performance guaranty has been provided may be extended by the Governing Body by resolution. As a condition or as part of any such extension, the amount of any performance guaranty shall be increased or reduced, as the case may be, to an amount not to exceed one hundred twenty (120%) percent of the cost of the installation, which cost shall be determined 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 improvements are not completed or corrected in accordance with the performance guaranty, the obligor and surety, if any, shall be liable thereon to the municipality for the reasonable cost of the improvements not completed or corrected and the municipality may either prior to or after the receipt of the proceeds thereof complete such improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

d. Incomplete Improvements.

1. Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the Governing Body in writing, by certified mail addressed in care of the Municipal Clerk, that the Municipal Engineer prepare, in accordance with the itemized cost estimate prepared by the Municipal Engineer and appended to the performance guaranty pursuant to Subsection A of this section, a list of all uncompleted or unsatisfactory completed improvements. If such a request is made, the obligor shall send a copy of the request to the Municipal Engineer. The request shall indicate which improvements have been completed and which improvements remain uncompleted in the judgment of the obligor. Thereupon the Municipal Engineer shall inspect all improvements covered by obligor's request and shall file a detailed list and report, in writing, with the Governing Body, and shall simultaneously send a copy thereof to the obligor not later than forty-five (45) days after receipt of the obligor's request.

2. The list prepared by the Municipal Engineer shall state, in detail, with respect to each improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed improvement determined to be unsatisfactory. The report prepared by the Municipal Engineer shall identify each improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guaranty relating to the completed and satisfactory improvement, in accordance, with the itemized cost estimate prepared by the Municipal Engineer and appended to the performance guaranty pursuant to paragraph a. above.

e. Approval or Rejection of Improvements.

1. The Governing Body, by resolution, shall either approve the improvements determined to be complete and satisfactory by the Municipal Engineer, or reject any or all of these improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guaranty relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Municipal Engineer and appended to the performance guaranty pursuant to paragraph a. above. This resolution shall be adopted not later than forty-five (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 guaranty, with respect to those approved improvements except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved, provided that thirty (30%) percent of the amount of the performance guaranty posted may be retained to ensure completion and acceptability of all improvements.

2. Failure to Act.

(a) If the Municipal Engineer fails to send or provide the list and report as requested by the obligor pursuant to paragraph d. above within forty-five (45) days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling the Municipal Engineer to provide the list and report within a stated time and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

(b) If the Governing Body fails to approve or reject the improvements determined by the Municipal Engineer to be complete and satisfactory or reduce the performance guaranty for the complete and satisfactory improvements within forty-five (45) days from the receipt of the Municipal Engineer's list and report, the obligor may apply to the court in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guaranty for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Municipal Engineer and appended to the performance guaranty pursuant to Subsection A of this section, and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

3. In the event that the obligor has made a cash deposit with the municipality or approving authority as part of the performance guaranty, then any partial reduction granted in the performance guaranty pursuant to this subsection shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guaranty.

f. If any portion of the required improvements is rejected, the approving authority may require the obligor to complete or correct such improvements and, upon completion or correction, the same procedure of notification as 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 all reasonable inspection fees paid to the Municipal Engineer for the foregoing inspection of improvements, provided that the municipality may require of the developer a deposit for the inspection fees in an amount not to exceed, except for extraordinary circumstances, the greater of five hundred (\$500.00) dollars or five (5%) percent of the cost of improvements, which cost shall be determined pursuant to N.J.S.A. 40:55D-53.4. For those developments for which the reasonably anticipated fees are less than ten thousand (\$10,000.00) dollars, fees may, at the option of the developer, be paid in two (2) installments. The initial amount deposited by a developer shall be fifty (50%) percent of the reasonably anticipated fees. When the balance on deposit drops to ten (10%) percent of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Municipal Engineer for inspection, the developer shall deposit the remaining fifty (50%) percent of the anticipated inspection fees. For those developments for which the reasonably anticipated fees are ten thousand (\$10,000.00) dollars or greater, fees may, at the option of the developer, be paid in four (4) installments. The initial amount deposited by a developer shall be twenty-five (25%) percent of the reasonably anticipated fees. When the balance on deposit drops to ten (10%) percent of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Municipal Engineer for inspection, the developer shall make additional deposits of twenty-five (25%) percent of the reasonably anticipated fees. The Municipal Engineer shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit.

i. In the event that final approval is by stages or sections of development pursuant to N.J.S.A. 40:55D-38, the provisions of this section shall be applied by stage or section.

j. To the extent that any of the improvements have been dedicated to the municipality on the subdivision plat or site plan, the municipal Governing Body shall be deemed, upon the release of any performance guaranty required pursuant to paragraph a. above, to accept dedication for public use of streets or roads and any other improvements made thereon according to site plans and subdivision plats approved by the approving authority, provided that such improvements have been inspected and have received final approval by the Municipal Engineer.
(Ord. No. 98-21 § 304-28)

34-29 OFF-TRACT IMPROVEMENTS.

a. *Required.* Developers shall be required, as a condition for approval of a subdivision or site plan, to pay their pro-rata share of the cost of providing reasonable and necessary street improvements and water, sewerage and drainage facilities, and easements therefor, located outside the property limits of the subdivision but necessitated or required by construction or improvements within the subdivision. The following criteria shall be utilized in determining a developers proportionate or pro-rata share of necessary off-tract improvements.

b. *Improvements to be Constructed at the Sole Expense of the Developer.* In cases where the reasonable and necessary need for an off-tract improvement or improvements is necessitated or required by the proposed development application and where no other property owners receive a special benefit thereby, the applicant may be required, as a condition of approval, at the applicant's sole expense, to provide for and construct such improvements as if such were an on-tract improvement in the manner provided hereafter and otherwise provided by law.

c. *Other Improvements.* In cases where the need for any off-tract improvements is necessitated by the proposed development application and where it is determined that properties outside of the development will also be benefited by the improvement, the following criteria shall be utilized in determining the proportionate share of such improvements to the developer:

1. Sanitary Sewers.* Distribution facilities, including the installation, relocation or replacement of collector, trunk and interceptor sewers, and the installation, relocation or replacement of other appurtenances associated therewith, the applicant's proportionate share shall be computed as follows:

(a) The capacity and the design of the sanitary sewer system shall be based on Rules and Regulations for the Preparation and Submission of Plans for Sewerage Systems, New Jersey Department of Environmental Protection and all Matawan Borough Sewer Design standards, including infiltration standards, and all other Borough stormwater drain standards.

(b) Capacity of existing system.

(1) The capacity of the existing system to service the entire improved drainage area shall be computed. If the system is able to carry the total developed drainage basin, no improvement or enlargement cost will be assigned to the developer.

(i) If the existing system does not have adequate capacity for the total developed drainage basin, the prorated enlargement or improvement share shall be computed as follows:

$$\frac{\text{Total enlargement or improved cost}}{\text{Developer's cost}} = \frac{\text{Total tributary gallons per day}}{\text{Development gallons per day}}$$

(ii) If it is necessary to construct a new system in order to develop the subdivision, the prorated enlargement share to the developer shall be computed as follows:

$$\frac{\text{Total project cost}}{\text{Developer's cost}} = \frac{\text{Total tributary gallons per day to new system}}{\text{Development tributary gallons per day}}$$

(2) The plans for the improved system or extended system shall be prepared by developer's engineer. All work shall be calculated by the developer and approved by the Borough Engineer.

2. 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 as follows:

(a) The Borough Engineer shall provide the applicant's engineer with the existing and anticipated peak hour flows for the off-tract improvement.

(b) The applicant shall furnish a plan for the proposed off-tract improvement 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 prorated share shall be computed as follows:

Total cost of the roadway improvement and/or extension			Future peak hour traffic
<hr/>		=	<hr/>
Developer's cost			Future peak hour traffic generated by the developer

3. Drainage Improvements. For stormwater and drainage improvements, including the installation, relocation or replacement of storm drains, culverts, catch basins, manholes, rip-rap or improved drainage ditches and appurtenances thereto and relocation or replacement of other storm drainage facilities or appurtenances associated therewith, the applicant's proportionate share shall be determined as follows:

(a) The capacity and the design of the drainage system to accommodate stormwater runoff shall be based on a method described in Urban Hydrology for Small Watershed Technical Release 55, Soil Conservation Service United States Department of Agriculture, January 1975, as amended, computed by the developer's engineer and approved by the Borough Engineer.

(b) The capacity of the enlarged, extended or improved system required for the subdivision and areas outside of the developer's tributary to the drainage system shall be determined by the developer's engineer subject to 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 calculated by the Borough Engineer. The prorated share for the proposed improvement shall be computed as follows:

Total enlargement or improvement cost of drainage facilities			Total tributary cubic feet per second
<hr/>		=	<hr/>
Developer's cost			Development cubic feet per second

4. Recreation Areas in Multifamily Dwelling Applications. It shall be established for applications of multi-family dwellings that are deficient and do not provide a recreation area, the following contribution schedule to be applied uniformly upon the granting of any preliminary and Final Site Plan Approval for multi-family dwellings that are deficient in any recreational amenities for the recreational needs of the development residence. The schedule shall be as follows:

(a) Recreation:

(1) Passive recreation areas such as pathways, natural woods and fields, seating areas and lawns shall be provided suitably arranged, throughout any multi-family site as defined in this chapter.

(2) In addition, an active recreation area or areas shall be provided at the rate of at least two hundred fifty (250) square feet per dwelling unit. Outdoor play equipment shall be installed in each recreation area in sufficient amount of variety to serve the occupants of the multi-family site.

(3) Contributions in lieu of active recreation areas. If the required recreation area, or any part thereof, is not provided, then a contribution in lieu of the same shall be made to the Borough's Recreation Fund in accordance with the following formula:

[a] Total Deficiency of recreation area in square feet multiplied by the sum of thirty (\$30.00) dollars per square foot for that portion of the total development area lying in any residential zone.

[b] The sum of fifty (\$50.00) dollars per square foot for that portion of the total development area lying in any business/commercial/mixed use, industrial or other zones.

d. *Escrow Accounts.* Where the proposed off-tract improvement is to be undertaken at some future date, the moneys required for the improvement shall be deposited to the credit of the Borough in a separate account until such time as the improvement is constructed. If the off-tract improvement is not begun within ten (10) years of deposit, all moneys and interest shall be returned to the applicant.

e. *Computation of Pro-Rata Share.* In any case in which an applicant shall not provide the approving authority with the estimates of a traffic consultant and/or consulting engineer with regard to estimated improvement costs and all other information necessary to proportion costs, the approving authority may rely on the estimates of the Borough Engineer.

(Ord. No. 98-21 § 304-29; Ord. No. 06-29)

Article VI Performance and Design Standards

34-30 APPLICABILITY OF REGULATIONS; SCHEDULE A.*

a. No building shall hereafter be erected nor shall any existing building be moved, structurally altered, rebuilt, added to or enlarged, nor shall any land be designed or used for any purpose other than those included among the uses listed as permitted uses in each zone by this chapter and meeting the requirements set forth in Schedule A made a part of this chapter.

b. Nor shall any open space contiguous to any building be encroached upon or reduced in any manner, except in conformity to the yard, lot area, building, location, percentage of lot coverage, off-street parking requirements and such other regulations designated in Schedule A and in this chapter for the zone district in which such building or space is located. In the event of any such unlawful encroachment or reduction, such building shall be deemed to be in violation of this chapter, and the Certificate of Occupancy shall become void.

c. *Expansion of Residential Uses.* A nonconforming residential use or structure may be expanded to provide additional living space, provided that the expansion does not increase the maximum number of dwelling units permitted in the zone and does not infringe further upon any nonconforming side, front or rear yard. However, no additional building exteriors shall be closer than five (5) feet to any side lot line.

d. All stormwater management measures for development regardless of use, including structural stormwater management strategies, detention basins and other stormwater management facilities and stormwater collection and conveyance structures, shall be designed in accordance with and comply with the provisions of Article XIII, Stormwater Control and Stormwater Management Procedures and the Residential Site Improvement Standards (N.J.A.C. 5:21-7 et seq.).

(Ord. No. 98-21 § 304-30; New)

34-31 ACCESSORY BUILDINGS.

a. An accessory building attached to a principal building shall comply in all respects with the yard requirements of this chapter for the principal building. Detached accessory buildings shall be located to the rear of the front building line of the principal building and, if located in a side yard area, shall conform to the yard requirements of the zone district in which it is located.

b. For the purpose of regulating the locations of accessory buildings on corner lots, and on lots extending through between two (2) 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 zone district in which the corner lot or through lot is located.
(Ord. No. 98-21 § 304-31)

34-32 FRONTAGE ON A PUBLIC STREET.

Every principal building shall be built upon a lot with frontage upon a street, and the frontage shall not be less than required by this chapter, as measured along the building setback line and street right-of-way line. (Ord. No. 98-21 § 304-32)

34-33 YARDS AND YARD MEASUREMENT.

- a. *Yards Facing Public Streets.* All yards facing on a public street shall be considered front yards and shall conform to the minimum front yard requirements for the zone in which it is located.
- b. *Corner Lots.* Corner lots shall provide the minimum front yard requirements for the prospective zone for both intersection streets for both principal and accessory buildings.
- c. *Yards Facing on Proposed Right-of-way Widening.* Where a building lot has frontage on a street which the Master Plan or the Official Map of the Borough indicates is proposed for right-of-way widening, the required front yard area shall be measured from such proposed right-of-way line.
- d. *Fire Escapes in Yards.* Open fireproof fire escapes or stairways may project not more than eight (8) feet into any side or rear yard.
- e. *Storage in Front Yards.* No front yard shall be used for open storage of boats, vehicles or any other equipment except for permitted vehicular off-street parking or vehicular parking on driveways. All open storage areas shall be properly landscaped.
- f. *Front Yard Depth.* The depth of a front yard shall be measured between the street line established by the intended ultimate right-of-way of the street(s) on which the lot fronts and the nearest point of the principal building on the lot. The depth of a front yard shall be measured perpendicular to the street line.
- g. *Side Yard.* A side yard shall be measured parallel to the street line, and the dimension of a side yard shall be the distance between the side lot line and the nearest point of the building or structure for which the side yard is being measured to that side lot line.

h. *Rear Yard.* A rear yard shall be measured perpendicular to the street line, and the dimension of a rear yard shall be the distance between the rear lot line and the nearest point of the building or structure for which the rear yard is being measured to the rear lot line. (Ord. No. 98-21 § 304-33)

34-34 OBSTRUCTION OF VISION AT INTERSECTION.

At an intersection there shall be no obstruction of vision between a height of two (2) feet and ten (10) feet above the center-line grade of the street within the triangle defined by the first seventy-five (75) feet of each of the intersection street lines for local streets. The distance shall be increased to one hundred (100) feet if either of the streets is a collector street or increased to one hundred fifty (150) feet if either of the streets is an arterial street. Such triangles shall be graded as necessary and kept clear of any building, planting or other obstruction. (Ord. No. 98-21 § 304-34)

34-35 PRESERVATION OF NATURAL FEATURES.

a. *Earth Removal and Topsoil.* No topsoil shall be removed from the site or used as spoil unless approved by the Borough Engineer. If soil is removed from the Borough, approval from the Borough Council is mandatory. At least six (6) inches of topsoil shall be provided within twenty-five (25) feet of the structure or paved areas and appropriately landscaped. All nonhard-surfaced areas of the lot or those portions without structures shall be stabilized by seeding or planting to prevent soil erosion. Areas where vegetation has been removed or the surface has been disturbed and which constitute a potential soil erosion problem shall be appropriately stabilized to the satisfaction of the Borough Engineer.

b. *Changes in Elevation.* No change shall be made in the elevation or contour of any lot or site by the removal of earth to another lot or site other than as shown on an approved preliminary plat. Minimal changes in elevations or contours necessitated by field conditions may be made only after approval by the Borough Engineer. All changes necessitated by field conditions shall be shown on the final plat and indicated as a change from the preliminary, or if final approval has been granted, the changes shall be shown on the as-built plans.

c. *Stream Setback Requirements.* No use, other than an agricultural use of land, otherwise permitted by this chapter, shall be established upon land or fill having an elevation lower than the highest elevation of any known floodplain which affects the property, and no building shall be constructed so as to have any floor level less than one (1) foot above the highest elevation of any adjacent known floodplain. Additionally, no structure shall be constructed closer than one hundred (100) feet to the bank of any stream as determined at normal flow, unless the Borough Engineer certifies and indicates a lesser requirement is permissible based upon hydraulic and topographic considerations.

d. *Retention of Natural Features.* Existing natural features, such as trees, brooks, drainage channels and views, shall be retained. Wherever such features interfere with the proposed use of such property, a retention of the maximum amount of such features consistent with the use of the property shall be required. No construction or disturbance shall be permitted upon lands with slopes fifteen (15%) percent or greater.

e. *Temporary Improvements.* Prior to or during construction, the Borough Engineer may require the installation or construction of improvements to prevent or correct temporary conditions on the site which could cause personal injury, damage to property or constitute a health hazard. These conditions may result from erosion and landslide, flooding, heavy construction, traffic, creation of steep grades and pollution. Improvements may include berms, mulching, sediment traps, detention and retention basins, grading, plantings, retaining walls, culverts, pipes, guard rails, temporary roads and others appropriate to the specific condition. All temporary improvements shall remain in place and in operation until otherwise directed by the Borough Engineer. (Ord. No. 98-21 § 304-35)

34-36 SEWAGE DISPOSAL AND WATER SUPPLY.

All buildings or uses shall be served by a public sanitary sewerage facility, and a public water supply shall be required wherever practicable. A statement from the appropriate agency controlling sanitary sewer and public water connections shall be required in any case where such service is not practicable. In cases where water is supplied by driven well and/or sanitary sewerage is treated by septic tank installations, such installations shall conform to the standard requirements of the Borough and State Boards of Health or other authority having jurisdiction thereof. (Ord. No. 98-21 § 304-36)

34-37 NEW LOTS ON WHICH THERE ARE EXISTING BUILDINGS.

When a new lot is formed as to include within its boundaries any part of a former lot on which there is an existing building or use, the subdivision must be carried out in such a manner as will not infringe upon any provisions of this chapter whether with respect to any existing structures or use or any proposed structures or use. (Ord. No. 98-21 § 304-37)

34-38 BUSINESS DISPLAYS AND VENDING MACHINES.

Business structures or uses shall not display goods for sale purposes or coin-operated vending machines of any type in any location which would infringe upon the required front yard areas specified in this chapter. (Ord. No. 98-21 § 304-38)

34-39 PARKING COMMERCIAL VEHICLES IN RESIDENTIAL ZONES.

In any residential zone within Matawan Borough, no commercial vehicle weighing more than eight thousand (8,000) pounds shall be parked out-of-doors overnight. Not more than one (1) commercial vehicle, weighing eight thousand (8,000) pounds or less, shall be permitted to be parked overnight in conjunction with a residential property in a residential zone. (Ord. No. 98-21 § 304-39)

34-40 EXPOSED STORAGE OF INOPERABLE AUTOS OR JUNK MATERIALS.

The exposed storage of inoperable autos or junk materials shall be prohibited in all zones, excepting where gasoline or other motor fuel service stations or garages are permitted as a conditional use, in which case, the amount of exposed storage of inoperable autos shall be determined by the Unified Planning Board on a case-by-case basis. (Ord. No. 98-21 § 304-40)

34-41 BUFFER STRIPS.

a. *Required.* When any business, commercial, industrial or institutional buildings or uses, including but not limited to off-street parking areas, occupy a lot in any district as permitted by this chapter and such lot abuts upon a residential district or use, that portion specified hereinbelow of the yard or yards immediately adjacent to, and along the entire length of such lot adjoining the residence district or use, shall be considered a buffer strip, which buffer strip shall be regulated as follows, provided that nothing in this section shall prevent the reconstruction, repair or rebuilding without the enlargement of any nonconforming building existing at the effective date of this chapter.

b. *Location.* The buffer strip shall be located within the required yard area of the property used for nonresidential purposes, and the structures and planting required by this section shall be provided and properly maintained by the owner of the nonresidential property. No part of any buffer strip shall be occupied by a sign or by any structure or use, except as is specifically permitted in this article.

c. *Type.* If the buffer strip area is substantially screened by natural trees and growth, the same shall be left in its natural state. If the area is not substantially screened in its natural state, it shall be planted with shrubs and trees as specified in subsection 34-3 so as to provide an adequate screen from the residential properties. Any portion of a buffer strip not planted with shrubbery or trees shall be graded and planted with grass seed, sod, rocks or mulch and be attractively maintained and kept free of all debris and rubbish.

d. *Height.*

1. For planted buffer strips or buffer strips with natural landscape screens, the landscape screen 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 and substantially obscure the light of automobiles' headlamps emitted from the premises.

2. Adjacent to parking areas, the required height of the landscape screen shall be measured in relation to the elevation of the edge of such parking area. In the event that the ground elevation of the location at which the screen is to be planted is less than that of the edge of the adjacent parking area, the required height of screen shall be increased in an amount equal to this difference in elevation. In the event that the ground elevation of the location at which the screen is to be planted is greater than that of the edge of the adjacent parking area, the required height of the screen may be reduced in an amount equal to the difference in elevation, provided that in no case shall a required height be reduced to less than two (2) feet.

e. *Width.* The minimum width of buffer strips shall be as follows:

1. General business districts: at least eight (8) feet wide.
2. Special business districts: at least fifteen (15) feet wide.
3. Highway improvement districts subject to subsection 34-70: at least ten (10) feet wide.
4. Any industrial district: at least twenty-five (25) feet wide.
5. Any school: at least ten (10) feet wide.
6. Hospitals: at least fifteen (15) feet wide, plus five (5) additional feet wide for each ten-foot interval or fraction thereof of the height of the principal building exceeding thirty-five (35) feet.

f. *Walls or Fences.* A freestanding wall or a fence which shall be not more than four (4) feet in height in all nonresidential districts, except as specified in the HI district, may be erected on either side of a buffer strip. In residential districts, a freestanding fence, not exceeding six (6) feet in height, shall be erected along the property boundary adjacent to any active recreation area of any school.

g. *Off-street Parking Areas.* In the case of off-street parking areas, whether on separate lots or within the yard of the building to which such parking areas are appurtenant, a solid wall or a substantial, tight, neat fence, four (4) feet in height above the grade of the land in the abutting residence district, shall be constructed along the entire length of the buffer strip. Such wall or fence may be located within the buffer strip but shall be distant at least five (5) feet from the abutting residence district. In addition, for the uses specified in this subsection, the planting specified in paragraph c. above shall be located in the buffer strip on the residential side of such wall or fence. This requirement shall not preclude planting on the nonresidential portion of the buffer.

h. *Waivers for Public Recreation Areas.* When the buffer strip is sufficiently wide and is reserved by agreement, approved by the Unified Planning Board and the Borough Attorney, subjecting its control to the Borough for public recreation purposes, the Unified Planning Board, as the case may be, may waive the required screen planting in the portion of the buffer strip so reserved.

i. *Waivers Due to Hardships.* When there are exceptional hardships in the way of carrying out the strict letter of the provisions of this section, the Unified Planning Board, as the case may be, may, after public notice and hearing, waive or vary the foregoing requirements, subject to such conditions as it may prescribe in the public interest.

j. *Maintenance.* Plantings shall be watered regularly and in a manner appropriate for the specific plant species through the first growing season, and dead or dying plants shall be replaced by the applicant during the next planting season. No buildings, structures, storage of materials or parking shall be permitted within the buffer area. Buffer areas shall be maintained and kept free of all debris, rubbish, weeds and tall grass.

k. *Disclaimer.* The requirements in this section shall apply to all districts, except as specifically provided in the highway improvement district.
(Ord. No. 98-21 § 304-41)

34-42 WALLS AND FENCES.

- a. *Maximum Height.* Except as otherwise provided for buffer strips in subsection 34-41 above, a wall or fence, which shall not be more than forty-eight (48) inches in height, may be erected within any required yard or court.
- b. *Retaining Walls.* A retaining wall, when approved by the Zoning Official, may be taller than forty-eight (48) inches, but such retaining wall shall not extend in height for more than one (1) foot above the natural or approved finished grade at its top, unless proper surface drainage requires a greater height. Such requirement shall be determined by the Borough Engineer.
- c. *Permit Required.* Any fence or wall taller than forty-eight (48) inches shall be subject to the Zoning Official's issuance of a zoning permit or his approving notation upon a previously issued and still valid zoning permit for the premises.
- d. *Prohibited Fences.* The following fences and fencing materials are prohibited:
 - 1. Barbed wire.
 - 2. Fabric.
 - 3. Electrically-charged wire.
 - 4. Broken glass surmounting a fence.
- e. *Farm and Temporary Fences Excepted.* Farm fencing and walls, temporary snow fencing and other types of temporary fencing (not to stand more than one (1) year) are excepted from the foregoing regulations.
- f. *Maintenance.* Every fence shall be maintained in a safe, sound, upright condition and shall be erected with the framework or supporting structure facing the inside of the lot. If the Zoning Official determines that any fence or portion of any fence is not being maintained in a safe, sound, upright condition, he shall notify the owner of such fence in writing of his findings and order such fence or portion thereof repaired or removed within thirty (30) days of the date of the written notice. (Ord. No. 98-21 § 304-42)

34-43 OFF-STREET PARKING AND LOADING; DRIVEWAYS.

- a. *Off-street Parking.* In all zones in connection with every industrial, business, institutional, recreational, residential or any other use, there shall be provided, at the time any building or structure is erected or is enlarged or increased in capacity, off-street parking for automotive and other vehicles in accordance with the requirements set forth herein. Such facilities shall be completed prior to the issuance of a Certificate of Occupancy. Applicant shall also meet the requirements of N.J.S.A. 52:32-11 requiring parking spaces for the handicapped.
- b. *Parking Area Design Standards.*
 - 1. *Size of Stalls.* Each off-street parking space shall have an area of not less than one hundred sixty-two (162) square feet, exclusive of access drives or aisles, and shall measure nine (9) feet in width by eighteen (18) feet in length. These conditions shall not apply to parallel curb parking spaces, which shall measure not less than eight (8) feet in width and twenty-four (24) feet in length, and spaces for the physically handicapped, which shall measure not less than twelve (12) feet in width and twenty (20) feet in length.
 - 2. *Number of Spaces.* The number of off-street parking spaces required shall be as set forth in the following table, in accordance with the indicated standards for the minimum space requirements for particular uses:

Use	Minimum Space Requirement
Automobile sales establishments	At least 1 space per employee, plus 1 space for every 200 square feet of the areas devoted to retailing
Bank and savings institutions	1 space for each 300 square feet of gross floor area
Barber and beauty shops	2 spaces per chair, plus 1 additional space for each employee
Bowling lanes	4 spaces for each lane
Churches, synagogues or other places of worship	1 for each 3 seats, or 1 for each 72 inches of seating space when benches rather than seats are used
Community buildings, social halls and places of public assembly	1 for each 2 seats, except where a specific amount of seating is undetermined, then 1 space shall be required for each 75 square feet of assemblage area
Use	Minimum Space Requirement
Educational institutions, public or private	At least 1 space for each employee, including teachers and administrators; sufficient off-street parking space for the safe and convenient loading and unloading of students; additional facilities for student parking, taking into consideration the total number of students driving automobiles. The requirements for stadium, gymnasium and auditorium use shall be in addition to these requirements
Eleemosynary or philanthropic institutions	At least 1 space for each 2 employees, plus such additional facilities for residents and visitors as shall be deemed necessary
Flower or plant nurseries	1 per employee, plus 1 per each 200 square feet of retail area exclusive of areas devoted exclusively to storage
Funeral homes, mortuaries	10 spaces, plus 1 space for each 50

Hospitals	square feet of gross floor area At least 1 space for each 2 patient beds, excluding bassinets, plus 1 additional space for each medical staff member or visiting doctor, based on the average number of such persons serving the hospital, plus 1 additional space for each 2 employees, including nurses
Hotels	At least 1 space for each employee on the maximum work shift, plus 1 space for each sleeping room, whichever is greater
Industrial or manufacturing establishments	1 space for each 300 square feet of gross floor area exclusive of storage space
Use	Minimum Space Requirement
Laboratory and research uses	1 space for every 400 square feet of gross floor area
Laundromats	1 space for every 2 washing machines
Medical or dental clinics or offices	1 space for each 200 square feet of gross floor area
Motels, auto courts, motor lodges	1 space for each rental unit and, in addition, compliance with the requirements for each particular additional use located on the property, such as restaurants, eating and drinking establishments, retail stores and meeting rooms
Nursing homes	1 1/2 spaces for each bed or 1 space for each room, whichever is greater, plus 1 space for each employee
Offices, general and professional (other than medical and dental)	1 for each 250 square feet of gross floor area
Railroad or bus stations	At least 1 space for each 100 square feet of waiting room space, including concession and dining areas
Recreation establishments, commercial (other than theaters or bowling) establishments, auditoriums or stadiums	At least 1 space for each 100 square feet of nonstorage gross floor area
Residential dwellings: One- and two-family	2 parking spaces for each dwelling unit. In addition, all new residential homes shall contain a garage for the parking of at least one automobile.
Garden apartments	At least 2 spaces for each dwelling unit
Restaurants	1 for each 2 1/2 seats
Use	Minimum Space Requirement
Retail stores, store groups, shops, etc.	1 for each 150 square feet of gross floor area where the floor area does not exceed 2,000 square feet; 1 for each 175 square feet of gross floor area where the floor area exceeds 2,000 square feet
Swimming pools and clubs	1 space for each 30 square feet of pool area
Tennis courts	6 for each court
Theaters	1 for each 3 seats
Wholesale establishments, warehouses, furniture stores	1 for each 500 square feet of floor area

3. Off-street Parking Requirements for a Combination of Uses. The parking requirement for each use shall be computed separately and then added together to compute the total number of required parking areas. In all questionable or doubtful cases, or for uses not enumerated, the Unified Planning Board shall determine the required number of spaces, utilizing as a standard the requirements for the uses which are specifically enumerated.

4. Access. There shall be adequate provision for ingress and egress to all parking spaces. The width of access drives or driveways shall be determined as part of site plan review depending on use, topography and similar considerations.

5. Size of Aisles. The width of all aisles providing direct access to individual parking stalls shall be in accordance with the requirements set forth below. Only one-way traffic shall be permitted in aisles serving single-row parking spaces placed at an angle other than ninety (90°) degrees.

Degrees	Aisle Width (feet)
0 (parallel)	12
30	12
45	13
60	18

6. Location. No off-street parking or loading area shall be located in a minimum required front yard, except as provided in this chapter.

7. Sidewalks and Curbing. Sidewalks between parking areas and principal structures, along aisles and driveways and wherever pedestrian traffic shall occur, shall be provided with a minimum width of four (4) feet of passable area and shall be raised six (6) inches or more above the parking area, except when crossing streets or driveways. Guardrails and wheel stops permanently anchored to the ground shall be provided in appropriate locations. Parked vehicles shall not overhang or extend over sidewalk areas, unless an additional sidewalk width of two and one-half (2 1/2) feet is provided to accommodate such overhang.

c. *Off-street Loading.* The minimum requirements for off-street loading space shall be as follows:

1. Industrial and wholesale operations with a gross floor area of less than ten thousand (10,000) square feet shall be sufficient to permit the transfer of goods and products in an area other than the public streets, employee and customer parking areas or access driveways.

2. Industrial and wholesale operations with a gross floor area of ten thousand (10,000) square feet or over shall provide one (1) space for each ten thousand (10,000) square feet.

3. Office buildings or hotels with a gross usable floor area of one hundred thousand (100,000) square feet or more devoted to such purposes shall provide one (1) loading berth for every one hundred thousand (100,000) square feet of floor area.

4. Retail operation, and all first floor nonresidential uses, with a gross floor area of more than three thousand (3,000) square feet and less than twenty thousand (20,000) square feet and all wholesale and light industrial operations with a gross floor area of less than ten thousand (10,000) square feet shall provide one (1) loading space.

5. Retail operation, including restaurant and dining facilities within hotels and office buildings, with a gross usable floor area of twenty thousand (20,000) square feet or more devoted to such purpose shall provide one (1) loading berth for every twenty thousand (20,000) square feet of floor area.

(Ord. No. 98-21 § 304-43)

34-44 SIGNS.

a. All signs within the Borough shall be erected, constructed or maintained in accordance with the provisions of this section. No existing sign shall be enlarged, rebuilt, structurally altered or relocated except in accordance with the provisions of this chapter and until a permit has been issued by the Zoning Official. The issuance of a permit shall not relieve the owner or lessee of the premises from the duty of maintaining such structures safely. No sign of any description shall be installed, erected, constructed or maintained in such manner as to obstruct any fire escape or any window or door, nor shall any sign be attached in any manner to a fire escape. Every sign constructed or maintained shall be plainly marked with the name of the person, firm or corporation erecting or maintaining such sign.

b. *Traffic Safety.* No signs shall be erected in the Borough that:

1. Obstruct the sight distance at an intersection along a public right-of-way.

2. Would tend by its location, color, shape, message or nature to be confused with or obstruct the view of traffic signs or traffic signals by motorists or pedestrians. No red, green or yellow illuminated sign shall be permitted within three hundred (300) feet of any traffic signal.

3. Use admonitions, such as "Stop," "Go," "Slow," "Danger," etc. which might be confused with traffic directional signs.

4. No sign, other than official traffic control devices or street signs, shall be erected within, or encroach upon, the right-of-way lines of any street unless specifically authorized by other ordinances or regulations of the Borough.

c. *Fire, Safety, Light and Air.* No sign shall be erected or constructed that will violate any of the Borough regulations as to health, required light, safety or air, as defined in the State Uniform Construction Code.

d. *Maintenance.* Whenever a sign becomes structurally unsafe or endangers the public safety, the Zoning Official shall order that such sign be made safe or removed. Such order shall be complied with within ten (10) days of the receipt thereof by the person, firm or corporation owning or using the sign, or the owner of the building or premises on which the sign is located, or the owner of the building or premises on which unsafe sign is affixed or erected. Failure to obey such orders shall be a violation of this chapter.

e. *Shielding of Signs.* Any sign in a nonresidential district that is located within one hundred (100) feet of any residential district, measured along the street frontage on the same street or directly across a street, shall not contain flashers, animators or mechanical movement or contrivances of any kind, excepting clocks.

f. *Illumination.* Illumination devices, such as but not limited to flood- or spotlights, shall be so placed and so shielded as to prevent the rays of illumination thereof from being cast into neighboring dwellings and approaching vehicles.

g. *Signs Over Pedestrian Walks.* No portion of any sign shall be located within or suspended over a pedestrian walk within a ten-foot clearance.

h. *Computing Sign Area.* The area of a permitted sign shall be determined by multiplying the greatest horizontal dimension by the greatest vertical dimension, including the background structure or other decoration or addition which is an integral part of the sign. Sign supports shall be excluded in determining the area of a sign.

i. *Historical Site or Monument.* No sign shall be permitted within one hundred (100) feet of the property line of any historical site or monument.

j. *Setback from Residential District.* Signs shall be set back not less than ten (10) feet from the district boundary line of any residential district and shall be screened from the adjoining residential district by shrubbery, a wall or other suitable device.

k. *Nonconforming Signs.* Any sign, billboard, signboard or advertising device existing at the time of the passage of this chapter that does not conform in use, location, height or size with the regulations of the district in which such sign is located shall be considered a nonconforming use and may continue in such use in its present location until replacement or rebuilding becomes necessary, at which time a permit will be required and the sign brought into conformity with this chapter.

l. *Movable Signs.* No sign or device in the nature of an advertisement or announcement so constructed as to be movable, or which shall be placed on a standard sitting upon the ground, shall be placed or permitted to remain on any part of any street, sidewalk, parkway, curb or other public place.

m. *Administration, Filing Procedure.*

1. Administration. The Zoning Official shall only issue a permit for the erection or construction of a sign which meets the requirements of this section. Any aggrieved person may appeal the decision of the Zoning Official by filing such appeal with the Board of Adjustment.

2. Filing Procedure. Application for permits to erect, stand or place a sign shall be submitted on forms obtainable from the Zoning Official. Each application shall be accompanied by plans showing the area of the sign, size and character, method of illumination (if any), the exact location proposed for such sign, and, in the case of a projecting sign, the proposed method of fastening such sign to the building structure, the vertical distance between such sign and the finished grade and the horizontal distance between such sign and the curb and also between such sign and the right-of-way line.

3. Additional Information. Each applicant shall upon the request of the Zoning Official submit any additional information deemed necessary by the Zoning Official.

n. *Signs Which Do Not Require a Permit.* The following signs may be erected, constructed, placed and maintained without a permit from the Zoning Official:

1. Any sign not exceeding three (3) square feet in area. Such sign, if illuminated, shall be of an enclosed lamp design, nonflashing and containing no color illumination. Such sign, if not attached to a building, shall be set back at least five (5) feet from the nearest road right-of-way line. Reflector type signs may also be used. All such signs shall be designed so as not to shine or reflect light upon adjacent residential dwellings. Not more than one (1) such sign shall be erected for each permitted use or dwelling unit.
2. Any temporary real estate sign. Such sign shall not be illuminated nor exceed twelve (12) square feet.
3. Any incidental sign advertising the sale of farm produce grown or produced on the premises in any zoning district wherein an agricultural use is permitted, provided that such sign shall not exceed twelve (12) square feet in area and shall be at least one hundred (100) feet from the nearest intersection of a street, road or highway, and at least five (5) feet from the nearest property line. Such sign shall not be illuminated.
4. Any temporary construction site sign erected on the site during the period of construction to announce the name of the owner or developer, contractor, architect, landscape architect or engineer. Such signs shall not be illuminated.
5. Any temporary sign of mechanics, painters and other artisans, provided that such signs shall be erected only on the property where such work is being performed, does not exceed twelve (12) square feet and shall be removed promptly upon completion of the work.
6. Signs incident to the legal process of law and necessary to the public welfare.
7. Customary warning, trespassing and posted signs or sign indicating the private nature of a driveway or property, provided that the size of the sign does not exceed three (3) square feet.
8. Directional or informational signs of a public or semipublic nature, not exceeding eight (8) square feet in area. Not more than one (1) such sign shall be placed on each property unless such property fronts on more than one (1) street, in which case one (1) such sign may be erected on each street frontage. Such signs shall only be used for the purpose of stating or calling attention to:
 - (a) The name or location of a hospital, community center, public or private school, church, synagogue or other place of worship.
 - (b) The name or place of meeting of an official or civic body, such as a chamber of commerce or service club.
 - (c) An event of public interest, such as public or general election; church or public meeting; local, County and State fair; volunteer fire department fair; and other similar community activities and campaigns.
 - (d) Soil conservation, 4-H and similar projects.

o. *Signs Which Require Permits.* No sign, except those listed in paragraph n. above, shall be erected, placed, maintained or structurally altered without a permit from the Zoning Official.

p. *Temporary Signs.* Except for temporary real estate signs, a temporary sign shall not remain in place for a period exceeding six (6) months. A temporary sign shall be removed by the person, firm or corporation owning such signs or structure or by the owner of the buildings or premises on which such sign is affixed or erected within ten (10) calendar days following expiration of the time allowed for maintenance of said sign.

q. *Signs in Residential Districts.* The following types of signs shall be permitted in all residential districts.

1. Signs specified in paragraph n. above.
2. Signs advertising the sale or development of the premises when erected in connection with the development of the premises by a builder, developer, contractor or other person interested in such sale or development as per paragraph n,4 above, provided that:
 - (a) The size of such sign is not in excess of thirty-two (32) square feet.
 - (b) The sign shall be twenty-five (25) feet from a street or property line.
 - (c) Not more than one (1) such sign shall be placed on any property unless the property fronts on more than one (1) street in which event not more than one (1) may be erected on each street frontage.
 - (d) The sign is removed when a Certificate of Occupancy is issued for the last dwelling unit.
3. Signs identifying home occupations or the offices of a member of a recognized profession who is in residence on the lot, provided that:
 - (a) The sign is self-illuminating, nonflashing and does not exceed four (4) square feet in area.
 - (b) Only one (1) such sign per dwelling unit shall be permitted, except in the case of corner lots where two (2) such signs (one (1) facing each street) shall be permitted for each dwelling unit.
 - (c) The information on the sign shall be limited to the occupant's name, business or profession and house number.
4. Any freestanding sign permitted in any residential district shall be placed at a reasonable setback from the street line so as not to impair the vision of drivers entering or exiting on-site or off-site driveways or side streets. In addition, such signs shall be located no closer than ten (10) feet from the nearest property line.

r. *Signs Permitted in the Business Districts.* The following types of signs shall be permitted in general business, special business and highway improvement districts:

1. Signs permitted in paragraph n. above.
2. Signs advertising the sale or development of the premises when erected in connection with the development of premises by a builder, developer, contractor or other person interested in such sale or development as per paragraph n,4 above, provided that:
 - (a) The size of such sign is not in excess of thirty-two (32) square feet, and the sign shall be twenty-five (25) feet from a street or property line.
 - (b) Not more than one (1) such sign shall be placed on any property, unless the property fronts on more than one (1) street, in which event not more than one (1) sign may be erected on each street frontage.
 - (c) The sign is removed when a Certificate of Occupancy is issued for the last tenant or owner.
3. A sign attached to the main building advertising a business conducted on the premises shall be subject to the following regulations:
 - (a) Such signs shall not exceed two (2) square feet in area for each one-foot width of building facade which is devoted to the business and to which it is attached and in no case shall such sign exceed two hundred (200) square feet in area on one (1) side.
 - (b) Such sign shall not project more than twelve (12) inches from the building facade to which it is attached, provided that the bottom of the sign shall

not be closer than ten (10) feet from the ground level of the sign.

- (c) Such sign shall not have a vertical dimension in excess of five (5) feet.

4. Freestanding signs shall be subject to the following regulations:

(a) Such signs shall not exceed a height of twenty-five (25) feet measured from the ground level to the topmost portion of the structure; provided, however, that the height does not exceed the minimum setback as per paragraph 4(c) below, minus five (5) feet. Supporting frames for all such signs shall be of permanent materials, such as steel, concrete or masonry.

- (b) The area of any freestanding sign shall not exceed fifty (50) square feet on any one (1) surface.

(c) The minimum setback for freestanding signs that are at least ten (10) feet in height shall be the maximum height of the proposed sign, as measured by the topmost portion of the structure, plus an additional five (5) feet. No sign shall be closer than five (5) feet from the street line.

- (d) Not more than one (1) freestanding sign per business premises shall be permitted on any one (1) street frontage.

(e) Such sign may be interior lighted with nonglaring lights or may be illuminated by shielded floodlights. No lights of intermittent or flashing type shall be permitted.

5. Automobile and gasoline service stations may display the following signs which are deemed customary and necessary to their respective business:

(a) One (1) freestanding or pylon sign advertising the name of the station or garage and the principal products sold on the premises, including any special company or brand name, insignia or emblem, provided that each such sign shall not exceed thirty-five (35) square feet in area on a side and shall be hung within the property line not more than twenty (20) feet above the ground.

(b) Two temporary signs located inside the property line along each such street frontage and specifically advertising special seasonal servicing of automobiles, provided that such sign does not exceed three (3) feet in height and two and one-half (2 1/2) feet in width.

6. Shopping centers, where permitted only, may display the following signs:

(a) Each permitted use may have a sign located on or attached to the principal facade of the use. Such sign shall not project more than eighteen (18) inches beyond the building or structure line and shall not exceed an area equal to ten (10%) percent of the front wall area or fifty (50) square feet, whichever is smaller.

(b) Each shopping center may have one (1) freestanding or pylon sign for each street frontage, provided that such sign shall not exceed 100 square feet in area on any one (1) side, shall not exceed thirty (30) feet in height, shall not be placed closer than twenty-five (25) feet from a side line of the street line and fifty (50) feet from all other property lines and shall be within the property line of the premises to which it relates.

- (c) Supporting frames for all such signs shall be of permanent materials, such as steel or concrete.

(d) Freestanding or pylon sign may be interior lighted with nonglaring lights or may be illuminated by shielded hood or spot lights. No lights of intermittent or flashing type shall be permitted.

s. *Signs Permitted in the Industrial Districts.* The following types of signs shall be permitted in the industrial districts:

1. Signs permitted in paragraph n. above.

2. Signs permitted in subsection r.(2).

3. A freestanding sign advertising a permitted use within the district shall be subject to the following regulations:

(a) Such sign shall not exceed a height of fifteen (15) feet measured from the ground line and shall not be erected within fifty (50) feet of a street, highway or residential district boundary line.

- (b) Supporting frames shall be of permanent materials, such as steel, concrete or masonry.

- (c) The area of such sign shall not exceed one hundred (100) square feet.

- (d) No more than one (1) sign shall be permitted on any one (1) street frontage.

(e) Such sign may be interior lighted with nonglaring lights or may be illuminated by shielded flood-or spotlights. No lights of intermittent or flashing type shall be permitted.

4. A sign attached to a main building shall be restricted in area to fifteen (15%) percent of the wall area or one hundred (100) square feet, whichever is smaller, including windows and doors, of the wall upon which such sign is attached or affixed.

t. *Freestanding Signs in Certain Districts and Zones.* Freestanding promotional signs associated with any business in the General Business and the Downtown Preservation Zones shall be permitted, subject to the following conditions:

1. General. Freestanding promotional signs in the General Business and the Downtown Preservation Zones shall conform to the general appearance and architecture of their surroundings, including the building, neighborhood, and other signs in the area. They should not be designed to compete with one another, but designed to compliment one another, contributing to a shared community image that promotes the attractiveness and viability of the streets of the community.

2. Lettering Styles. Lettering styles for freestanding signs in the General Business and the Downtown Preservation Zones should conform as much as possible to the attached Schedule 1⁺ concerning lettering styles with typefaces which are reminiscent of the turn of the century atmosphere.

3. Signage Color Combinations. Signage color combinations for freestanding signs in the General Business and Downtown Preservation Zones should be designed to accommodate the lettering and trim color associated in Schedule 2.⁺⁺ Freestanding signs should be painted and be made of wood, metal or a material made to look like wood or metal.

4. Size. The size of the freestanding sign must not exceed twelve (12) square feet, but the sign may be double-faced. Freestanding signs are only recommended where the building is set back at least fifteen (15) feet from the property line and the sign must be set back two (2) feet from the property line. The sign must comply with all standards for ADA accessibility for pedestrian use of the sidewalk. Lettering on the sign shall not exceed sixty (60%) percent of the total sign area and typeface shall conform to the guidelines established in Schedule 1. Colors, background and trim shall conform to the guidelines pursuant to Schedule 2.

5. Applicable Standards.

- (a) Only one (1) freestanding sign is permitted for each property.

- (b) Freestanding signs may not have attached thereto any lights or illumination.

- (c) The maximum height of any sign shall be four (4) feet.

- (d) Maximum width of any sign shall be four (4) feet.

- (e) Maximum depth of any sign shall be six (6) inches.

Any sign that is proposed for the General Business and the Downtown Preservation Zones which meets the criteria set forth in this paragraph shall not require a special permit for the placing of said sign. A property owner and/or business entity located on the property desiring to place a sign not meeting the specifications set forth in this paragraph must seek approval from the Unified Planning Board of the Borough of Matawan, under the procedures set forth in paragraph m. above. (Ord. No. 98-21 § 304-44; Ord. No. 04-19; Ord. No. 06-31)

Schedule 1
(subsection 34-44t,2)

Lettering Styles

Lettering styles or typefaces that are reminiscent of the turn-of-the-century are preferred. Some suggested typefaces are listed, but many more exist. Some simple modern lettering styles may be used more liberally for subtext or secondary signage (such as window menus in restaurants).



Schedule 2
(subsection 34-44t,3)

Signage Color Combinations



34-45 PERFORMANCE REQUIREMENTS.

a. *Performance Requirements for Industrial and Light Industrial Districts.* Uses permitted in the industrial and limited industrial districts shall conform with the performance requirements listed below. Upon applying to the Unified Planning Board for site plan approval pursuant to Article III, Site Plan Review, the applicant shall furnish such evidence and documentation as may be required by the Unified Planning Board to establish that the proposed use will comply with the performance requirements. In the case of a structure being built for future lease, in whole or in part, the Unified Planning Board may waive this requirement and direct that a building permit be issued; provided, however, that no Certificate of Occupancy shall be issued until the applicant establishes that the proposed occupant comply with the performance requirements.

b. *Noise.*^{*}

1. Any noise produced on the premises shall not be in excess of the standards listed below when measured at any property line on the lot on which the use is located.

Frequency Band Cycles (per second)	Sound Pressure Level Decibels re 0.0002 dyne/cm ²
20 to 75	69
75 to 150	54
300 to 600	41
600 to 1,200	37
1,200 to 2,400	34

2. 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. Noise shall be measured with a sound level meter meeting the standards of the American National Standards Institute American Standards Specification for General Purpose Sound Level Meters.

c. *Smoke.* Any smoke emitted from any source on the lot shall not be of a density described as No. 1 on the Ringelmann Chart, as published by the United States Bureau of Mines, or shall comply with standards promulgated pursuant to State statute, whichever shall be more stringent.

d. *Dust and Odors.* No visible fly ash and no dust, fumes, vapors, odors or other forms of air pollution shall be transmitted beyond the property lines of the lot on which the use is located.

e. *Heat or Glare.* No activity shall be maintained on the lot which will produce heat or glare beyond any lot line.

f. *Vibration.* No machinery or operation shall be permitted which shall cause perceptible earthshaking vibration beyond the property lines of the lot on which the use is located.

g. *Open Burning.* No open burning shall be permitted except where it may be allowed by the New Jersey Air Pollution Control Code.

h. *Open Storage.* No open storage or accumulation of junk, solid wastes or other objectionable materials shall be permitted.

(Ord. No. 98-21 § 304-45)

34-46 INTERCEPTORS.

a. General.

1. Required. Interceptors, including grease, oil and sand interceptors, etc., shall be provided when in the opinion of either the Borough Engineer, Construction Code Official, Plumbing Official, Property Maintenance Official or Board of Health, here and after known as "Borough official," necessary for the proper handling of liquid wastes containing grease, flammable wastes, sand, solids and other ingredients harmful to the building drainage system, the public sewer or sewage treatment plant or process.

2. Design. The size and type of each interceptor shall be approved by the Borough official. No wastes other than those requiring treatment or separation shall be discharged into any interceptor.

3. Approved Type. Interceptors shall comply, in all respects, with the type or model of each size thereof approved by the Borough official.

4. Separation of Liquids. A mixture of light and heavy liquids having various specific gravities may be treated and then separated in a receptor as approved by the Borough official.

5. Venting. Interceptors shall be so designed that they will not become air-bound if tight covers are used. Each interceptor shall be properly vented if loss of trap seal is possible.

6. Accessibility. Each interceptor shall be so installed that it is readily accessible for removal of cover, servicing and maintenance. Need for use of ladders or moving of bulky objects in order to service interceptors shall constitute a violation of accessibility.

7. Maintenance. Interceptors shall be maintained in efficient operating condition by periodic removal of accumulated grease, scum, oil or other floating substances and solids deposited in the interceptor.

8. Discharge. The waste from oil and sand interceptors shall discharge into the storm sewer, or as otherwise approved by the Borough official.

b. Grease Interceptors.

1. Food Grinders. Food waste grinders shall not discharge to the building drainage system through a grease interceptor.

2. Water-cooled Interceptors. The installation of water-cooled grease interceptors shall be prohibited.

3. Capacity. Grease interceptors, if installed, shall have a grease retention capacity of not less than two (2) pounds for each gallon per minute of flow. However, a minimum of a one-hundred-pound grease interceptor will be required for all establishments when, in the opinion of the Borough official, necessary for the proper handling of liquid wastes containing grease.

4. Rate of Flow Controls. Grease interceptors shall be equipped with devices to control the rate of water flow through the interceptors so that it does not exceed the rated flow of the interceptors.

5. Not Required. A grease interceptor shall not be required for individual dwelling units or any private living quarters.

c. *Oil and Flammable Liquids Interceptor.*

1. Required. All required garages, gasoline stations with grease racks, grease pits or wash racks, all motor vehicle laundries and all factories which have oily and/or flammable wastes as a result of manufacturing, storage, maintenance, repair or testing process shall be provided with all necessary floor drains, sand interceptors, catch basins and oil interceptors, properly vented through the roof on the sewer side of the interceptor. The waste shall not be less than three (3) inches in diameter with a full size cleanout to grade and the vent pipe not less than two (2) inches. The oil interceptor shall be provided with an overflow line to a waste oil tank, Underwriters' Laboratories approved, of adequate size, minimum capacity five hundred fifty (550) gallons, and such tank shall be vented with a minimum one-and-one-half (1 1/2) inch vent terminating in the open air or an approved location at least twelve (12) feet above grade and with a two-inch pump out opening at grade.

2. Design.

(a) Oil interceptors shall have a depth of not less than two (2) feet below the invert of the discharge drain. The outlet opening of the interceptor shall have not less than an eighteen (18) inch water seal.

(b) Motor vehicle garages. On each floor of garage where not more than three (3) motor vehicles are served and stored, interceptors shall have a minimum capacity of six (6) cubic feet, and one (1) cubic foot capacity shall be added for each vehicle up to ten (10) vehicles. Above ten (10) vehicles the Borough official shall determine the size of the interceptors required.

(c) Service stations and repair shops. Where vehicles are serviced only and not stored, interceptor capacity shall be based on a net capacity of one (1) cubic foot for each one hundred (100) square feet of surface to be drained into the interceptor with a minimum of six (6) cubic feet.

3. Vapor Venting. Oil interceptors shall have a minimum size two (2) inch vapor vent extending from the top of the interceptor and terminating in the open air at an approved location at least twelve (12) feet above grade.

4. Combination Oil-and-sand Interceptor. A combination oil-and-sand interceptor may be installed when the design is approved in writing by the Borough official.

d. Sand Interceptors.

1. Where Required.

(a) Wherever a floor drain discharges through an oil interceptor, it shall first discharge through a sand interceptor. Multiple floor drains may discharge into one (1) sand interceptor.

(b) When the discharge of a floor drain may contain solids or semisolids that would be harmful to a drainage system or tend to obstruct the system, the discharge shall be through a sand interceptor.

2. Construction and Size.

(a) Sand interceptors shall be built of brick or concrete and be watertight. The interceptor shall have an interior baffle for the full separation of the interceptor into two (2) sections. The outlet pipe shall be the same size as the inlet size of the oil interceptor, the minimum being three (3) inches, and the baffle shall have two (2) openings of the same diameter as the outlet pipe and at the same invert as the outlet pipe. These openings shall be staggered so that there cannot be a straight line of flow between any inlet pipe and the outlet pipe. The invert of the inlet pipes shall be no lower than the invert of the outlet pipe.

(b) The same interceptor shall have a minimum dimension of two (2) feet square for the net free opening of the inlet section and a minimum depth under the invert of the outlet pipe of two (2) feet.

(c) For each five (5) gallons per minute flow or fraction thereof over twenty (20) gallons per minute, the area of the sand interceptor inlet sections is to be increased by one (1) square foot. The outlet section shall at all times have a minimum area of fifty (50%) percent of the inlet section.

(d) The outlet section must be covered by a solid removable cover set flush with the finished floor, and the inlet section shall have an open grating set flush with the finished floor and suitable for the traffic in which it is located.

3. Separate Use. When a sand interceptor is used by itself without also discharging through an oil interceptor, the outlet pipe must be turned down inside the interceptor under the water level to provide a six (6) inch water seal. A cleanout shall be installed to provide access to the outlet line.

4. Alternate Design. Alternate designs for construction or baffling of sand interceptors complying with the intent of this chapter may be submitted to the Borough official for approval.

e. *Special Use Installations.*

1. Laundries. Commercial laundries shall be equipped with an interceptor having a wire basket or similar device, removable for cleaning, that will prevent passage into the drainage system of solids one-half (1/2) inch or larger in size, string, rags, buttons or other materials detrimental to the public sewerage system.

2. Bottling Establishments. Bottling plants shall discharge their process wastes into an interceptor which will provide for the separation of broken glass or other solids before discharging liquid wastes into the drainage system.

(Ord. No. 98-21 § 304-46)

Article VII Permitted Modifications

34-47 HEIGHT MODIFICATIONS.

a. The height limitations of this chapter shall not apply to silos, church spires, belfries, cupolas and domes not used for human occupancy.

b. Chimneys, ventilators, skylights, water tanks, television and radio antenna and similar features and necessary mechanical appurtenances usually carried on and above the roof level may exceed the height limitations of this chapter by not more than ten (10) feet.

c. The provisions of this chapter shall not apply to prevent the erection of a parapet wall or cornice for ornament, extending above the height limits of this chapter by not more than five (5) feet. Public and quasi-public buildings, schools, churches and other similar permitted uses shall increase the front, rear and side yards by one (1) foot for each foot by which such buildings exceed the height limit herein established for such zone in which it is located.

d. When Federal Aviation Authority or other regulations which are promulgated to protect the health, safety and welfare and which are more restrictive than the height limitations of this chapter, such regulations shall supersede this chapter.

(Ord. No. 98-21 § 304-47)

34-48 TOPOGRAPHY EXCEPTIONS FOR PRIVATE GARAGES.

Where the topography is such that, as determined by the Zoning Official, access to a private garage built back of the front building line as required by this chapter is impracticable, it shall be permissible to place such building, not exceeding twelve (12) feet in height, within the front yard space but not closer to the side line of the street or the road than eighteen (18) feet. (Ord. No. 98-21 § 304-48)

Article VIII Nonconforming Uses and Structures

34-49 CONTINUATION OF USE.

A use, building or structure, lawfully in existence at the effective day of this chapter, which shall be made nonconforming at the passage of this chapter or any applicable amendment thereto, may be continued except as otherwise provided in this article. (Ord. No. 98-21 § 304-49)

34-50 CHANGES.

No existing building or premises devoted to a nonconforming use shall be enlarged, extended, reconstructed, substituted or structurally altered except when changed to a conforming use when required to do so by law or as permitted in Section 34-56. (Ord. No. 98-21 § 304-50)

34-51 PARTIAL DESTRUCTION.

Any nonconforming use or structure partially damaged by fire, casualty or act of God may be repaired, restored, reconstructed or used as before, provided that the area of such use, building or structure shall not exceed the area which existed prior to such damage. All repairs shall be commenced within two (2) years after damage occurs and shall be completed within four (4) years of such date or such use shall not be rebuilt except as a conforming use. In the event total destruction occurs, then the provisions of Section 34-52 below shall apply. (Ord. No. 98-21 § 304-51)

34-52 DAMAGE BEYOND REPAIR.

When a nonconforming structure or use is destroyed or damaged by fire or other casualty or an act of God beyond repair, the nonconforming structure or use may be rebuilt. The Unified Planning Board shall approve a site plan for the rebuilding. The new building shall have substantially the same floor area as the one destroyed. The Unified Planning Board may approve changes in location on the site if it increases side or front yard dimensions, reduces nuisance characteristics or assists in carrying out the objectives of this chapter. (Ord. No. 98-21 § 304-52)

34-53 NORMAL REPAIRS.

Normal maintenance and repair of a nonconforming structure or use is permitted, provided that it does not extend or expand the nonconformance. (Ord. No. 98-21 § 304-53)

34-54 TERMINATION.

A nonconforming nonseasonal use not used for six (6) consecutive months and/or the change of use to a more restricted or conforming use for any period of time shall be considered a termination of the nonconforming use, and such nonconforming use shall not thereafter be reviewed. (Ord. No. 98-21 § 304-54)

34-55 NONCONFORMING BUILDINGS LAWFULLY UNDER CONSTRUCTION.

Any nonconforming structure or use lawfully under construction on the effective date of this chapter pursuant to plans filed with the Zoning Official, and approved by him and all other municipal boards and agencies as required under law, may be completed and may be used for the nonconforming use for which it was designed to the same extent as if such building has been completed and was in use on the effective date of this chapter. (Ord. No. 98-21 § 304-55)

34-56 ADDITIONAL REGULATIONS.

See Section 34-30 for additional regulations pertaining to nonconforming uses. (Ord. No. 98-21 § 304-56)

Article IX Establishment of Zone Districts and Zoning Map

34-57 ZONE DISTRICTS.

In accordance with the purpose and intent of this chapter, the Borough of Matawan is hereby divided into the following zone districts:

Designation	Description
R-100	Single-Family Residential District
R-75	Single-Family Residential District
R-50 I	Single-Family Residential District
R-M	Multifamily Residential District
SC	Senior Citizen Residential District
R-C	Residential Multifamily District
GB	General Business District
SB	Special Business District
DPD	Downtown Preservation District
HI	Highway Improvement District
IND	Industrial District
RID	Railroad Improvement District
GO	General Office District
MUD	Mixed Use Development District

(Ord. No. 98-21 § 304-57; New; Ord. No. 12-15 § 1)

34-58 ZONING MAP.

Editor's Note: The Zoning Map is located in the Office of the Borough Clerk.

a. The boundaries of all zone districts set forth in this chapter shall be shown on a map bearing date of adoption. The map shall be filed in the office of the Borough Clerk and shall hereafter be the Official Zoning Map of the Borough. Such map is hereby declared a part of this chapter and shall be duly certified by the Borough Clerk.

b. *Amendments to Zoning Map.* The Zoning Map is amended to change the zoning district designation of new Block 120, Lot. 5.01 (formerly Block 120, Lot 5 and part of Lot 6) to "R-C Residential Cluster Multifamily."

c. *Amendment to Zoning Map.* The Zoning Map is amended to change the zoning district designation of Block 40, Lots 6 and 7 to MUD, Mixed Use Development.
(Ord. No. 98-21 § 304-58; Ord. No. 07-12 § 2; Ord. No. 12-15 § 2)

34-59 DISTRICT BOUNDARIES.

a. *Conformity to Street or Lot Lines.* Except where referenced on the Official Zoning Map to a street line or other designated line by dimensions shown on the map, the district boundary lines are intended to follow lot lines, the center lines of streets or railroad rights-of-way lines or the center of rivers or streams as they existed at the time of enactment of this chapter, or extensions of same.

b. *Division of Lots of Single Ownership.* Where a district boundary line as established in this section or as shown on the Official Zoning Map divides a lot, the use authorized on, and the other district regulations applying to, the least restricted portion of such lot under this chapter shall be construed as extending to as much of the more restricted portion of such lot as is entirely within thirty-five (35) feet of the dividing district boundary line.
(Ord. No. 98-21 § 304-59)

34-60 SCHEDULE A: LOT, YARD AND BUILDING REGULATIONS.

The schedule of area, lot, yard, building height, lot coverage and minimum floor area requirements is made a part of this chapter, codified as Schedule A. * The regulations included in the schedule are hereby established as minimum regulations of this chapter. Borough facilities deemed necessary and appropriate by the Borough Council are exempted from these regulations. (Ord. No. 98-21 § 304-60)

Editor's Note: Schedule A, Schedule of Lot, Yard and Building Regulations is located at the end of this chapter.

Article X Prohibited Uses

34-61 ADULT ENTERTAINMENT USE.

An adult entertainment use shall be prohibited in any residential zone and in the downtown preservation district. In addition, an adult entertainment use shall be prohibited in any zone consistent with the following:

- a. Within three hundred (300) feet of any residence, residential use and/or residential zone; or
- b. Within three hundred (300) feet of the following uses:
 1. Churches, monasteries, chapels, synagogues, convents, rectories, religious article or religious apparel stores or any religious use.
 2. Schools, both public and private, up to and including the 12th grade, and their adjunct play area.
 3. Public playgrounds, public swimming pools, public parks and public libraries.

(Ord. No. 98-21 § 304-61)

Article XI Zone District Regulations

34-62 R-100 RESIDENTIAL DISTRICT.

- a. *Permitted Principal Uses.*
 1. Single-family detached dwellings.
 2. The offices of a member of a recognized profession who is in residence on the lot and provided that not more than twenty-five (25%) percent of the habitable floor area is in office space.
 3. Public parks, playgrounds and recreational facilities, including incidental parking areas.
 4. Such municipal buildings, schools or other municipal facilities deemed necessary and appropriate by the Governing Body.
- b. *Permitted Accessory Uses.*
 1. Private garages.
 2. Private swimming pools for residential use.
 3. Any use or structure customarily incidental to a principal permitted use.
- c. *Conditional Uses.*
 1. Eleemosynary, charitable and philanthropic institutions as per Section 34-81.
 2. Houses of worship as per Section 34-76.
 3. Parochial and private schools as per Section 34-79.
 4. Private membership clubs being limited to organizations catering exclusively to members and their guests, or premises and buildings for recreational or athletic purposes which are not conducted primarily for gain, provided that there are not conducted any vending stands, merchandising or commercial activities, except as required generally for the membership and purposes of such club.
 5. Necessary public utilities and services as per Section 34-77.
 6. Cluster development as per Section 34-75.
 7. Residential solariums.
- d. *Off-Street Parking.* See Section 34-43.

e. *Signs*. See Section 34-44.

f. *Lot Area and Yard Requirements*. See Section 34-60.

(Ord. No. 98-21 § 304-62; Ord. No. 09-04 § 2)

34-63 R-75 RESIDENTIAL DISTRICT.

a. *Permitted principal uses*. All uses permitted in Section 34-62a.

b. *Permitted accessory uses*. All uses permitted in Section 34-62b.

c. *Conditional Uses*.

1. Eleemosynary, charitable and philanthropic institutions as per Section 34-81.

2. Houses of worship as per Section 34-76.

3. Parochial and private schools as per Section 34-79.

4. Private membership clubs or premises and buildings for recreational or athletic purposes under the same conditions for such uses as required in the R-100 District. [See Section 34-62c,4.]

5. Necessary public utilities and services as per Section 34-77.

d. *Off-Street Parking*. See Section 34-43.

e. *Signs*. See Section 34-44. In addition, signs for residential uses shall be subject to Section 34-44q and signs for business uses, excepting home occupations, shall be subject to Section 34-44r.

f. *Lot Area and Yard Requirements*. See Section 34-60.

(Ord. No. 98-21 § 304-63)

34-64 R-50 I RESIDENTIAL DISTRICT.

a. *Permitted principal uses*. All uses permitted in Section 34-62a.

b. *Permitted accessory uses*. All uses permitted in Section 34-62b.

c. *Conditional uses*. All uses permitted in Section 34-62c.

d. *Off-Street Parking*. See Section 34-43.

e. *Signs.* See Section 34-44.

f. *Lot Area and Yard Requirements.* See Section 34-60.
(Ord. No. 98-21 § 304-64)

34-65 R-M MULTIFAMILY RESIDENTIAL DISTRICT.

a. *Permitted Principal Uses.*

1. All uses permitted in the Residential R-100 District under the same conditions and requirements as specified for the R-100 Residential District.
2. A garden apartment development, as defined in this chapter, under the following conditions:
 - (a) A site plan in accordance with Article III, Site Plan Review, of this chapter shall be submitted to the Unified Planning Board for approval.
 - (b) In evaluating the site plan, the following requirements shall be met:
 - (1) There shall be a minimum lot area requirement of not less than three (3) acres, calculated between property lines. All lot area requirements are for sound, usable land.
 - (2) Lot coverage shall not exceed twenty-five (25%) percent.
 - (3) The number of apartments per net usable acre shall not exceed fourteen (14).
 - (4) A maximum of sixteen (16) families shall be contained in one grouping of units. However, when front and rear entrances are provided for all apartments, a maximum of thirty-two (32) families may be contained in one such grouping of units.
 - (5) The height of the habitable portion of the apartments shall not exceed two (2) stories, and total heights shall not exceed two and one-half (2 1/2) stories. No building shall be erected to a height in excess of thirty-five (35) feet.
 - (6) Accessory structures shall not exceed one and one-half (1 1/2) stories of fifteen (15) feet in height and shall meet the same setback, side yard and rear yard requirements as main apartment buildings.
 - (7) Apartment buildings and accessory buildings shall be of colonial or contemporary type architecture with A or hip roof, with exterior surface walls of brick and wood or other acceptable materials, subject to final aesthetic approval of the Unified Planning Board.
 - (8) Exterior surface walls of wood or other acceptable construction other than brick may not exceed twenty (20%) percent of the total exterior of each unit.
 - (9) Every apartment house shall be designed to provide not less than two (2) exterior wall exposures for each dwelling unit, such walls to be pierced by windows so as to provide either through ventilation or corner-ventilation. In the event such apartment house is designed to provide air conditioning for all dwelling units therein, only single wall exterior window exposure shall be required for each dwelling unit.
 - (10) Minimum yard requirements shall be seventy-five (75) feet for front yards (setback) on existing Borough streets and thirty-five (35) feet on interior streets, thirty-five (35) feet for side yards, except thirty (30) feet on a corner lot, and twenty-five (25) feet for rear yards, except one hundred (100) feet if facing an exterior street.
 - (11) No outside area or equipment shall be provided for the hanging of laundry or for the outside airing of laundry in any manner. Sufficient area and equipment suitably located shall be made available within the project for the laundering and artificial drying of laundry of the occupants of the apartments.
 - (12) All electric and telephone utility service connections from existing streets or nearest points of access outside the premises shall be installed underground, and prior to the granting of final approval by the Unified Planning Board, applicant shall submit a written instrument from each serving utility evidencing compliance with the provisions of this subsection.
 - (13) Each multifamily apartment project shall provide a playground area or areas at a rate of fifty (50) square feet per each dwelling unit.
 - (14) The entire area of any multifamily apartment project shall be attractively landscaped and seeded.
 - (15) Each apartment shall have individual kitchen and bathroom facilities, living room, dining area and one (1) or two (2) bedrooms as provided in paragraph a,2(b)(16) which follows.

(16) A maximum of twenty (20%) percent of all apartments may have two (2) bedrooms. Minimum floor area for apartments will be as follows:

(i) One-bedroom apartments shall have a minimum of seven hundred (700) square feet of habitable floor area.

(ii) Two-bedroom apartments shall have a minimum of nine hundred (900) square feet of habitable floor area.

(17) No part of any accessory building shall be used for living purposes.

(18) Connecting arteries must be of suitable size to accommodate traffic flow generated.

(19) Interior roads shall be paved thirty (30) feet between curbs, exclusive of parking.

(20) A maximum of one (1) garage per unit shall be permitted. The minimum number of parking spaces to be provided in garages or open parking areas shall be for one and one-half (1 1/2) cars for each dwelling unit. An open parking space for one (1) passenger automobile shall have a minimum width of nine (9) feet, a minimum length of twenty (20) feet and a minimum area of one hundred eighty (180) square feet, exclusive of driveways and maneuvering areas. Maneuvering areas in open parking areas shall have a minimum of twenty-five (25) feet in width. Garages shall be a minimum of ten (10) feet clear in width and a minimum of twenty (20) feet clear in length. Maneuvering areas in front of garages shall have a minimum of thirty (30) feet in width. Parking areas shall not be constructed any closer than ten (10) feet to a property line. Each group of attached garages shall have a joint capacity of not more than ten (10) automobiles arranged in a row and there shall be a minimum distance of ten (10) feet between such structures. Suitable screening shall be provided where needed.

(21) The occupancy shall be entirely residential and only noncommercial facilities for recreation or social activities may be provided solely for the residents of the project, same not to be operated for profit.

(22) Any garden apartment project must be connected with the water and sewer system of the Borough and an opinion will be required of the Borough Engineer indicating that the water and sewer facilities are adequate to accommodate the project.

(23) In the layout of garden apartment houses on a tract or lot of land, the following minimum distances shall be maintained:

- (i) Between all main buildings and detached accessory buildings: thirty-five (35) feet.
- (ii) Between ends of all buildings where walls are parallel to each other: thirty (30) feet.
- (iii) Between ends of all buildings where walls are parallel to each other and driveways occur: thirty-five (35) feet.
- (iv) From the front facade of a building to the front facade of an opposite building: seventy-five (75) feet.
- (v) From the rear facade of a building to the rear facade of an opposite building: seventy-five (75) feet.
- (vi) From the front facade of a building to the side wall of an adjoining building: twenty (20) feet.
- (vii) The front facade of a building shall not overlap the side wall of an opposite building by more than eight (8) feet, unless the buildings are joined together. In no case shall windows in any wall be obstructed by any abutting walls.
- (viii) The requirements set forth in paragraph a,2(b)(23) may be varied by an amount not to exceed twenty (20%) percent in order to accommodate aesthetic and topographical conditions and circumstances.

b. *Signs.* See Section 34-44.
(Ord. No. 98-21 § 304-65)

34-65A R-C RESIDENTIAL MULTIFAMILY DISTRICT.

a. *Permitted Principal Uses.*

- 1. A cluster-style multifamily dwelling unit development subject to the following requirements:
 - (a) A site plan in accordance with Article III, Site Plan Review, of this chapter shall be submitted to the Unified Planning Board for approval.
 - (b) In evaluating the site plan, the following requirements shall be met:
 - (1) There shall be a minimum lot area of not less than five (5) acres, calculated between property lines.

- (2) Lot coverage shall not exceed twenty-five (25%) percent.
- (3) The number of cluster-style multifamily units per gross acre shall not exceed fourteen (14).
- (4) A maximum of twenty-four (24) units shall be contained in a building.
- (5) The height of the habitable portion of a dwelling unit shall not exceed three (3) stories. No building shall exceed forty-five (45) feet in height as defined in Section 34-3.
- (6) Accessory structures shall not exceed one and one-half (1 1/2) stories or fifteen (15) feet in height and shall meet the same setback, side yard and rear yard requirements as the principal building.
- (7) Minimum yard requirements shall be thirty-five (35) feet for front yards (setback) on existing Borough streets and ten (10) feet on private parking loop streets or parking areas, twenty-five (25) feet for side and rear yards.
- (8) All electric and telephone utility service connections from existing streets or nearest points of access outside the premises shall be installed underground.
- (9) The entire area of a cluster style multifamily project shall be attractively landscaped and seeded.
- (10) No part of any accessory building shall be used for living purposes.
- (11) Interior parking loop streets shall provide a paved traveled way of twenty-four (24) feet, exclusive of parking.
- (12) Parking space requirements, design and construction criteria shall meet Residential Site Improvement Standards.
- (13) The occupancy of a project shall be entirely residential and only noncommercial facilities for recreation or social activities may be provided solely for the residents of the project.
- (14) Any cluster-style multifamily project must be connected with the water and sewer system of the Borough.
- (15) In the layout of a cluster style multifamily project on a tract or lot of land, the following minimum distances between buildings shall be maintained:

- (i) Between all main buildings and detached accessory buildings: thirty-five (35) feet.
- (ii) Between building walls where walls are parallel to each other: fifty (50) feet; where building walls are set on an angle to one another, the closest building corners may be thirty (30) feet provided there is an average of fifty (50) feet between the facing building walls.
- (iii) Between ends of all buildings where walls are parallel to each other and driveways occur: thirty-five (35) feet.
- (iv) From the front facade of a building facing a parking area or an interior street to the front facade of an opposite building: seventy-five (75) feet.
- (v) From the rear facade of a building to the rear facade of an opposite building: seventy-five (75) feet.
- (vi) From the front or rear facade of a building to the sidewall of an adjoining building: twenty (20) feet.

(c) Twenty (20%) percent of the total dwelling units that are the subject of a development application shall be low- and moderate-income units. One-half (1/2) of the affordable units will be for moderate-income occupancy and one-half (1/2) will be for low-income occupancy. In all other respects these affordable units shall meet current COAH regulations and Borough ordinances with respect to bedroom distribution, phasing, affordability controls, affirmative marketing and administration.

b. *Signs.* See Section 34-44.

(Ord. No. 07-12)

34-66 SENIOR CITIZEN RESIDENTIAL DISTRICT.

a. *Permitted Principal Use.* The permitted principal use shall be housing for persons at least sixty-two (62) years of age, provided that the housing is constructed with a density of not more than twelve (12) units per acre, which units shall be computed and located with reference to the entire tract and not on the basis of each individual acre; the housing is constructed on plots at least nine (9) contiguous acres; and provided further that a site plan in accordance with Article III, Site Plan Review, of this chapter be submitted to the Unified Planning Board for approval, which site plan shall contain and be bound by the same additional information and requirements as required in Section 34-65a(2), except that paragraphs a,2(b)(1) through (3) shall not be applicable, and paragraph a,2(b)(5) shall be limited to not more than two (2) stories.

b. *Permitted Accessory Uses.*

- 1. Other uses and structures customarily incident to the principal permitted use.
- 2. Private parking.

c. *Off-Street Parking.* Off-street parking requirements shall be the same as those set forth in Section 34-65a,2(b)(20).

d. *Signs.* Section 34-44.

(Ord. No. 98-21 § 304-66)

34-67 GB GENERAL BUSINESS DISTRICT.

a. *Permitted Principal Uses.*

1. All uses generally considered of a commercial, retail or business character but not including manufacturing as herein defined. Such permitted uses may include but are not limited to:

(a) Retail sales to a widely distributed clientele, such as antique or gift shops; new motor vehicle sales agencies and show rooms, associated repair shop and new motor vehicle lot, including accessory outdoor display of used motor vehicles, provided that the used motor vehicle lot shall be located on the same premises with the principal use; baked goods for retail sales only; drugs and pharmaceuticals, groceries, hardware; and meat and poultry, provided that no slaughtering of animals is performed on the premises.

(b) Professional offices, banks, commercial schools and clerical occupations of all kinds.

(c) Recreation and amusement facilities operated for private profit, such as bowling lanes, skating rinks and theaters.

(d) Services and service agencies, such as:

- (1) Barber and beauty shops.
- (2) Custom tailoring and dressmaking.
- (3) Dry-cleaning services and dry cleaning retail establishments.
- (4) Funeral homes and undertaking establishments.

(5) Garages and auto repair shops, provided that not more than two (2) vehicles which are incapable of operation, use or repair are stored on the premises.

(6) Laundries and laundromats.

(7) Offices of contractors in the building trades, provided that no bulk storage of materials or equipment is permitted.

(8) Electrical repair establishments.

(9) Restaurants which shall be defined as an establishment where food and drink are prepared and/or served and consumed within the principal building, including sidewalk dining where allowed and takeout service without facilities for drive-through order and drive-through pickup. Lunch counters and delicatessens without seating shall be included within the definition of restaurants.

(10) Shoe repairing.

(11) New motor vehicle, motorized or utility trailer or motorcycle sales agency and show rooms, associated repair shop and new motor vehicle, motorized or utility trailer or motorcycle lot, including accessory outdoor display or used motor vehicles, motorized or utility trailers or motorcycles, provided that the used motor vehicle, motorized or utility trailer or motorcycle lot shall be located on the same premises with the principal use.

b. *Permitted Accessory Uses.*

- 1. Other uses and structures customarily incident to a principal permitted use.
- 2. Public and private parking.

- c. *Conditional Uses.*
 - 1. Gasoline or other motor fuel service or filling stations subject to the conditions specified in Section 34-78.
 - d. *Off-Street Parking.* See Section 34-43.
 - e. *Signs.* See Section 34-44.
 - f. *Lot Area and Yard Requirements.* See Section 34-60.
- (Ord. No. 98-21 § 304-67; Ord. No. 07-29; Ord. No. 09-05)

34-68 SB SPECIAL BUSINESS DISTRICT.

- a. *Permitted Principal Uses.*
 - 1. All uses permitted in Section 34-67a.
 - 2. Motels and nursing or convalescent homes.
 - b. *Permitted Accessory Uses.* Permitted accessory uses shall be the same as those set forth in Section 34-67b.
 - c. *Off-Street Parking.* See Section 34-43.
 - d. *Signs.* See Section 34-44.
 - e. *Lot Area and Yard Requirements.* See Section 34-60.
- (Ord. No. 98-21 § 304-68)

34-69 DPD DOWNTOWN PRESERVATION DISTRICT.

- a. *Purpose.* The purpose of the Downtown Preservation District is to promote the educational, cultural, economic and general welfare of the Borough pursuant to the provisions of N.J.S.A. 40:55D-1 et seq. The Downtown Preservation District gives special recognition to the unique characteristics of the designated area as they reflect the eighteenth- and nineteenth-century history, architecture, land use relationships and small village way of life. The creation of this district is an attempt to retain and preserve any structures and sites of historic significance whose age and character, both individually and collectively, create the tone and character of the designated area. These regulations are intended to prevent any construction, demolition or exterior alteration which would injure, depreciate or conflict with the tone and character of the district.
- b. *Permitted Principal Uses.* Professional offices as defined in Section 34-3 of this chapter and single-family dwellings.
- c. *Permitted Accessory Uses.*
 - 1. Other uses and structures customarily incident to a principal permitted use.
 - 2. Public and private parking.
- d. *Off-Street Parking.* See Section 34-43.
- e. *Signs.* See Section 34-44.
- f. *Lot Area and Yard Requirements.* See Section 34-60.

g. *Architectural Review; Requirements.*

1. Any new building or structure or any extension, addition or alteration or any demolition within the Downtown Preservation District shall require that all architectural design features are in keeping with the existing historic village atmosphere. The Board shall utilize an advisory committee of historians, architects or other disciplines in reaching a decision and shall also be empowered to engage experts as deemed necessary and as permitted by budgetary considerations. The Unified Planning Board and its advisory committee shall give consideration to the following:

- (a) The historical or architectural value and significance of the building or structure and its relationship to the historic value of the surrounding area.
- (b) The general compatibility of exterior design, arrangement and materials proposed to be used.
- (c) Any other factor, including aesthetics, which it deems pertinent.

2. The Unified Planning Board shall not disapprove applications pursuant to this section except in regard to the considerations as set forth in paragraphs g.1, 2 and 3 above. It is the intent of this section that alterations or repairs on, and additions to historic and architecturally significant buildings and structures be made in the spirit of their architectural style. Criteria for evaluation of historic buildings and structures shall be those developed by the National Trust for Historic Preservation.

h. No conversion from a residential use to an office use shall be permitted unless the applicant can clearly demonstrate that off-street parking will be provided as required in Section 34-43.

(Ord. No. 98-21 § 304-69)

34-70 HI HIGHWAY IMPROVEMENT DISTRICT.

a. *Permitted Principal Uses.*

1. Retail business establishments limited to the following: hardware, paint, glass and wallpaper stores; department stores and variety stores; dry goods stores; food stores, dairy stores and retail stores; apparel and accessories stores; furniture, home furnishings and equipment stores; radio, television and music stores; restaurants and taverns, but not including drive-in refreshment stands where food, drink and confections are served outside of the buildings or where food is intended to be consumed in cars parking on the premises; drug stores; liquor stores; antique stores; book and stationery stores; sporting goods, bicycle and hobby stores; jewelry stores; cigar stores and news dealers; camera and art stores; luggage and leather goods stores; franchised new motor vehicle dealers which provide not less than two thousand (2,000) square feet of interior floor space devoted to display of new motor vehicles and appropriate space for service, parts and office facilities; and farm and garden supply stores, provided that no merchandise is displayed or stored outside of a fully enclosed building.

2. Personal service establishments limited to the following: banks and fiduciary establishments; credit agencies, security and commodity brokers; real estate and insurance offices; holding and investment company offices; laundry and dry cleaning pickup stores; photographic stores; tattoo parlors, barber and beauty shops, shoe repair shops; garment pressing, alterations and repair shops; miscellaneous repair shops other than automotive; motion picture theater other than outdoor; dance studios and schools; medical and health services, excluding veterinarian services; legal services; engineering and architectural services; accounting and bookkeeping offices; business offices; funeral homes; electrical supply stores; nonprofit clubs, lodges and fraternal, civil service or charitable organizations; and order centers or stores.

3. Public or quasi-public areas, such as municipal parks, playgrounds, buildings and uses deemed appropriate and necessary by the Borough Council, and churches, synagogues and other religious buildings and uses for worship but excluding schools and auditoriums.

b. *Permitted Accessory Uses.*

1. Other uses and structures customarily incident to a principal permitted use.
2. Public and private parking.

c. *Conditional and Prohibited Uses.*

1. Conditional Uses.
 - (a) Necessary public utilities and services as per Section 34-77.
 - (b) Hospitals as per Section 34-80.
 - (c) Eleemosynary, charitable and philanthropic institutions as per Section 34-81.
2. Prohibited Uses.
 - (a) Correctional or detention centers.

d. *Off-Street Parking.* In addition to the provisions of Section 34-43, the following provisions shall be adopted as the required Highway Improvement District parking regulations of the Borough.

1. Parking facilities may be located in any required yard space but shall not be less than ten (10) feet from any street line. Ingress and egress to the parking area shall be a minimum of fifteen (15) feet and a maximum of thirty (30) feet in width

and shall not cause a hazardous condition to exist. The area shall be illuminated during operating hours if they occur after sunset. The illumination shall be shielded from streets and adjoining residential properties, if any.

2. All parking spaces provided for business uses in this section may be located on a lot within four hundred (400) feet of the public entrances of the building they are intended to serve, but only if it is determined by the Unified Planning Board that it is impractical to provide the required parking spaces on the same lot with the building they are intended to serve.

3. Nothing in this chapter shall be construed to prevent collective provision of off-street parking facilities by two (2) or more buildings or uses located on adjacent lots, provided that the total of such off-street parking facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the standards contained in Section 34-43.

4. All off-street parking areas shall be hard-surfaced with a bituminous concrete or concrete pavement and graded and drained as approved by the Borough Engineer.

5. Parking shall be subject to Unified Planning Board site plan review as stated elsewhere in this chapter.

e. *Landscaping and Buffer.*

1. Landscaping, consisting of attractive trees, shrubs, plants, natural or synthetic grass lawns and decorative stone or rock gardens within the Highway Improvement Districts, shall be shown on site plans and shall be maintained as required in this chapter.

2. Wherever a parking plan in the Highway Improvement District has a capacity of one hundred (100) or more cars, a landscaping plan shall be submitted with the site plan to the Unified Planning Board indicating a minimum of five (5%) percent of the total land area for parking maintained in decorative landscaping, such as planting islands or focal points.

3. Wherever a use permitted in the Highway Improvement District abuts a residential zone, a solid and continuous landscape screen shall be required as per Section 34-41. In addition, the following buffer requirements shall apply in the HI District:

(a) In the event that the width of the parcel at the building line exceeds one hundred (100) feet and adjoins a residential property, the buffer area shall be increased by ten (10%) percent of the footage exceeding the initial one hundred (100) feet at the building line to a maximum buffer of fifty (50) feet.

(b) In the event that the average depth of the parcel exceeds two hundred (200) feet and adjoins a residential property, the buffer area shall be increased by ten (10%) percent or the average depth exceeding the initial two hundred (200) feet to a maximum buffer area of fifty (50) feet.

(c) In addition to such buffer planting, the applicant or owner shall erect on the buffer area a fence six (6) feet in height for the purpose of protecting the residential property from litter, debris, light glare and other such nuisances that would disturb the enjoyment and peaceful possession of the residential property. 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 Unified Planning Board.

4. *Guaranties.*

(a) Whenever landscaping, seeding and/or buffer area planting is required under this subsection, or any section of this chapter or by an approval of the Unified Planning Board or Borough Council, as the case may be, the same shall be planted prior to the issuance of the Certificate of Occupancy for the use on the property; provided, however, that when the season or weather conditions do not permit such plantings to coincide with the completion of the buildings or structures, same shall be accomplished with 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 chapter, or as a condition of any approval under this chapter, unless the owner shall have filed with the Borough the performance guaranties herein required, sufficient in amount to cover the costs of such required plantings, including replacement thereof and maintenance thereof for a two-year period.

(c) Ten (10%) percent of the total estimated costs of all such plantings, as aforesaid, shall be deposited in cash or equivalent with the Borough Treasurer, conditioned upon the proper planting and seeding (where such has not already taken place) and maintenance for a period of two (2) years, and/or assurance that the same will survive two (2) growing seasons or be replaced if same should die within such time. Such deposit, or any portion thereof in an amount as certified by the Borough Engineer and approved by the Borough Council may be expended by the Borough if the owner shall fail within thirty (30) days after written notice to make such plantings, or replace dead or dying trees or shrubs, as the case may be, or to provide additional plantings which are deemed necessary to meet the requirements of such approval. The Borough shall be obligated to return only the unexpended portion of the deposit to the applicant upon the completion of all required plantings and survival through two (2) growing seasons, as aforesaid.

(d) The balance of the performance guaranty may be in the form of a performance bond, which shall be issued by a bonding or surety company approved by the Borough Council, a certified check or cash deposit or any other type of surety acceptable to the Borough Council and approved as to form by the Borough Attorney.

(e) The posting of a performance guaranty as set forth above shall not relieve the owner from the obligation to perform nor shall such guaranty preclude the Borough from revocation of the Certificate of Occupancy where the owner fails to perform.

5. In the event of a discrepancy between the buffer requirements of this section and Section 34-41, the more stringent regulation shall apply.

f. *Fences.*

1. 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 the proposed fence shall be described.

2. Barbed wire and electricity 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 appropriate authorities.

3. 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.

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

5. Spite fences are specifically prohibited, as are fences made from used or discarded materials not usually associated with fences, such as but not limited to doors, old lumber and the like.

g. *Signs.* See Section 34-44.

h. *Driveways.* The following standards shall apply for driveways within the Highway Improvement District.

1. Driveways shall enter the road system as nearly as possible to ninety (90°) degrees.

2. The number of driveways provided for the site directly to any road shall be as follows:

(a) For a length of site frontage of less than three hundred (300) feet, there shall be no more than two (2) driveways.

(b) For a length of site frontage three hundred (300) feet or more, the number of driveways shall be specified by the Borough Unified Planning Board, upon receipt of advice of the Borough Engineer.

3. All entrance and exit driveways to the road shall be located to afford maximum safety to traffic on the road.

4. Where a site occupies a corner of two (2) intersecting roads, no driveway entrance or exit may be located within fifty (50) feet of the intersection of the curb lines when extended.

5. No part of any driveway may be located within five (5) feet of a side property line. However, upon application to the Unified Planning Board and upon approval of the design by the Borough Engineer, the Unified Planning Board may permit a driveway serving two (2) or more adjacent sites to be located on or within five (5) feet of a side property line between the adjacent site.

6. Where two (2) or more driveways connect a single site to any one (1) road, a minimum clear distance of twenty-five (25) feet measured along the right-of-way line shall separate the closest edges of any two (2) such driveways.

7. For a driveway having a two-way operation, the driveway will intersect the road at an angle as near ninety (90°) degrees as site conditions will permit, and in no case will be less than sixty (60°) degrees.

i. *Buffer.*

1. There shall be a twenty-foot buffer area along any side line or rear line which abuts the residential zone. If the area is substantially screened by natural trees and growth, the same shall be left in its natural state. If the area is not substantially screened in its natural state, it shall be planted with shrubs and trees so as to provide an adequate screen from the residential properties.

2. In the event the width of the parcel at the building line exceeds one hundred (100) feet and adjoins a residential property, the buffer area shall be

increased by ten (10%) percent of the footage exceeding the initial one hundred (100) feet at the building line to a maximum buffer of fifty (50) feet.

3. In the event the average depth of the parcel exceeds two hundred (200) feet and adjoins a residential property, the buffer area shall be increased by ten (10%) percent or the average depth exceeding the initial two hundred (200) feet to a maximum buffer area of fifty (50) feet.

j. *Lot Area and Yard Requirements.* See Section 34-60.

k. *Abandonment.*

1. If a nonconforming use of land, premises, building or structure, or any part or portion thereof, has been terminated or discontinued for a period of two (2) years, such nonconforming use shall not thereafter be reestablished, and all future use shall be in conformity with the provisions of this chapter. Such termination or discontinuance of the active and continuous operation of such nonconforming use, or a part or portion thereof, for such period of two (2) years shall be presumed to be an abandonment of such nonconforming use, regardless of any reservation of an intent not to abandon same or of an intent to resume active operations.

2. If actual abandonment in fact is evidenced by the substantial removal of buildings, structures, machinery, equipment and other evidences of such nonconforming use of the land and premises, the abandonment shall be construed and considered to be completed within a period of less than two (2) years, and all rights to reestablish or continue such nonconforming use shall thereupon terminate.

(Ord. No. 98-21 § 304-70; Ord. No. 12-07)

34-71 IND INDUSTRIAL DISTRICT.

a. *Permitted Principal Uses.*

1. All business and commercial uses permitted in the GB General Business District.

2. Public utility and service activities of an industrial character, such as repair and maintenance yards, storage facilities, depots and stations, classification yards or roundhouses.

3. Activities of an industrial nature which may include the fabrication, processing or assembly of goods and materials or the storage of bulk goods and materials, provided that no nuisance or hazard may occur beyond the limits of the lot occupied by such activity from fire or explosion, toxic or corrosive fumes, gas, smoke, odors, flashes or objectionable effluent. Such permitted uses may include:

- (a) Public garages, automotive repair shops, truck terminals and used car lots and sales.
- (b) Storage warehouses and lumber yards.
- (c) Laundry, cleaning and dyeing work and carpet and rug cleaning.
- (d) The manufacture, compounding, processing, packaging or treatment of consumable products, such as beverages, food, candy, cosmetics, dairy products, drugs, ice, perfumes, pharmaceuticals, toilet supplies and similar products.
- (e) The finishing or assembling of articles made from previously prepared or refined materials, such as wood, metal, plastics, glass, leather or shell.
- (f) Blacksmith shop, metal-working or machine and welding shops or heavy machinery.
- (g) Research laboratories.
- (h) Office and clerical activities.

b. *Permitted Accessory Uses.*

- 1. Other uses and structures customarily incident to a principal permitted use.
 - 2. Public and private parking.
 - 3. Off-street parking and loading. See Section 34-43.
 - 4. Signs. See Section 34-44.
 - 5. Lot area and requirements. See Section 34-60.
 - 6. Performance standards. See Section 34-45.
- (Ord. No. 98-21 § 304-71)

34-72 RID RAILROAD IMPROVEMENT DISTRICT.

a. *Permitted Principal Uses.*

- 1. All business and commercial uses permitted in the GB General Business District.
- 2. Business, professional and industrial offices.
- 3. Restaurants, not including fast-food restaurants.

4. Single or multilevel commercial parking lots.
- b. *Permitted Accessory Uses.*
 1. Other uses and structures customarily incident to a principal permitted use.
- c. *Off-Street Parking and Loading.* See Section 34-43.
- d. *Signs.* See Section 34-44.
- e. *Lot Area and Yard Requirements.* See Section 34-60.
(Ord. No. 98-21 § 304-72)

34-73 GO GENERAL OFFICE DISTRICT.

- a. *Permitted Principal Uses.*
 1. Professional offices.
 2. Administrative, executive and editorial offices.
 3. Medical and dental offices.
 4. Banks and financial institutions.
 5. Real estate and other general business offices.
- b. *Permitted Accessory Uses.*
 1. Other uses and structures customarily incident to a principal permitted use.
- c. *Off-Street Parking and Loading.* See Section 34-43.
- d. *Signs.* See Section 34-44.
- e. *Area and Yard Requirements.* Lot area and yard requirements shall be as follows:

Regulation	Requirement
Minimum lot size	3 acres
Minimum width	200 feet
Minimum depth	300 feet
Minimum front yard	60 feet
Minimum rear yard	50 feet
Minimum side yard	25 feet
Maximum lot coverage	30%
Maximum height	2 stories 30 feet
(Ord. No. 98-21 § 304-73)	

34-73A MUD – MIXED USE DEVELOPMENT DISTRICT.

a. *Purpose.* The purpose of the Mixed Use Development District is to promote the development of compact, self-contained, transit oriented, mixed use development that incorporates both non-residential and multifamily residential development compatible with adjoining residential, nonresidential and public areas.

b. *General Requirements.*

1. The Mixed Use Development District shall provide for an overall architectural theme for all buildings and site amenities, e.g. signage, lighting, and streetscape improvements, within the development, in accordance with the standards set forth in paragraph i. below.
2. The layout of the Mixed Use Development District provides for internal pedestrian circulation and connection to off-site pedestrian features.
3. The Mixed Use Development District shall provide amenities and features to promote and encourage the use of non-automobile and public transportation, such as bicycle racks, taxi stops, bus shelters, commuter drop off areas, etc. The provision of shuttle service to the train station shall be required, and any approval of a mixed use development shall set forth standards and conditions for such service and the discontinuance of such service in the event of lack of ridership or other cause beyond the control of the owner.
4. All development within the Mixed Use Development District shall contain both a residential and nonresidential component. A minimum of fifty (50%) percent of the total floor area of the mixed use development shall be utilized for residential use.

c. *Permitted Principal Uses.*

1. Multifamily residential development in mixed use buildings only and further provided no living area shall be located on the ground level;
2. Municipal offices, civic centers, and community facilities;
3. Business and commercial uses as follows, provided that no individual nonresidential use or user within a mixed use building shall exceed ten thousand (10,000) square feet in gross floor area:
 - (a) Retail sales limited to the following: prepared and packaged food; furniture and home furnishings; antiques; jewelry; electronics; books and stationery; drug stores; health and beauty products; music and musical instruments; clothing and accessories; and sporting goods;
 - (b) Personal service establishments limited to the following: real estate; insurance; banking and financial services; legal; engineering; architecture; accounting; medical; barber and beauty shops; credit agencies; servicing and repair of electronics; mail and shipping services, education and learning centers; and dance and martial arts schools;
 - (c) Banks and financial services;
 - (d) General business offices;
 - (e) Medical offices, excluding veterinarians;
 - (f) Restaurants, excluding drive-up and drive-through facilities; delicatessens;
 - (g) Government offices and services;
 - (h) Bars and taverns, but excluding nightclubs;
 - (i) Sports and fitness centers; and
 - (j) Child and adult day care facilities.

d. *Permitted Accessory Uses and Structures.*

1. Walls and fences;
2. Swimming pools;
3. Kiosks and sidewalk café seating;
4. Fountains and other decorative water features;
5. Flagpoles, clock towers, statues and other street art;
6. Bus shelter, taxi stops, bicycle racks, and features and structures appropriate to facilitate and promote public transportation; and
7. Necessary public utilities and services per Section 34-77.

e. *Required Off-Street Parking.*

1. Residential Uses. Per the New Jersey Residential Site Improvement Standards, NJAC 5:21-4.14(b).
2. Nonresidential uses. As specified in Section 34-43
3. Notwithstanding paragraphs 1. and 2. above, a shared parking approach may be permitted subject to the review and approval of the Board in accordance with the following:
 - (a) An applicant requesting approval of a shared parking approach shall prepare and submit a shared parking analysis report to the Board and its professionals for review. In preparing the analysis, the applicant shall follow the procedures for shared parking specified in the current edition of the Urban Land Institute (ULI), Shared Parking Manual and the Institute of Transportation Engineers (ITE) Parking Generation. The report shall evaluate and illustrate the temporal distribution of the parking demand for all the uses proposed and confirm that the peak parking demand can be fully met on-site or through an off-site parking agreement with the Borough or private entity, to be approved by the Board, for utilization of a parking lot or facility within an acceptable walking distance.
 - (b) For the purpose of calculating the peak parking demand for a shared parking approach, the minimum number of parking spaces for each residential use shall be as required pursuant to the New Jersey Residential Site Improvement Standards, NJAC 5:21-4.14(b).
 - (c) Any approval of a shared parking approach in conjunction with a site plan approval of a mixed use development shall be conditioned upon maintaining substantially the same mix of uses as originally approved. Any proposed change in use within a mixed use development, to a use with a higher parking requirement, as set forth in Section 34-43, shall require the submission and approval of a zoning permit. Said zoning permit application shall include a revised shared parking analysis report. The approval of the zoning permit by the Zoning Official shall be made only after a finding of the Borough Engineer that the peak parking demand can continue to be fully met consistent with the originally approved shared parking approach. The cost of the review of the revised shared parking analysis shall be borne by the applicant.

f. *Signs:* As specified in Section 34-44, except as otherwise provided in this section.

g. *Bulk Requirements.*

1. Principal Buildings:

- (a) Minimum lot width: One hundred (100) feet
- (b) Minimum front yard setback: Fifty (50) feet
- (c) Minimum side yard setback: Twenty-five (25) feet; fifty (50) feet to any lot line of a residential use, residential zone, or publicly owned property
- (d) Minimum rear yard setback: Fifty (50) feet
- (e) Maximum building height: Five (5) stories and sixty-five (65) feet
- (f) The following additional standards shall apply to mixed used buildings:

(1) The entire first floor area of the mixed use building shall be utilized for nonresidential uses with the exception of the following, which may serve the residential component: foyers; stairways; elevators; mechanical rooms; lounges; bicycle/storage lockers; mail room; meeting rooms; fitness/recreation rooms; and leasing or sales office and further provided such areas shall not exceed fifteen (15%) percent of the total first floor area;

(2) A minimum of twelve and one-half (12.5%) percent of the total floor area and eighty-five percent (85%) of the first floor area of a mixed use building shall be utilized for business and commercial uses permitted pursuant to paragraph c.3. of this section.

2. Accessory Buildings and Structures:

- (a) Minimum front, side and rear yard setback: Ten (10) feet

h. *Additional Zoning Standards.*

- 1. Minimum tract area for Mixed Use Development: Four (4) acres;
- 2. Maximum residential density: Twenty (20) dwelling units per acre;
- 3. Maximum building coverage: Thirty (30%) percent; and
- 4. Maximum lot coverage: Eighty (80%) percent.

i. *Design Standards.*

- 1. New buildings shall maintain a primary orientation to public streets both functionally and visually.
- 2. Mixed use buildings of three (3) stories or greater shall provide elevator service.
- 3. Multiple buildings within a development shall maintain a consistent style/architectural theme utilizing common color schemes and materials. Architectural themes should be in keeping with village character of other areas within the Main Street area of the Borough, including Victorian, Colonial and Traditional.
- 4. All facades visible from adjoining properties shall include visually pleasing architectural features similar to the front façade of the building.
- 5. Buildings shall be designed to avoid exterior elevations from containing large expanses of blank or featureless walls. No building façade, as viewed from any public street or public parking area, shall have an unbroken horizontal length of greater than sixty (60) feet without a break of a minimum of twelve (12) inches. Balconettes (nonaccessible balconies for visual effect) are recommended on front and side façades. Balconies shall only be permitted on rear façades, and further provided, no balcony shall be located on any façade that faces a public street.
- 6. Mixed use buildings four (4) or more stories in height, in addition to the required horizontal façade breaks above, shall provide one or more vertical breaks as viewed from any public street.
- 7. Roofs should be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building. Dormers or other architectural features may be used to minimize the apparent mass of the buildings. Variations within an architectural style are highly encouraged. Overhanging eaves, sloped roofs and multiple roof elements are highly encouraged. Gabled, hip or combination roof types are permitted.
- 8. Heating and cooling equipment and other mechanical features shall be located to minimize visual and acoustical impacts.
- 9. Entranceways shall be in keeping with the architectural character of the building and shall be clearly and appropriately framed architecturally.
- 10. Covered entryways or porticos for building entrances facing the street are highly encouraged.
- 11. Nonresidential uses on the ground floor of mixed use buildings to the maximum extent practical shall incorporate window displays to stimulate interest and exposure of retail goods and services to pedestrians. Window glass of individual uses on the ground floor shall comprise a minimum of forty (40%) percent of the building façade facing any public street or public parking area and shall be clear glass to provide unencumbered views to window displays. Tinted glass is prohibited.
- 12. No unit shall have more than two bedrooms and a minimum of forty (40%) percent of the units shall be one bedroom units.
- 13. Each dwelling unit in a mixed use building shall have a minimum floor area of nine hundred fifty (950) square feet.
- 14. Each dwelling unit in a mixed use building shall be provided with a minimum of eighteen (18) square feet of storage with a vertical height of a minimum of eight (8) feet, exclusive of living area closet space.
- 15. The design of any mixed use building shall include ground floor bicycle/storage lockers assignable to a significant percentage of the units/residents. Such percentage shall be subject to the approval of the Board.

(Ord. No. 12-15 § 3)

Article XII Conditional Uses

34-74 APPLICATION.

a. General uses listed as a conditional use in a particular district may be permitted by the Unified Planning Board, only after it has determined that the development proposal complies with the conditions and standards set forth in this Article for the location and operation of such use.

b. The Planning Board shall grant or deny any application for a conditional use within ninety-five (95) days of submission for a complete application by a developer to the Zoning Official, or within such further time as may be consented to by the applicant.

c. The review by the Planning Board of a conditional use shall include any required site plan review pursuant to Article III, Site Plan Review, of this chapter. Failure of the Planning Board to act within the ninety-five (95) day time period shall constitute approval of the application and a certificate of the Zoning Official as to the failure of the Planning Board 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.

d. Whenever review or approval of the application by the County Unified Planning Board is required by N.J.S.A. 40:27-6.3, in the case of a subdivision, or N.J.S.A. 40:27-6.6 in the case of a site plan, the municipal Unified Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the Monmouth County Planning Board or approval by the Monmouth County Planning Board by its failure to report thereon within the required time period.

(Ord. No. 98-21 § 304-74)

34-75 CLUSTER DEVELOPMENT.

a. The purpose of this section is to provide a method of development of residential land which will preserve desirable, usable open spaces for public purposes by permitting the reduction of lot sizes without increasing the number of lots in a subdivision. The Unified Planning Board shall review such proposal and may attach whatever restrictions it deems fit. Such proposal shall be subject to approval by the Mayor and Council. A proposal shall be accompanied by a sketch plan of the proposed development.

b. Residential developments utilizing cluster provisions for single-family dwellings may be permitted only in the Residential R-100 District.

c. The proposed development shall follow all applicable procedures, standards and requirements of this chapter. No building permit shall be issued until a final plat of the proposed development or part thereof is approved and recorded.

d. The Unified Planning Board shall, prior to reaching its decision, solicit the desires of other municipal agencies to determine if they have any proposal for use of such land. Municipal agencies shall make known their requests and desires for the use of the proposed parcel to the Unified Planning Board in writing. Thereafter the Unified Planning Board shall consider the proposal and decide whether to accept or reject the proposal.

e. The maximum number of dwelling units permitted shall not exceed the number which could be developed under the regular R-100 zoning provisions. A plat shall be filed showing the number of homes which are to be allowed in accordance with density provisions.

f. The minimum tract size for cluster development is five (5) contiguous acres.

g. Lands designated for open space and public purposes shall be developed by the developer, in accordance with a site plan approved by the Unified Planning Board, and acceptable for dedication to the Borough by the Governing Body.

h. The land area to be donated to the Borough shall be determined by the following standards:

1. It must equal at least twenty (20%) percent of the total tract area.
 2. It must be at least a single usable one-acre parcel located within or contiguous to the tract to be developed.
 3. Open drainage watercourses and measurable floodplain areas which are incorporated into a landscaped plan may be credited at a fifty (50%) percent ratio in the open space area.
- (Ord. No. 98-21 § 304-75)

34-76 HOUSES OF WORSHIP.

a. Houses of worship shall be permitted in all districts. In reviewing the site plan for houses of worship, the Unified Planning Board shall make particular note of ancillary uses, such as social events, recreational activities, convocations and similar activities. Reasonable requirements shall be established to minimize any adverse impact on surrounding areas.

b. *Minimum Lot Area.* No lot shall be less than the minimum required in any district.

c. *Minimum Yards.* The minimum yards for the zone where the houses of worship are proposed to be located shall be maintained, except that where the uses abut a residence use, the minimum required side yard shall be doubled.
(Ord. No. 98-21 § 304-76)

34-77 NECESSARY PUBLIC UTILITIES AND SERVICES.

a. Essential services shall be permitted in all zones. Because of the wide range of uses which constitute essential services, no specific regulations are contained in this chapter. Each use shall be evaluated by the Unified Planning Board and standards imposed based on the following:

1. Degree and intensity of nuisance characteristics.
2. Probable traffic impact.
3. Character of surrounding existing and future development.

b. The Unified Planning Board may require alternate siting arrangements and provisions for parking and loading spaces, screening, fencing, buffers and lighting.
(Ord. No. 98-21 § 304-77)

34-77A WIRELESS TELECOMMUNICATIONS TOWERS AND FACILITIES.

34-77A.1 Purpose and Intent.

The purpose of this section is to establish guidelines for the siting of wireless telecommunications towers and antennas and ancillary facilities. The goals of this section are to: protect residential areas and land uses from potential adverse impacts of towers and antennas; encourage the location of towers on Borough-owned property where appropriate or in other nonresidential areas; minimize the total number of towers throughout the community; strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; encourage the use of existing buildings, telecommunications towers, light or utility poles or water towers as opposed to construction of new telecommunications towers; encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; ensure that all telecommunications facilities, including towers, antennas and ancillary facilities are located and designed to minimize the visual impact on the immediate surroundings and throughout the community by encouraging users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening and innovative camouflaging techniques; enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently; consider the public health and safety of telecommunications towers; and avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. If furtherance of these purposes, the Borough of Matawan shall give due consideration to the Borough of Matawan's Master Plan, Zoning Map, existing land uses and environmentally sensitive areas in approving sites for the location of towers and antennas. (Ord. No. 07-06 § A)

34-77A.2 Definitions.

As used in this section:

Alternative tower structure shall mean man-made trees, clock towers, bell steeples, flagpoles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Ancillary facilities shall mean the buildings, cabinets, vaults, closures and equipment required for operation of telecommunication systems, including but not limited to repeaters, equipment housing and ventilation and other mechanical equipment.

Antenna shall mean any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals. Parabolic dish antennas used for satellite communications shall not be included within this definition.

Backhaul network shall mean the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers or the public switched telephone network.

Buffer area shall mean the area surrounding a telecommunications tower and ancillary facilities which lies between the tower and adjacent lot lines and/or land uses.

Carrier shall mean a company that provides wireless services.

Collocation shall mean two (2) or more receiving and/or transmitting facilities are placed together in the same location or on the same antenna support structure.

FAA shall mean the Federal Aviation Administration.

Fall zone shall mean the area on the ground within a prescribed radius from the base of a wireless telecommunications tower. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FCC shall mean the Federal Communications Commission.

Functionally equivalent services shall mean cellular radio, personal communication service (PCS), enhanced specialized mobile radio, specialized mobile radio and paging, commercial land mobile radio and additional emerging technologies.

Guyed tower shall mean a tower which is supported or braced through the use of cables (guy wires) which are permanently anchored.

Height shall mean, when referring to a tower, the vertical distance measured from the lowest finished grade at the base of the tower to the highest point on the tower, even if said highest point is an antenna.

Lattice tower shall mean a type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

Monopole shall mean the type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

Mount shall mean the structure or surface upon which antennas are mounted, including the following four (4) types of mounts:

- a. **Roof-mounted.** Mounted on the roof of a building.
- b. **Side-mounted.** Mounted on the side of a building.
- c. **Ground-mounted.** Antenna support (tower) mounted on the ground.
- d. **Structure-mounted.** Mounted on a structure other than a building.

Personal wireless service facility shall mean a facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996.

Preexisting towers and preexisting antennas shall mean any tower or antenna for which a building permit has been properly issued prior to the effective date of this section, including permitted towers or antennas that have been approved but have not yet been constructed so long as such approval is current and not expired.

Radio frequency (RF) engineer shall mean an engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

Radio frequency radiation (RFR) for the purposes of this section, shall mean the emissions from personal wireless service facilities or any electromagnetic energy within the frequency range from 0.003 megahertz (MHz) to 300,000 MHz.

Stealth design shall mean a telecommunications facility that is designed or located in such a way that the facility is not readily recognizable as telecommunications equipment (see "alternative tower structure").

Telecommunications facility shall mean a facility designed and used for the purpose of transmitting, receiving and relaying voice and data signals from various wireless communication devices, including transmission towers, antennas and ancillary facilities. For purposes of this section, amateur radio transmission facilities and facilities used exclusively for the transmission of television and radio broadcasts are not telecommunications facilities.

Telecommunications or transmission tower shall mean the monopole or lattice framework designed to support transmitting and receiving antennas. For purposes of this section, amateur radio transmission facilities and facilities used exclusively for the transmission of television and radio signals are not transmission towers.

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

(Ord. No. 07-06 § B)

34-77A.3 Applicability.

a. *New Towers and Antennas.* All new telecommunications towers or antennas in the Borough of Matawan shall be subject to these regulations.

b. *Preexisting Towers or Antennas.* Preexisting telecommunications towers and preexisting antennas shall not be required to meet the requirements of this section, other than the requirements of subsections 34-77A.10 and 34-77A.11, absent any enlargement or structural modification or the addition of any antennas.

c. *District Height Limitations.* The requirements set forth in this section shall govern the location of telecommunications towers that exceed, and antennas that are installed at a height in excess of, the height limitations specified for each zoning district.

d. *Public Property.* Antennas or towers located on property owned, leased or otherwise controlled by the Governing Authority shall be encouraged, provided that a license or lease authorizing such antenna or tower has been approved by resolution by the Governing Authority. Said approved publicly-owned sites utilized for the purpose of constructing towers and/or antennas shall be treated as engaging in a conditional use under this section.

e. *Amateur Radio Station Operators/Receive-Only Antennas.* This section shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas.

f. *Satellite Dish Antennas.* This section shall not govern any parabolic dish antennas used for transmission or reception of radio signals associated with satellites.

(Ord. No. 07-06 § C)

34-77A.4 General Requirements.

a. *Principal or Accessory Use.* Telecommunications antennas and towers may be considered either principal or accessory uses. Notwithstanding any other Borough land use regulation, a different existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. If a tower and its appurtenant structures constitute the sole use of the lot, the tower shall be deemed to be the principal use.

b. *Lot Size.* For purposes of determining whether the installation of a tower or antenna complies with zone development regulations, including but not limited to setback requirements, lot coverage requirements and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

c. *State or Federal Requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the State or Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within ninety (90) days of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring towers into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

d. *Building Codes; Safety Standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable State or local building codes and the applicable standards for towers that are published by the Electronic Industries Association and Telecommunications Industry Association, as amended from time to time. If, upon inspection, the Borough of Matawan concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

e. *Not Essential Service.* Telecommunications towers and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities or private utilities.

f. *Collocation Required.* The Borough of Matawan mandates that carriers collocate antennas on towers and other structures whenever possible. See subsection 34-77A.7 for collocation requirements.

g. *Conditional Use.* All telecommunications facilities in the Borough of Matawan shall be conditional uses in accordance with N.J.S.A. 40:55D-67.

h. *Site Plan Required.* Site plan approval shall be required for all new telecommunications facilities in the Borough of Matawan, including modifications to or addition of new telecommunications facilities to preexisting towers, buildings or other structures.

(Ord. No. 07-06 § D)

34-77A.5 Use Regulations.

a. *Conditional Use.* Wireless telecommunications facilities are permitted as conditional uses:

1. On lands owned by Matawan Borough or any other public entity within the Borough of Matawan.
2. In the GO, GB, IND and RID Zone Districts.

b. *Conditional Use Standards.* Wireless telecommunications facilities may be permitted on the above-referenced lands, provided that:

1. The minimum lot size on which the telecommunications facility is to be located is at least four (4) acres in area.
2. Lattice towers and any type of guyed tower are prohibited.
3. Telecommunications towers shall be limited to monopoles without guys designed to ultimately accommodate at least three (3) carriers and shall meet the following height and usage criteria:

- (a) For a single carrier, up to one hundred (100) feet in height.

(b) For two (2) carriers, up to one hundred twenty-five (125) feet in height.

(c) For three (3) or more carriers, up to one hundred fifty (150) feet in height.

c. *Factors Considered in Granting Conditional Use Permits.*

1. In addition to the above standards, the Unified Planning Board shall consider the following factors in determining whether to issue a conditional use permit:

(a) Proximity of the tower to residential structures and residential district boundaries.

(b) Nature of uses on adjacent and nearby properties

(c) Surrounding topography.

(d) Surrounding tree coverage and foliage.

(e) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness, including stealth designs which are encouraged.

(f) Availability of suitable existing towers, alternative tower structures, other structures or alternative technologies not requiring the use of towers or structures.

(g) Availability of proposed tower to other potential carriers.

2. This list is considered to be illustrative in nature and may not include all factors to be considered.
(Ord. No. 07-06 § E)

34-77A.6 Site Design Standards.

The following site design standards shall apply to wireless telecommunications facilities:

a. *New Towers.*

1. Telecommunications towers may not be located closer than five hundred (500) feet to any residential zone. Antennas located on Borough-owned parcels or on preexisting buildings or structures are exempt from this requirement.

2. Fall zone. A fall zone shall be established such that the tower is set back one hundred fifty (150%) percent of the height of the tower from any adjoining lot line or nonappurtenant building.

3. Security fencing. Towers shall be enclosed by security fencing not less than eight (8) feet in height. Towers shall also be equipped with appropriate anti-climbing measures.

4. Landscaping. The following requirements shall govern the landscaping surrounding towers:

(a) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences or planned residences or any other area frequented by the public. The standard buffer shall consist of a landscaped strip at least ten (10) feet wide outside the perimeter of the compound. However, at a minimum, the facility should be shielded from public view by evergreen trees at least eight (8) feet high at planting and planted in staggered double rows fifteen (15) feet on center.

(b) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced at the sole discretion of the approving authority.

(c) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large-wooded lots, natural growth around the property perimeter may be a sufficient buffer.

5. Ancillary buildings. Any proposed building enclosing related electronic equipment shall not be more than ten (10) feet in height nor more than two hundred (200) square feet in area, and only one (1) such building shall be permitted on the lot for each provider of wireless telecommunications services located on the site. Such buildings must satisfy the minimum zoning district setback requirements for accessory structures.

6. Aesthetics. Towers and antennas shall meet the following requirements:

(a) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

(b) 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.

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

(a) The building enclosing electronic equipment may have one (1) light at the entrance to 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.

(b) No lighting is permitted on a tower except lighting that specifically is required by the Federal Aviation Administration (FAA), and any such required lighting shall be focused and shielded to the greatest extent possible so as not to project towards adjacent and nearby properties.

8. Signs. No signs are permitted except those required by the Federal Communications Commission, the Electronic Industries Association (EIA) and/or the Telecommunications Industry Association (TIA) or by law, such as warning and equipment information signs.

b. *Antennas Mounted on Existing Structures or Rooftops.*

1. Antennas on existing structures. Any antenna which is not attached to a tower may be attached to any existing business, industrial, office, utility or institutional structure in the GO, GB, IND or RID Zone Districts provided that:

(a) Side- and roof-mounted personal wireless service facilities shall not project more than ten (10) feet above the height of an existing building or structure nor project more than ten (10) feet above the height limit of the zoning district within which the facility is located. Personal wireless service facilities may locate on a building or structure that is legally nonconforming with respect to height, provided that the facilities do not project above the existing building or structure height.

(b) The antenna complies with all applicable FCC and FAA regulations.

(c) The antenna complies with all applicable building codes.

(d) The equipment structure shall not contain more than two hundred (200) square feet of gross floor area or be more than ten (10) feet in height. In addition, for buildings and structures which are less than forty-eight (48) feet in height, the related unmanned equipment structure shall be located on the ground and shall not be located on the roof of the structure. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than ten (10%) percent of the roof area. Equipment storage buildings, structures or cabinets shall comply with all applicable building codes.

2. Aesthetics. 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 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 possible.

c. *Antennas on Existing Towers.* An antenna may be attached to a preexisting tower in a nonresidential zone and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one (1) carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

1. A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless reconstruction as a monopole is proposed.

2. An existing tower may be modified or rebuilt to a taller height, not to exceed the maximum tower height established by this section.

3. Onsite location.

(a) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved on site within fifty (50) feet of its existing location.

(b) After the tower is rebuilt to accommodate collocation, only one (1) tower may remain on the site.

(Ord. No. 07-06 § F)

34-77A.7 Collocation.

a. The Borough of Matawan requires that licensed carriers share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone facilities. All applicants for site plan approval for a personal wireless service facility shall demonstrate a good faith effort to collocate with other carriers. Such good faith effort includes:

1. A survey of all existing structures that may be feasible sites for collocating personal wireless facilities.

2. Notification by certified mail of intent to seek site plan approval to all the other licensed carriers for commercial mobile radio services operating in the County.

3. Sharing information necessary to determine if collocation is feasible under the design configuration most accommodating to collocation.

4. A copy of a proposed lease or affidavit of compliance with this section.

b. In the event that collocation is found to be not technically feasible, a written statement of the reasons for the unfeasibility shall be submitted to the Borough. The Borough may retain a technical expert in the field of RF engineering to verify if collocation at the site is not feasible or is feasible given the design configuration most accommodating to collocation. The cost for such a technical expert will be at the expense of the applicant. The Borough may deny approval to an applicant that has not demonstrated a good faith effort to provide for collocation.

c. If the applicant does intend to collocate or to permit collocation, plans and elevations which show the ultimate appearance and operation of the personal wireless service facility at full build-out shall be submitted.

(Ord. No. 07-06 § G)

34-77A.8 Location Priorities.

Wireless telecommunications facilities shall be located and approved in accordance with the following prioritized locations:

a. The first priority shall be a new monopole on the Borough Hall parcel.

b. The second priority shall be new towers on lands owned by the Borough of Matawan within the R-75 Zone District or other lands owned by the Borough of Matawan or other public entity.

c. The third priority shall be an existing building in IND or RID Zone Districts.

d. The fourth priority shall be new towers on lands not owned by the Borough of Matawan or other public entity located within the GO or GB Zone Districts.

(Ord. No. 07-06 § H)

34-77A.9 Site Plan Submission Requirements.

In addition to the site plan submission requirements of Section 34-15 and other applicable sections of this chapter, the following information shall be submitted in conjunction with site plan approvals for all wireless telecommunications facilities:

a. *Comprehensive Service Plan.* In order to provide proper evidence that any proposed location of wireless telecommunications antennas (and any supporting tower and/or ancillary building enclosing related electronic equipment) has been planned to result in the fewest number of towers within the Borough of Matawan at the time full service is provided by the applicant throughout the Borough, the applicant shall submit a comprehensive service plan. Said Comprehensive Service Plan shall indicate how the applicant proposes to provide full service throughout the Borough and, to the greatest extent possible, said service plan shall also indicate how the applicant's plan is coordinated with the needs of all other providers of telecommunications services within the Borough of Matawan. The comprehensive service plan shall indicate the following:

1. Whether the applicant's subscribers can receive adequate service from antennas located outside of the borders of the Borough of Matawan.
2. How the proposed location of the antennas relates to the location of any existing towers within and/or near the Borough of Matawan.
3. How the proposed location of the antennas relates to the anticipated need for additional antennas and supporting towers within and/or near the Borough of Matawan — by both the applicant and by other providers of telecommunications services within the Borough of Matawan.
4. How the proposed location of the antennas relates to the objective of collocating the antennas of different service carriers on the same tower.
5. How the proposed location of the antennas relates to the overall objective of providing full telecommunications services within the Borough of Matawan while, at the same, limiting the number of towers to the fewest possible.

b. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), and all properties within the applicable fall zone, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking and other information deemed by the approving authority to be necessary to assess compliance with this section.

c. Legal description of the entire tract and leased parcel (if applicable).

d. The setback distance between the proposed tower and the nearest residential unit and residentially zoned properties.

e. The separation distance from other towers and antennas.

f. A landscape plan showing specific landscape materials, including but not limited to species type, size, spacing and existing vegetation to be removed or retained.

- g. Method of fencing and finished color and, if applicable, the method of camouflage.
 - h. A description of compliance with all applicable Federal, State or local laws.
 - i. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
 - j. Identification of the entities providing the backhaul network for the tower(s) described in the application and other telecommunications sites owned or operated by the applicant in the Borough.
 - k. A letter of commitment to lease excess space to other potential users at prevailing market rates and conditions. The letter of commitment shall be in form suitable for recording with the County Clerk prior to the issuance of any permit and shall commit the tower owner(s), property owner(s) and their successors in interest.
 - l. A visual impact study containing, at a minimum, a photographic simulation showing the appearance of the proposed tower, antennas and ancillary facilities from at least five (5) points within a three-mile radius. Such points shall be chosen by the carrier with review and approval by the Planning Board Planning Consultant to ensure that various potential views are represented.
 - m. An analysis of the RFR levels at the facility as a means of assessing compliance with the FCC RF safety criteria. This analysis shall:
 - 1. Take into consideration all collocated radio transmitting antennas and/or nearby antennas that could contribute to RFR levels at the facility.
 - 2. Be performed by a RF engineer, health physicist or similar knowledgeable individual.
 - 3. Follow current methods recommended by the FCC for performing such analyses.
- (Ord. No. 07-06 § I)

34-77A.10 Monitoring and Maintenance.

- a. After the wireless telecommunications facility is operational, the applicant shall submit, within ninety (90) days of beginning operations, and at annual intervals from the date of issuance of the building permit, existing measurements of RFR from the wireless telecommunications facility. Such measurements shall be signed and certified by a RF engineer, stating that RFR measurements are accurate and meet FCC guidelines as specified in the radio frequency standards section of this bylaw.
 - b. The applicant and co-applicant shall maintain the personal wireless service facility in good condition. Such maintenance shall include but shall not be limited to painting, structural integrity of the mount and security barrier and maintenance of the buffer areas and landscaping.
- (Ord. No. 07-06 § J)

34-77A.11 Abandonment or Discontinuation of Use.

- a. At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier shall notify the Borough Clerk by certified United States mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the wireless telecommunications facility shall be considered abandoned upon discontinuation of operations.
 - b. Upon abandonment or discontinuation of use, at the option of the Borough, the carrier shall physically remove the personal wireless service facility within ninety (90) days from the date of abandonment or discontinuation of use. Physically remove shall include, but not limited to:
 - 1. Removal of antennas, mount, equipment shelters and security barriers for the subject property.
 - 2. Proper disposal of the waste materials from the site in accordance with local, County and State solid waste disposal regulations.
 - 3. Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
 - c. If a carrier fails to remove a personal wireless service facility in accordance with this section, the Borough shall have the authority to enter the subject property and physically remove the facility. The Unified Planning Board will require the applicant to post a bond at the time of approval to cover costs for the removal of the personal wireless service facility in the event that the Borough must remove the facility.
- (Ord. No. 07-06 § K)

34-77A.12 Condition of Approval.

Any approvals granted by the Borough of Matawan shall contain the following conditions:

- a. Construction plans, details and structural computations are required for any proposed tower or monopole structure prior to commencement of construction. The information shall be reviewed and approved by the Borough Engineer. The cost of the review shall be charged to the applicant's escrow account.

b. Prior to issuance of a Certificate Occupancy as-built drawings in print and electronic form (preferably AutoCADD format) shall be provided to the Borough for any proposed tower or monopole structure.
(Ord. No. 07-06 § L)

34-78 GASOLINE OR SERVICE STATIONS; GARAGES.

a. No gasoline or other motor fuel service or filling station, public garage or commercial garage shall be erected, constructed, established, maintained or operated within five hundred (500) feet of any of the following: a public school or playground or lands owned by the Board of Education for school or playground purposes; a duly organized school giving regular instruction at least five (5) days a week (holidays excepted) for eight (8) or more months a year; hospital; church; orphan asylum, nursing or rest home; public library; theater or opera house or other building used for theatrical or operatic purposes or for public entertainment; municipal building housing the public offices of the municipality; or any public playground or athletic field.

b. No gasoline or other motor fuel service or filling station, public garage or commercial garage shall be erected, constructed, established, maintained or operated within one thousand (1,000) feet of any other such gasoline or other motor fuel service or filling station, public garage or commercial garage.

c. No gasoline or other motor fuel filling appliance shall be located within ten (10) feet of a street line or within five (5) feet of any adjacent property line.

d. No existing gasoline or other motor fuel service or filling station, public garage or commercial garage shall be deemed to become a nonconforming use through the existence at the present time of aforesaid such school or schools, hospital, church, orphan asylum, nursing or rest home, public library, theater or opera house or other building used for theatrical or operatic purposes or for public entertainment, a municipal building or any public playground or athletic field, as set forth above, or any other gasoline or other motor fuel service or filling station, public garage or commercial garage within the aforesaid prescribed area for each or through the subsequent erection of aforesaid such school or schools, hospital, church, orphan asylum, nursing or rest home, public library, theater or opera house or other building used for theatrical or operatic purposes or for public entertainment, a municipal building or any public playground or athletic field within the aforesaid prescribed area, and nothing hereinabove contained shall be construed to prevent or bar the reconstruction or alteration of any such previously existing gasoline or other motor fuel service or filling station, public garage or commercial garage.

(Ord. No. 98-21 § 304-78)

34-79 PAROCHIAL AND PRIVATE SCHOOLS.

- a. The minimum lot size for any school shall be two (2) acres in size.
- b. The school shall be connected to public water and sewer.
- c. The site shall include or be in close proximity to open space which can be used for active recreation.
- d. All areas designed for potentially noisy activities shall be sufficiently sound-insulated or separated from adjacent residential structures so as to avoid any noise nuisance.
- e. The buffer requirements as per Section 34-41 shall be met for any school. Active recreation areas shall not constitute required buffer areas.

(Ord. No. 98-21 § 304-79)

34-80 HOSPITALS.

Hospitals shall be permitted upon authorization by the Unified Planning Board in accordance with the following standards and site plan review:

- a. Said use will have direct access to a major thoroughfare or major collector street as defined in this chapter.
- b. Minimum lot size shall be five (5) acres.
- c. Minimum lot width shall be two hundred (200) feet.
- d. Maximum percent lot coverage shall be twenty-five (25%) percent.
- e. Maximum building height shall be four (4) stories or fifty (50) feet.
- f. Maximum front, rear and side yard areas shall be one hundred (100) feet.
- g. The buffer requirements as per Section 34-41 shall be met for any hospital.

(Ord. No. 98-21 § 304-80)

34-81 ELEEMOSYNARY, CHARITABLE AND PHILANTHROPIC INSTITUTIONS.

Approval of eleemosynary, charitable and philanthropic institutions shall be determined at the discretion of the Unified Planning Board on a case-by-case basis. However, unless specifically waived or modified by the Unified Planning Board, the bulk and yard requirements of the zone in which the proposed use is to be located shall apply. (Ord. No. 98-21 § 304-81)

34-82 RESIDENCES FOR DEVELOPMENTALLY DISABLED AND COMMUNITY SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE.

a. In accordance with N.J.S.A. 40:55D-66.1, no community residence for the developmentally disabled and no community shelter for victims of domestic violence shall house more than six (6) persons, excluding resident staff, unless a conditional use permit has been issued by the Unified Planning Board for the use or conversion to use of a dwelling unit to such a community residence or shelter.

b. An applicant for a conditional use permit shall file an application for development which shall be the subject of a public hearing at the Unified Planning Board following the required notice and service requirements for an application for development as more particularly set forth in subsections 30-3.5 and 30-3.6 of Chapter XXX, Land Use Procedures. In each case, the decision of the Unified Planning Board shall be reasonably related to the health, safety and welfare of the residents of the zoning district in which the proposed use is to be located. Before granting such a conditional use permit, the Unified Planning Board shall make specific findings of fact including, but not limited to the following:

1. The proposed area shall be sufficient for the intended purpose.
2. Adequate parking facilities shall be provided.
3. Means of ingress and egress shall be adequate to prevent traffic hazard, congestion or excessive interference with normal traffic movement on adjacent public streets and thoroughfares.
4. The building and use shall be appropriately located and designed and will meet a community need without adversely affecting the neighborhood.
5. In accordance with N.J.S.A. 40:55D-66.2, no more than fifteen (15) persons other than resident staff shall be permitted in the residence.
6. The applicant shall satisfy the Unified Planning Board as to the adequacy of all items required in an application for site plan approval, including but not limited to drainage, illumination, sewerage, landscaping and all other items required for site plan approval.
7. The Unified Planning Board shall consider appropriate buffering of the property.

(Ord. No. 98-21 § 304-82)

34-83 RESERVED.

34-84 RESERVED.

Article XIII Stormwater Control and Stormwater Management Procedures

34-85 REQUIREMENTS.

34-85.1 Requirements; Certification by Borough Engineer.

No application for development shall be approved unless the Borough Engineer has certified to the approving authority in writing that:

a. The applicant has provided the Borough Engineer with sufficient information for it to determine whether or not the proposed development will conform with the Borough runoff control details and stormwater detention facility design criteria.

b. In the judgment of the Borough Engineer, the proposed development will substantially conform with these standards and design criteria set forth in this Article.
(Ord. No. 98-21 § 304-83)

34-85.2 Runoff Standards.

No land area in the Borough shall be developed so that:

- a. The rate of stormwater runoff occurring at the area is increased over what occurs there under existing conditions.
- b. The drainage of adjacent areas is adversely affected.
- c. Soil erosion during and after development is increased over what naturally occurs there.
- d. Soil absorption and groundwater recharge capacity of the area is decreased below what occurs under existing conditions.
- e. The natural drainage pattern of the area is significantly altered.

(Ord. No. 98-21 § 304-84)

34-85.3 Runoff Control Details.

In order to duplicate as nearly as possible natural drainage conditions, regulation and control of stormwater runoff and erosion for any land area to be developed shall be through on-site water detention and/or ground absorption systems which include but are not limited to the following:

a. Detention areas which may be depressions in parking areas, excavated basins, basins created through use of curbs, stabilized earth berms or dikes, or any other form of grading which serves to temporarily impound and store water.

b. Rooftop storage through temporary impoundment and storage of stormwater on flat or slightly pitched building rooftops by use of drain outlets which restrict the stormwater runoff from the roof surface.

c. Dry wells or leaching basins which control stormwater runoff through ground absorption and temporary storage.

d. Porous asphaltic pavement which preserves the natural ground absorption capacity of a site and provides a subsurface reservoir for temporary storage of stormwater.

e. Any system of porous media, such as gravel trenches drained by porous wall or perforated pipe, which temporarily store and dissipate stormwater through ground absorption.

f. Any combination of the above-mentioned techniques which serve to limit stormwater runoff from a given site to what presently occurs there.

g. Preservation of natural vegetation.

(Ord. No. 98-21 § 304-85)

34-85.4 Design of Stormwater Detention Facilities.

a. Stormwater detention facilities shall be designed to contain an amount equal to the increase in volume of runoff which would result from development of any site. The volume of runoff shall be computed on the basis of the total rainfall which produced the flood of record for the area involved and shall be equivalent to the rainfall excess, as previously defined. The total rainfall which produced the flood of record shall be determined from accurate local records of the United States Department of Commerce, National Weather Service or by calculations using accepted engineering design techniques.

b. *Runoff Coefficients.*

1. The rainfall excess shall be computed for each site using accepted, published runoff coefficients, such as those found in Urban Hydrology for Small Watersheds, Technical Release No. 55, Engineering Division, Soil Conservation Service, U.S. Department of Agriculture, January 1955, and as may be modified by the Borough Engineer.

2. The range of coefficients for each land use and surface type reflects differences in land slope, intensity of development, amount of impervious surface and degree of ground saturation due to antecedent precipitation.

3. The runoff coefficients shall be determined for each site for both existing and proposed conditions, and the difference in the two (2) shall be used to compute the volume of rainfall excess for design of stormwater detention facilities. The volume for design is equal to the depth of the rainfall excess multiplied by the area of the site. If any such facility will contain water under normal conditions, the amount so contained shall not be counted in calculating the capacity required for the detention of water for the design storm. Rainfall intensity shall be as recommended by the Borough Engineer.

c. In the case of detention facilities utilizing porous media for ground absorption, such as dry well, porous pavement or the like, the volume of the porous media shall be large enough to contain the total volume or rainfall excess within the voids. Ground absorption systems shall be used only where the infiltration rate of the receiving soil is acceptable as determined by percolation tests and soil borings or as determined by the Borough Engineer. Provisions shall be made to contain overflow of such systems on-site or to surface drain the overflow in such a way as not to adversely affect any other property.

d. If detention facilities utilizing surface impoundment, such as detention basins or rooftop storage, are used, sufficient volume to fully contain the total volume of rainfall excess shall be provided. The outlets of such facilities shall be designed to limit the maximum discharge rate of stormwater runoff to what occurs at the site under existing conditions and shall discharge in such a way as not to adversely affect any other property. If rooftop storage is proposed, the weight of the impounded water on the roof shall be accounted for in the structural design of the building and the roof shall be designed to provide maximum protection against leakage. If berms or dikes are used to create the impounding area, they shall be adequately stabilized and the slopes protected with vegetative cover, paving or rip-rap to protect against failure or breaching.

e. If a combination of different stormwater detention techniques is used, combined volume of the systems shall be large enough to fully contain the total volume of rainfall excess.

f. Stormwater detention facilities shall be constantly maintained by the owner to ensure continual functioning of the systems at design capacity and to prevent the health hazards associated with debris buildup and stagnant water. In no case shall water be allowed to remain in any facility long enough to constitute a mosquito breeding, disease or any other type of health problem, unless approved as a multifunction facility include water, such as a pond. If the land or stormwater detention facility or facilities are proposed to be dedicated to the Borough and the dedication is accepted by the Borough Council, the procedures for the construction, dedication and acceptance and maintenance of such facilities set forth in the subdivision regulations, including but not limited to performance and maintenance bonds, inspections, etc., shall govern.

g. Detention and sediment and erosion control facilities shall be designed in conformance with the Standards for Soil Erosion and Sediment Control in New Jersey of the New Jersey State Soil Conservation Committee as approved by the Borough Engineer or the Monmouth Soil Conservation District under agreement, except where the Borough Engineer has determined that conditions peculiar to a certain site warrant exception.

h. Sediment and erosion control measures shall be installed prior to any other site development, shall apply to all aspects of the proposed development and shall be in operation during all stages of development. Increased runoff and sediment, resulting from modified soil and surface conditions caused by the proposed development, shall be minimized and, where possible, retained on-site.
(Ord. No. 98-21 § 304-86)

34-86 STORMWATER MANAGEMENT AND CONTROL PROCEDURE.

34-86.1 Title.

This section shall be known as and may be cited as the "Stormwater Management Regulations of the Borough of Matawan." (Ord. No. 06-22 § 1.1)

34-86.2 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 Best Management Practices (BMPs). Structural BMPs should be integrated with nonstructural stormwater management measures and proper maintenance plans. Nonstructural measures 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 loading 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 section to establish minimum stormwater management requirements and controls for "major development" as defined in subsection 34-62.3, Definitions.

c. *Applicability.*

1. This section 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) Nonresidential 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; and

2. This section shall also be applicable to all major developments undertaken by the Borough of Matawan.

d. *Compatibility with Other Permit and Ordinance Requirements.* Development approvals issued pursuant to this section are to be considered an integral part of development approvals under the development permit, 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 section shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This section 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 section 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. (Ord. No. 06-22 § 1.2; Ord. No. 07-14 § 2a)

34-86.3 Definitions.

As used in this section:

Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

CAFRA Planning Map shall mean the geographic depiction of the boundaries for Coastal Planning Areas, CAFRA Centers, CAFRA Cores and CAFRA Nodes pursuant to N.J.A.C. 7:7E-5B.3.

CAFRA Centers, Cores or Nodes shall mean those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.

Compaction shall mean the increase in soil bulk density.

Core shall mean a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

County review agency shall mean an agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The County review agency may either be:

A County planning agency; or

A County water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

Department shall mean the New Jersey Department of Environmental Protection.

Designated Center shall mean a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

Design engineer shall mean a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

Development shall mean the division of a parcel of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or 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.

Drainage area shall mean a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

Environmentally critical area shall mean an area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Non-game Species Program.

Empowerment Neighborhood shall mean a neighborhood designated by the Urban Coordinating Council "in consultation and conjunction with" the New Jersey Redevelopment Authority pursuant to N.J.S.A 55:19-69.

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

Impervious surface shall mean a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

Infiltration shall mean the process by which water seeps into the soil from precipitation.

Major development shall mean any "development" that provides for ultimately disturbing one (1) or more acres of land. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

Municipality shall mean the Borough of Matawan.

Node shall mean an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

Nutrient shall mean a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

Person shall mean any individual, corporation, company, partnership, firm, association, Borough of Matawan, or political subdivision of this State subject to municipal jurisdiction pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

Pollutant shall mean any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. "Pollutant" includes both hazardous and non-hazardous pollutants.

Recharge shall mean the amount of water from precipitation that infiltrates into the ground and is not evapo-transpired.

Sediment shall mean solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

Site shall mean the lot or lots upon which a major development is to occur or has occurred.

Soil shall mean all unconsolidated mineral and organic material of any origin.

State Development and Redevelopment Plan Metropolitan Planning Area (PA1) shall mean an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the State's future redevelopment and revitalization efforts.

State Plan Policy Map shall mean the geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.

Stormwater shall mean water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

Stormwater management basin shall mean an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

Stormwater management measure shall mean any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

Stormwater runoff shall mean water flow on the surface of the ground or in storm sewers, resulting from precipitation.

Tidal Floor Hazard Area shall mean a flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.

Urban Coordinating Council Empowerment Neighborhood shall mean a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

Urban Enterprise Zone shall mean a zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et. seq.

Urban Redevelopment Area shall mean previously developed portions of areas:

- a. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
- b. Designated as CAFRA Centers, Cores or Nodes;
- c. Designated as Urban Enterprise Zones; and
- d. Designated as Urban Coordinating Council Empowerment Neighborhoods.

Waters of the State shall mean the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

Wetlands or **wetland** shall mean an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

(Ord. No. 06-22 § 2.1; Ord. No. 07-14 §§ 3, 4, 5, 6)

34-86.4 General Standards.

a. Design and Performance Standards for Stormwater Management Measures.

1. Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity; and stormwater runoff quality standards in subsection 34-86.5. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.

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

(Ord. No. 06-22 § 3.1; Ord. No. 07-14 § 7)

34-86.5 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 subsection 34-86.11.

b. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-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 paragraph f. and paragraph 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 paragraph f. and paragraph 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 paragraph f. and paragraph g. to the maximum extent practicable;

3. The applicant demonstrates that, in order to meet the requirements of paragraph f. and paragraph 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 paragraph f. and paragraph g. that were not achievable on-site.

e. *Nonstructural Stormwater Management Strategies.*

1. To the maximum extent practicable, the standards in paragraph f. and paragraph g. shall be met by incorporating nonstructural stormwater management strategies set forth in this paragraph e. into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in paragraph 2 below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

2. Nonstructural stormwater management strategies incorporated into site design shall:

- (a) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
- (b) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
- (c) Maximize the protection of natural drainage features and vegetation;
- (d) Minimize the decrease in the "time of concentration" from pre-construction to post construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most 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 paragraph 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 paragraph e,2(i)(2) 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 paragraph e,3(c) below.

(a) Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

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

(2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 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 (2) 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 paragraph g,1 below are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

A rectangular space four and five-eighths inches long and one and one-half inches wide (4 5/8 x 1 1/2) (this option does not apply for outfall netting facilities); or

A bar screen having a bar spacing of one-half (0.5) inches.

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

(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 paragraph f. and paragraph 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 (BMP) Manual. The BMP Manual may be obtained from the address identified in subsection 34-86.8, 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 subsection 34-86.6, either:

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

(ii) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from preconstruction 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 down gradient of the groundwater recharge area.

(c) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at subsection 34-86.6, complete one of the following:

(1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the 2-, 10-, and 100-year storm events do not exceed, at any point in time, the preconstruction runoff hydrographs for the same storm events;

(2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the preconstruction condition, in the peak runoff rates of stormwater leaving the site for the 2-, 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 fifty (50%) percent, seventy-five (75%) percent and eighty (80%) percent, respectively, of the preconstruction 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 (1), (2) and (3) above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.

2. Any application for a new agricultural development that meets the definition of major development in subsection 34-86.3 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 eighty (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 (2) 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 nonstructural and structural stormwater management measures.

Table 1: Water Quality Design Storm Distribution

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

2. For purposes of TSS reduction calculations, Table 2 below presents the 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 subsection 34-86.8 or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in subsection 34-86.8. Total Suspended Solids (TSS) reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, P.O. Box 418, Trenton, New Jersey, 08625-0418.

3. If more than one (1) BMP in series is necessary to achieve the required eighty (80%) percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B)/100$$

Where

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

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

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

Table 2: TSS Removal Rates for BMPs

Best Management Practice	TSS Percent Removal Rate
Bioretention Systems	90
Constructed Stormwater Wetland	90
Extended Detention Basin	40-60
Infiltration Structure	80
Manufactured Treatment Device	See subsection 34-86.7c.
Sand Filter	80
Vegetative Filter Strip	60-80
Wet Pond	50-90

4. If there is more than one (1) on-site drainage area, the eighty (80%) percent TSS removal rate shall apply to each drainage area, unless the runoff from the sub-areas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.

5. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in paragraph f. and paragraph 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 subsection 34-86.8.

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 (1) 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 paragraph (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 one hundred fifty (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 one hundred fifty (150) feet of the Category One waterway;

(2) Stormwater associated with discharges allowed by this section shall achieve a ninety-five (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 a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to paragraph g,8 has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to paragraph g,8 shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in paragraph 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 one hundred fifty (150) feet as measured perpendicular to the waterway subject to this subsection.

(e) Paragraph g,8 does not apply to the construction of one (1) 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. (Ord. No. 06-22 § 4; Ord. No. 07-14 §§ 8, 9)

34-86.6 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 preconstruction 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 paragraph a,1(a) above and the Rational and Modified Rational Methods at paragraph a,1(b) above. 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 (5) years without interruption prior to the time of application. If more than one (1) land cover have existed on the site during the five (5) 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 preconstruction 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 preconstruction 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.

(Ord. No. 06-22 § 5)

34-86.7 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 (1) inch 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 (1) inch and a maximum spacing between bars of six (6) inches. In addition, the design of trash racks must comply with the requirements of subsection 34-86.9b.

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 (2 1/2) inches in diameter.

5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at subsection 34-86.9.

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 subsection 34-86.5 of this chapter.

c. Manufactured treatment devices may be used to meet the requirements of subsection 34-86.5, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

(Ord. No. 06-22 § 6)

34-86.8 Sources for Technical Guidance.

a. Technical guidance for stormwater management measures can be found in the documents listed at paragraphs 1 and 2 below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; Telephone (609) 777-1038.

1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bio-retention 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 Freehold Soil Conservation Districts, 4000 Kozloski Road, Freehold, New Jersey, 07728, (732) 683-8500.

(Ord. No. 06-22 § 7)

34-86.9 Safety Standards for Stormwater Management Basins.

a. This subsection sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This subsection 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 two and one-half (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 three hundred (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 (2) 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 three hundred (300) lbs./ft. sq.

3. For purposes of this paragraph, escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:

(a) If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in paragraph c. below a freestanding outlet structure may be exempted from this requirement.

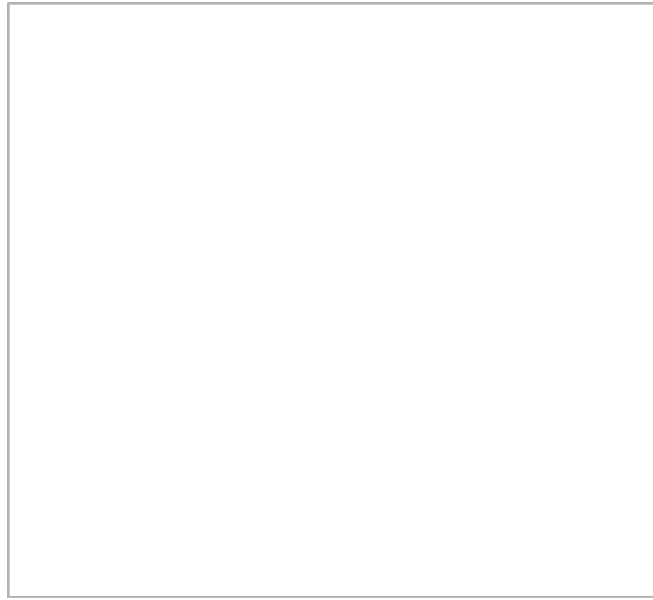
(b) Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half (2 1/2) feet. Such safety ledges shall be comprised of two (2) steps. Each step shall be four (4) to six (6) feet in width. One step shall be located approximately two and one-half (2 1/2) feet below the permanent water surface, and the second step shall be located one (1) to one and one-half (1 1/2) feet above the permanent water surface. See paragraph d. below 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 appropriate reviewing agency (municipality, County or Department) that the variance or exemption will not constitute a threat to public safety.

d. *Illustration of Safety Ledges in a New Stormwater Management Basin.*



(Ord. No. 06-22 § 8)

34-86.10 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 section, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at paragraph c. below as part of the submission of the applicant's application for subdivision or site plan approval.
2. The applicant shall demonstrate that the project meets the standards set forth in this section.
3. The applicant shall submit twenty (20) copies of the materials listed in the checklist for site development stormwater plans in accordance with paragraph e. below.

b. *Site Development Stormwater Plan Approval.* The applicant's site development project shall be reviewed as a part of the subdivision, site plan, or development application review process by the Unified Planning Board or official from which municipal approval is sought. The Board and/or Zoning Officer shall consult the Township Engineer, Planning Board Engineer or other such engineer (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this section.

c. *Checklist Requirements.* The following information shall be required:

1. Topographic Base Map.
 - (a) 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 two hundred (200) feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing two (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 manmade structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.
2. Environmental Site Analysis.
 - (a) A written and graphic description of the natural and manmade 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) 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 groundwater 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.

(a) This plan shall provide a demonstration of how the goals and standards of subsections 34-86.4 through 34-86.7 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.

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

(1) 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.

(2) 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 predevelopment and post-development conditions for the design storms specified in subsection 34-86.5.

(b) When the proposed stormwater management control measures (e.g., infiltration basins) depend on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on on-site 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.

(a) The design and planning of the stormwater management facility shall meet the maintenance requirements of subsection 34-86.11.

8. Waiver from Submission Requirements.

(a) The municipal official or board reviewing an application under this section may, in consultation with the Municipal Engineer, waive submission of any of the requirements in subsections 34-86.10c,1 through 34-86.10c,6 of this section 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.

(Ord. No. 06-22 § 9)

34-86.11 Maintenance and Repair.

a. *Applicability.*

1. Projects subject to review as in subsection 34-86.2c. shall comply with the requirements of paragraphs b. and c. below.

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 this paragraph is not a public agency, the maintenance plan and any future revisions based on paragraph 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 paragraph 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 paragraph 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 paragraph 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 paragraph 6 and paragraph 7 above.

9. The requirements of paragraphs 3 and 4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.

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

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

(Ord. No. 06-22 § 10)

34-86.12 Penalties.

a. Any person who violates any provision of this section shall, upon conviction thereof, be liable to the penalty stated in Chapter I, Section 1-5.

b. Each instance of engaging in a separate regulated activity, in violation of this section shall be deemed a separate offense.

c. In addition, the Borough may institute civil action for injunctive or other relief to enforce the provision of this section.
(Ord. No. 06-22 § 11; New)

Article XIV Floodplain Regulations

34-87 SITE PLAN DATA.

a. In addition to the site plan approval requirements contained in this chapter, no building or structure shall hereafter be erected, enlarged, expanded, externally altered or modified nor any paving, fill excavation or improvement be permitted within any floodplain area unless a site plan shall have been submitted to the Borough Unified Planning Board for its review and approval.

b. The site plan shall be drawn to a scale not less than one inch equals fifty feet (1"=50') and shall show in addition to the information required elsewhere the following information:

1. Existing and proposed building and structures.
2. Proposed finished grade elevations at the corners of any structure or structures.
3. Existing topography and proposed grading at contour intervals of at least two (2) feet.
4. The lowest elevation within any proposed structure after its completion.
5. The location, type and size of all existing and proposed storm drainage facilities and other utilities servicing or proposed to service the premises in question.
6. The location, size and nature of all existing and proposed drainage rights-of-way or easements and the location, size and description of any lands to be dedicated to the municipality, County or State.
7. The layout and size of existing and proposed public or private streets.
8. The elevation of any existing or proposed pumping facilities.
9. The nature and extent of any construction alterations or repairs.
10. The location, size and nature of the entire lot or lots in question and any contiguous lots owned by the applicant or in which the applicant has a direct or indirect interest.

11. Proof of stream encroachment lines obtained from the Department of Environmental Protection.
12. The extent of any previous or proposed filling of the land, if any.
13. The location, type and size of all existing and proposed erosion and siltation control measures, such as slope protection, soil stabilization, sedimentation basins, sediment traps, headwalls, aprons and the like.
14. Any and all other information and data necessary to meet any of the requirements of this chapter.

c. In addition, where required by the Unified Planning Board the developer shall furnish information relating to subsurface conditions, based on percolation tests and soil boring or probes. Test boring or probes shall be performed by a licensed professional engineer with proven competency in the field of soils engineering and shall be in accordance with acceptable engineering standards and practices. Written notification of intention to conduct such tests shall be forwarded to and received by the Borough Engineer at least forty-eight (48) hours prior to testing. Tests shall be conducted in accordance with a plan approved by the Borough Engineer. A detailed report of the test shall be submitted to the Unified Planning Board and Borough Engineer for review.

d. The Unified Planning Board shall act upon any site plan provided for above within sixty (60) days of the date of filing thereof or the date of approval, when required, by the State Department of Environmental Protection, whichever is later, or other extension of time agreed to by the applicant. Failure of the Unified Planning Board to act within the time limit or limits shall be deemed a denial of any site plan submitted hereunder. Unified Planning Board disapproval shall include written findings upon any site plan element found contrary to the provisions or intent of this chapter.
(Ord. No. 98-21 § 304-87)

34-88 PERMIT; APPROVALS.

No person or persons shall engage in development within a delineated floodplain until a stream encroachment permit has been issued by the Department of Environmental Protection where appropriate and all necessary approvals have been obtained from the Borough. (Ord. No. 98-21 § 304-88)

34-89 CONDITIONS.

The Unified Planning Board may impose such conditions on permitted uses as it deems appropriate to promote the public safety, health and welfare, to protect public and private property, wildlife and fisheries and to preserve, protect and enhance the natural environment of the floodplain. No Certificate of Occupancy shall be issued unless all conditions of approval have been complied with. (Ord. No. 98-21 § 304-89)

34-90 PERFORMANCE STANDARDS.

In reviewing any proposed construction or development, the Unified Planning Board shall be reasonably assured upon evidence submitted by the applicant that any structure, when built or altered, can be occupied without peril to the health or safety of the occupant and that the proposed land use:

- a. Has an inherent low flood damage potential.
 - b. Either acting alone or in combination with existing or future use, does not obstruct flood flows or increase flood heights and/or velocities or reduce ground absorption of stormwater.
 - c. All stormwater management measures for development regardless of use, including structural stormwater management strategies, detention basins and other stormwater management facilities and stormwater collection and conveyance structures, shall be designed in accordance with and comply with the provisions of Article XIII, Stormwater Control and Stormwater Management Procedures and the Residential Site Improvement Standards (N.J.A.C. 5:21-7 et seq.).
 - d. Does not increase local runoff and erosion.
 - e. Does not unduly stress or degrade the natural environment of the floodplain or degrade the quality of surface water or the quality and quantity of groundwaters.
 - f. Does not require channel modification or relocation.
 - g. Is set forth in this chapter as a permitted use for that portion of the floodplain where proposed.
 - h. Is not a prohibited use in that portion of the floodplain where proposed.
- (Ord. No. 98-21 § 304-90; New)

34-91 PERMITTED USES IN CHANNELS.

Within any channel, structures may be erected, enlarged, expanded or externally altered and fill, excavation or other improvements or changes may be permitted only in connection with stream improvements or stabilization, which improvements or changes shall have the specific approval of the State Department of Environmental Protection, the Monmouth County Planning Board and the Borough Unified Planning Board. (Ord. No. 98-21 § 304-91)

34-92 PERMITTED USES IN FLOODWAYS.

a. Within any floodway, structures may be erected, enlarged, expanded or externally altered, and fill, excavation or other improvements or changes may be permitted only in connection with stream improvement or stabilization, which improvement or changes shall have the specific approval of the State Department of Environmental Protection, the Monmouth County Planning Board and the Borough Unified Planning Board.

b. The accepted practices of soil husbandry and farming, as well as recreational uses in the nature of parks, wildlife preserves, playgrounds, picnic areas, golf courses and boat landings, shall be permitted in accordance with the issuance of a permit as provided by Section 34-88. Any proposed use involving the removal of trees shall be undertaken only in accordance with an approved forest management plan. No material, equipment or vehicles shall be parked or stored in the floodway, even in conjunction with a permitted use.

(Ord. No. 98-21 § 304-92)

34-93 PERMITTED USES IN FLOOD-FRIDGE AREAS.

Within any flood-fringe area, structures may be constructed, erected, enlarged, expanded externally altered or modified and fill, excavation and other improvements may be permitted only after issuance of a permit as provided in Section 34-88 for a use allowed by the zoning district regulations and further subject to the conditions set forth in this Article. (Ord. No. 98-21 § 304-93)

34-94 APPLICATIONS FOR DEVELOPMENT IN FLOOD-FRIDGE AREA.

Upon application for such a permit, the Unified Planning Board shall notify the general public, Borough Environmental Commission and the governing bodies and environmental commissions of other municipalities which may be affected by the proposed use. Such notifications shall include the name and address of the applicant, the location of the proposed use and abbreviated description of the proposed use, an announcement as to where and at what times the complete application may be reviewed and to whom and by what date interested parties may communicate their positions concerning the application and any data that they may have developed in reference to the effects of the proposed use. The Unified Planning Board shall review the application and all information received under Sections 34-87 through 34-89.

(Ord. No. 98-21 § 304-94)

34-95 CRITERIA FOR APPROVAL OF DEVELOPMENT IN FLOOD-FRIDGE AREA.

In reviewing the application and arriving at findings, the Unified Planning Board shall consult with the Borough Engineer and other experts and consider the following criteria which the applicant shall document in addition to those set forth in Sections 34-87 through 34-89:

- a. The danger to life and property to increased flood heights or velocities caused by encroachments.
- b. The danger that materials may be swept onto other lands or downstream to the injury of others.
- c. The proposed water supply and sanitation systems and the insulation of these systems from disease, contamination and unsanitary conditions resulting from flooding.
- d. The susceptibility of the proposed use to flood damage and the effects of such damage.
- e. The need for a location on a stream, river or other waterway.
- f. The availability of alternate locations not subject to flooding.
- g. The duration, rate of rise and sediment transport of floodwaters expected at the site.
- h. The safety of access to the property in time of flood for ordinary and emergency vehicles.
- i. The extent to which the hydraulic capacity of the floodway will be disrupted.
- j. The degree to which the proposed use serves the general public's health, safety and welfare.
- k. The degree to which any aspect of food chain or plant, animal, fish or human life processes are affected adversely within or beyond the proposed use area.
- l. The degree to which the proposed activity alters natural water flow or water temperature.
- m. The degree to which the proposed use provides facilities for the proper handling of litter, trash, refuse and sanitary and industrial waste.
- n. The degree to which archaeological or historic sites and structures, endangered or rare species of animals or plants, high quality wildlife habitats, scarce vegetation types and other irreplaceable land types would be degraded or destroyed.

o. The degree to which the natural, scenic and aesthetic values at the proposed activity site can be retained.

p. The degree to which materials not subject to major damage by floods are firmly anchored to prevent flotation and/or are readily removable from the area within the time available after flood warning.
(Ord. No. 98-21 § 304-95)

34-96 BURDEN OF PROOF.

No application for development within the flood-fringe area shall be approved unless it is affirmatively established that the proposed development is compatible with the public safety, health and welfare and that it will not endanger public and private property, wildlife and fisheries or the natural environment of the floodplain. (Ord. No. 98-21 § 304-96)

34-97 CONDITIONS OF APPROVAL FOR PERMITTED USES.

The Unified Planning Board shall impose such conditions to approval as it deems necessary to promote the public safety, health and welfare, to protect public and private property, wildlife and fisheries, and to preserve, protect and enhance the natural environment of the floodplain.

a. *General Conditions.* These conditions may include but are not limited to the following:

1. Modification of waste disposal and water supply facilities.
2. Imposition of operational controls, sureties, deed restrictions, and maintenance bonds.
3. Requirements for construction of stormwater detention facilities, channel modifications, dikes, levees and other protective measures.
4. Installation of an adequate flood warning system.
5. Postponement of development until such time as protective measures are installed.

b. *Specific Conditions.* Where applicable, the Unified Planning Board shall condition approval as follows:

1. Fill shall be no lower than one (1) foot above the flood hazard design elevation and shall extend at such height for a distance of at least fifteen (15) feet beyond the limits of any structure erected thereon.

2. Structures on fill shall be built so that the basement or, in the event there is no basement, the lowest floor level, is at a minimum of one (1) foot above the flood hazard design elevation.

3. Structures not placed on fill shall be otherwise elevated so that the first floor is at a minimum of one (1) foot above the flood hazard design elevation or shall be floodproofed as set forth in paragraph 4 below. Floodproofing alone shall not be adequate for residences, hospitals, nursing homes, schools, day-care centers, food and drinking establishments, places of public accommodations and similar uses.

4. Floodproofing measures shall be consistent with the flood protection elevation for the particular area, flood velocities, durations, rates of rise, hydrostatic and hydrodynamic forces and other similar factors. The Unified Planning Board shall require the applicant to submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood hazard design elevation and associated flood factors. Any or all of the following proven measures may be required:

- (a) Anchorage to resist flotation and lateral movement.
- (b) Installation of watertight doors, bulkheads, and shutters or similar devices.
- (c) Reinforced walls to resist water pressures.
- (d) Use of paints, membranes or mortars to reduce seepage of water through walls.
- (e) Addition of weight to structures to resist flotation.
- (f) Installation of pumps to lower water levels in structures.
- (g) Construction of water supply and waste treatment systems in a manner which prevents the entrance of floodwaters.
- (h) Pumping facilities, or comparable measures, for the subsurface drainage systems of buildings to relieve external foundation wall and basement flood pressures.
- (i) Construction that resists rupture or collapse caused by water pressure or floating debris.
- (j) Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewerage or stormwaters into the structure. Gravity drainage of basements may be eliminated by mechanical devices.

(k) Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to inundation and flooding.

(l) Storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic or hazardous materials shall be situated above the flood hazard design elevation and shall be floodproofed to prevent flotation of storage containers or damage to storage containers which could result in the escape of toxic materials into the floodwaters.

(m) Use of construction materials which are resistant to water damage.
(Ord. No. 98-21 § 304-97)

34-98 PROHIBITED USES IN CHANNELS, FLOODWAYS AND FLOOD-FRIDGE AREAS.

No person shall hereafter engage in, cause or permit other persons to engage in prohibited uses within a delineated floodplain. The following uses shall be prohibited:

- a. Placing, depositing or dumping any vehicles, solid waste, garbage, refuse, trash, rubbish or debris.
- b. Dumping or discharging untreated domestic sewerage or industrial wastes, either solid or liquid.
- c. The storage or disposal of pesticides.
- d. The storage or processing of materials that are in time of flooding buoyant, flammable or explosive.
- e. The storage or processing of hazardous materials that could be injurious in time of flooding to human, animal or plant life.

(Ord. No. 98-21 § 304-98)

34-99 PREEXISTING NONCONFORMING STRUCTURES AND USES.

a. *Existing Structures or Uses.*

1. Structures or land uses in any flood plain which existed on or before the effective date of this chapter may be permitted to continue subject to the following conditions:

(a) If any preexisting structure is destroyed by any means, including floods, to an extent of fifty (50%) percent or more of its replacement cost at time of destruction, it shall not be reconstructed, except in conformity with the provisions of this chapter.

(b) No preexisting structure shall be moved, expanded or enlarged unless the provisions of this chapter are complied with. This provision does not apply to routine maintenance and repair, provided that such maintenance and repair does not increase the flood damage potential of the structure.

2. In any portion of the floodplain, an existing nonconforming use or structure may be altered or expanded, provided that such alteration or expansion does not increase its ground coverage or flood damage potential.

b. If actual construction of a structure is underway on or before the effective date of this chapter, then such construction may be completed. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. The provisions of paragraph a. above shall apply to such structures upon completion of construction.

c. Structures in the floodway abandoned for six (6) consecutive months or longer and structures abandoned for twelve (12) consecutive months or longer in the flood-fringe area after the effective date of this chapter shall not qualify as preexisting uses.

(Ord. No. 98-21 § 304-99)

34-100 FLOOD INSURANCE.

Flood insurance, in accordance with the National Flood Insurance Program of the United States Department of Housing and Urban Development, shall be required for all development in the floodplain. (Ord. No. 98-21 § 304-100)

Article XV Miscellaneous

34-101 REPEALER.

The Revised Zoning Ordinance of the Borough of Matawan adopted December 12, 1967, and the several amendments thereto are hereby expressly repealed. All other ordinances and parts of ordinances in conflict or inconsistent with the provisions of this chapter are hereby repealed but only to the extent of such conflict or inconsistency. (Ord. No. 98-21 § 304-101)

34-102 INTERPRETATION.

In applying and interpreting the provisions of this chapter, all provisions shall be held to minimum requirements adopted for the promotion of public health, safety, morals, convenience and general welfare. (Ord. No. 98-21 § 304-102)

34-103 CONSTRUCTION IN PROGRESS.

Any building or structure, the erection of which has been authorized by a building permit issued by the Construction Official prior to the passage of this chapter, may be completed in accordance with the provisions of the zoning ordinance in effect at the time when such permit was granted and may be used for the purpose designated in the plans and in such building permit. (Ord. No. 98-21 § 304-103)

34-104 VIOLATIONS AND PENALTIES.

For every violation of the provisions of this chapter, the owner, contractor or other person or persons interested as lessee, tenant or otherwise, in any building or premises where such violation has been committed or shall exist, and who refuses to abate the violation within five (5) days after written notice has been served upon him, either by certified mail or by personal service, shall for each and every violation, be subject to a fine of not more than one thousand two hundred fifty (\$1,250.00) dollars, or imprisonment in the County jail for a term of not exceeding six (6) months, or a period of community service not exceeding ninety (90) days, or any combination thereof, at the discretion of the court or judicial officer before whom a conviction may be had. Each and every day that such violation continues after such notice shall be considered a separate and distinct violation of this chapter. (Ord. No. 98-21 § 304-104; N.J.S.A. 40:49-5)

Schedule A Schedule of Lot, Yard and Building Regulations

Click [HERE](#) for Schedule

* **Editor's Note:** This chapter was adopted on August 18, 1998 by Ord. No. 98-21, which was a recodification of the Zoning Chapter adopted by Ord. No. 79-1 on January 16, 1979. Amendments to the 1998 Ordinance are indicated where applicable.

* **Editor's Note:** References to the Planning Board or Zoning Board of Adjustment refer to the Unified Planning Board/Zoning Board of Adjustment as established in Chapter XXX, Land Use Procedures.

* **Editor's Note:** See Chapter XXX Solid Waste Management.

* **Editor's Note:** References to the Planning Board or Zoning Board of Adjustment refer to the Unified Planning Board/Zoning Board of Adjustment as established in Chapter XXX, Land Use Procedures.

* **Editor's Note:** See also Chapter XXIII, Sewers and Appendix I, Health Code, of the Revised General Ordinances of the Borough of Matawan.

* **Editor's Note:** Schedule A is located at the end of this chapter.

* **Editor's Note:** Schedule 1 may be found at the end of this paragraph t.

* **Editor's Note:** Schedule 2 may be found at the end of this paragraph t.

* **Editor's Note:** See also Chapter III, Section 3-1, Noise Control, of this Code.

Borough of Matawan
Schedule A
Schedule of Lot, Yard and Building Regulations

Minimum Lot Size				Minimum Yard Dimensions					Maximum Lot	Height		Minimum Gross Floor Area	
				Principal Building			Accessory Building			Maximum Number of Stories	Maximum Height (feet)		
Zone	Area	Width (feet)	Front (feet)	Rear (feet)	Side (feet)	Total Side	Rear (feet)	Side (feet)	Coverage (percent)			Total (square feet)	First Floor (square feet)
R-100	15,000 sq. ft.	100	40	40	10	25% of width	6	7	30	2 1/2	35	1,200	900
R-75	7,500 sq. ft. ¹	75	25	25	8	25% of width	6	7	30	2 1/2	35	1,000	900
R-50 I	5,000 sq. ft.	50	25	20	6	15 ft.	5	6	30	2 1/2	35	1,000	--
R-M	GA: 3 acres Other: same as R-100	100	75	25	35	70 ft.	25	10	25	2 1/2	35	1 BR: 700 2 BR: 900	--
R-C	See Section 34-65A												
GB	5,000 sq. ft.	50	20	30	--	--	4	5	--	2 1/2	35	--	--
SB	40,000 sq. ft.	150	25	50	15	30 ft.	4	5	--	2 1/2	35	2,000	--
DPD	5,000 sq. ft.	50	20	30	--	--	4	5	--	2 1/2	35	--	--
HI	20,000 sq. ft.	100	35	30	10	30 ft.	8	20	30	2 1/2	35	--	--
IND	--	--	30	25	25	50 ft.	--	--	60	3	40	--	--
SC	9 acres	100	75	25	35	70 ft.	25	10	25	2	35	1 BR: 700 2 BR: 900	--
RID	10,000 sq. ft.	100	25	20	8	16 ft.	5	5	35	2 1/2	35	--	--
GO	See Section 34-73												

(Ord. No. 10-13)

NOTES:

¹ Nine thousand square feet if no sewers.