

**PROPOSED**  
**Commercial Township**  
**Development Regulations Ordinance**

**June 2007**

**Commercial Township**  
**Cumberland County, New Jersey**

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**COMMERCIAL TOWNSHIP  
DEVELOPMENT REGULATIONS ORDINANCE**

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## **Commercial Township Development Regulations Ordinance**

### **ARTICLE I. SHORT TITLE**

- 1.1 This Ordinance shall be known and may be cited as "The Development Regulations Ordinance of the Township of Commercial."

### **ARTICLE II PURPOSE**

- 2.1 The specific purposes of this Ordinance are as follows:
- A. To encourage the most appropriate use or development of all lands throughout the Township while conserving the value of property, with reasonable consideration for the character of various zoning districts and their peculiar suitability for particular uses that will be compatible with the development patterns and general welfare in neighboring municipalities and the surrounding region, all in accordance with the Township adopted Master Plan.
  - B. To secure safety from fire, flood, panic and other natural or man-made disasters;
  - C. To provide adequate light, air and open space;
  - D. To promote the establishment of appropriate population densities and development concentrations that will contribute to the well-being of persons, neighborhoods, communities and preservation of natural resources and the environment;
  - E. To provide sufficient space in appropriate locations for a variety of agricultural, residential, conservation, recreational, commercial and industrial uses and open spaces, both public and private, according to their respective environmental requirements;
  - F. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;
  - G. To promote the conservation of historic sites, open spaces, energy resources and valuable natural resources and to prevent urban sprawl and degradation of the environment through the improper use of land;
  - H. To encourage senior citizen community housing construction;
  - I. To prevent the overcrowding of land and to avoid undue concentrations of population, and to these ends, to regulate the height, design, appearance, number of stories and the size of buildings and other structures as well as their placement on the land;
  - J. To encourage and regulate new techniques and designs which conserve energy;
  - K. To encourage residential cluster and planned development this conserves land;
  - L. To provide sufficient quality housing opportunities to meet the Council on Affordable Housing's identified housing needs as set forth in the adopted Township Master Plan;

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- M. To preserve and protect the coastal areas of the Township's river and bay shore areas while allowing recreational and limited commercial use of these natural waterways;
- N. To delineate the existing villages within the municipality and encourage and promote their continued viability and vitality through new and innovative zoning techniques, and seek to have said villages recognized and coordinated with the State, regional, and local plans and regulations; and
- O. To protect public health, safety and general welfare.

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### ARTICLE III DEFINITIONS

#### 3.1 Interpretation.

Unless otherwise expressly stated or the context clearly indicates another meaning, the following words and phrases shall be construed throughout this ordinance to have the meaning herein indicated. Where certain words or phrases are not defined below, their meanings shall be as defined in N.J.S.A. 40:55D-1, *et seq.* so that:

- A. The present tense includes all other tenses; the singular includes the plural and the plural includes the singular; the masculine gender includes the feminine and the neuter.
- B. The word "person" includes any individual, estate trust, fiduciary, partnership, firm, association, corporation or any other organization or entity, including the principal officers thereof or any other individual or entity acting directly or indirectly by, through or under any of the foregoing.
- C. The word "shall" is always mandatory; the word "will" is always directory; and the word "may" is always permissive.
- D. The word "used" shall include the words "arranged," "designed," or "intended to be used."
- E. The word "structure" shall include the word "building."
- F. The word "built" shall include the words "constructed," "erected," or "altered."
- G. The terms "such as," "including" and the like are intended to introduce matters which are illustrative of the meaning of the sentence, clause or phrase in which such terms appear without limiting or derogating from the general application of the sentence, clause or phrase in which such terms appear. When the said terms are used, they shall be considered as introducing a typical or illustrative designation of items and shall not be interpreted as constituting a complete list.
- H. The words "as amended" or "*et seq.*" as applied to any statute, ordinance, code, regulation, plan or map, include replacements, supplements or restatements thereof; and reference to a particular Article, Section or Subsection which inherently refers to other Articles, Sections or Subsections, includes all Articles, Sections and Subsections referred to.
- I. The word "Township" means Commercial Township, Cumberland County, New Jersey; and the term "Township Committee" means the Township Committee of Commercial Township.
- J. When terms, phrases or words are not hereafter defined, and are not found within N.J.S.A. 40:55D-1, *et seq.*, they shall have the meaning given in the most recent edition of **Webster's Unabridged Dictionary**. If not found in the aforementioned dictionary their meaning shall have the ordinarily accepted meaning or such as the context may imply.

#### 3.2 Statutory authority.

The definitions provided herein are applicable to all Township Land Development Regulations



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enacted pursuant to and as set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-1, *et seq.*

### 3.3 Terms defined. As used in this Ordinance, the following terms shall have the meanings indicated:

**ABANDONMENT** - The cessation of a use of a property (land and/or structures) by the owner, as demonstrated by the intention of neither resuming the use nor transferring rights to the property to another who will so use the property and/or coupled with action to physically dismantle or dispose of equipment or other appurtenances of the use, or other actions having the effect of preventing a restarting or reactivation of the said use of the property.

**ABUTTING OWNER** - The owner of record of a parcel of land which is contiguous at any point to the parcel in question or which is contiguous to a section of road or street (public or private) on which the subject parcel has frontage, i.e., a lot across from the subject parcel.

**ACCESSORY APARTMENT** - A self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters, and a private entrance, which is created within an existing home; or through the conversion of an existing accessory structure on the same site, or by addition to an existing home or accessory building.

**ACCESSORY USE OR STRUCTURE** - A use or structure which:

- A. Is subordinate to and serves a principal building or a principal use, including but not limited to, the production, harvesting, and storage as well as washing, grading and packaging of unprocessed produce grown on-site;
- B. Is subordinate in area, extent and purpose to the principal structure or principal building or principal use served;
- C. Contributes primarily to the comfort, convenience or necessity of the occupants, business or industry of the principal structure or principal use served; and
- D. Is located on the same parcel as the principal structure or principal use served, except as otherwise expressly authorized by the provisions of this Ordinance.

**ACTIVE MINE SITE** - A mining operation where land is being disturbed in preparation for and during the removal of a mineral material, not including "Casual Use" as defined herein.

**ADAPTIVE REUSE** - The development of a new use for an older building or for a building originally designed for a special or specific purpose.

**ADMINISTRATIVE OFFICER** - The Secretary of the Land Use Board for matters concerning the Land Use Board; the Municipal Clerk for the Township Committee; the Zoning Officer for matters involving the issuance of zoning permits and the enforcement of zoning regulations and the Tax Assessor in the case of providing required property owner lists pursuant to Section 13.15.

**AGGRESSIVE SOILS** - Soils which may be corrosive to cast iron and ductile iron pipe. These soils represent approximately five percent (5%) of the soils found within the United States and include dump areas, swamps, marshes, alkaline soils, cinder beds, polluted river bottoms, etc., which are considered to be potentially corrosive.

**AGRICULTURAL EMPLOYEE HOUSING** - Residential dwellings for the seasonal use of employees of an

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agricultural or horticultural use which, because of their character or location, are not to be used for permanent housekeeping units and which are otherwise accessory to a principal use of the lot for agriculture or horticulture.

**AGRICULTURE OR HORTICULTURE USE** - Any production of plants or animals useful to man or any land devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to the soil conservation program under an agency of the federal government. The term Agriculture shall also include the term "aquaculture" (see definition for "aquaculture" in this Section).

**ALLEY** - A public or private street primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

**ALTERATION, STRUCTURAL** - Any change in or addition to the supporting or structural members of a building or other structure such as the bearing walls, partitions, columns, beams, or girders, or any change to adapt a structure to a different use.

**AMENDMENT** - A means of making changes to the certified local Master Plan or local land use ordinance.

**ANIMALS, THREATENED OR ENDANGERED** - See N.J.A.C. 7:50-6.32.

**ANTENNA** - The surface from which wireless radio signals are sent and received by a wireless/local communications facility.

**ANTENNA SUPPORT STRUCTURE** - Any building or structure other than a tower which can be used for location of telecommunication facilities.

**APARTMENT HOUSE** - A structure containing three or more dwelling units. See also "Dwelling, Multifamily."

**APPLICANT** - A landowner or developer, including heirs, successors, assigns and grantees, corporation or other entity who has filed an application for subdivision, site plan and/or land development, as herein after defined, or an application for a variance or conditional use.

**APPLICATION FOR DEVELOPMENT** - 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 for a sign or yard sale or pursuant to N.J.S.A. 40:55D-36.

**APPROVING AUTHORITY** - The Land Use Board of the Commercial Township unless a different agency is designated by ordinance (See also definition of "Planning Board" in this Section)

**AQUACULTURE** - The farming of aquatic organisms, including fish, mollusks, crustaceans, and aquatic plants. Farming implies some form of intervention in the rearing process to enhance production, such as regular stocking, feeding, protection from predators, etc.

**ARTISAN'S DISPLAY** - A limited area for showing a representation or sampling of an artist, artisan or craftsperson's products, artifacts, artwork, crafts or work; made by the resident artist, craftsperson or artisan; and available for purchase on the site where the contents of said representation or showing are created, made or produced (See "Roadside stand and artisan's display" in Article IX herein this Ordinance).

**BASEMENT** - An enclosed area partly or completely below grade. A basement shall be considered as a story

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for the purpose of height measurement if the basement ceiling is five (5) feet or more above the average ground level around the building. (See also "Cellar" in this Section)

**BED AND BREAKFAST FACILITY** - A single family, primary dwelling in which the owner occupant also provides temporary overnight accommodations to guest for a fee as an accessory use in any zoning district where a single-family, detached dwelling is a permitted use. The operation of a bed and breakfast shall be considered a home occupation and an accessory use for any single-family, detached home excluding apartments and mobile homes, for the purposes of this Ordinance.

**BERM** - A mound of soil, seeded and landscaped, either natural or man-made used as view obstruction. When used in connection with "Resource Extraction," the term "berm" shall mean a pile or mound of earth capable of acting as a visual screen or used to control drainage or erosion.

**BLOCK** - A tract of land bounded by streets, or by a combination of streets and public lands, rights-of-way, waterways, or boundary lines of the Township.

**BOTTOM OF EXCAVATION** - The generally flat area at the lowest level adjacent to the face of the pit, also commonly known as "toe of slope."

**BUFFER** - An area within a property or site, generally, but not exclusively, adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, and/or berms, designed to continuously limit view, the glare of lights, and/or sound from the site to adjacent sites or properties.

**BUILDING** - A combination of materials to form a construction adapted to permanent, temporary, or continuous occupancy by persons, animals or chattel and having a roof.

**BUILDING AREA** - The aggregate of the maximum horizontal cross-section areas of the buildings on a lot, excluding; cornices, eaves, gutters, or chimneys projecting not more than eighteen inches (18"); steps, balconies and bay windows not extending through more than one (1) story and not projecting more than five feet (5'); and one (1) story open porches projecting not more than ten feet (10'). "Projecting" as used here, means extending from the building area.

**BUILDING COVERAGE** - The coverage of the lot area by the ground floor area of all buildings on the lot, including covered porches, carports and breezeways, but excluding open patios.

**BUILDING HEIGHT** - The greatest vertical distance measured from grade to the highest point of the roof for flat roofs, to the deck line for mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs. Conventional accessories to structures, such as chimneys, spires, aials or antennae and elevator enclosures, shall not be included in "building height" calculation. A communication use or tower placed atop structures shall not be considered conventional accessories as defined herein.

**BUILDING LINE** - The line parallel to the street line at a distance there from equal to the depth of the required front yard in the district(s) under consideration. In the case of a lot abutting two (2) streets, required front yard setbacks from both streets shall be observed.

**BUILDING, PRINCIPAL** - A building in which is conducted the principal use of the lot on which said building is situated.

**CALIPER** - The diameter of a tree trunk measured in inches, six (6) inches above ground level for trees up to

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four inches (4") in diameter, and measured twelve inches (12") above ground level for trees over four inches (4") in diameter.

**CAMPER** - A portable structure, which is self-propelled or mounted on or towed by another vehicle such as a pick-up, designed and used for temporary living for travel, recreation, vacation, or other short term uses. Camper does not include mobile homes, trailers, or other vehicles used as permanent dwellings.

**CAPITAL IMPROVEMENT** - A governmental acquisition of real property or major construction project.

**CAPITAL IMPROVEMENT PROGRAM** - A proposed schedule of all future capital improvement projects listed in order of construction priority, together with cost estimates and the anticipated means of financing each project.

**CARTWAY** - The actual road surface area from curb line to curb line, which may include travel lanes, parking lanes, and deceleration and acceleration lanes. Where there are no curbs, the cartway is that portion between the edges of the paved or hard surface width.

**CELLAR** - A story partially underground and having more than one-half of its clear height below the average level of the adjoining ground. A "cellar" shall not be considered in determining the permissible number of stories. No apartments shall be permitted in a "cellar." (See also "Basement" in this Section)

**CENTERLINE OFFSET OF ADJACENT INTERSECTIONS** - The gap between the centerline of roads adjoining a common road from opposite or same sides.

**CERTIFICATE OF OCCUPANCY** - A document which shall be deemed to authorize and be required for each occupancy and use of the building or land to which it applies, and shall continue in effect only so long as such building and the use thereof and the use of such land is in full conformity with the requirements of the Township Land Development Regulations Ordinance and the Uniform Construction Code. A Certificate of Occupancy shall only be issued upon completion of alteration after it is determined by the appropriate issuing officer that said construction is in full compliance with Township regulations and codes. Maintenance of a valid certificate shall be the responsibility of the property owner.

**CHANNEL** - The bed and banks of a natural stream which convey the constant or intermittent flow of the stream.

**CHANNELIZATION** - The straightening and deepening of channels and/or the surfacing thereof to permit water to move rapidly and/or directly.

**CIRCULATION** - The system, 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 for the handling of people and goods by such means as terminals, stations, shelters, warehouses and other storage buildings or transshipment points.

**CLUB** - Any organization catering exclusively to members and their guests or any organization for religious, vocational, civic, service, recreational or athletic purposes which is not conducted for financial gain.

**CLUSTER DEVELOPMENT** - See "RESIDENTIAL CLUSTER" this Section.

**CO-LOCATION** - The use of a freestanding, single tower on the ground by more than one provider and/or the installation of several wireless/local communication facilities on an existing building or structure by more

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than one provider.

**COMMON OPEN SPACE** - An open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

**COMMUNICATION USE** - Establishments, including towers furnishing point-to-point communication services, whether by wire or radio, either aurally or visually, including radio and television broadcasting stations and the exchange or recording of messages.

**CONCEPT PLAN** - A preliminary presentation and attendant documentation of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and initial classification.

**CONDITIONAL USE** - The use permitted in a particular zoning district only upon showing that such use in a specified location will comply with the conditions and standards as contained in the Township Development Regulations Ordinance, and upon the issuance of an authorization therefore by the approving authority.

**CONDOMINIUM** - A building, or group of buildings, in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on proportional, undivided basis. It is a means of property ownership. The term "condominium" may also refer to the unit held in single ownership.

**CONTIGUOUS LAND** - Land which is connected or adjacent to other land so as to permit the land to be used as a functional unit; provided that separation by lot lines, streams, dedicated public roads which are not paved, rights-of-way, and easements shall not affect the contiguity of land unless a substantial physical barrier is created which prevents the land from being used as a functional unit.

**CONVENTIONAL DEVELOPMENT** - Development other than planned development.

**COVERAGE, TOTAL** - That percentage of a plot or lot area covered by all structures, paving and non-porous materials. See "Impermeable Surface" and "Impervious Surface" also in this Section

**CONVERSION, DWELLING** - The remodeling or alteration of an existing structure so as to accommodate the provision of more dwelling units than were originally intended "Dwelling conversion" includes the alteration of a nonresidential structure into a dwelling unit for at least one (1) household; the modification of a single-family structure so as to accommodate two (2) or more dwelling units; and the alteration of multifamily structure so as to accommodate more units than originally intended.

**CUL-DE-SAC** - A local street with only one outlet and having the other end for the reversal of traffic movement.

**CULVERT** - A structure designed to convey a water course not incorporated in a closed drainage system under a road or pedestrian walkway.

**DAYS** - Calendar days

**DAY CARE CENTER** - An establishment providing for the care, supervision, and protection of children or adults on a daily basis for a specific period of time

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**DEDICATION** - An act of transmitting property or interest thereto.

**DENSITY** - The permitted number of dwelling units per gross area of land to be developed.

**DESIGN FLOOD** - The relative size or magnitude of a major flood of reasonable expectancy, which reflects both flood experience and flood potential and is the basis of the delineation of the floodway, the flood hazard area, and the water surface elevations.

**DESIGN GUIDELINES** - Guidelines that provide a general framework for sound planning.

**DETENTION BASIN** - A man-made or natural water collector facility designed to collect surface and subsurface water in order to impede its flow and to release the same gradually at a rate not greater than that prior to the development of the property into natural or man-made outlets.

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

**DEVELOPMENT** - The division of a parcel of land into two (2) or more parcels; the construction, demolition, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure; or of any forestry activities, mining activities or landfill; and any use or changing the use of any building or structure, or land; or the extension of use of the land.

**DEVELOPMENT APPROVAL** - Any approval granted by the approval agency, including appeals to the governing body, except certificates of occupancy and variances, pursuant to N.J.S.A. 40:55D-70, which do not otherwise include issuance of a construction permit, subdivision or site plan approval.

**DEVELOPMENT REGULATION** - A Township zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, adopted pursuant to the Municipal Land Use Law and any federal, State, or county statute, law, or duly adopted regulations which regulates land use and/or development activity.

**DISTRICT, ZONING** - A specifically delineated area of the territory of Commercial Township within which uniform regulations and requirements or various combinations thereof govern the use, placement, spacing, and size of land and buildings as set forth in this Ordinance.

**DISTURBED LAND** - Land of which clearing has occurred, excavation has occurred, or upon which overburden has been deposited.

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

**DRAINAGE FACILITY** - Any component of the drainage system

**DRAINAGE SYSTEM** - The system, through which flood water flows from the land, including all watercourses, water bodies and wetlands.

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**DRAINAGE RIGHT-OF-WAY** - The lands required for the installation of storm water sewers and/or drainage ditches or trench required along a natural stream, swale or other watercourse for preserving the channel or drainage way and providing for the flow or passage of water therein to safeguard the public from flood damage in accordance with the provision of this Ordinance and applicable State regulations and laws.

**DRIVEWAY** - A paved or unpaved area used for ingress and egress of vehicles, and allowing access from a street to a building or other structure, facility, or area of a lot.

**DRY PIT** - An excavation in which the bottom is normally dry and the bottom of which is above normal seasonal high water table.

**DUMP** - A lot of land or a portion thereof used primarily for the disposal by abandonment, dumping, burial, burning or other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles, or parts thereof, or waste material of any kind. See also "Landfill, Sanitary."

**DUPLEX** - A building containing two single-family dwelling units totally separated from each other by a non-pierced wall extending from ground to roof.

**DWELLING** - A structure or portion thereof that is used exclusively for human habitation.

**DWELLING, ATTACHED** - A single-family dwelling attached to two or more one-family dwellings by common vertical walls.

**DWELLING, DETACHED** - A dwelling that is not attached to any other dwelling by any means.

**DWELLING, MULTIFAMILY** - A building containing three or more dwelling units, including units that are located one over the other.

**DWELLING, SINGLE-FAMILY DETACHED** - A building containing one dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space or yards.

**DWELLING, SINGLE-FAMILY DETACHED, MOBILE HOME** - A transportable, single-family detached dwelling unit intended for permanent occupancy contained in one (1) unit or two (2) units designed to be joined into one (1) integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations; and is installed as required in Section 9.5, so that it may be used without a permanent foundation, but with the same, or equivalent electrical, plumbing and sanitary facilities as for a conventional single-family, detached dwelling. A mobile home may include any addition or accessory structure such as porches, sheds, decks or additional rooms, which are attached to it. A camper/travel trailer or other recreational vehicle shall not be considered to be a mobile home for permanent, year round occupancy.

**DWELLING, SINGLE-FAMILY SEMIDETACHED** - A one-family dwelling attached to one other one-family dwelling by a common vertical wall, with each dwelling located on a separate lot.

**DWELLING, TOWNHOUSE** - A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

**DWELLING, TWO-FAMILY** - A building on a single lot containing two dwelling units each of which is

## **Commercial Township Land Development Regulations Ordinance**

totally separated from the other by an non-pierced wall extending from ground to roof or an non-pierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

**DWELLING UNIT** - A dwelling or portion thereof, forming a single habitable unit with a private access and facilities which are used or intended to be used for living, sleeping, cooking and eating, and sanitation exclusively by one (1) household

**DWELLING UNIT AREA** - The minimum or average square footage necessary to constitute a dwelling unit in a multi-dwelling structure as delineated by this Ordinance

**EARTH EXTRACTION** – See “RESOURCE EXTRACTION”

**EASEMENT** - A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

**EFFECTS, ADVERSE** - Results contributing to a harmful or degraded condition and/or producing an unfavorable result, such as environmental harm or degradation. Adverse effects may include: a negative impact on surrounding land uses; negative impacts which are contrary to the adopted Township Master Plan or the natural conditions identified in the Environmental Inventory adopted by the Township Environmental Commission, and the intent of this Ordinance; and negative impacts which create a threat to the public health, safety and general welfare.

**EFFECTS, BENEFICIAL** - Results contributing to an improvement in condition and/or producing a favorable result such as making a use more compatible with the intent of this Ordinance and the goals and the objectives of the adopted Township Master Plan, and promoting the public health, safety and general welfare.

**ELECTRIC DISTRIBUTION LINES** - All electric lines other than electric transmission lines

**ELECTRIC TRANSMISSION LINES** - Electric lines which are part of an electric company's transmission and sub-transmission system, which provide direct connection between a generating station or substation of the utility company and: (a) another substation of the utility company; (b) a substation of, or interconnection with, another interconnecting utility company; or (c) a substation of a high-load customer of the utility.

**ENGINEER, LICENSED PROFESSIONAL** - An individual licensed in the State of New Jersey to practice engineering pursuant to N.J.S.A. 45:8-27 *et seq.*

**ENVIRONMENT** - The conditions, resources and/or characteristics which exist within and surround the area to be affected by a proposed subdivision and/or land development including: natural elements such as land, water, air, minerals, natural flora and fauna; and man-made components such as objects of historic or aesthetic significance, infrastructure and man-related attributes of a social and economic nature.

**ENVIRONMENTAL COMMISSION** – The Commercial Township Environmental Commission, an advisory board created pursuant to N.J.S.A. 40:56A-1 *et seq.*

**ENVIRONMENTAL CONSTRAINTS** - Features, natural resources, or land characteristics that are sensitive to improvements and may require conservation measures or the application of creative development techniques to prevent degradation of the environment, or may require limited development, or in certain instances may preclude development.



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**ENVIRONMENTAL IMPACT STATEMENT** - An assessment which objectively describes analyzes and documents both the beneficial and adverse environmental effects of a proposed subdivision and/or land development and the measures to be undertaken to mitigate adverse effects in accordance with the provisions set forth in this Ordinance.

**EQUIPMENT SHED/SHELTER** - An enclosed structure, cabinet, shed, or box at the base of a local communications facility within which are housed batteries and electrical equipment.

**EROSION** - The detachment and movement of soil and rock fragments by water, wind, ice and gravity.

**ESCROW** - A deed, bond, money, or a piece of property delivered to a third person to be delivered by him to the grantee only upon fulfillment of a condition.

**EXCAVATIONS OR WORKINGS** - As used in connection with resource extraction, any and all working places and part of a mine, either above ground or underground, excavated or being excavated, whether abandoned or in use.

**FACE OR BANK** - The sides from the bottom or floor of a pit or quarry to the surface surrounding the pit. Where one or more benches or levels are used in a pit, each bench or level has a separate face.

**FAMILY** - A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability. See *also* "Household."

**FAMILY, IMMEDIATE** - Those persons related by blood or legal relationship in the following manner; grandparents, grandchildren, parents, sons, daughters, brothers and sisters, nieces and nephews, aunts and uncles, first cousins, husbands and wives, great-grandparents and great-grandchildren.

**FARM** - Any parcel of land containing five (5) or more acres which is used for the raising of agricultural products, livestock, poultry or dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes a residence, the raising of fur-bearing animals, riding academies, livery or boarding stables and dog kennels.

**FENCE OR WALL** - A structure which permanently or temporarily prohibits or inhibits unrestricted travel between properties or portions of properties or between the street or public right-of-way and the property.

**FILL** - Material, exclusive of structures, placed or deposited so as to form an embankment or raise the surface elevation of the land.

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

**FINAL PLAT** - The final map of all or a portion of a subdivision which is presented for final approval.

**FISH AND WILDLIFE MANAGEMENT** - The changing of the characteristics and interactions of fish and wildlife populations and their habitats in order to promote, protect and enhance the ecological integrity of those populations.

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**FLOOD HAZARD AREA** – See “FLOOD PLAIN” this Section

**FLOOD, 100 YEAR** - A flood that on the average is likely to occur only once every 100 years, that is a storm that has a 1% likelihood of occurring each year, but may occur more than once in any 100 year period, as delineated by the Federal Insurance Rate Maps.

**FLOOD PLAIN** – The area within Commercial Township subject to a one percent (1%) or greater chance of flooding in any given year and which is designated as Zone “A” on the most recent FIA Flood Hazard Boundary Map for Commercial Township.

**FLOODWAY** – Any portion of a flood plain lying within one hundred (100) feet of the adjacent channel edge of a natural stream, being defined as any stream carrying water on an average of six (6) months of the year, or within twenty-five (25) feet from the edge of a lake or centerline of any watercourse other than a natural stream

**FLOOR AREA, TOTAL** - The area of all floors of buildings or structures

**FLOOR AREA HABITABLE** - The aggregate of the horizontal areas of all rooms used for habitation, such as living room, dining room, kitchen, and bedroom, but not including hallways, stairways, cellars, attics, service or utility rooms, bathrooms, closets, nor unheated areas such as enclosed porches, nor rooms without at least one (1) window or skylight opening onto outside yard or courts. At least one-half (2) of the floor area of every habitable room shall have a ceiling height of not less than seven feet (7') and the floor area of that part of any room where the ceiling height is less than five feet (5') shall not be considered as part of the habitable floor area. The minimum total window area shall be ten percent (10%) of the habitable floor area of such rooms.

**FLOOR AREA RATIO (FAR)** - The sum of the area of all floors of buildings or structures compared to the total area of the site.

**FORESTRY** - The planting, cultivating and harvesting of trees for the production of wood products, including firewood. It includes such practices as reforestation, site preparation and other silvicultural practices. For purposes of this ordinance, the following activities shall not be defined as forestry:

1. Removal of trees located on a parcel of land one acre or less on which a dwelling has been constructed;
2. Horticultural activities involving the planting, cultivating or harvesting of nursery stock or Christmas trees;
3. Removal of trees necessitated by the development of the parcel as otherwise authorized by this Ordinance;
4. Removal of trees necessary for the maintenance of utility or public rights-of-way; and
5. Removal of trees for public safety.

**GARAGE, PRIVATE** - An accessory use or part of a permitted principal building used for the storage of motor vehicles owned and used by the owner, residents, employees or visitors of such permitted principal building.

**GARAGE, REPAIR** - A building used for the off-street storage of motor vehicles, the provision of incidental

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motor fuel service, the sale of accessories and the repair of motor vehicles, excluding body work.

**GASOLINE SERVICE STATION** - An area of land, including any structures thereon, used primarily for the retail sale and direct delivery to motor vehicles of motor fuel and lubricants, as well as such incidental services as the lubrication and washing of motor vehicles and the sale, installation and minor repair of automotive accessories such as tires and batteries. A gasoline service station may also include a mini-mart or convenience store or conversely, a mini-mart or convenience store may have motor vehicle fuel dispensing facilities.

**GLARE** - Illumination whereby a source of light, producing a reading of fifty (50) or more on a Standard Weston Photographic light meter or equivalent at a distance of three (3) feet is visible from the public right-of-way, or a reading of zero point eight (0.8) or more is found when such meter or equivalent is held anywhere on a residential property line.

**GOVERNING BODY** - The Township Committee of the Township of Commercial in the County of Cumberland

**GRADE** - (1) The average elevation of the land around a building; and (2) the percent of rise or descent of a sloping surface such as street or parcel of land.

**GROUND COVER** - Low-growing plants or sod that in time forms a dense mat covering the area in which they are planted; preventing soil from being blown or washed away and the growth of unwanted plants.

**GUTTER** - A shallow channel usually set along a curb or the pavement edge of a road for purposes of catching and carrying away runoff water.

**HABITAT** - The natural environment of an individual animal or plant, population, or community.

**HISTORIC DISTRICT** - One or more historic sites and intervening or surrounding property significantly effecting or affected by the quality and character of the historic site or sites.

**HISTORIC RESOURCE** - Any site, building, area, district, structure or object important in American history or prehistory, architecture, archaeology and culture at the national, state, county, local or regional level.

**HISTORIC SITE** - Any real property, man-made structure, natural object, or configuration or any portion or group of the foregoing that is significant in the history, architecture, archeology or culture of the nation, state, county, regional or local level.

**HOME OCCUPATION** - Any permitted commercial activity undertaken by a resident of the dwelling in which said activity occurs and conducted as a customary, incidental, and accessory use in the resident's dwelling unit and/or accessory structure thereto as provided for in Section 8.6 herein this Ordinance.

**HOME PROFESSIONAL OCCUPATION** - A home occupation consisting of the office and/or work space of a recognized licensed professional such as, but not limited to, an accountant, lawyer, hairstylist or beautician, or land surveyor, as provided by Section 8.6 herein this Ordinance.

**HOME OCCUPATION, VILLAGE COMMERCIAL** - A commercial activity which is carried on within the owner/operator's home or residence and which is: (1) within a zoning district identified by the word "village" in its title; (2) meets the prescribed scope, operation and extent that defines the character of the village setting as set forth in Section 8.6; and (3) is more intense a use of the residential property for commercial activity than permitted or commonly associated with a home occupation or a home professional occupation as set forth in

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Section 8.6 herein this Ordinance.

**HOTEL, MOTEL OR INN** - A building or group of buildings containing ten (10) or more guest rooms, without cooking facilities of any kind, especially designed for the temporary lodging of transient guests. Such establishments shall provide guests with customary services such as maid service and the furnishing and laundering of linen. Eating and drinking establishments may be an accessory use to the hotel, motel or inn.

**HOUSE, BOARDING** - A rooming house in which the renting of rooms to individuals who are also served with meals prepared in one kitchen by the owner or operator of the house, in return for valuable consideration.

**HOUSE, ROOMING OR GUESTHOUSE** - A single-family dwelling wherein furnished rooms without cooking facilities are rented for valuable consideration to one (1) or more individuals unrelated by blood or legal relationship to the owner or operator of the house.

**HOUSEHOLD** - A family living together in a single dwelling unit, with common access to and common use of all living and eating areas and all areas and facilities for the preparation and serving of food within the dwelling unit. See "FAMILY" in this Section

**HYDROPHYTE** - Any plant growing in water or in substrate that is at least periodically deficient in oxygen as a result of excessive water content.

**IMPERMEABLE SURFACE** - Any surface which does not permit fluids to pass or penetrate its pores or spaces.

**IMPERVIOUS SURFACE** - A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water

**IMPOUNDMENT** - A body of water, such as a pond, confined by a dam, dike, floodgate or other barrier.

**IMPROVED PUBLIC STREET** - For subdivision or site plan purposes, any street which complies in width and construction with municipal standards and as defined by Township ordinance.

**IMPROVEMENT** - Any man-made, immovable item which becomes part of, placed upon, or is affixed to, real estate.

**INDIVIDUAL SEWAGE DISPOSAL SYSTEM** - A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device serving a single unit/dwelling.

**INSTITUTIONAL USE** - Any land used for the following public or private purposes: educational faculties, including universities, colleges, elementary and secondary and vocational schools, kindergartens, pre- and nursery schools; day care facilities; cultural facilities such as libraries, galleries, museums, concert halls, theaters, and the like; hospitals, including such educational, clinical, research and convalescent facilities as are integral to the operation of the hospital, medical and health services or outpatient facilities, including nursing homes, assisted living facilities, supervised residential institutions, rehabilitation, therapy centers, hospices, and public health facilities; law enforcement facilities; military facilities, public office buildings; churches, cemeteries and other similar facilities.

**INTERESTED PERSON** - Any person whose right to use, acquire or enjoy property, is or may be affected by any action taken under this ordinance, or whose right to use, acquire or enjoy property under this Ordinance or under any other law of this State or of the United States has been denied, violated or infringed upon by an

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action or a failure to act under this Ordinance.

**JUNK YARD** - A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded material; or for the collecting and dismantling, storage, and salvage of machinery or vehicles not in running condition, and for the sale of parts thereof.

**KENNEL** - An establishment or property where five (5) or more dogs, cats or like domesticated animals, more than one (1) year old and/or during any six (6) months of any calendar year one or more such animals less than one (1) year old, are kept, boarded, groomed, trained, raised or bred for compensation.

**LAND** - Real property including improvements and fixtures on, above, or below the surface

**LAND MINING** - See "RESOURCE EXTRACTION" in this Section

**LAND USE BOARD** - The Planning Board of the Township of Commercial established pursuant to the provisions of N.J.S.A. 40:55D-25c.

**LANDOWNER** - The legal or beneficial owner or owners of land; the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition) or a lessee if said lessee is authorized under the lease to exercise the rights of the owners.

**LANDSCAPED AREA** - That portion of a tract or lot in which plantings have been installed in accordance with any special provisions for landscaping in this Ordinance. The landscaped area includes the buffer planting strip and those plantings which serve a functional and/or aesthetic purpose and are located around and between buildings, roads, parking areas, sidewalks, walkways, sitting areas, service or maintenance structures, courtyards and the like. The area must be both non-surfaced and water absorbent, and no more than one-third (1/3) of this total square footage space requirement may be made up of the area located within the setback requirements for the front, side, or rear yards of the complex.

**LANE, ACCELERATION AND DECELERATION** - Lanes adjacent to the primary cart way and attached thereto for the use only by vehicles entering, leaving or preparing to cross a lane of forward travel without interrupting the flow of traffic.

**LIGHT ASSEMBLY OR PROCESSING OPERATIONS OR USES** - Activities and uses such as those that involve the assembly and sale of pre-manufactured components, telemarketing, personal storage facilities, and other similar commercial activities which have minimum environmental impact, are largely conducted within entirely enclosed structures, and do not require major infrastructure facilities such as sewage treatment or water facilities which require permits from the N.J. Department of Environmental Protection.

**LOADING SPACE, OFF-STREET** - A space in a building or on a lot which is accessible from the public street system for the temporary use of vehicles while loading or unloading merchandise, materials or passengers. This space shall be not less than twelve feet (12') in width and seventy feet (70') in length and have a minimum of fifteen feet (15') height clearance. Also, it shall be so arranged that no vehicle is required to back into a public right-of-way. For purposes of this Ordinance, a trash pickup area shall not be considered a "loading space."

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

**LOT AREA** - The size of a lot measured with the lot lines and expressed in terms of acres and square feet

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excluding areas of public rights-of-way.

**LOT, CORNER** - A lot abutting upon two (2) or more streets or upon two (2) parts of the same street, including shared driveways, forming an interior angle of less than one hundred thirty five degrees (135°). In the case of corner lots or reverse frontage lots, front yard of the required depth shall be provided along all streets. A corner lot has two (2) front yards and one (1) side yards, and one (1) rear yard.

**LOT COVERAGE** - The percentage of the lot area covered by an impervious or impermeable surface. The computation of lot coverage shall be the sum of the building coverage and all other coverage, i.e., non-covered patios, sealed driveways, parking lots, walkways, etc. Swimming pool surfaced area is also to be included.

**LOT DEPTH** - The distance along a straight line drawn from the midpoint of the front lot line to the midpoint of the rear lot line.

**LOT FRONTAGE** - The horizontal distance between the side lot lines, measured along the street line. In the case of a street of unidentified width, said line shall be assumed to be parallel with the centerline of the street at a distance of twenty-five (25) feet from said centerline. The minimum "lot frontage" shall be the same as the lot width, except that, on curved alignments with an outside radius of less than 500 feet, the minimum distance between the side lots lines measured at the street line shall not be less than 75% of the required lot width. In the case of a corner lot, either street frontage which meets the minimum frontage required for that zone may be considered the "lot frontage."

**LOT, INTERIOR** - A lot which has limited frontage on a public street and has access to a public street by a relatively thin strip of land; a "flag-shaped" lot or a lot which has access to a street only by way of an easement or right-of-way, such as a shared driveway, and does not front on a public street.

**LOT LINE, FRONT** - The line abutting a street and coinciding with the street line is the front lot line. Unless otherwise specifically designated by the approving authority at the time of development review, there shall be two (2) front lot lines in the case of a corner lot, or in the case of an existing lot, the lot line that is abutting the street line; or in the case of any other lot, the front lot line shall be construed to be the lot line on the same side as the main entrance. See also "Lot Frontage" and "Lot, Corner" in this Section

**LOT LINE, REAR** - The lot line which is opposite to the street line or, in the case of an interior lot, the front yard is the rear lot line. See "Lot, Interior" in this Section

**LOT LINE, SIDE** - Any lot line which is not a street line or a rear lot line

**LOT, REVERSE FRONTAGE** - A lot extending between and having frontage on two (2) generally parallel streets with vehicular access limited to one street. Access shall be from the local rather than a collector or arterial street.

**LOT WIDTH** - The horizontal distance measured between the side lot lines at the required front yard building setback line parallel to the road right-of-way. In no case shall said lot width be less than fifty feet (50') along the right-of-way line on a tapered lot.

**LOW INTENSITY** - As used in this ordinance to modify or describe a particular land use the term "low intensity" shall mean foregoing the need to acquire a New Jersey Department of Environmental Protection permit for effluent disposal.

**MAINTENANCE GUARANTY** - Any security, other than cash, that may be accepted by a municipality for

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the maintenance of any required improvements under authority of N.J.S.A. 40:55D-1, *et seq.*

MAJOR SITE PLAN - Any site plan not classified as a minor site plan.

MAJOR SUBDIVISION - Any subdivision not classified as minor subdivision.

MANUFACTURED HOME - A unit of housing which:

- A. Consists of one (1) or more transportable sections which are subsequently constructed off site and, if more than one (1) section, are joined together on site.
- B. Is built on a permanent chassis.
- C. Is designed to be used, when connected to utilities, as a dwelling on a permanent or nonpermanent foundation.
- D. Is manufactured in accordance with the standards promulgated for a manufactured home by the Secretary of the U.S. Department of Housing and Urban Development pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, Public Law 93-383 (42 U.S.C. § 5401 *et seq.*), and the standards promulgated for a manufactured or mobile home by the Commissioner pursuant to the State Uniform Construction Code Act, P.L. 1975, c. 217 (N.J.S.A. 52:27D-119 *et seq.*).

MARGINAL ACCESS STREET - A service street that runs parallel to a higher order street which, for purposes of safety, provides access to abutting properties and separation from through traffic. It may be designed as a residential access street or sub collector, as anticipated by daily traffic dictates.

MASTER PLAN - A composite of one or more written or graphic proposals for the development of the municipality as set forth and adopted by the Land Use Board pursuant to N.J.S.A. 40:55D-28.

MINE – Any area within the Township of Commercial, whether on the surface, underground or underwater, and including any mining plant, material equipment or explosives storage on the surface, underground or underwater which may contribute to the mining or handling of ore or other metalliferous or non-metalliferous products. The term “mine” shall include quarry, sand pit, gravel pit, clay pit and shale pit. See also “Resource Extraction” in this Section

MINING OPERATIONS – Earth extraction, resource extraction, excavations, working, processing, stockpiling, loading and all other functions related to mined or extracted materials and accessory uses necessary and related to the proper operation of a mine.

MINOR SITE PLAN - A development plan for less than four thousand (4,000) square feet of floor area and less than six thousand (6,000) square feet of impervious surface, provided that such site plan: (1) does not involve a planned development, any new street, or the extension of any off-tract improvement which is to be prorated pursuant to N.J.S.A. 40:55D-42; (2) contains the information reasonably required in order to make an informed determination as to whether the requirements established by this Ordinance for approval of a minor site plan have been met; and (3) is not located on roadway classified as an arterial or collector road on any adopted Township or Cumberland County master plan elements.

MINOR SUBDIVISION - A subdivision of land that does not involve:

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- A. The creation of more than four (4) lots, sites or other divisions of land in addition to a single reserved parcel, for the purpose, whether immediate or future, of sale or building development.
- B. A planned development.
- C. Any new street.
- D. Extension of any off-tract improvement, the cost of which is to be prorated pursuant to the provisions of N.J.S.A. 40:55D-42.

**MITIGATION** - The act of precluding a potentially adverse effect and/or making a potentially adverse effect less severe through measures which will improve a condition and/or lessen the impact.

**MOBILE HOME** - Any unit, whether licensed or not, used for living, sleeping or business purposes by one (1) or more persons, built on a chassis originally designed without a permanent foundation, and includes a dwelling, sleeping or business unit of vehicular design, used or intended or constructed for use as a conveyance upon public streets and highways, whether licensed or not. See also "Manufactured Home" *in this Section*. For purposes of this Ordinance, the term "mobile home" shall not include:

- A. Self-propelled vehicles and other structures designed, constructed and reconstructed or added to by means of accessories in such a manner as to permit the occupancy thereof as a dwelling, sleeping place or for business purposes for one (1) or more persons and having wheels, jacks, piers or skirting so arranged as to be integral with or portable by said.
- B. That type of dwelling known as a "trailer," "camper," "travel trailer," "camp car," or "motor home," even though the same may be placed on a foundation.

**MONOPOLE** - A type of freestanding tower with a single shaft of wood, steel, or concrete and a platform (or racks) for antennae arrayed at the top or attached thereto.

**MULCH** - A layer of wood chips, dry leaves, straw, hay, plastic, or other materials placed on the surface of the soil around plants to retain moisture, prevent weeds from growing; hold the soil in place, and aid in plant growth.

**NAVIGABLE WATERS** - Waters capable of being traversed by pleasure craft.

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

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

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

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



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**OFF-SITE COMMERCIAL ADVERTISING SIGN** - A sign which directs attention to a business, commodity, service or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

**OFF-STREET PARKING SPACE** - A temporary storage area for a motor vehicle that is directly accessible to an access aisle and that is not located on a dedicated street right-of-way.

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

**OFF-TRACT IMPROVEMENT** - Improvements made outside the original tract to accommodate conditions generated inside the original tract that are transferred off-site as a result of the proposed development.

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

**ON-STREET PARKING SPACE** - A temporary storage area for a motor vehicle which is located on a dedicated street right-of-way.

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

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

**OPEN SPACE, USEABLE** - An unenclosed portion of a lot, parcel or common area which is not devoted to driveways, structures and other paved surfaces and improvements and is free of environmental obstructions such as rock outcroppings, slopes in excess of ten percent (10%), flood plains, marshes and wetlands, or other legal restrictions which would severely limit its use as intended.

**OPERATOR** - As used in connection with Resource Extraction (See Section 9-12), an individual, partnership, firm, association, trust, or corporation responsible for the general operation, management and condition of the facility located at the mining site in question, for which a permit is applied for or granted for any activity covered by this Ordinance.

**OVERBURDEN** - Soil material of any nature (including topsoil), consolidated or unconsolidated, that overlies a mineral deposit of useful materials or ores that are to be mined.

**OWNER** - The person, corporation or other entity with free title or long term (exceeding ten (10) years) leasehold to any parcel of land within the Township who desires to mine or extract a resource, develop, or construct, build, modify or erect a structure including a tower upon such parcel of land.

**PARCEL** - Any quantity of land, consisting of one or more lots, that is capable of being described with such definiteness that its location and boundaries may be established.

**PARKING LANE** - A lane usually set on the sides of streets, designed to provide on-street parking for vehicular traffic.

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**PARKING SPACE AREA** - The area provided for the parking of a motor vehicle with sufficient space as provided herein for exiting and entry of the vehicle and including handicapped accessible areas and/or spaces as required. Said space area shall be served by adequate driveway(s) and be intended primarily for the parking of a motor vehicle

**PARTY IMMEDIATELY CONCERNED** - For purposes of notice, any applicant for development, owners of the subject property and all owners of adjacent property and governmental agencies entitled to notice under N.J.S.A. 40:55D-1 *et seq.*

**PERMEABILITY TEST (PERCOLATION TEST)** - A test designed to determine the ability of ground to absorb water, and used in determining the suitability of a soil for drainage or for the use of a septic system.

**PERMIT AREA** - As used in connection with resource extraction (See Section 9.12), the specific land proposed to be used for mining operations including required buffers, reclamation areas and related plant or other facilities.

**PERFORMANCE GUARANTY** - Any security, including cash, which may be acceptable by the Township to ensure the installation of required subdivision and/or site plan improvements; provided that the Township shall not require more than ten percent (10%) of the total performance guaranty in cash.

**PERVIOUS SURFACE** - Any material that permits full or partial absorption of storm water into previously unimproved land

**PIT or QUARRY** – Includes any excavations, pit bank or open cut working for the extraction of stone, rock, gravel, sand or any other mineral, and shall embrace any and all parts of the property of such quarry or open pit mine that contribute directly or indirectly to the extraction of such mineral.

**PLANNED COMMERCIAL DEVELOPMENT** - An area of a minimum contiguous or non-contiguous size as specified by this ordinance to be developed according to a plan as a single entity containing one or more structures with appurtenant common areas to accommodate commercial or office uses or both and any residential or other uses incidental to the predominant uses as may be permitted by this Ordinance.

**PLANNED DEVELOPMENT** - Planned unit development, planned unit residential development, residential cluster, planned commercial development, or planned industrial development.

**PLANNING BOARD** - The Planning Board of the Township of Commercial established pursuant to N.J.S.A. 40:55D-25c. *See also:* "Land Use Board" in this Section

**PLANTS, THREATENED OR ENDANGERED** - A plant species whose survival worldwide, nationwide, or in the State is in jeopardy.

**PLAT** - A map or maps of a subdivision or site plan.

**POTABLE WATER SUPPLY** - Water suitable for drinking or cooking purposes.

**PRE-APPLICATION CONFERENCE** - An initial meeting between developer(s) and the municipal representatives which affords developers the opportunity to present their proposals informally.

**PRELIMINARY APPROVAL** - The conferral of certain rights prior to final approval, after specific elements

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of a development plan have been agreed upon by the Land Use Board and the applicant

**PRELIMINARY FLOOR PLANS AND ELEVATIONS** - Architectural drawings prepared during early and introductory stages of the design of a project illustrating in a schematic form its scope, scale, and relationship to its site and immediate environs.

**PRELIMINARY SUBDIVISION PLAT** - A map indicating the proposed layout of a development and related information that is submitted for preliminary approval

**PRINCIPAL USE** – The primary and main purpose for which a lot or building are used.

**PROFESSIONAL OFFICE** - An office with sufficient area to be utilized by a member of State recognized and/or licensed profession such as a doctor, dentist, lawyer, architect, engineer, or planner. Such an office may include space and facilities to accommodate employees normally associated with such professional activity.

**PROVIDER** – A company that provides wireless services via a local communications facility.

**PUBLIC DEVELOPMENT** - Development, including subdivision, by any Township or other governmental agency.

**PUBLIC OPEN SPACE** - An open space area conveyed or otherwise dedicated to a municipality, municipal agency, board of education, state or county agency, or other public body for recreational or conservation uses.

**PUBLIC SERVICE INFRASTRUCTURE** - Sewer service, gas, electricity, water, telephone, cable television, and other public utilities developed linearly, roads and streets and other similar services provided or maintained by any public or private entity.

**QUARRY** – See “PIT OR QUARRY” in this Section

**QUASI-PUBLIC USE** - A nonprofit use serving the public or a significant portion thereof, not controlled directly by government or a governmental agency and financed in whole or in part by either public funds or public contributions. In addition, quasi-public facilities include those operated by nonprofit institutions or organizations, including homeowners associations, which are operated by persons or groups of persons for public purposes but with only limited public control or accessibility.

**RECLAMATION** – The restoration of an area of land to include filling, grading, application of topsoil, revegetation, seeding, equipment removal and other improvements so that the land is made suitable for some future use.

**RECOMMENDED MANAGEMENT PRACTICE** - The management program which employs the most efficient use of available technology, natural, human and economic resources (sometimes referred to as “best management practice”)

**RECORD TREE** - The largest tree of a particular species in New Jersey based on its circumference at 4.5 feet above ground level.

**RECREATIONAL VEHICLES** - A vehicle or piece of equipment, whether self-powered or designed to be pulled or carried, intended primarily for leisure time or recreational use. Recreational vehicles or units including travel trailers, truck-mounted campers, motor homes, campers, folding tent campers and autos,

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buses or trucks adapted for vacation use and other vehicles not suitable for daily conventional family transportation or long-term occupancy are in this category. Snowmobiles, mini-bikes, dirt bikes, all-terrain vehicles, go-carts, and boat trailers are also deemed recreational vehicles.

**RESIDENTIAL ACCESS STREET** - The lowest order of residential street (See "Street Hierarchy"). Provides frontage for access to private lots, and carries traffic having destination or origin on the street itself. Such a street is designed to carry traffic at the slowest speed. Traffic volume should not exceed 250 ADT (average daily trips) at any point of traffic concentration. The maximum number of housing units should front on this class of street.

**RESIDENTIAL CLUSTER** - A form of planned residential development to be developed as a single entity according to a plan containing residential housing units which have a private or public open space area as an appurtenance.

**RESIDENTIAL COLLECTOR** - The highest order of residential street (See "Street Hierarchy"). Such streets are designed to conduct and distribute traffic between lower-order residential streets and higher-order streets (arterial roadways and expressways). Since its function is to promote free traffic flow, access to homes and parking should be prohibited. Collectors should be designed to prevent use as shortcuts by non-neighborhood traffic. Total traffic volume should not exceed 3,000 ADT (average daily trips).

**RESIDENTIAL SITE IMPROVEMENT STANDARDS (RSIS)** - The site improvement standards that are the administrative rules and the technical requirements that apply to new residential developments in New Jersey as promulgated in the New Jersey Administrative Code, Title 5, Chapter 21, (N.J.A.C. 5:21), as amended, under the provisions of the enabling legislation, P.L. 1993, Chapter 32, and located in the New Jersey Statutes Annotated at Title 40, Chapter 55D, Section 40, (N.J.S.A. 40:55D-40). They include technical standards for streets and parking, water supply, sanitary sewers and storm water management.

**RESIDENTIAL SUBCOLLECTOR** - Middle order of residential streets (See "Street Hierarchy") and that provides frontage for access to lots and carries traffic to and from adjoining residential access streets. Traffic should have origin or destination in the immediate neighborhood. Traffic volume should not exceed 500 ADT (average daily trips) at any point of traffic concentration.

**RESOURCE EXTRACTION** - The removal dredging, digging, mining, and quarrying of sand, gravel, clay, fill dirt, ilmenite or mineral products for commercial purposes or use at another site, or the process of grading a lot preparatory to the construction of a structure and accompanying site improvements for which application for a zoning and building permit has been made and issued. The term "resource extraction" shall include "mine" or "mining operation as defined in this Section."

**RESTAURANT** - An establishment where food and drink are prepared, served, and consumed primarily with the principal building.

**RESTAURANT, DRIVE-IN** - See "Restaurant, Take-out."

**RESTAURANT, TAKE-OUT** - An establishment where food and/or beverages are sold in a form ready for consumption, where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the restaurant, or where ordering and pickup of food may take place from an automobile.

**RESUBDIVISION** - 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. the alteration of any streets or the establishment

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of any new streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or other instruments. The designation of a subdivision as a "resubdivision" shall be determined on the basis of the tract or parcel affected without regard to any change in ownership as regulated by the subdivision regulations of the Township of Commercial since June 1995.

**RETAINING WALL** - A wall that is not laterally supported at the top, designed to resist lateral soil load.

**RETENTION BASIN** - A pond, pool or basin used for the permanent storage of water runoff without a surface water discharge.

**REVERSE FRONTAGE** - The provision in the design of a land development allowing for lots adjacent to an abutting existing road to front on an internal street without any direct access from the adjacent lots to the existing abutting road.

**RIGHT-OF-WAY** - A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special reason.

**ROADSIDE STAND** - A stand for the display of farm products, baked goods, refreshments, arts and crafts, or other goods or products whether produced on-site or off-site, located along the front of a property along a road or street according to the provisions of this Ordinance.

**RUNOFF** - The water which is removed from the soil over the surface or through drains beneath the surface by natural and/or man-made means.

**SCHEDULE OF DISTRICT REGULATIONS** - The Zoning Schedules of District Regulations made part of this Ordinance.

**SCREEN** - A structure or planting consisting of fencing, berms, and/or evergreen trees or shrubs providing a continuous view obstruction within a site or property. (*See also* "Buffer" in this Section)

**SEASONAL HIGH WATER TABLE** - The level below the natural ground surface to which water seasonally rises in the soil in most years.

**SEDIMENTATION** - 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.

**SEPTIC SYSTEM** - An underground system with a septic tank used for the decomposition of domestic wastes.

**SEPTIC TANK** - A water-tight receptacle that receives the discharge of sewage

**SETBACK** - (1) The distance between any building and any lot line; and (2) When used in connection with resource extraction operation (See Section 9-12), the term "setback" shall also refer to the distance from the bottom of excavation in case of a dry pit, and the normal seasonal high water line in the case of a wet pit, to a referenced line, (i.e. a property line, zoning line, right-of-way line) when measured at right angles to the referenced line.

**SETBACK LINE** - The line that is the required minimum distance from any lot line and that establishes the

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area within which the principal structure must be erected or placed. *See* also "Building Line."

**SHADE TREE** - A tree, usually deciduous, planted primarily for overhead canopy.

**SHOULDER** - The graded part of the right-of-way that lies between the edge of the main pavement (main traveled way) and the curb line, and used for emergency stopping of vehicles and parking.

**SIDEWALK** - A paved, surfaced, or leveled area, paralleling and usually separated from the street, but located within the right-of-way, and used as a pedestrian walkway.

**SIGHT DISTANCE** - The required length of roadway visible to the driver of a passenger vehicle at any given point on the roadway when the view is unobstructed by traffic

**SIGHT TRIANGLE** - A triangular-shaped portion of land established at street intersections or driveways in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

**SIGN** - Any permanent or temporary structure or part thereof, or any device attached, painted or represented directly or indirectly on a structure or other surface that displays or includes letters, artwork, insignia, flag or representation which is in the nature of an advertisement, visual communication, direction or is designed to attract the eye or bring the subject to the attention of the public. Flags of any governmental unit or branch of any charitable or religious organization, interior signs not visible from a public right-of-way or adjoining property, and cornerstones built into or attached to a wall of a building are excluded.

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

- A. The existing and proposed conditions of the lot, including, but not necessarily limited to, topography, vegetation, drainage, flood plains, marshes, and waterways;
- B. The location of all existing and proposed buildings, drives, parking spaces or areas, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures, signs, lighting and screening devices; and
- C. Any other information that may reasonably be required in order to make an informed determination pursuant to this ordinance.

**SPECIMEN TREE** - A unique, rare, or otherwise specifically selected plant or tree which most typically represents a whole class or group, specifically in shape, form; historical importance, or any other characteristics which may be designated as such by the New Jersey Division of Parks and Forestry.

**STANDARDS OF PERFORMANCE** - Standards that are:

- A. Adopted by ordinance pursuant to N.J.S.A. 40:55D-65, Subparagraph D, regulating noise levels, glare, earth borne or sonic vibrations, heat, electronic or atomic radiation, noxious odors, toxic matters, explosive and flammable matters, smoke and airborne particles, waste discharges, screening of unsightly objects and conditions, and such other similar matters as may be reasonably required by the Township; or
- B. Required by applicable federal or State laws or other municipal ordinance; or

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**STORM WATER DETENTION** - A provision for storage of storm water runoff and the controlled release of such runoff during and after a flood or storm

**STORM WATER RETENTION** - A provision for storage of storm water runoff

**STORY** - That part of a structure included between any floor and the floor or roof next above. When applied to the permissible height of buildings, the term "story" shall not include a basement if the floor thereof is below the average ground level around the structure.

**STREET** - Any street, avenue, boulevard, road, parkway, viaduct, drive or other roadway. See also: cul-de-sac, marginal access street, residential access street, residential collector, residential sub-collector, and alley.

**STREET FURNITURE** - Man-made, above-ground items that are usually found in street rights-of-way including: benches, kiosks, planters, canopies, shelters, and phone booths.

**STREET HARDWARE** - The mechanical and utility systems within a street right-of-way such as hydrants, manhole, traffic lights and signs, utility poles, lines and service boxes or stations, parking meters and the like.

**STREET HIERARCHY** - The conceptual arrangement of streets based upon function. A hierarchal approach to street design classifying streets according to function, from high traffic arterial roads down to streets whose function is residential access.

**STREET, LOOP** - Any street that has its only ingress and egress at two points on the same subcollector or collector street

**STREET LINE** - The dividing line between a lot and the outside boundary or right-of-way line of an opened or officially platted public street, or between a lot and a privately owned street easement line

**STREET, RIGHT-OF-WAY LINE** - The line dividing a lot from the full street right-of-way, not just the cart way For purposes of this definition, the word "Street" shall include the words: "road," "highway," and "thoroughfare" and where applicable, "alley."

**STRUCTURAL ALTERATION** - Any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.

**STRUCTURE** - A combination of materials to form a construction for occupancy, use or ornamentation having a fixed location on, above or below the surface of land or attached to something having a fixed location on, above, or below the surface of land.

**STUDIO OR WORKSHOP** - A facility or structure including property used as the work space of an artist, musician, sculptor, photographer, dancer, film producer or craftsman; as an office for a professional such as an architect's office, dance studio or a hairstylist salon; or any similar such use as determined by the Land Use Board as permitted in connection with a home occupation as set forth in Sections 8.6 and 9.16 herein this Ordinance.

**SUBDIVISION** - The division of a lot, tract, or parcel of land into two or more lots, tracts, parcels, or other division of land for sale or development. The following shall not be considered "subdivisions" within the meaning of this ordinance, if no new streets are created:

- A. Divisions of land found by the Planning Board or subdivision and site plan review committee to be

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for agricultural purposes where all resulting parcels are five (5) acres or larger in size,

- B. Divisions of property by testamentary or intestate provisions,
- C. Divisions of property upon court order, including but not limited to, judgments of foreclosure,
- D. Consolidation of existing lots by deed or other recorded instrument, and
- E. The conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the Township.

The term "subdivision" shall also include the term "resubdivision."

**SUBDIVISION AND SITE PLAN REVIEW COMMITTEE** - A committee appointed by the chairperson of the Land Use Board for the purpose of reviewing, commenting and making recommendations with respect to subdivision and site plan applications and if so authorized by Township ordinance, having the power to approve minor site plans and subdivisions.

**SUBGRADE** - The natural ground lying beneath a road.

**SUBMERGED LANDS** - Those lands which are inundated with water throughout the year

**SUBSTANTIAL IMPROVEMENT** - Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not however, include either any project for improvement of structure to comply with existing State or local health, sanitary building maintenance or safety code specifications which are solely necessary to assure safe living conditions or any alterations of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**SURVEYOR, LICENSED PROFESSIONAL LAND** - An individual licensed in the State of New Jersey to practice land surveying pursuant to N.J.S.A. 45:8-27 *et seq.*

**SWIMMING POOL, PRIVATE** - Any body of water, tank, pond or other receptacle for water containment, whether indoors or outdoors, in or above ground, even if portable or temporary, having a depth at any point of two and one-half (22½) feet or more, or containing over seven hundred and fifty (750) gallons of water; which is used, or intended to be used, for swimming or bathing by the owner, resident or occupant and their guests. A private swimming pool is considered an accessory use to a residence under this ordinance.

**SWIMMING POOL, PUBLIC** - A public or privately owned pool open to the public on a membership basis and requiring dressing rooms, off-street parking, and other appurtenant accessories or facilities.

**TELECOMMUNICATION FACILITIES** - Any cables, wires, lines, wave guides or antennas and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to located or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:



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(1) Any satellite earth station antenna two (2) meters in diameter or less which is located in an area zoned industrial or commercial.

(2) Any satellite earth station antenna one (1) meter or less in diameter regardless of zoning category.

**TOPSOIL** - The original upper layer of soil material to a depth of six inches which is usually darker and richer than the subsoil.

**TOWER** - A self-supporting lattice, guyed, or monopole structure from grade which supports telecommunications facilities. The "tower" shall not include amateur radio operators' equipment, as licensed by the FCC.

**TOWNHOUSE** - See "Single-family, semi-attached or attached, dwelling."

**TOWNSHIP** - The Township of Commercial including its Land Use Board.

**TRACT** - One (1) or more lots assembled for the purpose of development.

**TRAIL** - A right-of-way containing a marker or beaten path, either paved or unpaved, for pedestrian, equestrian and/or bicycle use.

**TRAILHEAD** - An area located along a public or private road which provides access to a park or other public lands and may including parking area for vehicles and bicycles, public facilities, picnic tables and/or similar limited facilities for the use of park or trail visitors.

**TRANSCRIPT** - A typed or printed verbatim record of the proceedings or reproduction thereof.

**TRAVEL TRAILER** - A portable vehicular structure built on a chassis designed as a temporary dwelling for travel, recreation, vacation and other short-term uses, having a body width not exceeding eight feet (8') and a body length not exceeding thirty-two feet (32').

**TREE** - A woody plant that has the potential to reach a height of at least ten feet (10'), has a single stem, and has a definite crown shape.

**TRIP** - A single or one-way vehicle movement to or from a property or study area. "Trips" can be added together to calculate the total number of vehicles expected to enter and leave a specific land use or site over a designated period of time.

**UPLANDS** - Non-wetlands areas or areas devoid of wetlands soils.

**UTILITY DISTRIBUTION LINES** - Lines, conduits or pipes, located in a street, road, alley or easement through which natural gas, electricity, telephone, cable television, water, sewage, or storm water discharge is distributed to or from service lines extending from the main line to the distribution system of the building or premises served. Utility distribution lines do not include electric transmission lines.

**VARIANCE** - Permission to depart from the literal requirements of the zoning ordinance, pursuant to Subsection b. of N.J.S.A. 40:55D-40 and Subsections c. and d. of N.J.S.A. 40:55D-70.

**VILLAGE-ORIENTED RETAIL USE** - The use of a land or a structure and land within a designated village zoning district for commercial or business purposes that is (1) sized and intended to primarily serve the village

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population needs. Such a use may also be for the sale or manufacture of a service or goods directly related to existing historical, cultural or environmental characteristics of the village or its environs. A village-oriented retail use shall be of low intensity by design and size.

**WETLANDS** - Wetlands are those lands which are inundated or saturated by water at a magnitude, duration and frequency sufficient to support growth of hydrophytes. Wetlands include lands with poorly drained or very poorly drained soils as designated by the Natural Cooperative Soils Survey of the U.S. Soils Conservation Service and as defined in N.J.A.C. 7:50-6.3 through 6.5.

**WETLANDS, COASTAL** - As delineated by the N.J.D.E.P. maps listed in N.J.A.C. 7:7A-1.13.

**WETLANDS SOILS** - Those soils designated as very poorly drained or poorly drained by the U.S. Soil Conservation Service of the Department of Agriculture, including, but not limited to, Atison, Bayboro, Berryland, Colemantown, Elkton, Keansburg, Leon, Muck, Othello, Pocomoke, St. Johns, and Freshwater Marsh and Tidal Marsh soil types.

**YARD** - An open area with no buildings that lie between the permitted principal or accessory building or buildings and the nearest lot line. Such yard shall be unoccupied and unobstructed from the ground upward, except as provided otherwise in this ordinance.

**YARD, FRONT** - The yard extending across the entire width of the lot between the street right-of-way line and nearest part of the principal building. The setback line shall be synonymous with the rearmost limit of the required "front yard" area. See "Lot, Corner" in this Section also.

**YARD, REAR** - A yard extending across the rear lot between the inner side yard lines. Depth of a rear yard shall be measured in such that the yard established is strip of the minimum depth required by the zoning district regulations with setback line parallel with the rear lot line. See "Lot, Corner" in this Section also.

**YARD, SIDE** - A yard extending along the side lot line from the front yard to the rear lot line. Width of a required side yard shall be measured in such a manner that the required side yard established is a strip of the minimum width required by the zoning district regulations with the setback parallel to the side lot line. (See "Lot, Corner" in this Section)

**ZONING** - The designation of specified districts within a municipality, reserving them for certain uses together with limitations on lot size, heights of structures and other stipulated requirements.

**ZONING MAP** - The official Land Use Zoning Map of the Township of Commercial, as amended

**ZONING PERMIT** - A document issued and signed by the Zoning Officer which:

- A. Is required by Section 14.2 as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building; and
- B. Acknowledges that such use, structure or building complies with the provisions of this ordinance or a variance from same duly authorized by the Land Use Board pursuant to N.J.S.A. 40:55D-60 and 40:55D-70.

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### **ARTICLE IV PLANNING BOARD**

#### **4.1 Establishment and composition**

- A. There is hereby established in the Township of Commercial in the County of Cumberland and State of New Jersey, pursuant to N.J.S.A. 40:55D-25c, as amended, a Planning Board of nine members which Board shall have the combined powers and duties of a municipal planning board and zoning board of adjustment, and consisting of four (4) classes of members as delineated below:
1. Class I - the Mayor or the Mayor's designee in the absence of the Mayor.
  2. Class II - one of the officials of the Township of the municipality other than a member of the governing body, to be appointed by the Mayor; provided that if there be an environmental commission, the member of the environmental commission who is also a member of the Land Use Board as required by Section 1 of P.L. 1968, c. 245 (C. 40:56A-1), shall be deemed to be the Class II Planning Board member if there be among the Class IV or alternate members of the Planning Board both a member of the board of education.
  3. Class III - a member of the governing body to be appointed by it.
  4. Class IV - Six other citizens of the Township, to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, position or employment, except that in the case of nine-member boards, one such member may be a member of the historic commission. No member of the board of education may be a Class IV member of the Planning Board, except that in the case of a nine-member board, one Class IV member may be a member of the board of education.
- B. In addition to the foregoing, alternate members may be appointed to the Planning Board as Class IV members and shall meet the qualifications of Class IV members of nine-member planning boards, and such alternate members shall not exceed four. Alternate members shall be appointed by the appointing authority for Class IV members, and shall meet the qualifications of Class IV members of nine-member Planning Boards. Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1," "Alternate No. 2," "Alternate No. 3," and "Alternate No. 4."
- C. Said Planning Board shall hereafter be referred to as the "Land Use Board of the Township of Commercial" or "Land Use Board."

#### **4.2 Terms of office**

- A. The term of the member composing Class I shall correspond to the mayor's official tenure, or, if the member is the mayor's designee in the absence of the mayor, the designee shall serve at the pleasure of the mayor during the mayor's official term.
- B. The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member

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who is also a member of the environmental commission. The term of a Class II or Class IV member who is also a member of the environmental commission shall be for three years or terminate at the completion of his term of office as a member of the environmental commission, whichever occurs first.

- C. The term of a Class IV member who is also a member of the board of education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first. The terms all Class IV members first appointed shall be so determined that to the greatest practicable extent the expiration of such terms shall be distributed evenly over the first four years after their appointments; provided that the initial Class IV term of no member shall exceed four years. Thereafter, the Class IV term of each such member shall be four years.
- D. The terms of the alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that in no instance shall the terms of the alternate members first appointed exceeds two years.

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

### **4.3 Vacancies and removal from office**

If a vacancy in any class shall occur otherwise than by expiration of the Land Use Board term, it shall be filled by appointment, as above provided, for the unexpired term. No member of the Land Use Board shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. Any member other than a Class I member, after a public hearing if he or she request one, may be removed by the governing body for cause.

### **4.4 Organization**

The Land Use Board shall elect a chairman and vice chairman from the members of Class IV, and select a secretary, who may or may not be a member of the Land Use Board or a municipal employee.

### **4.5 Experts and staff**

The Land Use Board may employ or contract for and fix compensation of a Land Use Board Attorney, other than the Township Attorney, and experts, staff personnel and other services as it may deem necessary, not exceeding, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

### **4.6 Powers and duties generally**

The Land Use Board is authorized to adopt bylaws governing its procedural operation and in accordance with provisions of N.J.S.A. 40:55D-1, *et seq.*, it shall also have the following powers and duties of a planning board:

- A. To prepare and, after public hearing, adopt or amend a Master Plan or component parts thereof, to

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guide the use of lands within the Township in a manner which protects public health and safety and promotes the general welfare, in accordance with the provisions of N.J.S.A. 40:55D-28.

- B. To administer provisions of all development regulations of the municipality, including subdivision control and site plan review, in accordance with the provisions of said regulations and the Municipal Land Use Law of 1975, N.J.S.A. 40:55D-1, *et seq.*, as amended.
- C. When reviewing applications for approval of subdivision plats, site plans or conditional uses to grant:
  - 1. Direction pursuant to N.J.S.A. 40:55D-34 for issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to N.J.S.A. 40:55D-32.
  - 2. Direction pursuant to N.J.S.A. 40:55D-36 for issuance of permit for a building or structure not related to a street.

Whenever relief is requested pursuant to this subsection, notice of a hearing on the application for development shall include reference to the request for a variance or direction for issuance of a permit, as the case may be.

- D. To participate in the preparation and review of programs or plans required by State or Federal law or regulation.
- E. To assemble data on a continuing basis as part of a continuing planning process.
- F. To annually prepare a program of municipal capital improvement projects projected over a term of six years, and amendments thereto, and recommend same to the governing body.
- G. Pursuant to N.J.S.A. 40:55D-25(c), the Land Use Board shall exercise, to the same extent and subject to the same restriction, all powers of a zoning board of adjustment, including but not limited to those powers and duties prescribed by law to board of adjustment pursuant to N.J.S.A. 40:55D-70 and N.J.S.A. 40:55D-76. In exercising the powers of the board of adjustment, the Class I and Class III members of Land Use Board shall not participate in the consideration of applications for development which involve relief pursuant to Subsection d of Section 57 of P.L. 19775, c. 291 (N.J.S.A. 40:55D-70, as amended), including:
  - 1. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance;
  - 2. Hear and decide requests for interpretation of the zoning map or ordinance or for decision upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with N.J.S.A. 40:55D-1 *et seq.*, as amended, or any other development regulation;
  - 3. a. Where: (1) by reason of exception narrowness, shallowness or shape of a specific piece of property, or (2) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (3) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict

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application of any regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, grant, upon application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties and hardship;

b. Where in an application or appeal relating to a specific piece of property the purposes of this Ordinance would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from said regulations provided, however, that no variance from those departures enumerated in Subsection D of this Section shall be granted under this subsection; and

4. In particular cases for special reasons, grant a variance to allow departure from this Ordinance to permit:
  - a. A use or principal structure in a district restricted against such use or principal structure;
  - b. An expansion of a nonconforming use;
  - c. Deviation from a specification or standard pursuant to N.J.S.A. 40:55D-67 pertaining solely to a conditional use;
  - d. An increase in the permitted floor area ratio as defined in N.J.S.A. 40:55D-4;
  - e. An increase in the permitted density as defined in this Ordinance, except as applied to the required lot area for a lot or lots for detached one (1) or two (2) dwelling unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision; or
  - f. A height of a principal structure which exceeds by ten feet (10') or ten percent (10%) the maximum height permitted in the district for a principal structure.
5. A variance under this subsection shall be granted only by affirmative vote of at least two-thirds of the full authorized membership of this board.
6. In exercising the above mentioned powers the Land Use Board, as the Board of Adjustment, may, in conformity with the provisions of N.J.S.A. 40:55D-1, *et seq.*, or amendments thereto or subsequent statutes applying, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make sure other requirements, decisions or determination as ought to be made, and to that end have all the powers of the administrative officer from whom the appeal was taken.
- H. To consider and make report to the governing body within thirty-five (35) days after referral as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26a, and also pass upon other matters specifically referred to the Land Use Board by the governing body pursuant to the provisions of N.J.S.A. 40:55D-26b.
- I. To carry out the provisions set forth in Section 10.4K of this Ordinance for the preservation of historic resources.
- J. To perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies and officers of

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the municipality.

### **4.7 Citizens advisory committee**

The Mayor may appoint one or more persons as a Citizens Advisory Committee to assist or collaborate with the Land Use Board in its duties, but such person or persons shall have no power to vote or take other action required of the Board. Such person or persons shall serve at the pleasure of the Mayor and shall be a citizen or citizens of the Township.

### **4.8 Submission of applications to environmental commission**

At such time that an environmental commission is established and appointed in accordance with the provisions of N.J.S.A. 40:56-1, *et seq.*, and said environmental commission has prepared and submitted to the Land Use Board an index of the natural resources of the Township, the Land Use Board shall make available to the environmental commission an informational copy of every application for development to the Land Use Board. Failure of the Land Use Board to make such informational copy available to the environmental commission shall not invalidate any hearing or proceeding.

### **4.9 Rules and regulations**

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

### **4.10 Conflicts of interest**

No member of the Land Use Board shall act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. Whenever any such member shall disqualify himself or herself from acting on a particular matter, he or she shall not continue to sit with the Board on the hearing of such matter nor participate in any discussion or decision relating thereto. This would include voting on a memorializing resolution relating to such matter and the decision thereon.

### **4.11 Meetings**

- A. Meetings of the Land Use Board shall be scheduled no less often than once a month and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process or appeals to be heard and decided.
- B. Special meetings may be provided for at the call of the Chairman or on the request of any two Board members, which shall be held on notice to the Board's members and the public in accordance with all applicable legal requirements.
- C. No action shall be taken at any meeting without a quorum present.
- D. All actions shall be taken by majority vote of the members present at the meeting except as otherwise required by any provisions of N.J.S.A. 40:55D-1 *et seq.* Failure of a motion to receive the number of votes required to approve an application for development or appeal pursuant to the

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exceptional vote requirements of N.J.S.A. 40:55D-34 and 40:55D-67d shall be deemed an action denying the application.

- E. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Act (N.J.S.A. 40:4-6, *et seq.*). An executive session for the purpose of discussion and studying matters to come before the Board shall not be deemed regular or special meetings in accordance with the provisions of N.J.S.A. 40:55D-9.

### **4.12 Minutes**

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

### **4.13 Fees for services**

Fees for services to provide copies of the minutes or other documents or for the renderings of any service by the Land Use Board, or any member of its administrative staff, which are not otherwise provided by ordinance, may be provided for and adopted as part of the rules of the Board, and copies of said rules or of the separate fee schedule shall be available to the public.



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### **ARTICLE V ZONING DISTRICTS AND ZONING MAP**

#### **5.1 Districts enumerated**

For the purposes of this Ordinance, the Township of Commercial is divided into the following zone districts:

A	Agricultural
C	Conservation
C/R	Commercial/Recreation
P	Public
PC/R	Public Conservation/Recreation
R-1	Residential
R-2	Residential
R.3	Residential
R.5	Residential
RR	Rural Resource
VR-1	Village Residential
VR-2	Village Residential
VR-3	Village Residential
VB	Village Business
RP/FP	Resource Protection/Flood Hazard Sub-District Overlay
LI	Light Industrial

#### **5.2 District regulations**

District regulations as set forth in the Commercial Township Schedules of District Regulations are hereby adopted by reference and declared to be part of this Ordinance. Supplementary district regulations relating to special uses or activities and specific or conditional uses are contained in Articles VIII and IX of this Ordinance and titled: "Supplementary District Regulations" and "Special Standards and Requirements," respectively. (See Appendix B at end of Ordinance)

#### **5.3 Zoning maps, establishment**

The boundaries of all zone districts shall be shown on the Zoning Map, Township of Commercial, dated June 2006, as amended; which together with all explanatory matter shown thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The original of said map shall be maintained by the Township Land Use Board and all changes in zone districts thereon shown shall be entered upon such map upon enactment, after which it will not be necessary to refer to such changes by metes and bounds.

#### **5.4 Interpretation** Where uncertainty exists as to the exact location of any boundaries shown on said Zoning Map, the following rules shall apply:

- A. Zone boundary lines are intended to follow the centerline of streets, or railroad rights-of-way, or streams and lot property lines as they exist on plats of record or the Township Tax Maps at the time of passage of this Ordinance unless such zone boundary lines are fixed by dimensions as

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shown on the Zoning Map.

- B. Where such boundaries are not fixed by dimensions and where they approximately follow lot lines and where they do not scale more than ten (10) feet distant there from, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.
- C. Where a zone district boundary divides a lot or plot of ground and actual dimensions are not shown, the location of such boundary shall be determined by measurement according to the scale of the map.
- D. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning maps or in other circumstances not covered by other subsection herein above, the Land Use Board shall interpret the district boundaries.
- E. The zoning standards, controls and designations apply to every structure, lot and use within each district and the district lines extend vertically in both directions from ground level.
- F. Where a zone boundary fixed by dimension on the Zoning Map or the Zoning Centers Detail Maps approximately follows and is not more than twenty (20) feet from a lot line, such lot line shall be construed to be the zone boundary
- G. Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits.

### **5.5 Schedules of Zoning District Regulations, establishment** District regulations as set forth in the Township Schedules of District Regulations for all zoning districts established herein are hereby adopted by reference and declared to be a part of this Ordinance.

- A. Any use not permitted in this chapter as set forth in the Schedules of District Regulations for all zoning districts established herein, shall be deemed to be prohibited.
- B. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance, or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulations impose greater restrictions than this Ordinance, the provisions of such statutes, other ordinances or regulation shall be controlling.

### **5.6 Mauricetown riverfront zoning** There is hereby established along the water front of the lots abutting the Maurice River a Commercial/Recreational Zoning District measuring 100 feet in width for all riverfront lots within the designated boundaries of Mauricetown in the village of Mauricetown/Haleyville as delineated on the Township Zoning Map.

### **5.7 Zoning map, amendments**

**(Reserved)**

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### **ARTICLE VI APPLICATION OF REGULATIONS**

- 6.1 Use regulations** No use or occupancy of any building, structure or land shall hereafter be changed to a different use or occupancy and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located, except as hereinafter provided.

No more than one principal use shall be located on one lot, except for forestry, agriculture, horticulture, fish and wildlife management, recreational development on agricultural lands, and towers and telecommunications facilities as permitted by Section 9.17.

- 6.2 Area regulations** No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families or persons, to occupy a greater percentage of lot area, or to have a narrower or smaller rear yard, front yard, side yards or other open spaces than are herein required, or in any other matter contrary to the provisions of this Ordinance, except as hereinafter provided.

- 6.3 Wetlands use in calculation of building and lot coverage**

Due to environmental considerations and/or public health and safety factors, the Township will not allow consideration of wetlands in determining permissible building coverage calculations. The Land Use Board may at its discretion, allow wetlands areas to be considered in total lot coverage calculations, after determination that the increased lot coverage will have no adverse environmental, health or safety impact on the community or adjacent lands. The maximum percentage of lot coverage set forth in the Schedules of District Regulations may be extended by the Board, provided the lot(s) in question is/are served by an approved public or private sanitary sewer and potable water supply facilities.

For all new lots of five (5) acres or less, regardless of the Zoning District or location within the Township, fifty percent (50%) of the lot area required for a lot, by use, in that Zoning District must be determined to be upland and useable. As an example, if the minimum zoning district lot size is three (3) acres for a single-family, detached dwelling and the actual lot size of the lot proposed for said development is two (2) acres then one and one half (1.5) acre of land in question must be classified as not having environmental sensitivity such as wetlands, steep slopes or other natural conditions which preclude development. The term "useable" as applicable to this subsection refers to lands which are able to be used as opposed to lands which have environmental considerations or other natural conditions and/or are thereby regulated against or deemed unfit for supporting development.

- 6.4 Overlapping required space** No part of a yard or other open space or off-street parking or loading space required in connection with any building or use for the purpose of complying with this Ordinance, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other buildings or uses, except as hereinafter provided.

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### 6.5 Yard reductions

- A. No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- B. Within each district the regulations set by this Ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

**6.6 Permitted modifications and exceptions** The height limitations of this Ordinance shall not apply to silos, belfries, cupolas and domes not used for human occupancy, nor chimneys, ventilators, skylights, water tanks, communications towers, similar necessary mechanical appurtenances usually carried above the roof level. Such features however, shall be erected only to such height as necessary to accomplish the purpose they are intended to serve. The provisions of this Ordinance shall not apply to prevent the erection above the building height limit of a parapet, wall or cornice for ornament (and without windows) extending above such limit not more than five (5) feet. Public and quasi-public buildings and other similar permitted uses shall increase the required front, rear and side yards by one (1) foot for each foot by which such building exceeds the height limit herein established for such zone in which it is located, and further provided that in no case shall any building have a height greater than thirty-five (35) feet overall unless it is specifically permitted by the Schedule of District Regulations.

**6.7 Reconstruction after disaster** An existing dwelling located on a lot within a Village Residential or Village Business Zoning District at the time of the adoption of this ordinance, which is later accidentally destroyed by fire, storm or other unintentional human action, may be rebuilt on said lot by the owner of the destroyed dwelling by applying to the Zoning Officer and submitting the necessary documents and plans and receiving the necessary approvals, authorizations or permits within one (1) year of said destruction showing that the dwelling can be reconstructed and meet all health regulations including the location of on-site sanitary sewer facilities and water supply system, and all other safety codes.

If the Zoning Officer determines that any such requirement cannot be met or that there is another safety or health-related issue which in his opinion would make said reconstruction a threat to public health, safety or welfare, he shall not approve said reconstruction until and unless said threat is eliminated or resolved satisfactorily. Said reconstruction shall be by using the same structural footprint of the destroyed residence unless or otherwise authorized by the Land Use Board.

When such rebuilt structure would be located to a historic site or structure, then the applicant shall be required to present a front and side elevation for all sides of said structure so adjacent to a historic site or structure showing how the new residence would encompass elements of design, coloration or materials which would be reflective of and/or compatible to the any adjoining historic structure such as window or door style, decorative trim, architectural details, design style, coloration or other method of making the new structure blend in with the historic structure. Where possible or necessary due the new residence's design, landscaping can be used to provide a visual buffer between the historic and contemporary structures in such cases. The provision of this paragraph shall apply only to those historic sites or structures which have been identified within

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the Township Master Plan, an official adopted historic site survey or inventory, or listed within a Township, county, State or federal historic register.

- 6.8 Existing Mobile Homes** Any occupied mobile home existing on a lot within the Township which hereafter becomes dilapidated or uninhabitable, may be replaced in accordance with all applicable Township regulations regarding same and subject to the issuance of a zoning permit for same.
- 6.9 Contiguous lots** If two (2) or more lots or combinations of lots or portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for the lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purpose of this Ordinance, unless approval for such lots has been obtained under provisions for Township subdivision and site plan review; and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this Ordinance.
- 6.10 Public street frontage** Every principal building shall be built and all principal uses shall be established upon a lot having frontage on a public street either improved to Township requirements or standards or for which such improvements have been ensured by posting of a sufficient performance guaranty pursuant to the provisions of Article XI of this Ordinance.
- 6.11 Frontage on streets proposed for widening** Where a building lot has frontage upon a street which is shown on the adopted Master Plan or Official Map of the Township of Commercial or the County of Cumberland and which street is proposed for right-of-way widening, the required front yard shall be measured from such proposed right-of-way lines.
- 6.12 Visibility at intersections** Nothing shall be erected placed or allowed to grow in such a manner as to materially impede vision between a height of thirty (30) inches and ten (10) feet above the centerline grade of the abutting streets or driveways within the triangular area formed by the intersecting street and driveway lines. Such sight triangle areas at all such intersections shall be as established or defined in accordance with the provisions of the *A Policy of Geometric Design of Highways*, published by the American Association of State Highway Officials, latest version.
- 6.13 Irregularly shaped lots** In the case of irregularly shaped lots on a cul-de-sac or curved street sections, the minimum lot width specified in the Schedules of District Regulations shall be measured at the building setback, provided that in no case shall a distance between side lot lines be reduced to less than seventy-five percent (75%) of the minimum lot width requirement at the street line.
- 6.14 Projections** Building projections, including bays, chimneys, cornices and gutters or drain spouts, may extend into yard areas for a distance not to exceed five (5) feet and shall not be located within ten (10) feet of any property line.

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### ARTICLE VII NONCONFORMING USES AND STRUCTURES

**7.1 Nonconforming uses.** Any existing use which is not in conformity with the provisions of this Ordinance at the time of enactment may be continued subject to the following limitations:

- A. Abandonment** If any nonconforming use is deemed abandoned by the Zoning Officer (See Sec. 3.3, "Definitions" - "Abandonment"), any subsequent use shall conform to the then current provisions of this Ordinance.
- B. Enlargement of Existing Structure Devoted to nonconforming use** Except as set forth in this Article, an existing structure devoted to a use not permitted by this Ordinance shall not be enlarged, extended, constructed, reconstructed, or structurally altered in any way unless same may be required for normal maintenance or to prevent damage or injury. In a single instance after the passage of this Ordinance, a single-family, detached residential dwelling may be enlarged through construction or reconstruction to an extent not to exceed fifty percent (50%) of its pre-existing size, provided said enlargement is limited to residential use. Accessory structures shall not be considered when applying this provision.
- C. Reconstruction of existing structure devoted to a residential nonconforming use** In the event that a single-family, detached, residential dwelling within a zone in which such use is not permitted is destroyed or damaged by any means to an extent of more than fifty percent (50%) of its pre-existing size, that dwelling may be reconstructed provided that the replacement is limited to residential use, subject to the provisions of Subsection B above.
- D. Reconstruction of existing structure devoted to a nonresidential nonconforming use prohibited** Except as set forth in this Article, in the event that an existing structure devoted to a nonresidential use not permitted by this Ordinance is destroyed or damaged by any means to an extent of more than fifty percent (50%) of its pre-existing size, said structure shall not be reconstructed.
- E. Existing mobile homes** In the event a mobile home is replaced when required by the appropriate Township official to protect the safety of its occupants, the replacement mobile home may be larger than the pre-existing mobile home to an extent not to exceed percent (50%) of the size of the pre-existing mobile home, provided said enlargement is limited to residential use and the lot involved can accommodate said larger mobile home and any required supporting infrastructure such as on-site wells, septic system and their required setbacks from each other.
- F. Superseding permitted use** Any nonconforming use which is superseded by a permitted use shall thereafter conform to this Ordinance and the nonconforming use shall not thereafter be resumed. It is the intent of this Article to discourage the continuation of nonconforming uses except where they are residential in nature, unless said residential uses are abandoned per Subsection A above.

**7.2 Nonconforming structure** Any existing structure which, by virtue of its size or position on the land, is not in conformity with the provisions of this Ordinance at the time of enactment may be continued subject to the following limitations:

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- A. **Abandonment** When the use of a nonconforming structure is deemed abandoned by the Zoning Officer (See "Definitions" Sec. 3.3, "Abandonment"), the structure shall not thereafter be used except in conformance with the then current provisions of this Ordinance.
- B. **Enlargement of nonresidential structure** Except as otherwise set forth in this Article, a nonresidential structure which, by reason of restrictions on area, lot coverage, height, yard dimensions, or other characteristics could not be built under the terms of this Ordinance, shall not be enlarged or altered in a way which increases its nonconformity.
- C. **Reconstruction of Existing nonresidential structure** Except as otherwise set forth in this Article, a nonresidential structure which, by reason of restrictions on area, lot coverage, height, yard dimensions, or other characteristics, could not be built under the terms of this Ordinance, shall not be reconstructed except in conformance with the current provisions of this Ordinance if it is destroyed or damaged by any means to an extent of more than fifty percent (50%) of its pre-existing size. Any reconstruction of a nonconforming structure in residential use is subject to the provisions of Section 7.1B and C.
- D. **Superseding permitted structure** Any nonconforming structure which is superseded or changed to a permitted structure shall thereafter conform to this Ordinance. It is the intent of this Article to discourage the continuation of nonconforming structures except where they are dedicated to pre-existing residential use, unless said residential uses are deemed abandoned per Section 7.1A above.

### 7.3 Reduced setback for lots with existing encroachments

- A. **Adjusted setback** In any zone where there is a residential structure with an existing encroachment into the required setback area for such zone, the required setback shall be adjusted so as to permit the new construction at a setback equal to the existing encroachment provided that the setback is no less than ten feet (10') from any property line.
- B. **Limitations of new construction** New construction permitted by the use of the adjusted setback shall be limited to a maximum increase of fifty percent (50%) of the existing square footage of the subject structure's habitable floor area.
- C. **Effective date** The provisions of this section (Section 7.3) shall apply to any lot with an encroachment existing as of \_\_\_\_\_, the date when said Section was adopted by Ordinance No. \_\_\_\_\_.<sup>1</sup>

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<sup>1</sup> Date and Ordinance Number must be inserted in 7.3 once this Ordinance is adopted.

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### ARTICLE VIII SUPPLEMENTARY DISTRICT REGULATIONS

**8.1 Accessory use structures or uses** In all zoning districts, any accessory structure or use, allowed as necessary to support a customarily incidental use in connection with a permitted residential use on the same lot in accordance with the following provisions.

- A. Within the VB Village Business, VR-1 Village Residential, VR-2 Village Residential, VR-3 Village Residential, R.3 Residential and R.5 Residential Zoning Districts accessory buildings or uses shall be set back five (5) feet from the side and rear yard property lines for any structure with a height of up to fifteen (15) feet. For any accessory structure with a height greater than fifteen (15) feet, said structure shall be set back ten (10) feet from the side and rear yard property line.
- B. In all other zoning district, any structure or use shall be set back from the rear and side yard property lines as provided in the Schedule of District Regulations for the zoning district in which they are located. If the height of the proposed accessory use or structure exceeds a set back distance as stipulated in the Schedule of District Regulations for the zoning district in which it is to be located, then the setback from the side and rear yards shall be no less than ten (10) feet or the height of the structure, whichever is greater.
- C. Unless specifically permitted by the Land Use Board during development review, no accessory structure shall be located in front of the front yard building setback line.

The accessory use shall be used in computation of building and total lot coverage if deemed to have created an impervious cover to the ground whereon it is located. For example, a garden shed set on cement blocks shall not be deemed to have made the ground beneath impervious.

**8.2 Conversion of dwellings** The owner of any dwelling of three (3) or more bedrooms and which dwelling is in conformance with the regulations of the district in which it is located, may convert such dwelling into two (2) or more one-family dwelling units and which was in existence on or before January 1, 1996, but only upon compliance with the following terms and conditions:

- A. There shall be no more than one (1) dwelling unit resulting from conversion for every one-half acre of land contained in the involved lot over the minimum lot size for a single-family, detached dwelling in the zoning district wherein the said structure proposed for conversion is located.
- B. Each dwelling unit resulting from a conversion shall contain at least two (2) rooms in addition to a bathroom and kitchen and shall encompass a minimum of six hundred (600) square feet of habitable floor area.
- C. Each room resulting from such conversion shall have safe, adequate and convenient means of access and egress which complies with the requirements of the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1, et seq. Also, in compliance with said Hotel and Multiple Dwelling Act, each unit resulting from such conversion shall be of reasonable size for the use intended and shall have adequate light and air from the outside.
- D. The ground floor area of the original dwelling shall not be enlarged nor the number of stories increased in connection with any dwelling unit conversion.



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- E. There shall be no external entrance that faces a street and that is separate from any other external entrance to any dwelling in the same structure on the same lot facing the same street, but this restriction shall not apply to two (2) or more entrances in existence on the date of this Ordinance's enactment. In addition, the present existing exterior architectural design of the original dwelling shall be maintained to the greatest extent possible to preserve the single-family dwelling character and adjacent residences in the neighborhood.
- F. Each dwelling unit resulting from such conversion shall be provided sufficient off-street parking in accordance with Section 8.8.

### **8.3 Fences, walls and hedges** Fences, walls and hedges may be erected, altered or reconstructed in accordance with the following regulations:

- A. In any zoning district, fences, walls and hedges may be located within yard areas so long as they do not encroach on public rights-of-way or neighboring properties and subject to the following:
  - 1. Any fence, wall or hedge along the sides and front edge of any front yard area shall not exceed a height of two and half (2.5) feet, or four (4) feet where the fence, wall or hedge is not more than twenty-five percent (25%) opaque. In all other areas of the property, a fence, wall or hedge shall not exceed six (6) feet in height with the exception of fences required for tennis courts, swimming pools and dog runs which in all such cases may not exceed ten (10) feet in height.
  - 2. All fences shall be located one (1) foot from any property line.
  - 3. All fences, walls and hedges shall be in conformance with the provisions of Sections 6.12, "Visibility at intersections," and 10.4AB, "Visual obstruction."
  - 4. Fences and walls in excess of six (6) feet in height shall require zoning and construction permits. All retaining walls require a zoning and construction permits.
  - 5. For purposes of this Section, a "hedge" shall be defined as any clustering or configuration of plant material in such a manner as to permanently or temporarily prohibit or inhibit unrestricted travel between properties or portions of properties or between the street or public rights-of-way and a property.
  - 6. All hedges shall be planted at a distance from the adjoining property equal to the full growth diameter of the plant used in said hedges plus two (2) additional feet so as to prevent overhang or over growth onto adjoining properties. All hedges shall be kept neatly trimmed so as to prevent overhang or intrusion onto adjoining properties, sidewalks, or public rights-of-way.
  - 7. With the exception of a commercial farm operation and in accordance with the provisions of Section 9.4, "Keeping of animals and livestock, and land use activities involving animals," no pen for the keeping of animals regardless of the time period said animals are to be so confined, shall be located closer than ten (10) feet from any property line and shall be prohibited in the front yard area of any lot. For purposes of this subsection, a pen shall be defined as a small enclosure of one hundred (100) square feet or less in which livestock or other animals are kept.
- B. The Land Use Board may modify the above noted requirements of this Section upon request wherein it is deemed reasonable and appropriate to require the installation of a buffer between two (2) properties in order to shield a residential use from a non-residential use on an adjoining property, a historic site or structure from a more contemporary styled structure or a use deemed

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incompatible with the said adjoining historic site or structure, or from some objectionable condition or nuisance reasonably expected such as, but not limited to, a heavily traveled thoroughfare, to provide privacy to a residential property, create a barrier to intrusions of noise, glare, trash or trespass by persons, animals or vehicles or to protect a historic structure or site from new construction .

- C. At the intersection of two (2) or more streets or a driveway and a street in any zoning district, no fences, walls or hedges which is higher than three (3) feet above curb level, shall be permitted within a sight triangle area as provided in Sections 3.3 and 10.4Y.5. If no sight triangle easement exists, the Zoning Officer may deny a permit for a wall or fence for a lot so located when he determines the proposed fence or wall could create a hazard to vision. If such denial of a permit is appealed per Section 4.6G.1, the Land Use Board shall request a review by the Board or Township Engineer prior to making its decision.
- D. Construction. All fences shall be constructed in accordance with the following standards:
  - 1. The following fences and fence materials are specifically prohibited: razor-wire fences, sharp pointed fences, canvas, and cloth fences. Commercial and industrial uses may have fences topped with a protective wire.
  - 2. All fences shall be constructed in a manner which shall not be dangerous to persons or animals.
  - 3. All fences shall be permanent construction and shall withstand a wind load of fifteen (15) pounds per square foot.
  - 4. All fences shall be constructed or installed with stringers facing inwards.
  - 5. Whenever an electrified fence is to be installed adjacent to a residentially zoned or used property (that is defined for purposes of this Section as a lot that has a dwelling upon it), said fence shall have a non-electrified fence installed between it and the property line for the entire distance of said property line so as to prevent children or animals from accidentally coming into contact with the electrified fencing. This provision shall not apply to a bona-fide farm.
- E. Every fence or wall shall be maintained in a safe, structurally sound, upright condition and in accordance with the approved fence plan on file with the Construction Official or Zoning Officer. If the Zoning Officer or Construction Official, upon inspection, determines that any fence or wall or portion of any fence or wall is not being maintained in a safe, structurally sound, upright condition, said Officer or Official shall notify the owner of said fence or wall in writing of his findings and state briefly the reasons for such findings and order such fence or wall or portion of fence or wall repaired or removed upon notice from the Zoning Officer and within the period of time set by said Officer in said notice.
- F. No fence or wall hereafter erected, altered or reconstructed in any residential zoning district shall exceed the height restrictions set forth in this section. In all other zoning districts, fences shall not exceed ten (10) feet in height unless specifically approved as part of development review by the Land Use Board.
- G. The foregoing restrictions shall not be applied so as to prevent the erection of an open wire or chain link fence exceeding fifteen (15) feet in height above ground level anywhere within a public park, public playground or public school property. These restrictions shall also not be applied so as to restrict the erection of a wall for the purpose of retaining earth subject to the

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appropriate approvals set forth in the Uniform Construction Code.

### 8.4 (RESERVED)

- 8.5 Clear cutting and/or woodcutting** Prior to cutting wood on any tract or parcel of land within the Township of less than five (5) acres and/or a parcel which has not been required to comply with site plan or subdivision review in accordance with provisions of Article XII of the Ordinance by the Land Use Board, the person proposing to cut wood shall file with the Township Zoning Officer a letter of intent to undertake woodcutting as required herein this Section, The letter of intent shall be delivered to the office of the Township Zoning Officer or sent by certified mail to said office at least ten (10) days before commencing said woodcutting operation. No woodcutting shall commence until ten (10) days after the letter of intent is submitted or sent by certified mail to the Zoning Officer.

Notwithstanding the provisions herein, the requirement for filing a letter of intent to undertake woodcutting or clear cut any tract or parcel of land as required hereinabove shall not be applicable to:

1. Any tree located on a parcel of land one acre or less in size on which a residence has been constructed or is being constructed (construction permit issued);
  2. Any tree located on a parcel of land proposed for development which has received approval of the Land Use Board or a zoning permit and which has as part of the process of obtaining said approval or permit addressed the issue of the removal of trees from the land proposed for development;
  3. Any tree growing on property actually being used as a nursery, garden center, Christmas tree plantation, or an orchard;
  4. Any tree growing on a public right-of-way or on land being used for a sanitary landfill;
  5. Any tree to be cut for personal use by the owner; or
  6. Any dead, diseased, or other tree that is likely to endanger life or property provided that said tree cutting does not involve more than five (5) trees or the clear cutting or more than one (1) acre of land.
- A. The letter of intent required to be filed with the Zoning Officer as noted in above, shall include the following:
1. The name, current address and telephone number of the person proposing to undertake the woodcutting.
  2. The address including Township tax map block and lot numbers for the parcel(s) wherein the proposed woodcutting is to occur.
  3. The name and address of the owner of the property identified in subsection b above where the woodcutting is to take place.
  4. If the property wherein the woodcutting is to take place is now owned by the person proposing to cut wood, documentation from the owner of the property that the person proposing to cut wood

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has permission to do so.

5. The estimated amount of wood to be cut and a brief identification of the number, type and size of trees to be cut.
  6. A schedule for when the woodcutting is to take place.
  7. The purpose of the woodcutting, e.g., to clear land for permitted development, sale of wood, removal of diseased or damaged trees.
- B. All woodcutting or clear cutting of a property shall conform to the following requirements:
1. No woodcutting operation shall involve more than two (2) separate tracts or parcels of land as shown on the current tax map of the Township.
  2. During any one (1) calendar year only one (1) woodcutting operation shall be allowed on any one (1) tract or parcel of land regardless of the said parcel or tract size, ownership or the person undertaking the woodcutting unless authorized by the Land Use Board.
- C. Upon receipt of a letter of intent to undertake woodcutting or clear cutting of a tract or parcel of land as required herein, the Zoning Officer shall review said letter to assure that the proposed woodcutting or clear cutting activity is in accordance with the requirements of applicable regulations. If the activity is in compliance with said requirements, the Zoning Officer shall maintain a log of the activity for reference and further action if required as result of violation of the said requirements during the woodcutting or clear cutting activity.

If the review of the letter of intent by the Zoning Officer is not in compliance with the requirements of applicable regulations, then the Zoning Officer shall immediately notify the person filing the letter of intent of said noncompliance and prohibit said woodcutting or clear cutting from commencing.

Once woodcutting or clear cutting has already commenced, the Zoning Officer shall notify the person filing the letter of intent of any noncompliance and a cease work order until said noncompliance is corrected.

**8.6 Home occupations** For purposes of this Section, a home occupation, a home professional occupation, and a village commercial home occupation as defined in Section 3.3 shall be subject to the following conditions and requirements:

- A. **Home occupation** Subject to the issuance of a zoning permit, a home occupation may be permitted as an accessory use as provided for in the schedules of district regulations and shall adhere to the minimum standards of a particular zone and shall also meet the following criteria:
1. The use shall be one which is customarily incidental to the use of the premises as a dwelling and subordinate to the residential use of the property.
  2. The home occupation shall be owned and operated by a bona fide resident or residents of the dwelling and shall have no more than one (1) non-resident employee of the dwelling wherein the home occupation is located.
  3. There shall be only one (1) home occupation per residence or dwelling unit.

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4. If the home occupation is located within an apartment there shall not be any non-residents as employees or be a business that requires or depends upon on-site client or patron visits or more deliveries than might be expected if the apartment was solely used for residential purposes, generally considered for purposes of this section on average as not more than one (1) delivery every three (3) days.
5. The occupation shall be conducted entirely within the dwelling or within an accessory building or buildings. The exterior appearance of the structure or premises shall be designed, constructed and maintained as a residential dwelling.
6. The home occupation shall be located within a dwelling unit suitable to the type of business or occupation to be undertaken therein and shall be on property capable of supporting parking for its employees and clients or guests in addition to that required for the residence.
7. No goods shall be displayed on the premises or be visible from adjoining street(s) except in the case of an artisan's display as provided for in Section 9.14B of this Ordinance and the Zoning Officer finds that such display is so justified. Only articles made on the premises may be sold.
8. There shall be no external change to the premises or its buildings unless said changes continues the appearance of the property's principal use.
9. No more than thirty percent (30%) of the principal residential structure, nor more than seven hundred fifty (750) square feet of any accessory structure shall be used or occupied by the home occupation.
10. No mechanical equipment may be used except that which is normally used for purely domestic or household purposes with the exception of office equipment such as personal computers, printer, copier, calculator, typewriter, fax machine and similar office equipment of a number and size suitable to the residential setting and the home occupation being carried on in the residence..
11. Parking spaces are required to be provided in accordance with the provisions of Section 8.8 herein this Ordinance in addition to those required for the residential unit(s) and said parking spaces shall not be located in any required front yard areas. In no case shall any home occupation require parking to occur on the adjacent residential streets.
12. Buffers may be required based on the location of any new parking areas required as set forth in Section 8.8.
13. Signs as provided for in Section 8.11 are permissible and subject to the requirements of Section 8.11 and in particular, Subsection 8.11D.15.
14. In the case of a bed and breakfast establishment, in addition to the cited conditions listed hereinabove, the following additional conditions shall be met:
  - a. The use shall comply with all provisions of N.J.A.C. 5:23-9.8; and
  - b. Shall not be permitted within a mobile home or apartment.
15. The manufacture, repair or restoration of motor vehicles, large machinery or equipment, boats, recreational vehicles, or any other item which might reasonably be expected to create noise,

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pollution or other nuisances shall not be permitted as a home occupation.

- B. Home professional offices** A home professional use may be permitted as an accessory use and shall adhere to the minimum standards of a particular zone and shall also meet the following criteria:
1. The term "professional office" shall include, but not be limited to, an office for the use of a physician, surgeon, dentist, lawyer, engineer, architect, planner, accountant or other professional person requiring a license to practice in the State of New Jersey.
  2. The use shall be one which is customarily incidental to the use of the premises as a dwelling and subordinate to the residential use of the property.
  3. There shall be no more than two (2) employees working on the premises other than the bona fide residents of the dwelling.
  4. The use shall be conducted entirely within the dwelling or within an accessory building or buildings.
  5. Signs as provided for in Section 8.11 are permissible and subject to the requirements of Section 8.11 and in particular, Subsection 8.11D.15.
  6. Not more than one professional person may utilize the residence, except that one additional professional may be permitted provided that both professionals are members of the same immediate family occupying the same residence.
  7. Not more than thirty percent (30%) of the total floor area of dwelling unit involved shall be used for the professional office. Not more than a total of 700 square feet of an accessory building or buildings may be used for a home professional office.
  8. No mechanical equipment may be used except that which is normally used for purely domestic or household purposes and with the exception of medical, dental, office or other equipment customarily used and incidental to the profession involved in the home professional office.
  9. The provisions of Sections 8.6A.12, 13 & 14b shall apply to a home professional office.
  10. A home professional office shall provide parking spaces based on Section 8.8 for said the type of professional use involved, e.g., doctor's, architect's or lawyer's office. Should parking requirements result in an excess of four (4) additional parking spaces in addition to those required for a residential use, then said home occupation will be subject to site plan review as provided in Article 13 herein this Ordinance.
- C. Village commercial home occupation** It is the intent of this Subsection to allow more intense, commercial type activity as a home occupation within "village" designated and zoned areas of the community, i.e. the term "village" appears in the name of the zoning district. The village commercial home occupation is different from a home occupation or a home professional occupation in that it is intended to permit residents of the village to conduct from their home commercial activities in a scope, operation and size commensurate with the "village" in which it is located and which is more intense a commercial use of the residential property. The occupation, artistic pursuit, craft or commercial activity to be conducted for gain or support of the resident owner shall be directly related to serving the needs of the village, its residents or visitors.

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Any village commercial home occupation shall be permitted by grant of a conditional use permit based upon the following conditions:

1. The residence wherein the village commercial home occupation shall be located within either a VR Village Residential Zoning District or VB Village Business Zoning District and the property whereon the residence is located shall front on one of the following roadways:
  - a. Village of Laurel Lake: Buckshutem Road;
  - b. Village of Mauricetown/Haleyville: Buckshutem Road: Front Street, Highland Avenue, Noble Street, the Port Norris – Haleyville Road; and
  - c. Village of Port Norris: Main Street, North Avenue and Warren Street.

For purposes of this subsection 1, only those portions of the above noted streets which are actually located within the specific village's boundary as shown on the Zoning Map of the Township of Commercial shall be eligible to apply for the establishment of a village commercial home occupation conditional use.

2. The owner/operator of the village commercial home occupation shall be a resident of the home wherein said occupation or business activity is to be conducted.
3. The Land Use Board in granting approval of a village commercial home occupation may impose as conditions of said approval any standards set forth within subsections A and B above and said village home commercial occupation shall be subject to the following conditions and standards:
  - a. The village home commercial occupation shall be clearly incidental and secondary to the use of the dwelling in which it is located for residential purposes.
  - b. Allowable area to be used or occupied by the village commercial home occupation shall be no more than thirty percent (30%) of the principal residential structure, or in more than one thousand (1,000) square feet of any accessory structure.
  - c. The exterior appearance of the structure or premises may be modified to allow for the display of goods or the placement of an artisans display as per Section 9.14 herein. No display of goods shall be closer than eight (8) feet to a street right-of-way line provided that said display area does not create an obstacle to vision for traffic on adjoining streets, rights-of-way, or driveways.. The use of porches to display goods shall be permissible for village commercial home occupations in accordance with the provisions of Section 9.14B of this Ordinance.
  - d. The occupation, artistic pursuit, craft or commercial activity is to be of size intended to serve needs of the immediate village environs as defined by the village zoning district boundaries and visitors drawn to the village by cultural, ecological, recreational or historical resources or events therein.

For purposes of this subsection, "commercial activity" shall be limited to the sale of products like crafts, baked goods, or other products made by a resident of the home, or provision of services related to the village residents' or visitors' needs and merchandise related to or indicative of the village's culture, ecology, history, and recreational resources, and general services like hairstyling, professional services, business or financial services, a tea or sandwich shop, guided tours of historic site or adjacent natural areas and similar service activities including those

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catering to tourists or visitors.

- e. A village commercial home occupation shall operate only during daylight hours unless otherwise allowed by the Land Use Board.
- f. A village commercial home occupation shall provided sufficient parking as determined by the standards in Section 8.8 herein either on- or off-site. In computing required parking spaces to be provided within a village zoning district, the Land Use Board may consider existing on street parking available in granting a waiver from some or all parking as provided in Section 8.8A of this Ordinance. Additionally, a village commercial home occupation which provides on-site parking shall provide pedestrian access ways for the use of its customers and patrons.
- g. Site plan review and approval shall be required for any village commercial home occupation as set forth in Article 13 of this Ordinance. In reviewing the site plan, the Land Use Board shall require sufficient buffers or limitations on hours of operations to avoid unnecessary or unreasonable detrimental effects to adjoining residential properties from the more intense commercial style activities herein allowed. In meeting these criteria, the Land Use Board shall be guided in determining the degree of buffer or limitation on whether or not the adjoining residential use also includes a village commercial home occupation.

Any activity not conforming to the provisions contained herein this Section shall be deemed to be a commercial or business use and treated accordingly as set forth in this Ordinance for such commercial or business use.

- D. Continuance of a home occupation** In the event that any home occupation, home professional occupation or village home commercial occupation exceeds the limits and restrictions of this Section or the conditions of approval of said use as reasonably determined by the Land Use Board, shall be deemed in violation of the said approval unless the violation is corrected or a use variance is sought and obtained from the Land Use Board in accordance with the provisions of N.J.S.A. 40:55D-70d.

**8.7 Off-street loading** Off-street loading and maneuvering space shall be provided for the loading and unloading of vehicles on the lot on which is located a use for which the loading space is required as set forth herein:

- A. A minimum of one (1) off-street loading space per nonresidential use shall be provided, except that, where more than one (1) use shall be located in one (1) building or where multiple uses are designed as part of a self-contained complex, the number of loading spaces shall be based on the cumulative number of square feet within the building or complex and shall be dispersed throughout the site to best serve the individual users.
- B. There shall be at least one (1) central point for trash/garbage pickup in multi-family and non-residential uses which shall be separate from parking and loading areas by locating such facility either within a building or outside of a building in a totally enclosed metal container(s), obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence, wall, planting or combination of the three. If located within the building, the doorway(s) may serve both the loading and trash/garbage collections functions. If a container is used for trash/garbage collection functions and is located outside the building, it may be located adjacent to or within the general loading area(s), provided that the container(s) do not interfere with or restrict in any manner loading and unloading functions.



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- C. The minimum number of spaces required per specific use shall be:
1. Funeral home: one (1) space per two thousand five hundred (2,500) square feet of floor area. Dimensions of a loading space for this use may be reduced to thirty-three by twelve (33 x 12) feet.
  2. Hospitals: one (1) space per ten thousand (10,000) square feet of gross floor area.
  3. Retail stores, excluding village commercial home occupations: one (1) space per four thousand (4,000) square feet of gross floor area.
  4. Office uses: one (1) space per twenty thousand (20,000) square feet of gross floor area.
  5. Warehousing, indoor storage, shipping and receiving facilities: one (1) space per ten thousand (10,000) square feet of gross floor area.
  6. Research, testing, laboratory, manufacturing and assembly facilities: one (1) space per twenty thousand (20,000) square feet of gross floor area.
  7. Other uses: as reasonably determined by the Land Use Board based on the above standards and the proposed use with consideration being given to the volume and frequency of loading and delivery involved and the character of the area in proximity.
- D. Where any use is located on a tract of at least fifty (50) acres and no portion of a loading area, including maneuvering areas, is closer than two hundred (200) feet to any property line and where the length of the driveway connecting the loading area to the street is at least three hundred (300) feet, the number of off-street loading spaces may be fewer than the number required by the above schedule, provided that the applicant, as part of the site plan application, shall indicate on the site plan, shall document to the Land Use Board that the number of spaces to be provided will be adequate to meet the needs of the specific use proposed, and the Land Use Board shall find that said reduced number of loading spaces will be adequate based on the plan and documentation submitted to it.
- E. The conformance of any use requiring loading facilities shall remain valid so long as such facilities are provided and maintained in accordance with the following requirements:
1. They shall be provided and maintained so long as a use exists for which the facilities are designed to serve.
  2. Reasonable precautions shall be taken by the owner or sponsor of the particular use to assure the availability of required facilities to the delivery and pickup vehicles that they are designed to serve.
- F. Access to a loading space shall be provided directly from a public street or alley or from any right-of-way that will not interfere with public convenience and that will permit orderly and safe movement of trucks or delivery vehicles.
- G. Loading space(s) as required under this section shall be provided as area in addition to off-street parking space and shall not be considered as supplying off-street parking.
- H. Off-street loading spaces and maneuvering areas shall be surfaced with a dustless, durable, all-

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weather pavement, which shall be adequately drained, all subject to the approval of the Township Engineer.

- I. Any use which can reasonably be expected to have a number of trucks making deliveries or pickups on a daily basis which may require delays in order to make such deliveries and pickups shall, in addition to any required loading space, provide truck waiting or standing area in order to avoid undue or unsafe interference with the public use of streets or alleys.

### 8.8 Off-street parking

- A. Each building or site which, after the effective date of this Ordinance, is erected, enlarged or altered for any of the following uses in any district shall provide and satisfactorily maintain the minimum number of off-street parking spaces set forth herein. Where a particular building or site contains more than one (1) of the following categories of uses, the total parking requirements shall be the sum of the component parts.

#### Type of Use

#### Minimum Parking Spaces

##### **Residential uses:**

Single-family, detached dwelling or mobile home	2 per unit provided on lot
Semi-detached or attached dwelling unit	2 per unit provided on lot
Apartments	1.8 per dwelling unit provided on lot

##### **Commercial establishments or uses:**

Home occupation as per Section 8.6	1 per each employee not an occupant or resident of the home in which the occupation is located, plus the requisite number of spaces required for the residential uses on the lot and any activities of the home occupation for which parking would be required such as client or customer parking
Home occupation, bed and breakfast	Same as a home occupation plus 1 per each room available for occupancy by guests
Village home commercial occupation	Same as a home occupation hereinabove.

In the case of home occupations and village home commercial occupations, the Land Use Board may grant waivers to providing on-site parking where it can be shown there is sufficient on-street or off-site parking existing within proximity of the proposed home occupation or village commercial home occupation or is made available to the home occupation or village commercial home occupation as set forth in Section 8.8C.5 herein.

Retail store, service business each employee	1 per 150 sq. ft. of gross lease able floor area plus 1 for
Supermarkets	1 per every 150 square feet of gross floor area, plus 1 for

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each employee

Service station 2.5 for each service bay

Theaters 1 for each four seats

Shopping center 5.5 per 1,000 square feet of gross lease able floor area

Bank 6 per teller window

Motels and hotels 1 per room plus 1 for each employee. If a meeting or conference room or rooms are provided, then 1 for each 4 person of the rated capacity of said rooms. If other uses are incorporated as part of any motel or hotel, additional spaces shall be provided in accordance with this Section.

Restaurant 1 per 3 seats devoted to service, plus 1 for each full-time employee

Funeral home 10 plus 1 per each 50 square feet devoted to chapel or slumber room and one for each employee

### Offices:

General 1 for each 200 square feet of gross leasable floor area, plus 1 for every 2 full-time employees

Medical, dental or veterinary 6 per doctor plus 1 per doctor or employee

Wholesale store or furniture store Exclusive of storage space, 1 per 400 square feet, plus 1 for each employee

Automotive sales or rental 1 per each 300 square feet of gross floor area, plus 1 for each employee

Flea markets 3 per each table or booth, plus 1 per employee

Auction or outdoor sale 1 per each 150 square feet of gross floor or ground area utilized for sale, plus 1 per employee present

Roadside stand 3 spaces plus 1 additional space per each 100 square feet of display area in excess of 300 square feet

### Community facilities:

Church, house of worship 1 for each 3 seats or at least 1 for each 50 square feet of gross floor area used or intended to be used for service to patrons, guest or members, whichever requires the greater number, plus 1 for each full-time employee

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Assembly hall, auditorium or community center	1 for each 4 seats or at least 1 for each 100 square feet of floor area used or intended to be used for service to customers, patrons, clients, guests or members, whichever is greater, plus 1 per each full-time employee
Hospital	1.5 per bed
Nursing home	1 per each 3 beds
Schools	
Elementary, middle or junior high schools	1 per each employee plus 10%
High school	10 per classroom
College	1 per every 2 students, plus 1 per every 4 dormitory beds
Library or museum	1 per every 500 square feet of gross floor area

### Industrial Establishments

Industrial, manufacturing use of gross floor area, whichever is greater	1 per employee plus 10% or 1 per every 750 square feet
Storage warehouse of gross floor area, whichever is greater	1 per employee plus 10% or 1 per every 750 square feet
Resource extraction operations	1 per employee per operations site or other facility, plus 10%

### Recreational facilities

Clubs, golf clubhouses, commercial and non-commercial uses	1 for each 6 persons of rated capacity
Marinas	1 for each slip and in the case of boats stored on land, then one for each space of land storage, plus 1 per each full-time employee and additional parking for other uses or activities provided as set forth herein

Other uses: To be determined by the Land Use Board based upon the requirements contained herein for similar uses and the factors generating parking need, such as number of patrons, floor area, seating capacity or availability of public transportation.

#### B. General regulations applying to required off-street parking facilities:

1. Structures and uses in existence at the date of adoption of this Ordinance shall not be subject to the requirements of this Section so long as the kind or extent of such use is not changed, provided that any parking facility now serving such structure or uses shall not in the future be reduced below such requirements.

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2. Whenever there is an alteration of a structure or change or extension of a use which increases the parking requirements according to the standards for this Ordinance, the total additional parking required for the alteration, change or extension shall be provided in accordance with the requirements of this Section.
  3. No parking area shall be used for any use that interferes with its availability for the parking need it is intended to serve.
  4. All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Off-street parking facilities shall not be reduced in total extent after their provision except upon the approval of the Land Use Board and then only after proof that, by reason of diminution in floor area, seating area, the number of employees or changes in other factors controlling the regulation of the number of required parking spaces, such reduction is in conformity with the requirements of this Section. Reasonable precautions shall be taken by the owner or operator of particular uses to assure the availability of required facilities to the employees or other person whom the facilities are designed to serve. Such facilities shall be designed and used in such a manner as to at no time constitute a nuisance or a hazard or an unreasonable impediment to traffic.
  5. Where the computation of required parking space results in a fractional number, any fraction of the next highest number shall be counted as one (1).
- C. The parking spaces required herein may be located elsewhere than on the same lot as the use they serve when authorized as a conditional use subject to the following conditions:
1. The owner or owners of two (2) or more establishments or properties shall submit with their application for a combined parking conditional use a site plan showing joint use and location of a common off-site parking area.
  2. Some portion of the common off-street parking shall be located within two hundred (200) feet of an entrance, regularly used by patrons, into the establishments served thereby.
  3. The Land Use Board may, at its discretion, reduce the required aggregate amount of required parking space upon determination that greater efficiency is achieved by joint use of a common parking area, but in no case shall the ratio of total off-street parking area to gross floor area be reduced less than twenty-five percent (25%).
  4. The said parking area is not to be located across a street, roadway or thoroughfare unless a pedestrian crossing, such as an overpass or traffic signal along a State highway or arterial road, is provided for persons utilizing said parking area. In the case of establishments within a village-designated zoning district and not located on a State highway or arterial road, a street, roadway or thoroughfare crossing using pavement crosshatch markings and signs warning motorists of pedestrian crossing may be permitted where such a crosswalk can be constructed in accordance with the "**Manual on Uniform Traffic Control Devices.**"
  5. It is the intent of this Subsection to recognize the nature of a home occupation and/or a village commercial home occupation and to recognize its limited size and scope of activity. Additionally, the Land Use Board may consider the nature of a village as set forth in the adopted Township Master Plan and reasonably allow deviation from strict compliance with off-street parking requirements in the case of such home occupations or village commercial home



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occupations as deemed appropriate to protect public safety. To this end and when requested in writing by the applicant for approval of such a home occupation or village commercial home occupation, the Land Use Board may grant a waiver from required on-site parking requirements by allowing the applicant to use on-street parking or off-site parking spaces to satisfy the parking requirements as set forth herein this Section; or grant a waiver from meeting a portion or all of the parking required of said home occupation or village commercial home occupation based on the following conditions:

- a. The type of business or activity and the availability of suitable parking on-site or along streets adjoining the property involved or in close proximity thereto.
  - b. The anticipated area from which clients or customers of the home occupation or village commercial home occupation are expected to be drawn, i.e., from the immediate village or from a further distance.
  - c. Submission of written proof that the applicant owns, leases or is permitted to utilize off-site parking for the home occupation or village commercial home occupation's clients or customers. Said agreement must be submitted by the applicant and specifically allocated and reserve said parking for the home occupation or village commercial home occupation, be within reasonable proximity to the property whereon the home occupation or village commercial home occupation is to be located, and existing conditions will permit pedestrian access between the off-site parking and the applicant's property.
  - d. In determining the suitability of any such reduction of parking required, allowing of on-street or off-site parking, or a waiver thereof, the Land Use Board may request testimony or comments from appropriate experts and officials familiar with the locations and roadways involved in the pending application. The Land Use Board may require the applicant to obtain, at his/her cost, such expert testimony and/or reports as deemed reasonably necessary to the support applicant's request.
- D. A private garage constructed as an accessory use in a residential zoning district shall be subject to the following special provisions in regard to its location:
1. In the case of a corner lot, said private garage shall be located at least ten (10) feet from the rear yard nearest the side street line, and it shall set back from the lot line behind it a distance equal to the required minimum setback of a side yard for the district in which it is located.
  2. An attached private garage shall be subject to the yard setback requirements of the principal structure to which it is attached.
  3. Community garages when built on the same lot as a principal building shall be located in conformance with the requirements of this Section for private garages; but when built as the principal use on a separate lot, said structure shall conform to the set back provisions for the principal use for the district within which it is located and to the side yard and rear yard provisions for a private garage as given in Section 8.8D.1 and 2.
- E. A commercial parking lot shall be subject to the following provisions:
1. No commercial parking lot shall hereafter be constructed or located within: (a) one hundred (100) feet of a non-village designated residential zoning district; or twenty (20) feet of a residence in any VR Village Residential or VB Village Business zoning district.

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2. No commercial parking lot shall have an entrance or exit connected with a public street at a point closer than two hundred (200) feet, measured along the same street line in the same block, to any single family, detached or attached dwelling, church, library, charitable institution, school, college, nursing home or hospital or similar use or any entrance or exit thereto.
  3. Within a VR Village Residential or VB Village Business zoning districts, a commercial parking lot or area for less than ten (10) spaces shall be at least twenty (20) feet from an adjoining residential property and be buffered by a fence, wall, plant material or combination of thereof sufficient to prevent headlight glare and blowing of debris or trash onto any adjoining residential property. The Land Use Board in approving a site plan may increase the required buffer width where deemed necessary to avoid nuisances or adverse effects an adjoining residential property. Any buffer created to satisfy the requirements of this subsection shall be aesthetic in appearance as seen from adjoining roads or properties and if assembled of landscaping and vegetation, said vegetation shall conform to the provisions of Section 10.4AA herein.
- F. No motor vehicle or motor vehicle and trailer in combination which shall weigh in excess of eight thousand (8,000) pounds shall be placed or stored in any zoning district in such a way as to obstruct driver vision or cause a safety hazard. Additionally no such vehicle or vehicle and trailer combination shall be placed or stored in a residential zoning district in such a way as to create a nuisance from noise, glare or exhaust to adjoining properties.
- G. The placing or storing of a single commercial vehicle at the residence of the owner or operator of said vehicle does not constitute the parking of a commercial vehicle in a non-commercial zone provided that:
1. Said placing or storing is limited to a single vehicle;
  2. This interpretation is limited to temporary placing or storing of said vehicle and does not extend to the repair or maintenance of said vehicle or any commercial activity being conducted on-site; and
  3. The location of said vehicle's placement on the property is in such a manner as to not create a nuisance to the residential neighbors or otherwise violate any applicable municipal ordinance.

### **8.9 Outdoor storage**

- A. Outdoor storage of any type shall not be permitted unless such storage is normally incidental to the permitted use(s) and/or part of the normal activities conducted on the premises therewith by said permitted use(s). All outdoor storage shall be subject to the requirements of the zoning district in which it is located including setbacks, area and coverage requirements, and shall be screened as provided for in Section 10.4D of this Ordinance from any property used or zoned for residential purposes. No storage shall be permitted in front yard areas with the exception of properties abutting the Maurice River in which case it shall be screened to the greatest extent possible from river view.
- B. In the case of a home occupation as set forth in Section 8.6 or a commercial activity, merchandise may be located in the front yard area during normal business hours to display the type of merchandise made and/or available for purchase on-site. Additionally, agricultural products in a farm or roadside stand as permitted in Section 9.14A, a vehicle, lawn or farm equipment, boat or similar item so normally displayed for sale and if owned by a resident of the property upon



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which is displayed for sale, shall be allowed within a front yard area.

- C. No more than one (1) legally tagged and registered travel trailer, utility trailer, pick-up bed camper (a portable structure commonly used for camping designed to fit on the bed of a pickup truck) or other recreational vehicle used for camping or lodging carrying registration for the current year, shall be located or stored on any residential property within the Township. Storage of such a travel trailer or recreational vehicle used for camping or lodging shall be stored in such a way as to not cause a nuisance to adjoining properties or a safety hazard with regard to vision along adjoining driveways and/or streets. There shall be no hookup or connection of said travel trailer, recreational vehicle, or pick-up camper as noted above to any sewer, water, electric, gas or other utility line or facility in the Township, except that such trailers vehicles or pickup bed campers may be connected to electricity during cold weather periods to prevent freezing upon obtaining a permit from the Construction Official.

Other types of recreational vehicles as defined in Section 3.3 of this Ordinance than those listed above may be stored on the property of their owner as an accessory use subject to the standards set forth in the Schedules of District Regulations for an accessory use to a residential use in the zoning district in which it is to be stored. Not more than two (2) such recreational vehicles shall be stored outdoors on any one (1) property. The storage of such any recreational vehicle shall not be in any front yard area.

Storage of motor vehicles of any kind, registered or non-registered, campers, trailers or any other vehicle or over-the-road unit cannot be stored on vacant property in residential zoning districts.

### **D. Storage of boats**

1. Boats which are the size and type subject to registration by the State of New Jersey shall be currently registered with the State of New Jersey and no boat shall be located on any residential property in the Township which at any time is in the state of substantial disassembly, disrepair or in the process of being stripped or dismantled or which is not currently registered.
2. No boat shall be stored on a residential property in the Township on blocks within the front yard of any residential property.

### **E. Storage of utility or tractor trailer box trailers**

1. For purposes of this Section, the following terms shall be defined as set forth herein below:
  - a. Utility trailer – A trailer utilized for the hauling of miscellaneous material, which may be either open or enclosed, and licensed as a utility trailer by the State of New Jersey
  - b. Tractor trailer box trailer (sometimes referred to as a shipping cargo container box) – A box trailer of a type generally pulled by a tractor trailer truck over the highway, or the box removed from such trailer utilized as a container or ship cargo container, whether or not mounted on wheels.
2. No untagged or unregistered utility trailer shall be permitted to be located on any residential property in the Township. Untagged or unregistered utility trailer may be used for storage of equipment, materials or other animals within the A Agricultural, C/R Commercial Recreation and RR Rural Resource Zoning Districts or any bona fide farming operation within the Township. Additionally, untagged or unregistered utility trailers may be stored on any commercial trucking

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terminal, maintenance facility or sales area within the VB Village Business Zoning District.

3. Use of a tractor trailer box trailer of any type, whether with registration or unregistered shall only be permitted on a residential property in the Township where such tractor trailer box trailer is placed for use in connection with a move into or out of the residential unit by the current owner (seller or buyer). In such cases, said box trailer shall not remain on the property for more than one (1) week for either the buyer or the seller of said residential unit.
4. Permanent or temporary use of a tractor trailer box trailer for storage, housing or protection of animals or for any other reason shall be prohibited in all zoning districts with the exception of said tractor trailer box trailers use for storage of equipment or materials within the RR Rural Resource and VB Village Business Zoning Districts.

### **8.10 River Conservation/Flood Plain Overlay Zone District**

- A. **Purpose and intent** The specific purpose and intent of this Section is to provide for the protection of the natural resources of the Maurice River and its tributaries while providing regulations for the future development of the adjacent area.

A Local River Management Plan produced by the Cumberland County Department of Planning and Development and subsequently adopted by the Commercial Township Land Use Board as an amendment to the Township Master Plan provides clear goals, objectives, and guidelines for the future development of the Maurice, Menantico, Manumuskin, and Muskee Rivers' corridors. The River Conservation/Flood Plain Zone District is hereby established to provide the land use controls which are necessary for implementation of the adopted River Management Plan.

The purposes of this Section are summarized below:

1. Protect the health, safety and welfare of river corridor residents.
2. Protect and enhance the valuable natural resources of the River Conservation /Flood Plain Zone District.
3. Protect and encourage the continuation of existing traditional land and water uses within the River Conservation /Flood Plain Zone District.
4. Identify those future land uses which would conform with this Section; those uses which, with conditions, would be deemed to conform; and those uses which would not conform.
5. Identify specific development and site design standards to be applied within the River Conservation / Flood Plain Zone District.
6. Provide regional management of the river corridors through local land use controls.

B. **Establishment**

1. The River Conservation /Flood Plain Overlay District is established divided into two overlay subdistrict overlays, imposing a set of development requirements in addition to those of the existing, underlying zoning district. The RC/FP River Conservation/Flood Plain Overlay Zone is depicted on the Commercial Township Zoning Map with two (2) sub-zone overlays: the Resource Protection/Flood Plain Sub-Zone Overlay and the Development Sub-Zone Overlay. Any

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development standards not expressly provided in the Resource Protection/Flood Plain Zone District shall be governed by the underlying zoning district. Where there is a conflict between the development standards provided for in the RC/FP Overlay District regulations contained in this section and the development standards provided for in the underlying zoning district, the most stringent requirement shall apply.

2. Those area within Commercial Township defined as Flood Hazard Areas on the U. S. Department of Housing and Urban Development's most recent FIA Flood Hazard Boundary Map for Commercial Township and which are shown on the map designated as the Commercial Township Zoning Map are hereby included with the area designated as the River Conservation and Flood Plain District. Within the floodplain areas described above, there are hereby designated floodways as defined in Section 3.3 of this ordinance.
- C. **Limitations** This Section applies only to activities within the landward boundaries of water courses mapped as the River Conservation /Flood Plain Zone District on the Commercial Township Zoning Map, Resource Protection/Flood Plain Overlay Sub-District. Only flood plain regulations shall apply to the Development Sub-District Overlay. Nothing contained herein shall limit rights of landowners to maintain lawfully established uses.
- D. **Nonconforming uses** Existing land uses which do not meet the standards outlined in this Section are to be identified as "nonconforming uses." The Commercial Township Land Development Regulations Ordinance, Article VII, Section 7.1, provides conditions for those lawfully existing uses which do not meet the provisions of the RC/FP Resource Conservation/Flood Plain Overlay District as of the establishment of this RC/FP Overlay District by Ordinance adopted June 25, 1992.
- E. **Principal uses** Any land use identified within this Article as a principal use is allowed, subject to the restrictions of the applicable underlying district regulations.
- F. **Conditional uses** Any land use identified within this Article as requiring a conditional use or requiring a special permit is allowed only upon showing that such use in a specified location will comply with all the conditions and operation of said for the location and operation of such use as specified by the Township Development Regulations Ordinance and authorized by the Land Use Board through said ordinance.
- G. **Prohibited uses** All uses identified in the Section 1 2 herein as a prohibited use are expressly forbidden. In addition, all uses which are not expressly permitted as either a principal use or as a conditional use in this Ordinance are also prohibited.
- H. **Sub-Districts** Within the River Conservation/Flood Plain Overlay District two (2) sub-districts are hereby established to set forth the type of use and manner in which it is permitted throughout the District. The applicable standards are in addition to the existing, underlying zoning district regulations.
- I. **Resource Protection/Flood Protection Sub-District**
  - I. Principal uses:
    - a. Low density residential with the following restrictions:

Minimum lot size of five (5) acres per dwelling unit

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Minimum building setback of one hundred and fifty (150) feet  
Maximum clearing of vegetation twenty percent (20%) of lot area  
Minimum septic system setback of one hundred fifty (150) feet

- b. Conservation activities
  - c. Recreational uses, not requiring re-grading or removal of trees, shrubs, or vines, such as a park, picnic grove, boating club, but excluding closed structures or storage areas
  - d. Game farm or fish hatchery.
  - e. Hunting and fishing reserve.
  - f. Wildlife sanctuary, woodland preserve or arboretum.
2. **Prohibited uses:**
- a. Landfills.
  - b. Waste storage/incineration.
  - c. Sludge farm or land application.
  - d. Radioactive waste facilities.
3. **Minimum Lot Size** The minimum lot size required in this Section shall not hold precedence over larger minimum lot sizes required in underlying zoning districts. In the case of a conflict between the RP/FP Resource Protection/Flood Plain District Overlay Zone and the underlying zoning district, the largest minimum lot size shall be required.
4. **Setbacks** All building setbacks and septic system setbacks shall be measured from the Mean High Water line. This is the line formed by the intersection of the tidal plane of mean high water with the shore.
5. **Clearing of vegetation** All principal uses shall be limited to a maximum amount of removal of natural, indigenous vegetation. Replanting of ornamental species shall not constitute adequate mitigation for exceeding this requirement.
6. **Buffers and natural filter strips** A vegetation buffer, composed of indigenous species, shall be maintained parallel to the Mean High Water line for a width of not less than fifty (50) feet. For the purposes of normal pedestrian access to the water front, an opening of not more than ten (10) feet may be excluded from the buffer requirements.
7. **Minimum river frontage** A minimum river lot frontage of three hundred (300) feet shall be required for all principal uses located adjacent to the river corridors as identified in Section A "Purpose and intent" herein.
8. **Additional Requirements to Address Flood Hazard Area** Those areas defined in Section defined in Section 8.10C.2 as Flood Hazard Areas shall be governed by the additional requirements provided in this subsection.

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- a. Any structure proposed to be erected, constructed or located shall not have a basement unless the applicant provides evidence that the proposed structure is located outside the Flood Hazard Area portion of the River Conservation/Flood Plain Zoning District.
- b. The first floor of any structure or structures located within the Flood Hazard Area portion of the Resource Protection/ Flood Plain Sub-Zone Overlay shall be elevated above the elevation of the nearest natural stream or watercourse within five hundred (500) feet of the building location involved, as determined by the Township Engineer. The elevation of the first floor of such structure shall be determined by the Township Engineer, but shall be no more than ten (10) feet above the elevation of the nearest natural stream.
- c. Any new construction or substantial improvements shall conform to all construction codes and other applicable regulations of the Township of Commercial including the requirement that the proposed construction:
  - (1) Is protected against flood damage;
  - (2) Is designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure;
  - (3) Uses construction materials and practices that will minimize flood damage;
  - (4) New or replacement water supply system and/or sanitary sewage system are to be located so as to avoid impairment to them or contamination from them during flooding.
  - (5) Except in situations where site plan review is not required, no vegetation removal or regarding of a site shall be carried out unless expressly permitted by the Commercial Township Land Use Board after site plan review and a determination by said Board that any land disturbance activity is the minimum required to accomplish the used to be permitted.
  - (6) Where less than twenty (20) percent of an existing lot is located within a floodplain area, the use as permitted and regulated by this ordinance for the zone district in which the area is located shall apply, providing that no structures are placed within the floodplain area. In the case of lots split by the floodplain designation, all construction and accompanying land disturbance activities shall take place outside the floodplain area, and all minimum yard dimensions and maximum lot coverage for the entire tract or lot shall be observed, unless construction within or land disturbance of the floodplain is permitted in accordance with the provisions of the subsection.
  - (7) No nonconforming uses created as a result of the regulations herein this section shall be expanded or be rebuilt or reestablished in the event of their destruction or abandonment, except as provided in this subsection.
  - (8) The granting of a zoning permit in the floodplain are shall not constitute a representation, guaranty or warranty of any kind by the Township of Commercial or by any official or employee thereof of the practicability and safety or flood-prone status of the proposed use, nor shall the granting of such a permit create any liability upon the Township of Commercial, its officials or employees.

### **J. Medium density residential cluster development      Medium density residential development**

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shall be permitted within the Resource Protection/Flood Plain Sub-Zone Overlay District as a conditional use when utilizing the Cluster Development Criteria described in the River Management Plan addendum to the Township Master Plan.

1. The creation of three (3) or more lots for residential use, whether or not constituting a major subdivision or construction of three (3) or more dwelling units within a five-year period from or on a property or set of contiguous properties in common ownership as of October 1, 1991, within the Resource Protection Sub-Zone Overlay District, shall be allowed only as a conditional use by the Land Use Board, in accordance with the criteria set forth below.
2. Application requirements. Applicants for a conditional use shall file with the Land Use Board the appropriate number of copies of a site plan and environmental impact statement to include the information required by Article XII and payment of fees and establishment of an escrow account according to Article XIII of this Ordinance.
3. Criteria for conditional use. Applications for a conditional use for residential communities in the Resource Protection Sub-Zone Overlay District shall meet all of the following criteria:
  - a. The development plan shall demonstrate that, where applicable, the proposed development meets all of the requirements of Township site plan and subdivision review rules and regulations.
  - b. The minimum area of land for a conditional use development shall be twenty-five (25) acres.
  - c. The total number of dwelling units shall be determined at the rate of one (1) unit per every two (2) acres of buildable land, after excluding from this computation all wetlands, wetlands transition areas, and flood-prone lands as defined by N.J.A.C. 7:7A, N.J.A.C. 58:16A, and N.J.A.C. 13:9A.
  - d. The total area of residual open space within the development shall be at least fifty percent (50%) of the total area of developable land in the proposed development, excluding from this all computations of wetlands, wetlands transition area, and flood-prone lands.
  - e. All residual land which is to be used only for passive recreation or natural open space shall be managed in accordance with the guidelines set forth in the Commercial Township Land Development Regulations Ordinance.
  - f. Conditional use applicants shall provide copies of deed covenants with prospective purchasers or conservation easements with the municipality, describing land management practices to be followed by whichever party or parties are responsible for maintenance of the residual open land.
  - g. Further subdivision of residual land or its use for other than non-commercial, passive recreation or conservation shall be prohibited. These restrictions shall be recorded in a conservation easement to which the Township is a signatory party.
4. Design guidelines. The proposed development shall meet the following applicable design guidelines:
  - a. Dwelling units shall be grouped so that, on average, they consume no more than one (1) acre of land per dwelling unit, including roads, and that a maximum of fifty percent (50%) of the parcel results in impervious coverage.

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- b. Lots shall be laid out, to the greatest extent feasible, to achieve the following objectives (listed below in order of priority, as it is recognized that some may conflict with others on any given site):
  - (1) On the most suitable soils for sub-surface septic disposal as provided in the County soils survey;
  - (2) On the least important soils for natural vegetation important to wildlife as provided in the County soils survey;
  - (3) Within any upland woodland contained in the parcel to reduce impact\ upon the visual quality of the river, to provide summer shade and shelter from winter wind, and to enable new construction to be visually absorbed by natural landscape features;
  - (4) In locations least likely to block or interrupt scenic vistas, as seen from the river; and
  - (5) Other criteria which may be listed in the Township's site plan and subdivision rules and regulations, Articles X through XIII of this Ordinance, as applicable to the application, for the promotion of the public health, safety and welfare.
- 5. **Issuance of conditional use permit** Conditional use permits may be issued in accordance with the procedures outline in N.J.S.A. 40:55D-1, et seq. and Section 13.4 of the Commercial Township Land Development Regulations Ordinance.
- 6. **Conservation and recreational conditional uses** Within the Resource Protection/Flood Plain Sub-Zone located south of the Mauricetown Bridge and Causeway, the Land Use Board on application for a conditional use permit may allow such conservation and recreational uses deemed related and traditional to the environment, culture and history of the river corridor. Any such application shall comply with the provisions of Article XII of this Ordinance, as applicable, including the submission of an environmental impact statement and such other information as required to determine whether the proposed conditional use is not detrimental to the purpose and intent of the River Conservation Overlay District.
- K. **Development Sub-District** Existing and new commercial, maritime-based industrial uses and such other uses as allowed under Township zoning regulations of the underlying zoning district shall continue without the additional requirements of Section 8.10 with the exception of Section 8.10I.8 regarding additional requirements to address Flood Hazard Areas.
- 8.11 **Signs** No sign shall be erected, re-erected, constructed, altered, placed or maintained except as provided for in this Section. No sign of any type shall be permitted to obstruct driver vision, traffic signals, traffic directional and identification signs, other places of business signs, or windows of buildings on which they are located, or fire escapes, doors or ventilation openings. No sign shall be attached to trees, fence posts, stumps, utility poles, bridges, culverts, or other signs. All signs shall be freestanding or attached to buildings in an approved manner and located on said lot the use for which they advertise. Signs shall be permitted in accordance with the following standards and requirements:
  - A. In all zoning districts, the following signs shall be permitted without obtaining a zoning or sign permit:
    - 1. All signs and signals owned and operated by the Township of Commercial, the County of

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Cumberland, the State of New Jersey or the United States Government or their respective agencies. The Land Use Board at its discretion may approve groupings of signs for direction and information as to public access facilities, such as eating, lodging, boating, camping, historical and recreational facilities. Such groupings shall be limited to a maximum of thirty-two (32) square feet of information area and the content and appearance shall be at its discretion.

2. Identification signs for public or quasi-public facilities, such as schools, churches, hospitals, libraries or museums not exceeding two (2) square feet in area.
  3. Memorial or historical markers or tablets not exceeding four (4) square feet in area.
  4. Customary on-site real estate signs temporarily advertising the sale, rental or lease of the premises or portions thereof, and professional offices or home occupation nameplates (or signs). No such sign shall exceed six (6) square feet in area or be more than one (1) such sign for each two hundred (200) feet or part thereof of road frontage contained in the property on which such sign is to be located. Such signs shall only be located on the property where the use or structure is located that said sign(s) are advertising or identifying. Such signs shall be removed at the expense of the advertiser within fifteen (15) days after the termination or completion of the matter or business advertised. Where a property for sale or rent is located on a residential street used only for access to properties located thereon, a directional sign indicating a property for sale or rent on said street may be placed at the intersection of said street and the collector or arterial street into which it empties provided said identification sign is not larger than four (4) square feet in size.
  5. Street number designations, postal boxes, on-site directional and parking signs, warning signs and signs posting property as "Private Property," "No hunting or gunning," "No trespassing" or similar signs which do not exceed two (2) square feet in area.
- B. All signs shall be designed, constructed and maintained in accordance with the following standards and provisions:
1. No freestanding sign shall exceed the maximum building height permitted for the same in the district in which it is located, and no attached sign shall be higher at any point than the roof line of the building to which said sign is attached. No attached sign shall project into or hang over a street right-of-way, and no sign shall project beyond a building in a manner placing it above areas traversed by motor vehicles, such as but not limited to driveways and parking or loading areas.
  2. All signs shall conform to the standards of the Uniform Construction Code.
  3. Illuminated signs shall be so arranged as to reflect the light and glare away from adjoining premises and away from adjoining streets and/or rights-of-way so as to avoid a traffic hazard.
  4. Sign area shall be measured around the outside edges of a framed or enclosed sign or by the area utilized by isolated words and/or symbols, including background, whether open or enclosed, but said area shall not include any supporting framework and bracing incidental to the display itself.
  5. Signs and sign structures of all types shall be located to allow a clear, unobstructed line of vision as specified in Section 8.3C.
  6. Signs with more than one (1) exposure shall be measured for area by using the surface area of one (1) side providing one side is visible from either direction on the adjoining road. All sides



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however, may be used for display providing the total area does not exceed double that allowed for the single side.

7. All signs shall be constructed of durable material such as wood, metal, stone or masonry. Whenever possible, signs and materials used to construct same shall be harmonious with its scenic surroundings.
- C. In order to prevent nuisances, glare or continuous intermittent or disorienting displays of light to surrounding uses, the traveling public and to avoid dangerous distractions to or creating confusion for driver vision along roadways, or the unnecessary intrusion of commercial advertising activity into non-commercially zoned areas or areas zoned for protection of natural landscapes within the community the following signs are prohibited in all districts:
  1. Signs with red, yellow, orange or blue illumination in a beam, beacon, or flashing form resembling an emergency light or traffic control device in any location.
  2. Portable signs i.e. fixed on a movable stand or frame which is self-supporting without being firmly embedded in the ground, supported by other objects, mounted on wheels or movable vehicles or made easily movable in some other manner.
  3. Signs using mechanical or electrical devices to revolve flash or display movement or the illusion of movement.
  4. Signs using sudden light changes.
- D. In any district where the following uses are permitted, the following signs shall be permitted in connection with said uses:
  1. Churches, places of worship: Each such use shall be permitted one (1) freestanding sign not exceeding twelve (12) square feet in area and ten (10) feet in height and set back at least twenty (20) feet from all street rights-of-way and lot lines, plus one (1) attached sign not exceeding twenty-five (25) feet in area. Such signs may be illuminated.
  2. Public building, museums and libraries or other similar type uses: Each such use shall be permitted one (1) freestanding sign not to exceed twelve (12) square feet in area and ten (10) feet in height and be set back at least twenty (20) feet from all street rights-of-way and adjoining property lines. In addition, such uses may have one (1) attached sign not to exceed thirty (30) feet in area. The sign may be illuminated.
  3. Apartments and multi-family dwelling complexes: Each development having in excess of four (4) dwelling units may have one (1) sign along each arterial or collector road which the tract involved abuts, provided that there exists at least two hundred (200) feet of frontage. Such sign(s) shall not exceed ten (10) feet in height, shall be set back from all street rights-of-way and driveways at least thirty (30) feet, shall be set back from the property lines a minimum of fifty (50) feet, shall not exceed an area of forty (40) square feet, and shall be used only to display the development name.
  4. Retail and service uses, restaurants not located on arterial roads, professional and business offices, banks and similar uses: Each such activity may have one (1) illuminated or non-illuminated sign displaying the name of the use attached flat against the front of the building in

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which it is located, not exceeding an area equivalent to five percent (5%) of the front of the building or forty (40) square feet, whichever is smaller. Where the building(s) is designed for rear or side entrances, one (1) unlighted sign may be attached flat against the building at the rear or side entrances, each sign not to exceed an area equivalent to half that of the sign on the front of the building.

In the case of restaurants located along arterial roads, said establishment may have one (1) freestanding sign not exceeding twenty (20) square feet in area and thirty (30) feet in height. Said sign shall be set back from all street rights-of-way at least ten (10) feet. In addition, each such establishment may have one (1) attached sign on the front, rear and side entrances to the building in which it is located as provided hereinabove.

5. Theaters and indoor commercial recreation: Each use may have one (1) illuminated or non-illuminated sign displaying the name of the use attached flat against the front of the building in which it is located, not exceeding an area equivalent to five percent (5%) of the front facade of the building or one hundred (100) square feet, whichever is smaller. Where the building(s) is designed for rear or side entrances, one (1) unlighted sign may be attached flat against the building at the rear or side entrances, each sign not to exceed an area equivalent to half that of the sign on the front of the building.

Additionally, the Land Use Board may permit one (1) freestanding sign not to exceed thirty (30) square feet in area and thirty (30) feet height. Said sign shall be set back from all street rights-of-way at least ten (10) feet and forty (40) feet from any adjoining property lines. Said freestanding sign may be illuminated or not and shall be used to display the name of the use and the current program of events or entertainment. Such uses may also at the discretion of the Land Use Board, have one (1) additional attached sign on the front of the building for display of the program or event offered provided said sign does not exceed sixty (60) square feet in area.

6. Clubs, lodge or assembly halls, or other similar uses: Each use shall be permitted one (1) sign; either freestanding or attached to the structure façade which faces one adjoining roadway and not exceeding an area of forty (40) square feet. If freestanding, said sign shall not exceed forty (40) feet in height and be located at a minimum of twenty (20) feet from any adjoining road rights-of-way and forty (40) feet from any adjoining property lines. Such sign may be illuminated.
7. Multi-office building or complex, hotel, motel, or professional or business office center: Any such use may have one (1) sign, either freestanding or attached, not exceeding an area equivalent to five percent (5%) of the first floor portion of the front facade of the main structure or one hundred fifty (150) square feet, whichever is smaller. If the sign is freestanding it shall not exceed a height of fifty (30) feet and shall be setback a minimum of 20 feet from any road right-of-way and 40 feet from any adjoining property line. Where an individual office unit within such a structure or complex has direct access from the outside, a sign not exceeding four (4) square feet, identifying the name of the office or occupant thereof, may also be attached to the building at the office entrance.
8. Planned neighborhood commercial developments: Each development, i.e., shopping center, may have one (1) freestanding sign along each arterial or collector road which the tract involved abuts, provided that there exists at least two hundred fifty (250) feet of unbroken frontage. Such sign shall not exceed a height of sixty (60) feet in height, shall be set back from the street rights-of-way and driveways at least twenty (20) feet, shall be set back from any property line a minimum of one hundred (100) feet, and shall not exceed an area of two hundred (200) square feet.

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- a. Where uses share a common walkway, each use served by the walkway may have one (1) sign which sign shall be attached flat against the building either above or below the common walkway canopy and/or one (1) sign suspended perpendicular fashion from the roof or canopy over the common walkway. Suspended signs shall be no closer than eight (8) feet at their lowest point to the finished grade level below them. No such sign shall exceed ten (10) square feet in area.
- b. All signs in a planned neighborhood commercial development shall conform in character to all other signs in the center or complex and shall blend with the overall architectural scheme of the center or complex and its surroundings.
9. Service station or repair garage: Each use may have: (a) one (1) freestanding sign, (b) one (1) sign attached flat against its primary structure, and one (1) sign identifying the name of the company in the case of a canopy over a fueling area. The freestanding sign shall not exceed an area of twenty (20) square feet, shall be set back at least ten (10) feet from all street rights-of-way and lot lines, and shall not exceed a height of thirty-five (35) feet. The attached sign shall not exceed thirty (30) square feet in area.
10. Industrial and manufacturing use, whole distribution center or warehouse, a construction company, body shop, or similar uses: Each use shall be permitted one (1) sign not larger than the equivalent of five percent (5%) of the area of the front wall of the principal building facing the street or one hundred (100) square feet, whichever is smaller. If attached to the building, the sign shall not be higher than the roofline. If freestanding, the sign shall be set back from all street rights-of-way and driveways and lot lines at least forty (40) feet. The maximum height of freestanding sign shall not exceed thirty-five (35) feet.
11. Marina: Each marina may have one (1) freestanding sign along the road it abuts. Such sign shall not exceed a height of twenty (20) feet or exceed sixty (60) square feet in area. The freestanding sign shall not be visible from any adjoining river or creek, shall be outside any road rights-of-way, at least ten (10) feet from any property line and not an impediment of driver vision on any street or driveway. Additionally, one (1) attached sign may be permitted on any principal building. Said attached sign shall not be larger than the equivalent of five percent (5%) of the front facade of said building or fifty (50) square feet, whichever is greater. When a marina is located at the end of a dead end street or road, one (1) off-site freestanding sign shall be permitted to be located at the intersection of said dead-end street or road and collector or arterial roadway. Said additional off-site freestanding sign shall not exceed a height of ten (10) feet or an area greater than twenty (20) square feet. It shall be located outside of any road rights-of-way or sight triangle area which exists or would be required should the property upon which said sign is to be located were developed as per the requirements of this Ordinance.

Each marina may have one (1) freestanding sign not larger than twenty (20) square feet in area located adjacent to the river or creek to which the marina is situate which sign may only identify the marina and the availability of fuel. Said sign shall be located to be visible to marine traffic on the river or creek passing the marina and may be located on land or dock or piers to height of no greater than ten (10) feet above mean high tide.
12. Real estate advertising: Real estate offered for sale or rent, involving ten (10) acres or more or in excess of ten (10) dwelling units may have one (1) sign along each arterial or collector road which the tract involved abuts, for each one hundred (100) feet of unbroken frontage with a maximum of two (2) signs per site or location. Such sign shall not exceed ten (10) feet in height, shall be set back from street rights-of-way and driveways so as not to overhang or obstruct driver vision, shall not exceed an area of thirty-two (32) square feet and shall be used only to display the

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development name, sales representative, location of sales office, telephone number, display or viewing schedule and artwork designed to demonstrate project layout, appearance or logo. Such sign (s) shall be removed after the sale of ninety percent (90%) of the lots or units or within one (1) year, whichever occurs first. The Land Use Board may grant extensions upon submission of evidence sufficient to reasonably justify continuation of the sign permit.

13. Construction site: Such use may have one (1) sign dealing with construction on-site, not larger than the equivalent of five percent (5%) of the area of the front wall of the building involved or one hundred (100) square feet, whichever is smaller. The sign shall not exceed ten (10) feet in height and shall be set back from all street rights-of-way and lot lines at least forty (40) feet. Said sign shall be removed prior to the issuance of a certificate of occupancy for the building or use under construction once it is established or completed.
14. Retail use for new and used automobiles, farm equipment, recreational vehicles or boats, trucking terminals or similar uses: Each such use may have one (1) freestanding sign for each two hundred (200) feet of unbroken frontage with a maximum of three (3) signs per site. Such sign shall not exceed sixty (60) feet in height, shall be set back from the street rights-of-way at least thirty (30) feet, and from driveways at least twenty (20) feet, shall be set back from any property line a minimum of fifty (50) feet and shall not exceed an area of two hundred (200) square feet. In addition to said freestanding sign(s), the following attached signs are permitted:
  - a. One (1) sign displaying the name and insignia of the business or use attached against the front of the building used for sales office and/or showroom, not exceeding an area equivalent to five percent (5%) of the front facade of said building or one hundred (100) square feet, whichever is smaller.
  - b. One (1) attached sign not exceeding twenty (20) square feet in area, which sign or signs identify specific areas or the structure(s) utilized for accessory uses, such as a garage, office, or service area. Said sign(s) shall be located directly above or in close proximity to the entrance leading to said portion of the principal structure or accessory structure used for the specific use advertised.
15. Home occupation and village commercial home occupation: A home or home professional occupation is permitted one (1) sign illuminated or non-illuminated, with two (2) square feet of display area per side for advertising or a maximum of four (4) square feet of total advertising area. Said sign may be freestanding on a post or pole outside the street rights-of-way and the side yard setbacks for the zoning district within which it is located, or it may be attached to the front of the home or accessory structure wherein the home occupation is located. If illuminated, said illumination shall be designed to prevent a nuisance to adjoining properties or traffic along adjoining street rights-of-way.

A village commercial home occupation is permitted one (1) sign, illuminated or non-illuminated, with a total display area of twelve (12) square feet, including both sides if doubled-faced. Said sign may be freestanding on a post or pole outside the street rights-of-way and the side yard setbacks for the zoning district within which it is located, or it may be attached to the front of the home or accessory structure wherein the home occupation is located. Said sign shall be located, constructed and placed so as to blend with its location and character of the village within which it is located. If illuminated, said illumination shall be designed to prevent a nuisance to adjoining properties or traffic along adjoining street rights-of-way. No other signs shall be permitted including the posting or hanging of a sign, poster or other item intended to identify the property.
16. Grand opening events: A new business, or other use celebrating its opening or reopening in the

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case of new, renovated or change of business activity, may temporarily display banners, pennants or flags on the primary building of the business involved or the property thereof provided that such banners, pennants or flags are not located in such a way as to obscure driver vision from adjoining roadways or driveways, impede access to the building, walkways or the site, or are displayed in such a way as to create a safety hazard. All banners, pennants or flags shall be securely attached or positioned in a fashion to provide clear access and not create safety hazards. Additionally, one temporary (1) sign may be attached to said business' building or structure, or located as a freestanding sign of not more than 100 square feet in area or at a height greater than thirty (30) feet, and which sign shall announce "Grand Opening," or other brief relevant notice.

Freestanding signs shall not obscure driver vision from adjoining roads and driveways or impede access to the site, buildings or pedestrian ways. If said sign is attached to a structure, it shall not obscure or block doors, windows or other exits from said structure, and be securely attached to said building.

All such signs, banners, pennants or flags placement shall require a sign permit and said permit shall allow such placement for a period of time not to exceed three (3) weeks in duration. Only one such sign permit for such an opening or reopening shall be issued for any one business, development or use within any one (1) calendar year unless said business, development or use has recently changed ownership, undergone a change of commercial activity or a major remodeling requiring site plan review or a new zoning permit.

Inflatable, mechanized figures or special lighting equipment or devices shall require Land Use Board approval prior to issuance of a sign permit and will be subject to compliance with the Uniform Construction Code.

17. Resource extraction operations or facilities: Each resource extraction operation (area where land mining is occurring) or facility (plant) may have one freestanding or monument-type sign located at the main or primary entrance to said operation area. Said sign shall not exceed sixty (60) square feet in area or exceed thirty-five (35) feet in height. Only one such sign shall be permitted on any one roadway. If additional entrances exist on the same road abutting the operation area, then one (1) additional freestanding sign is permitted to identify the site and said sign shall not exceed twenty (20) square feet in area or exceed a height of twenty (20) feet. Said signs shall be located at least fifteen (15) from the adjoining roadway right-of-way. All freestanding signs along roadways may be illuminated provided that said illumination does not create undo glare or excessive light onto roadways or adjoining residences or other structures wherein such glare or excessive lighting might create a nuisance or annoyance.

Within an operations area or facility site individual structures or activity areas such as a loading area may each have one (1) illuminated or non-illuminated sign which may include the company name and the structure's or area's identification such as "Main Office," "Site Office" or "Loading Area." If attached to a building said sign shall not exceed five percent (5%) of the total area of the front façade of said building or not more than twenty (20) square feet, whichever is less. Additionally, within an operations or mining area, traffic control or directional signs may be posted to direct traffic around the site.

As part of any reclamation plan a provisions for the removal of all signs related to a specific area(s) or site(s) shall be provided once resource extraction has terminated and prior the area(s) or site(s) being deemed reclaimed according to the approved plan, said sign(s) shall be removed accordingly.

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See Section 8.11H.5 for off-street directional signs permitted.

18. Other use: Whenever it is proposed to erect, construct or install a sign for a use or structure, as permitted under the provisions of this Ordinance, which said use does not generally approximate a use set forth in this Section as to sign details or numbers permitted, the Zoning Officer may issue a sign or zoning permit for one (1) sign not exceed fifty (50) square feet in area which meets the maximum setback requirements for an accessory use in the zoning district in which the sign is to be located. Such sign shall not exceed a height of forty (40) feet. All other cases shall require review and approval by the Land Use Board.
- E. **Sign interpretation and measurement** For the purposes of determining the number of signs, a sign shall be considered to be a single surface or display device, containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is a reasonable doubt about the relationship of elements, each element shall be considered to be a single sign. The surface area of the sign shall be computed to include the entire area within a parallelogram, triangle, circle, semicircle or other geometric design comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members of freestanding signs shall not be included in computation of the sign surface area.
- F. **Temporary signs** Zoning or sign permits are required for temporary signs, except real estate signs as provided for in Section 8.12.A.4, and, when granted, shall authorize the erection of said signs and their maintenance for a period not to exceed ninety (90) days in any one (1) calendar year. When found reasonable, the Land Use Board may grant an extension for a temporary sign permit in accordance with the procedures for granting an area variance set forth in Section 12.7 of this Ordinance. Temporary signs shall not exceed thirty-two (32) square feet in area on one (1) side. The advertisement contained on any temporary sign shall pertain only to the business or activity conducted or to be conducted on or within the premises on which such sign is or will be erected or maintained. A zoning or sign permit shall not be required for temporary signs of a civic, political or religious nature to be erected or placed by a non-profit organization and which meets the standards of this Section. Any temporary sign shall be removed within two (2) calendar days from the expiration of the sign permit or upon the cessation of the activity or purpose for which a temporary sign permit was issued the sale of a property pending closing.
- G. **Sign maintenance**
  1. Signs must be maintained in good condition and must also not be allowed to deteriorate or become dilapidated. The Construction Official shall require proper maintenance of all signs and shall inspect every sign which requires issuance of a permit within thirty (30) days after it is erected. All signs, together with all of their supports, braces, guys and anchors, shall be kept in repair and in proper state of preservation. The display surface of all signs shall be kept neatly painted and posted at all times.
  2. The Construction Official or Zoning Officer shall notify, in writing, the owner of any sign which is in disrepair, of such state and directing that said sign be repaired. The owner of such sign shall correct such deficiency within period of time set forth in said notice. In the event that the owner fails to correct said deficiency or make required repairs, the Construction Official or Zoning Officer shall institute proceedings for compliance with said notice or the removal of the sign found in disrepair if so warranted.
- H. **Off-site signs** Effective on date of this Ordinance's adoption, off-site commercial or private

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signs are prohibited except as expressly permitted as follows:

1. Off-site governmental signs, public information signs and control signals as specified in Section 8.11A are permitted in all zoning districts.
2. Off-site signs for direction to places of worship are permitted in all zoning districts as a conditional use.
3. Temporary off-site signs for real estate sale, yard or garage sales, charitable organization/non-profit activities, and seasonal agricultural stands are permitted in all zoning districts. These signs must be removed upon termination of the activity which they advertise and shall not be posted on trees, utility or light poles, fences, places where they would create problems for driver vision along roads and intersections, or which are threat or danger to persons or animals.
4. For any existing off-site advertising or private company directional sign not in conformance with this Ordinance, conformance as per Section 8.11H.5 of this Ordinance is required within three (3) years of the date of adoption of this Ordinance.
5. In all zoning districts off-site directional signs shall be permitted for any resource extraction operation having a valid mining or resource extraction license from the Township of Commercial. Such signs shall be intended to provide directions to persons and in particular truck traffic delivering or picking up materials from said operations' site(s). Such directional signs shall only be permitted to show the name of the resource extraction operations, destination specific identification information (Shipping Area, Plant 1, Smith Lake Plant, etc.) and directional symbols. The route to be marked out for such directional signs shall to the greatest extent possible, direct truck traffic to the particular site using arterial and collector roadways. Such signs shall not be located along any route closer than one (1) sign per every two (2) miles except to indicate a change in direction. Such signs and their locations along Township roads and streets shall be subject to review and approval of the Land Use Board as part of site plan approval for the resource extraction operations unless controlled by the Township Ordinance No. 93-338, as amended or supplemented from time to time or other Township ordinance relating to traffic control.

An off-site directional sign shall not exceed in area two (2) square feet.

No existing off-site sign which does not conform to this Section shall be permitted to be replaced if destroyed or otherwise removed after the effective date of this Ordinance.

6. Outdoor, off-site advertising sign, other than signs advertising agricultural roadside stands shall only be permitted in accordance with the following conditions:
  - a. The sign shall be located along a road classified as arterial or collector by any adopted transportation or road plan of the County of Cumberland;
  - b. The sign shall not be located so as to block the scenic view of any river, marsh or wetland, historical structure or site, or other natural or cultural landmarks or characteristics as identified by the adopted Township Master Plan, other relevant plan or agency designation or as defined in this Ordinance;
  - c. Outdoor, off-site advertising signs shall not be located closer than to any street right-of-way or property lines than one and one-half (1½) its height. No outdoor, off-site advertising signs shall

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- be located closer than one hundred (100) feet to any church, school, public building or residence;
- d. If illuminated, no such lighting shall created a danger or nuisance from glare or direct lighting upon adjoining properties, residences or roadways; and
  - e. No such sign shall be of an overall height greater than fifteen (15) feet or an area greater than thirty-two (32) square feet.
  - f. No such outdoor, off-site advertising sign shall be located in any residential zoning district, the C Conservation Zoning District or on a residentially-used property, i.e. a property with a dwelling (s) located upon it.

### **8.12 Swimming pools** The following standards and regulations shall apply to swimming pools:

#### **A. Private swimming pools.**

- 1. Open pools in excess of two and one-half (2½) feet in depth are considered swimming pools and as structures for the purpose of permits and regulations of the Township ordinances. For the purpose of this Ordinance, swimming pools, exclusive of patio area, shall not be counted as impervious cover in computing lot coverage and shall not be located in any required front yard area.
- 2. All open pools in excess of two and one-half (2½) feet shall bee completely fenced with a minimum four foot high fencing with a self-latching gate.
- 3. All swimming pools shall be at least twenty (20) feet from any property line and shall be installed in accordance with the Uniform Construction Code.
- 4. All swimming pools shall drain in conformance to a system approved by the Health Code official and/or the Construction Code Official.

#### **B. Semi-public and public swimming pools and swimming clubs.** Semi-public and public swimming pools and swimming pool clubs operated on a nonprofit, annual membership basis shall be permitted as indicated on the Schedule of Zoning District Regulations, provided that:

- 1. Proof is furnished to the Zoning Officer that the proposed use is a bona fide nonprofit activity, organized solely for the use and enjoyment of the membership.
- 2. The parcel involved in the use shall contain at least three (3) acres and shall have two hundred (200) feet of frontage on a public road or street.
- 3. No more than a total of forty percent (40%) of the lot shall be covered by structures, parking areas and the pool, together with its adjoining impervious surface areas.
- 4. No part of the pool, its accompanying impervious surfaced areas or other supporting or accessory structures or activity areas shall be located within seventy-five (75) feet of a property line, or less than three hundred (300) feet from the nearest dwelling.
- 5. The maximum membership of the club shall be fixed at the time of application and shall be commensurate with the size of the parcel and the scale and facilities contemplated. No expansion of the membership shall be permitted subsequently without application to and approval of the



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Land Use Board.

6. All pools shall be surrounded on all sides by a yard twenty-five (25) feet in width, exclusive of parking area and accompanying impervious surface areas.
7. All pools shall have permanent and direct access to a public street.
8. All pools shall be surrounded by a fence at least six (6) feet in height, the entrance to which shall be kept locked when an attendant is not present.
9. All lot boundaries shall be screened in accordance with the provisions of Section 10.4C of this Ordinance whenever in the opinion of the Land Use Board such screening is necessary to protect adjoining properties and uses from the nuisance effects of said swimming pool and/or accessory activities such as, but not limited to, noise, glare, or blowing debris.
10. Adequate parking shall be provided in accordance with the provisions of Section 8.8.

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### ARTICLE IX SPECIFIC USE STANDARDS AND REGULATIONS

- 9.1 Commercial use-related dwelling** A dwelling unit to be utilized in connection with the operation or ownership of a commercial activity or use may be permitted as a conditional use as set forth in the Schedules of District Regulations. When permitted, not more than one (1) attached or detached dwelling unit may be provided in conjunction with a commercial use under the following conditions:
- A. The dwelling unit may be attached to the principal structure on the property involved used for commercial activity or it may be a detached dwelling unit, excluding a mobile home, but located on the property whereon the commercial use is located. The dwelling unit shall be occupied only by the owner or manager of said commercial use or activity. It is the purpose of this subsection to allow the use of a commercial use-related dwelling unit by the owner or manager of commercial or business use as to provide security, service and/or economy of operation to the principal use of the property for business or commerce. In order to obtain a zoning permit for such a commercial use-related dwelling, the applicant shall provide an affidavit to verify that the owner or manager of the business or retail use or activity involved in the application will be the resident that will occupy the commercial use-related dwelling unit at the time of receiving a zoning permit for same or whenever requested for same by the Zoning Officer to verify compliance accordingly.
  - B. Said commercial use-related dwelling unit shall be located according to the maximum and minimum building standards and set backs established in the Schedule of District Regulations for the zoning district in which it is to be located.
  - C. Any zoning permit and certificate of occupancy for a commercial use-related dwelling unit to a commercial use or activity shall remain valid only so long as the said unit is occupied by the owner or manager of the said commercial or retail use or activity. The Land Use Board shall determine relationship between the occupants of a commercial use-related dwelling to the commercial use to which it is attached based on information to be supplied to it by the owner of the commercial use which reasonably show employment by or bona fide connection to said commercial use. Examples of commercial use activities that might require on-site residence of the owner, manager or an employee might include, but are not limited to, a marina or a public storage facility.

When the said dwelling is no longer occupied by the owner, manager or other employee of the principal commercial use of the property as might be permitted by the Land Use Board, then the dwelling unit shall be used strictly for commercial or retail activities and a revised site plan for the conversion of the dwelling unit into such use shall be submitted and approved by the Land Use Board. Said revised site plan shall not be required if the size of the dwelling unit is less than five percent (5%) of the square footage of the primary commercial or business use structure.

Continued use of the dwelling unit in conjunction with the primary commercial or business use of the property by other than the owner of the property or a manager of the business use shall then require a variance for said dwelling unit in accordance with the provisions of Section 4.6G.4.c of this Ordinance. It is the intent of this subsection to only permit a residential use to an active business or commercial activity by its owner or manager where such use seems appropriate and

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reasonable to continued commercial use of the property. When not utilized by the owner or manager of the commercial activity then it is incumbent upon the owner of the said commercial use-related dwelling unit to prove that it can be utilized without creating conflicts between residential and commercial activities being carried out on the same property.

- D. A commercial use-related dwelling use shall be considered as part of the retail or commercial use of the property and shall be subject to site plan review as required for such uses by Section 12.1 of this Ordinance. As a related use thereto, it shall be provided with all required utilities and additional off-street parking subject to the provisions of Section 8.8 herein this Ordinance. In reviewing the site plan, the Land Use Board may impose such conditions as deemed reasonably warranted to protect the health, safety and welfare of the occupants of the commercial use-related dwelling unit from the commercial or retail activities also carried out on the site.
- E. Not more than one (1) such use-related dwelling unit shall be permitted for any one (1) property principally used for business or commercial activities regardless of the number of said activities carried out on the site. In addition, the size of the use-related dwelling unit shall be clearly subordinate to the principal commercial use of the property. To this end, no commercial use-related dwelling shall have more than 1,600 square feet in gross habitable floor area or twenty-five percent (25%) of the primary commercial structure on the property, whichever is the lesser in area.

**9.2 Duplex or semi-detached dwellings** Duplex or semi-detached houses shall be permitted upon a finding by the Land Use Board that said use will not adversely affect the character or density patterns of the areas or neighborhood in which said use is proposed. No such use shall be permitted to front or have driveways exiting onto an arterial road as classified by the adopted Township Master Plan or the County of Cumberland. Where permitted in accordance with the provisions of the Schedule of District Regulations, the following conditions shall be met:

- A. Any duplex or semi-detached dwellings shall share a common driveway of not less than twenty-four (24) feet wherever reasonable with on-site parking complying with the provisions of Section 8.8 of this Ordinance. Said parking may be provided within garages, but when garages are provided they shall be attached to the duplex or semi-detached dwelling and provide access to each unit contained therein. All dwelling units in a duplex or semi-detached dwelling shall have direct access to a public street or right-of-way.
- B. No fencing shall be erected within the front yard areas except for dooryards or patio areas attached to the dwelling unit and screened from the street shall be permitted, provided that any such screening, if not plant material, shall be located at the front yard setback line.
- C. Architectural drawings of the front facade(s) of a duplex or a semi-detached dwelling shall be submitted for review and approval by the Land Use Board of the uniformity of design of the two units. Deed restrictions or covenants shall be required in a manner, method or procedure approved by the Land Use Board, providing that attached units maintain, within reason, conformity of aesthetic appearance to the entire structure when viewed as a whole from the street or public right-of-way. Aesthetic appearance shall mean color, fenestration, entrances, front facade design or embellishment, fencing or lighting not attached to the walls of the individual dwelling units contained therein.
- D. Conversion of residential units, as permitted by Section 8.2 of this Ordinance, shall be not permitted for duplex or semi-detached dwellings. Only home occupations as provided in Section 8.6A shall be permitted within such units. No nonresident employees shall be permitted.

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**9.3 Gasoline service stations and/or repair garages or car washes** Gasoline stations and/or repair garages, including facilities or structures used for the painting of motor vehicles, and car washes may be established when they meet the following conditions:

- A. In addition to site plan details required by Sections 12.10B & 11, the site plan submitted in connection with an application for a gasoline station and/or repair garage or car wash shall also include:
  - 1. The location of all fuel tanks and pumps,
  - 2. The dimensions and capacity of each tank,
  - 3. The depth the tanks will be buried below ground level,
  - 4. The location and use of all structures, whether principal or accessory, to be constructed on-site, and
  - 5. The location and maximum number of automobiles or motor vehicles in need of service which are to be garaged or parked on the premises at one time.
- B. No motor vehicle gasoline station or repair garage shall be located within two hundred (200) feet of the entrance to a school, recreational area or facility, library, hospital, church or cemetery. Such distances shall be measured in a straight line from the property line of the referenced structures, areas or facilities to the station or garage lot line nearest said structure, area or facility along the street line.
- C. It is intended that gasoline stations or repair garages be designed compatibly with other permitted commercial and industrial uses in the zone district in which they are proposed to be located, that they not be stripped along the available highway frontage or as more than two (2) quadrants of any intersection, and that they be included within shopping centers and industrial parks as an integral part of the overall design. Ingress and egress shall be designed to recognize turning movements generated. These access points shall be coordinated with the access points required for adjacent or nearby uses and the frequency of intersecting side streets.
- D. Any part of a property or site to be used for the repair of vehicles, dispensing of fluids, prolonged motor vehicle idling, or the painting of vehicles shall not be located in any floodplain or within one hundred (100) feet thereof or of a residence, church, school, library, eating establishment or health care facility unless undertaken entirely within an enclosed, ventilated with a filtered system, and sound-proof structure.
- E. All fuel pumps shall be located at least thirty-five (35) feet from any property line. All fuel tanks shall be installed underground and shall be located at least thirty-five (35) feet from any property line. A minimum space of twenty-five (25) feet shall exist between any two (2) pumping islands and any structures.
- F. All storage areas shall be suitably screened, and no vehicles shall be stored on-site which are not awaiting repair work within a reasonable period of time. Facilities for trash disposal shall be provided and, where necessary, screened. No junked automobiles or parts thereof and no unregistered motor vehicles shall be permitted outside an enclosed building. In the case of repair

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garages which are part of or established in conjunction with the sale of motor vehicles and/or the sale or repair of farm equipment or machines, recreational vehicles or boats, new or used unregistered boats or vehicles may be stored outside a structure on designated sales and display areas.

- G. As a minimum, screening as required in Section 10.4D shall be required along any property line adjoining a residentially zoned or used property. The Land Use Board may require additional buffering and other protective measures as necessary to protect surrounding properties from the effect of light glare, noise, air pollution or fumes, or other nuisances generated the gasoline station or repair garage.
- H. Any part of the site proposed for a gasoline or service station or repair garage subject to access by motor vehicles shall be paved or provided with a dustless, hard surface.
- I. Except in the case of farm equipment machinery, recreational vehicles or boats, all work on vehicles involving body repairs, removal of engines or transmission or painting shall be preformed in an enclosed structure with a ventilated and filtered air system to prevent fumes from escaping in such a way as to be hazardous or a nuisance to adjoining properties.
- J. Accessory goods for sale may be displayed in a principal building and on the pump island(s). All other exterior displays and parking of equipment for rent or sale shall be permitted provided that the area devoted to the purpose is in addition to the minimum lot size required for a gasoline or service station or repair garage, the area devoted to this purpose does not exceed twenty percent (20%) of the total area of the entire site, the maximum sign area for the station or garage is not exceeded, and the location of the equipment being rented or offered for sale does not interfere with the required off-street parking requirements for the service station or garage and does not interfere with the on-site traffic circulation indicated on the approved site plan. The storage of vehicles not in operating condition as permitted by this Section shall be stored only if all fuel tanks in such vehicles are drained.
- K. All gasoline stations and/or repair garages shall be provided with adequate facilities, equipment and structures and shall be designed to ensure against degradation of or adverse impacts to the environment and adjacent land uses within five hundred (500) feet of the property involved. Such facilities and equipment include storage tanks for used motor oil or other fluids or petroleum products, emission control and air quality devices and separate disposal systems designed to properly handle waste waters used in connection with such uses, including motor vehicle and boat or machinery cleaning.
- L. A convenience store or car wash facility shall be considered an accessory use to a gasoline service station.
- M. In addition to complying with all the requirements listed herein this Section, car washes, whether the principal use or an accessory use, shall also meet the following conditions:
  - 1. Sufficient on-site area shall be provided to permit cars or other vehicles waiting for service. Such waiting areas shall be suitably screened from adjoining properties.
  - 2. All wastewater generated from such uses shall be recycled, and such wastewater not able to be recycled shall be disposed of in a public wastewater system or an approved on-site disposal system to handle such flows and prevent degradation of groundwater supplies. No wastewater will be

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allowed to leave the site through surface runoff or storm drains.

- 9.4 Keeping of animals and livestock, and land use activities involving animals** The provisions of this section shall not be applicable to a bona fide farm or commercial farming operation. The keeping of animals and/or livestock and the use and operation of pig, livestock, or poultry farms, apiaries, pet or pet grooming shops, kennels and/or animal hospitals shall be in accordance with the following conditions:

- A. For purposes of this ordinance, animals and livestock shall be separated into the following classifications:
1. Class I animals: Horses, ponies, donkeys, cows, cattle and other animals belonging to the biological order of perissodactyla, and llamas, alpacas or similar South American pack animals.
  2. Class II animals: pigs, goats, sheep, ostriches, emus or similar large birds raised for meat or feathers, or other animals commonly referred to as "livestock".
  3. Class III animals: (a) Any feathered vertebrate animal, including but not limited to chickens, geese, ducks, turkeys, hens, pheasants or other animals commonly referred to as "barnyard".
  4. Class IV animals: common household pets such as dogs, cats, pet birds such as parakeets, parrots, songbirds or exotic birds, guinea pigs, or other animals except ferrets or pigs, kept as pets and reasonably expected to be sold in a shopping center-type pet store.
  5. Class V animals: fox, mink, or animals bred for their fur including rabbits (except in the case of one (1) or two (2) being kept as domestic pets), monkeys, snakes or other wild or undomesticated animals which by State or Federal law require a license to be kept in captivity.
- B. The keeping of animals and/or livestock shall be permitted as per the Schedule of District Regulations, provided the following conditions are met:
1. Not more than one (1) Class I animal shall be kept on a lot of at least two (2) acres in size, provided that said animal is kept enclosed in a pen or corral containing not less than five thousand (5,000) square feet in area. Each additional Class I animals shall require an additional acre in lot area and an additional two thousand (2,000) square feet or pen or corral space area. At a minimum, box stalls of one hundred (100) square feet and/or straight stalls of five by eight (5 x 8) feet per animal within a barn or stable shall be provided. No animals shall be housed or manured stored outdoors closer than one hundred (100) feet to any adjacent street or property line.
  2. In any residential district on a lot of at least one and a half (1 ½) acre in size, not more than two (2) Class II animals (except pigs) or twelve (12) Class III animals may be kept, except in the case of cattle, wherein the lot size shall be no less than three (3) acres. The keeping of pigs shall be prohibited in all residential, business or industrial zoning districts. All Class II or Class III animals shall be kept enclosed in a pen, corral or other suitable enclosure with appropriate animal housing provided. No animal shall be housed however, or manured stored outdoors closer than one hundred (100) feet to any adjacent street or

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property line.

3. The keeping of Class IV animals shall be permitted in all zoning districts, provided that the breeding and sale of such animals may be determined a commercial use by the Zoning Officer based upon the number of animals involved within a reasonable time period and the use of the property and structures thereon for such activity. When so determined a commercial activity, the property owner shall be subject to the requirements of this ordinance for such commercial activity, including site plan review.
  4. All fencing in connection with the enclosure of animals shall be installed no less than ten (10) feet from all adjacent property lines and at least fifty (50) feet from the nearest dwelling, excluding the dwelling of the animals' owner(s). In the case of the electrified fencing, the provisions of §8.3.D.5
  5. The above referenced limitations on various classes of animals shall not be applicable to the A Agriculture zoning district or any bona fide farm as defined in this ordinance, except that the keeping, breeding or sale of all Class V animals shall be prohibited in all zone districts within the Township of Commercial, provided however, that if best management practices have been promulgated by the N.J. Department of Agriculture for any Class V animals, any person proposing to undertake such activity shall be required to seek a use variance including site plan review to assure that said best management practices are adhered to and public health, safety and welfare are adequately provided for in connection with such activity.
  6. An apiary shall be permitted on any lot of at least two (2) acres in size, provided that hives or housing for the bees shall be located no less than one hundred (100) feet from the nearest dwelling, except the hives' owner(s). All hives or bee housing shall be located at least twenty-five (25) feet from any property line if the adjoining property is not vacant land.
- C. Kennels, small animal grooming shops, animal hospitals or any place wherein animals may be boarded for a fee are permitted as provided in the Schedule of District Regulations on parcels of at least five (5) acres in size unless such use is contained in a fully enclosed, sound-proof building, in which case the minimum lot area shall be reduced to two (2) acres. In such cases wherein the facility is fully enclosed, no outside runs are to be allowed. Where permitted, the following conditions shall apply:
1. Animal runs and any other outdoor animal areas shall be no less than fifty (50) feet from adjacent property lines.
  2. Off-street parking facilities shall be provided on the premises in such quantity as shall be determined by the Planning Board and §8.8.
  3. Adequate screening and/or buffering as per §10.4.D shall be provided to reasonably protect adjoining properties.
  4. Any such use shall be reasonably free of noise, odor or other objectionable nuisances to adjoining or nearby properties; and, in granting approval, conditions may be imposed upon an applicant to eliminate or reduce any such nuisances.

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- D. Pet shops, riding academies or establishments and animal obedience or training schools shall be considered commercial uses and are not covered by this section provided however, that the Planning Board may utilize conditions contained herein when reviewing the site plan of any such uses. Additionally, for purposes of preventing nuisances for adjoining properties, such facilities may be required to demonstrate that there are sufficient lands or facilities provided as noted in this section, to prevent nuisances such as noise, odor or damage from the likelihood animal escape.

**9.5 Mobile homes and trailers** The storage, placement and use of a mobile home or trailer shall be in accordance with the provisions of this Section:

A. Temporary use:

1. Temporary use of one (1) mobile home or trailer structure for "job trailer," as an accessory use to a permitted use construction site on the same lot therewith for a period to be set forth on the permit therefore and as determined by the Land Use Board based on reasonable projected construction time, shall be permitted. The temporary use and location of said mobile home or trailer structure shall cease upon expiration of the time period set by the Land Use Board or within thirty (30) days of the issuance of a certificate of occupancy for the said permitted use so constructed, whichever occurs first. In no case shall the permit for said temporary use exceed eighteen (18) months.
2. Temporary residential use of one (1) mobile home or trailer by the owner(s) of property for which zoning and construction permits have been issued for the construction of a residential structure on said property and where said property is at least one (1) acre in size and as a temporary accessory use to said permitted residential construction, provided that:
  - a. A Board of Health approved and Uniform Construction Code acceptable sanitary sewer system and potable water supply system have been installed on or is available and suitable for such use on the property for use by said temporary mobile home; said mobile home is completely and satisfactorily connected to said systems according to the Uniform Construction Code and all necessary approvals and permits have been issued or obtained for same; and the sanitary sewer and potable water supply systems are designed and intended for use by the residential structure, once completed, and the mobile home is disconnected from same prior to the issuance of a certificate of occupancy for the new home.
  - b. The temporary connection of any such mobile home to any public utility meets all Uniform Construction Code and sub codes or other applicable regulations as required safeguarding public health, safety and welfare.
  - c. The temporary mobile home is sited, installed and fully compliant with all applicable requirements of this Ordinance, the Uniform Construction Code and any other applicable regulations including requirements for securing and tying down said temporary mobile home as required by law or regulation.
  - d. Said temporary use shall be clearly stipulated in the zoning permit for such a mobile home use and shall be for a period to begin with the start of construction (as apposed to the issuance of a construction permit) after the foundation, septic system and well have been installed and/or completed and shall end with issuance of a certificate of occupancy for the newly constructed residential dwelling or twelve (12) months from the date of the issuance of the temporary permit, whichever shall occur first. Any request for continued use of said temporary facility shall require an application to the Zoning Officer including justification of why construction has been delayed.



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If granted, an extension shall not be for more than an additional six (6) months.

- e. It is the intent of this Subsection to permit property owners to utilize temporarily a mobile home to safeguard and protect the construction of a dwelling and to deter or prevent theft and vandalism thereto. Said use shall be temporary and in no case permitted to continue after the issuance of a certificate of occupancy for the new residential structure for which the temporary use of said mobile home or trailer was requested. No actions which attempt to make permanent the placement of any mobile home on the site, such as the installation of a foundation, separate septic system or similar action, shall be permitted.

Under no circumstances is this Section to be understood or interpreted to permit, authorize or approve that the issuance of a zoning permit for the temporary use of a mobile home permits its use by any person or persons other than the owner(s) of the property on which it is located or that said temporary use may be considered a permanent placement and a permitted use of the said mobile home once a certificated of occupancy for the new residential structure has been issued.

- f. Any mobile home permitted to be used temporarily during the construction of a new residential structure shall be disconnected from any public utility, including electric, gas, and the property potable water supply and septic system within 48 hours of the issuance of a certificate of occupancy for the newly constructed residential dwelling; and the mobile home shall be physically removed from the site.
- g. An applicant for a zoning permit to allow the temporary use of a mobile home during the construction of a residential structure shall be required to sign an agreement that he/she understands the terms of said temporary placement and use of said mobile home under the provisions of this Subsection and shall agree to remove same upon the issuance of a certificate of occupancy for the new residential structure or authorize the Township to remove same, and further attesting to his/her understanding that the temporary use of the mobile home is strictly for the owner(s) of the property involved and their minor children; and no other persons, regardless of relationship to the said owner(s), is to be permitted during construction or after the issuance of the new residence's certificate of occupancy.
- h. The owner or owners of the lot involved in such temporary use of a mobile home shall be required to post with the Township Clerk a bond in the amount of one thousand five hundred dollars (\$1,500.), to secure removal of the mobile home within the time required in subsection (d) above.
- i. Application for a permit under this section shall be made to the Zoning Officer, and it shall not be issued until the aforesaid bond has been posted with the Township Clerk, copies of the zoning permit and construction permit for the property and proposed dwelling to be constructed thereon are submitted or supplied and the Zoning Officer has been presented with satisfactory proof that the applicant is in compliance with the provisions of this section.

### 3. Temporary use of a mobile home during an emergency situation

Temporary use of one (1) mobile home shall be permitted when an existing residential structure has been destroyed or made uninhabitable in a disaster or emergency situation such as a fire, flood or other catastrophe, and only when said mobile home is to be occupied by the owner of the said destroyed or damaged residential structure and, when a new structure is permitted to be on the site and while the new residential structure is being constructed or the damaged structure is being repaired. Said use shall be for a period of not more than twelve (12) months which period may be

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extended for an additional period of not more than six (6) months in the event that the Zoning Officer is of the opinion that the emergency condition cannot be corrected within the original twelve (12) month-period. In no event, however, shall the emergency occupancy of the mobile home be more than fifteen (15) days after a certificate of occupancy is issued for the repaired or a replacement dwelling.

Said temporary use of an independent mobile home or manufactured home in an emergency situation as noted above shall be in accordance with the following conditions and requirements:

- a. Any person requiring or requesting temporary residency in an independent mobile home in an emergency situation shall apply directly to the Zoning Officer on a form to be supplied by the Township and shall provide documentation verifying the name and address of the owner of the independent mobile home.
  - b. Once said application is approved by the Zoning Officer, the property owner wishing to use the independent mobile home shall enter into an agreement and post a bond with the Township as provided in Section 9.5A.2(g) and (h) above. Said agreement shall provide the Township with the right of entry onto the property by Township officials for inspection and removal purposes.
  - c. The mobile home shall be connected to an acceptable and approved potable water supply and a sanitary sewer system as determined by the Construction Code Officials and applicable regulations.
  - d. No mobile home used for temporary residency as provided for herein this section shall be located within ten (10) feet of any property line or in such a way as to pose an undue threat to public safety, health and welfare of the property owners or to adjoining properties or roadways.
  - e. No mobile home utilized in accordance with the provisions of this subsection shall be placed upon a permanent foundation or shall be in any way placed, installed or attached to another structure which would make the said mobile home's removal from the site impossible or otherwise unnecessarily difficult to the continued viability of the other structure's use or integrity.
  - f. The mobile home shall be placed on the same property on which was located the single-family residential structure that was accidentally damaged or destroyed giving rise to the emergency situation, and shall be only occupied by those persons who were occupants of said single-family residential structure.
- B. Permanent use of a mobile home. A mobile home may be placed, located or parked in accordance with the provisions of this Section and as provided in the Schedule of District Regulations:
1. A mobile home shall only be located on a lot having frontage on a publicly dedicated, improved street or road. The mobile home shall comply with all maximum and minimum standards as contained in the Schedule of District Regulations for the zoning district in which it is to be located.
  2. All mobile homes shall conform to the standards contained in the Mobile Home Construction and Safety Standards Code, hereby adopted by reference and shall be served by water supply and sanitary sewer systems approved by the local health authorities.
  3. All mobile homes shall require a zoning permit, construction permit and a certificate of occupancy.

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4. All mobile homes shall be placed on a safe, permanent and adequate foundation supporting the under frame and shall have skirting installed or placed entirely around the said foundation. Said skirting shall be designed of a material and color that will reasonably match or be compatible with material and color of the mobile home around which it is installed. Any mobile manufactured home shall sit on a concrete pad with block skirting.
5. Each mobile home shall be considered a residential dwelling and shall be provided with a minimum of two (2) off-street parking spaces and adequate turnaround area on the lot on which it is located.
6. Any mobile home shall be assessed for local taxes as real property together with the land on which it is situate, and all appliances and equipment which are part of the mobile home, shall be considered as fixtures for the purpose of determining the assessed value of said property for tax purposes.
7. No mobile home shall be attached or joined to an existing dwelling or structure. Any additions, decks, patios or sun rooms to be constructed or located in connection with a mobile home shall be subject to the Uniform Construction Code and the provisions of this Ordinance.
8. No mobile home or trailer including a trailer used for over the highway shipment and transport of goods and pulled by a truck or tractor, may be permanently used as a storage facility, dwelling or housing for animals. Notwithstanding the requirements contained herein this Subsection, the Land Use Board may permit as part of site plan approval the parking of a trailer with wheels to place goods or items collected or manufactured on-site for shipment or transport away from the site from time to time as the trailer is filled. An example of such use of a trailer for storage would be a retail tire store which stores used tires as they are discarded for removal from the site.
9. In accordance with Commercial Township Ordinance No. 2001-422 the obtaining a moving permit from the Zoning Officer is required prior to any mobile homes, modular homes and pre-existing dwelling units being moved into the Township for permanent placement.
10. Any mobile manufactured home being relocated into the Township of Commercial shall be less than five (5) years of age.

### 9.6 (RESERVED)

**9.7 Day care, nursery and pre-school facilities** Child day care, nursery and pre-school facilities shall be permitted as provided for in the schedules of district regulations and in accordance with the following provisions:

- A. Such facilities shall have the appropriate licensing or recognition by all applicable State or other agencies having jurisdiction over same.
- B. Illumination for parking areas, driveways and other areas shall be shielded from view of adjoining streets and residential areas or uses.
- C. Suitable recreational areas shall be provided for the use of the children enrolled at the facility. Play area shall be entirely enclosed with a minimum four (4) foot high fence with self-latching gates and suitable safe guards to reduce the likelihood that children can easily leave said enclosed

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area unassisted.

- D. Whenever such a facility is located on a collector or arterial roadway as classified by the Township or County Master Plan, or a non-residential zoning district, a buffer area of at least twenty (20) feet wide shall be established adjacent to such collector or arterial roadway and/or non-residential zoning district boundary. Such buffer shall be composed of a berms and completely landscaped sufficient to provide a visual and noise buffer between the facility and its accessory uses such as play yards or areas and the collector or arterial roadway and/or an adjoining non-residential zoning district. The buffer area shall not be made a part of the recreational area required in subsection C above.
- E. Use of such a facility or its grounds for other than a nursery or pre-school shall be prohibited unless a zoning permit is issued for another use(s) and site plan has been submitted for review and approval has been granted.

### **9.8 Planned neighborhood commercial center**

- A. Planned neighborhood commercial centers encompassing not less than three (3) nor more than ten (10) acres and designed to provide for the sale of convenience goods such as food, drugs, sundries, and personal services such as cleaning of clothes, photo developing, restaurants, hairstylists or beauty shops, medical or dental offices, banks, real estate and post offices, and similar uses.
- B. The following standards shall apply to a neighborhood commercial center:
  - 1. A neighborhood commercial center shall be designed to blend with its environs, man-made and natural, and be designed as a unified whole with harmony of design and architecture and in its overall layout including landscaping and other facilities provided for use by the occupants or customers of the center. All units of such a center shall be required to maintain the overall design and architecture of the center and any remodeling or additions shall conform and utilize said design and architecture.
  - 2. The planned neighborhood commercial center shall be developed as a singular grouping of uses and/or with separate "pad" sites provided that all uses shall be designed to achieve a harmonious whole. For purposes of this section, a pad site is an area reserved for the future development of a freestanding commercial use in a planned neighborhood commercial development i.e. shopping center.
  - 3. The planned neighborhood commercial center shall abut and have their principal access onto a collector or arterial road.
  - 4. The minimum set back for a planned neighborhood commercial center from any public right-of-way shall be thirty (30) feet and two hundred (200) from any scenic corridor.
  - 5. Off-street loading and parking facilities shall be provided in accordance with the provisions of Section 8.7 and 8.8 of this Ordinance.
  - 6. Landscaped and planted areas providing adequate screening shall occupy a space at least twenty (20) feet in width between parking areas and adjoining road right-of-way lines and property lines abutting a residential zoning district or residentially used property; and a space of ten (10) feet in width separating each double-tiered parking bay.

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7. A planned neighborhood commercial center shall provide the following:
  - a. Areas and facilities for the collection of solid waste which shall be appropriate screened and buffered.
  - b. Fire zones designed to facilitate easy access to structure for emergency vehicles. Such zones shall be approved by the appropriate local fire officials and if applicable, in compliance with any municipal ordinance related thereto.
  - c. Structure and property illumination designed to protect adjoining properties, streets or sensitive and scenic areas from direct glares or excessive light, including the night sky.
  - d. Adequate screening or buffering to protect adjoining properties, scenic corridors and roadways from direct glare from vehicular lights and wind borne debris or trash.
  - e. Signs in accordance with the provisions of Section 8.11 of this Ordinance.
8. The maximum height permitted for a structure in a planned neighborhood commercial center, excluding signs, shall be thirty-five (35) feet.
9. Within planned neighborhood commercial centers residential units may be permitted as an accessory use when approved by the Land Use Board, provided that said units meet the following standards:
  - a. Where applicable, residential units shall be in compliance with the residential density standards for the zone district in which they are to be located. In no case shall the density be greater than one (1) unit per acre of land involved in the parcel for a planned neighborhood commercial center is to be located, or not more than one (1) residential unit permitted for each commercial use permitted within the planned neighborhood commercial center, whichever is less; but in any case the total number of residential units shall not exceed six (6) units per planned neighborhood commercial center.
  - b. Residential units shall be located above the commercial uses and accessory thereto and are to be occupied by the owner(s), manager(s) or employee(s) of the neighborhood commercial center. The Land Use Board may permit other occupants for the residential units.
  - c. Additional parking facilities shall be provided for the residential units in addition to those required as set forth in Section 8.8 herein.
  - d. Residential units shall be not less than nine hundred (900) square feet of habitable floor area.
  - e. No home occupation as permitted by Section 8.6A.6 through B may be conducted within a dwelling located in a planned neighborhood commercial center, nor shall any conversion of dwelling units be permitted as set forth in Section 8.2 herein, except that this prohibition shall not prevent the combining of units to create fewer in number.
10. In reviewing an application for a planned neighborhood commercial center, the Land Use Board may require a marketing analysis in order to determine whether the proposed center is designed to meet the intent of this Section and the existing or projected need. The Board may request at the

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*applicant's* expense that a consultant of its choosing be obtained to perform or analyze the market analysis. It shall be the responsibility of the applicant to demonstrate the need for the proposed commercial center and reasonably justify its establishment based on the standards and regulations provided herein this Section.

- 9.9 Planned residential cluster development** A planned residential cluster development requires that a percentage of the tract involved be permanently preserved in a combination of farmland, open space and/or environmentally sensitive lands as determined suitable by the Land Use Board. Wetlands and wetlands transition areas may not be considered for purposes of computing tract size, overall cluster development density, nor for meeting the required open space set aside.

All planned residential cluster developments shall be permitted as conditional uses as provided for in this Section and the Schedules of District Regulations in accordance with the following provisions:

- A. **Purpose** The purpose of planned residential cluster developments is to require that open space be encouraged through planned developments versus conventional development of residential lots. Allowing or requiring such planned developments according to zoning district outside of designated centers this Section aims to reduce sprawl, provide for preservation of open space while still providing both active and passive recreational activities for the development's residents, reduce the extent magnitude of roadways and other improvements associated with residential development, and to provide for planned residential neighborhood(s) which are suitable to their natural setting and blend with adjacent land use activities and natural areas.
- B. **Applicability**
  - 1. In the A Agricultural and RR Rural Resource Zoning Districts residential major subdivisions proposed for tracts of land 30 acres or greater in size and within the C Conservation all tracts of land 40 acres or greater in size either at the time of the adoption of this ordinance or that are assembled after the adoption of this Ordinance shall develop as an planned residential cluster development as set forth in this Section. See also Subsection C. "Exemptions," 2<sup>nd</sup> paragraph below.
  - 2. In the C Conservation and Zoning District, residential major subdivisions proposed for tracts of land 30 acres or greater in size but less than 40 acres either at the time of the adoption of this ordinance or that are assembled after the adoption of this Ordinance, may be developed as a planned residential cluster development subject to the provisions of this Section.
  - 3. In determining tract size for purposes of applicability of these requirements, the total acreage of all wetlands and wetlands transition areas as required to be delineated shall be subtracted from the total acreage of the tract(s) proposed for the development. If the acreage remaining after this calculation is equal to or greater than those listed in subsections A or B, the clustering shall or may be required accordingly.
- C. **Exemptions** The Land Use Board may permit an exemption to the requirement for mandatory planned residential cluster development if it determines that the proposed residential major subdivision involves only one or two lots but is classified as a major subdivision as defined in this Ordinance, i.e. "a technical major subdivision." In so doing, the Land Use Board shall find that permitting the proposed subdivision will not impede or otherwise prevent or make more difficult the remainder of the tract after such proposed subdivision from being developed as a planned

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residential cluster development. The Land Use Board shall consider size of lots proposed, the remaining tract size after such subdivision, the lots' location of the tract, access to the remainder of the tract, and the relationship of the previously subdivided lots from said tract to the proposed subdivision. The intent is to implement the purpose of this Section to require or make possible planned development accordingly.

At the request of the developer of a proposed residential subdivision on a tract(s) of land involving reclaimed land from a resource extraction operation, the Land Use Board may grant an exemption from developing as a planned residential cluster development. If such request for an exemption is not made by the developer, the applicant is not relieved of the requirement of complying with all provisions of development review. The Land Use Board's review based on the application made, may determine the said site is not suitable to smaller lot sizes or such other factors that make the proposed development unsuitable for the site as proposed.

- D. **Review Procedure** All planned residential cluster developments shall be reviewed in accordance with the provisions of all applicable requirements of this Ordinance including, but not limited to, subdivision review, conditional use review, design and performance standards, and provisions concerning planned developments and specifically, planned residential cluster developments. The application for a planned residential cluster as permitted in the Schedule of District Regulations in accordance with the following regulations, shall require an environmental impact statement as per Section 12.10B and those contained in Section 12.11, Checklist "D" - Land Subdivision, Checklist "I" - General Development Plan, and Checklist "E" - Environmental Impact Statement.

In reviewing an application for a planned residential cluster development the Land Use Board shall find that:

1. The proposed development including its design, layout and size will not be detrimental to the surrounding neighborhood or to the intent and purposes of this Ordinance or the adopted Township Master Plan. Furthermore, the design of the development shall be found such that the use of clustering achieves maximum benefit of the use of land, preservation of open space, reduced energy use, and good development design principles and techniques as set forth in this Ordinance, the adopted Township Master Plan and other applicable plans or regulations;
  2. The review of the required environmental impact statement shall determine that as proposed the development will not unreasonably adversely affect the environment or create reasonably demonstrable adverse impacts off-site. To this end, the existing natural resources and environmental characteristics of the site proposed for development shall be found suitable;
  3. The proposed planned residential cluster development will create a residential project harmonious with its environment and surrounding developments;
  4. The location of roads, structures, residences and recreational facilities, areas, open spaces, and other required or provided structures, facilities or amenities are suitable to their surroundings and placement through the use of appropriate buffering, screening, landscaping, setbacks, or design techniques intended to reasonably protect against conflicts of land uses in or outside the development.
- E. **Land Set Aside Required** Wetlands and wetlands transition areas may not be counted in computing a particular residential density or as part of the required land set aside: common open space area, permanently preserved farmland, or conservation areas as set forth in Section F below

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for the proposed planned residential cluster development. For purposes of this Section, the term "conservation areas" refer to endangered and threatened wildlife or plant species habitat, nature preserves, stream protection areas, wildlife or forest preserve. The term "farmland" as used herein this Section is defined in subsection F below.

To compute a development's permitted density and required open space as provided herein this Section and Schedules of District Regulations, the total area of any wetlands or wetlands transition areas shall first be subtracted from the tract(s)'s involved in the proposed development total acreage. Then an area equal to a minimum of fifty percent (50%) of the calculated remaining upland area of the tract shall be not be included in lots, but shall be set aside for common open space areas, permanently preserved farmland. Lands utilized for street rights-of-way, driveways, parking areas, courtyards, utility areas, stormwater management areas or facilities, buffer areas or strips and loading areas shall not be included as part of the above referenced fifty percent (50%) common open space requirement.

The remaining upland acreage minus any wetlands and wetlands transition areas may be utilized for lots according to the density set forth in the Schedule of District Regulations for the applicable zoning district and lands utilized for street rights-of-way, driveways, parking and loading areas, courtyards, utility areas, stormwater management facilities, buffer areas and strips, and other necessary or required facilities.

- F. Development Criteria All planned residential cluster developments shall meet the following criteria:
1. All proposed lots within a planned residential cluster development shall be found suitable and capable of accommodating on-site septic disposal and water supply as evidenced by the review and approval of on-site soil borings, and required reviews of the Cumberland County Health Department, Board or Township Engineers, and other agencies or officials having jurisdiction accordingly.  
  
Percolation test sites and results shall be provided in the general location of each proposed disposal system as part of any application for approval of a proposed development.
  2. All planned residential clusters shall provide for land area equal to a minimum of fifty percent (50%) of the total tract of land proposed for development be set aside and deed restricted for one or a combination of the following types of permanent preservation farmland, environmentally sensitive lands (conservation areas), or as passive and active recreation open space areas. Wetlands or wetlands buffers or transition areas may be included as part of the required fifty percent (50%) set aside with the exception of "farmed wetlands" that meet the criteria for preserved farmland listed below.
  3. In the case of a proposed planned residential cluster development located on or adjacent to land actively farmed and/or is qualified for Farmland Assessment according to Township tax records, up to the full fifty percent (50%) of the required lands to be set aside and deed restricted may be for agricultural preservation provided said lands are farmed and suitable to continued farming, excluding wetlands or wetlands transition areas except in the case of farmed wetlands. Farmland to be so preserved in connection with the planned residential development's 50% set aside requirement noted in Subsection 2 above, shall have the development rights thereof deeded to the Township of Commercial.



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4. In determining whether to permit the preservation of farmland as meeting the requirements of farmland preservation in connection with the required set aside for a planned residential cluster, the Land Use Board shall find that:
  - a. Along with farmland, the property involved also includes lands of a nature worthy of preservation such as woodland, threatened or endangered species habitat, or some other environmentally sensitive areas.
  - b. The farmland proposed for preservation is sufficient in size to be viable for farming and that existing adjacent land use(s) is/are not a threat to the continued viability of farming of such preserved farmland.
  - c. The lands to be preserved, either farmland or environmentally sensitive open space, are adjacent to other similar lands which would provide a basis for preservation of significant acreages which would support protection.
  - d. The proposed residential units are twenty (20) lots or less thereby reducing the need for active open space facilities on-site or the applicant has requested permission to make a contribution in lieu of providing recreational facilities on-site.
  - e. The land is farmed and is qualified for Farmland Assessment.
  - f. No portion of the land to be set aside for farmland preservation and not considered to be environmentally sensitive, shall be of a size, shape, and width to make it infeasible for its continued use for general purpose agriculture or meaningful habitat or viable open space lands.
  - g. Land to be set aside for farmland preservation should be located adjacent to other farmland and sensitive lands, to the extent practical, and to other environmentally sensitive lands as shown on the adopted Township Master Plan. The Land Use Board shall review the design of the development to assure that this requirement is met to the greatest extent possible with the aim of attempting to form meaningful and useful clusters of specific types of land preservation.
5. In the case of the preservation of conservation or open space lands, the development rights for said lands shall be maintained and protected for the stated purpose (conservation and/or open space including both active and passive recreational uses) by specific binding agreements between the applicant and the Township of Commercial and said land shall be required to be managed and maintained by a homeowners association established for the planned residential cluster development. Said homeowners association shall be found satisfactory by the Land Use Board in accordance with the provisions of Section 10.4L.
6. Land utilized for street rights-of-way, driveways, parking areas, courtyards, utility stations, and loading areas shall not be included as part of the above referenced minimum conservation, open space or agricultural land set aside. Viable set aside *or* open space lands shall mean that protection, preservation and continued safe and healthy existence said farmland or open space is possible for the particular environmental sensitivity of the land involved given any proposed developed. For example, construction of roads near wildlife habitat which might disturb said wildlife or location of stormwater management facilities so that natural conditions are altered detrimentally to an environmentally sensitive area.
7. The location of proposed lots, streets, utilities and active recreational areas shall also be adjacent to

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other similar developed areas to the greatest extent possible thereby maximizing the clustering of development in the area. Proposed development layout or design shall be found to meet this requirement as a condition of attaining approval.

8. The provisions of Section 10.3 & 4 shall apply to planned residential cluster developments to the extent applicable.
9. In all cases not more than fifty percent (50%) of the total open space saved as required herein shall be located in one (1) or more of the following: areas with a slope greater than ten percent (10%), or other areas deemed unsuitable for development and active and passive recreational purposes due to environmental reasons as made evident by the review of the environmental impact statement required.
  - a. At least twenty-five percent (25%) of the total open space saved shall be used for one (1) or more of the following active recreational purposes: golf courses with accompanying club houses and facilities, swimming pools and cabana clubs, tennis, badminton, volleyball and basketball courts, playing fields, riding clubs, limited membership outdoor recreational areas, or private landscaped areas.
  - b. The remaining portion of open spaces saved shall be permanently devoted to one (1) or more of the following open land uses: parks or playgrounds, pedestrian walkways, bicycle paths and bridle trails, stream preservation, and watershed protection or flood control areas. An application for a cluster development shall clearly identify all open space areas and its proposed land uses.
10. The provisions of this subsection 9a and 9b above shall not apply when the full fifty percent (50%) open space set aside required is to be preserved farmland. If only a portion of the said required open space set aside is to be preserved farmland, then the remaining open space lands necessary to make up the fifty percent (50%) total, shall comply with subsection 1 and 2 above. All of the land so required to be preserved for open space excluding farmland as set forth hereinabove shall be under the supervision of a homeowners association required for planned residential cluster developments.
11. Provisions made within any planned residential cluster development for open space and recreational areas shall be reviewed, found adequate and approved by the Land Use Board. In its review, the Land Use Board shall investigate the size of parcels devoted to open space and recreational areas, their location within the project, the topography, the uses contemplated upon such open space and recreational area, configurations of the parcels under consideration, facilities and improvements to be provided, the provisions made for maintenance and access to said parcels or facilities, traffic flows to and around said parcels, the ecological impacts of their placement, development and use, the staging or timing of the open space or recreational area development, and how various categories or recreational facilities or open space and their location will be proportionally related to any staging of the development of housing units, if such staging is proposed. The Land Use Board shall make detailed findings concerning the adequacy or inadequacy of the aforesaid items to be reviewed in determining their conformity with the provisions of this ordinance, the adopted Township Master Plan, and any other plans or regulations applicable or relevant to the lands involved. The provisions made shall be deemed adequate if the Land Use Board determines that:
  - a. Portions of the open space and recreational areas are readily accessible to all residential dwelling units.

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- b. The uses being designated for open space and recreational areas are reasonably related to and appropriate and sufficient to meet the needs of the project's residents for a variety of uses appealing to all socio-economic levels and age groups.
  - c. The uses designated for open space and recreational areas will be functional upon the arrival of the residents who will use them.
  - d. The topography and environmental character of the land is suitable for the uses proposed, and the uses will not cause unreasonable adverse impacts to the ecology of the area and which impacts are incapable of being mitigated.
  - e. The open space and recreational areas are conveniently and appropriately designed with regard to the project's pedestrian and vehicular traffic patterns, to provide adequate access to, in, around and from the uses proposed.
- G. While nothing herein contained shall be deemed to require that, as a condition of development approval, a developer must make available lands for public use which are proposed for open space and recreational areas, the Township may, at any time and from time to time, accept the dedication of said land(s) or any interest therein for public use and maintenance where a free and non-coerced offer is made by the developer or owners of said land(s). That said offer is free and non-coerced shall be established on the record of any public meeting wherein said offer is made. To this extent, the requirement of setting aside open space for a cluster development shall not be deemed to requiring that said lands be dedicated to or in any way controlled by the Township. When lands are offered to the Township the following requirements shall be met:
- 1. Lands offered for recreational purposes shall be improved by the developer, including equipment, walkways, roadways, driveways and landscaping, in order to qualify the lands for acceptance by the Township.
  - 2. Any land offered to the Township shall be optimally related to the overall plan and design of the development and improved to best suit the purpose(s) for which it is intended.
  - 3. The lands offered to the Township shall be subject to review by the Land Use Board, which in its review and evaluation of the suitability of such land, shall be guided by the adopted Master Plan of the Township, by the ability to assemble and relate such lands to an overall plan for the community's recreational and open space needs, and by the accessibility and potential utilization of such lands by the public. The Land Use Board may request an opinion of other public agencies or individuals as to the advisability of the Township's accepting any lands to be so offered. In making this evaluation, particular consideration shall be given to the impact of public access to the proposed open space or recreational lands upon the residents of the cluster development and surrounding residentially used lands.
  - 4. Every parcel of land offered to and accepted by the Township shall be conveyed to the Township by deed at time of submission of the final plan to the Land Use Board for review and approval or if after approval, when offered by the owner after and prior to formal acceptance by the Township. The deed shall contain such restrictions as may reasonably be required by the Land Use Board to effectuate the conditions noted above pertaining to the use of such areas. Should the subdivision or development consist of a number of development stages, the Land Use Board may require that acreage proportionate in size to the stage being considered for final approval be offered to the

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Township simultaneously with the granting of final approval for that particular stage, even though these lands may be located in a different section of the overall development.

5. The minimum size of each parcel offered to the Township shall be five (5) acres.
  6. Nothing herein shall be construed or intended to imply that the governing body of the Township is required to accept lands so offered, except that the governing body when considering acceptance of such lands shall take into account the findings of the Land Use Board.
  - H. All cluster developments shall be considered to be planned developments and major subdivisions subject to subdivision review and approval as set forth in Sections 12.1 through 12.4. In case of a cluster development application requiring a conditional use permit (Section 12.6) shall be subject to Section 10.4S and the Land Board shall find that:
    1. The proposed development, its design and layout, and its size will not be detrimental to the surrounding neighborhood or to the intent and purposes of this ordinance or the adopted Township Master Plan. Furthermore, the design shall be such that the use of the clustering achieves maximum benefit in the use of land, preservation of open space and good development design principals and techniques;
    2. An environmental impact statement has been required, reviewed and found to determine that as proposed the development will not unreasonably adversely affect the environment of the lands upon which it is to be located or those adjacent thereto, or to create reasonably demonstrable adverse impacts off-site; and
    3. Cluster development as proposed will create a residential project harmonious with its environment and surrounding development.
  - I. All open space planned residential cluster developments shall require the establishment of a homeowners associations are provided for in Section 10.4L to own, manage, maintain and use any open space created or established as per the provisions herein this section and the Land Use Board may require the establishment of a said homeowners association in connection with an agricultural /open space planned residential cluster development where it deems same appropriate to the proposed situation.
- 9.10 Professional or business office center** Professional or business office centers may be established in accordance with the provisions of the Schedule of District Regulations and subject to the following requirements:
- A. Any such center shall be designed as a whole or complete complex with all structures or units having a uniformity of design and bearing architectural and aesthetic relationship to each other when more than one (1) structure is proposed.
  - B. Such centers may provide office space to insurance companies, banks, financial institutions, businesses and industries, professional corporations or associations, partnerships or individuals, including but not limited to lawyers, doctors, dentists, architects, land surveyors, engineers, planners or other recognized professions, brokerage firms, real estate firms or other companies, firms or operations requiring office space.
  - C. In addition to providing office space for such uses as those set forth in Subsection B hereinabove,

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space may also be provided for such accessory uses to the offices as follows: radiology or medical laboratories intended to serve the needs of the patients of doctors or dentists having office space within the complex, eye wear sales and repair services, newsstands, a restaurant or food takeout facility primarily serving the needs of the complex's occupants and their patrons, a drug store, office supply store, reproduction or copy center and such other uses as found to be incidental and customarily associated to the offices located within such a center.

Such accessory uses shall only be permitted within the center's structure's and uses shall be designed and of a size primarily to serve the needs of the center's occupants and patrons. In no case, shall more than forty percent (40%) of the office center's total building area be occupied by such accessory uses. All such accessory uses shall, however, when permitted, conform to all standards set forth in this Ordinance related to the type of use proposed.

- D. The parking and loading areas, common grounds or yard area and other common facilities shall be held in common ownership either by the owner of the center or by tenants and owners associations responsible for their upkeep and maintenance. Such associations' bylaws, articles of incorporation and other pertinent documents related to these issues shall be subject to review and approval of the Land Use Board as would a homeowners association in the case of a residential development. Such organizations shall be subject to the same requirements as set forth in Section 10.4L of this Ordinance.
- E. No residential use shall be permitted in connection with a professional or business office center.
- F. Loading and parking facilities required in connection with a professional or business office center shall be determined by the total number of office units available and the type of uses said units will serve according the provisions of Sections 8.7 and 8.8 of this Ordinance.
- G. All such centers shall be suitably landscaped, and all parking areas and pedestrian walkways shall be well lighted. When located adjacent to an arterial and/or major collector road as identified in the Township's adopted Master Plan or by the County of Cumberland, parking areas shall not be located, to the greatest extent possible, between said center's structure(s) and the street right-of-way lines of any such arterial or major collector roadway. Buffering at property lines shall be required of sufficient density and width to reduce the glare of vehicle lights or noise from the center to cause a nuisance to adjoining properties or road right-of-ways.
- H. Not more than twenty-five percent (25%) of the total floor area of any such center shall be occupied by non-office uses at any one (1) time, nor shall more than fifty percent (50%) of the ground floor of any structure within a center be occupied by non-office uses. This requirement is intended to assure that said center remains primarily a professional or business office center and not a planned commercial center or shopping center. In addition, the display of products from any structure in a center shall be primarily aimed at persons walking alongside of said unit or structure and not readily visible or designed to attract the attention of persons traveling along adjacent roadways since all no office uses are intended to serve as accessory uses to said offices.

**9.11 Recreational club, lodge or assembly halls** A recreational club, lodge, or assembly hall or other similar buildings of congregation, excluding churches, shall be permitted as set forth in Schedules of District Regulations and in accordance with the following requirements:

- A. In addition to the application procedures as set forth in this ordinance, an applicant for a conditional use permit for a recreational club, lodge, place of worship, assembly hall or similar

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building of congregation shall file with the Land Use Board a statement setting forth full particulars on the operation and use of said facility, a copy of the organization's articles of incorporation, if a corporation or trade name certificate, which is required to be filed under Title 56 of the New Jersey Revised Statutes. In addition, the Land Use Board may, in any case, require the names and addresses of all officers, directors, and/or trustees be furnished.

- B. The design and appearance of any structure erected in connection with such a use shall be in keeping with the general character of the neighborhood and surrounding area; and sufficient landscaping including trees, shrubs, plants and lawn or groundcover shall be provided to serve as a buffer between said uses and their accessory uses and adjoining properties and to ensure an attractive appearance for said uses' property and facilities.
- C. All off-street parking within thirty (30) feet of any property line shall be adequately screened from adjacent properties, and all lighting shall be shielded to prevent glare onto adjacent properties or roadways.
- D. Any residential use either permanent, temporary or occasional in connection with any of the types of uses addressed by this section shall be identified in any site plan if to be located on the same lot as the use and the applicant shall submit a written description of such use and demonstrate the rationale for allowing such use to be part of the facility proposed or existing. In reviewing such a request, the Land Use Board shall be guided by the regulations contained in this ordinance for similar residential uses in connection with a nonresidential use.

**9.12 Resource extraction** In any zoning district, as provided in the Schedule of District Regulations, no sand, gravel, rock, earth, minerals, clay or overburden shall be moved or extracted, including the establishment of a borrow pits and the stripping of soil from any property until a conditional use permit as set forth in Section 12.6 and site plan approval as set forth in Section 12.3 and 12.4 of this Ordinance has been granted by the Commercial Township Land Use Board, and a land mining license as required by Commercial Township Ordinance No. 93-338, as amended, has been issued by the Township Committee of the Township of Commercial, and any and all other applicable reviews and approvals are completed and/or permits are obtained.

- A. **Exception to permit and license requirement** Any earth removal or resource extraction not exceeding one-quarter acre in size and not exceeding three (3) feet in depth are exempt from the requirements that a conditional use permit and mining license be obtained. This subsection A shall not be applicable to any earth removal related to a bona fide development project having a zoning permit as required by this Ordinance.
- B. **Mining or other resource extraction of earth, sand, gravel, rocks, minerals, clay, or overburden,** including the establishment of borrow pits and the stripping of soil from any property shall only be permitted in any zoning district that permits resource extraction as a conditional use in said zoning district's schedule of district regulations. The removal of soil shall only be allowed from any property within the Township involved in development activity that has been permitted in connection with said development having been granted subdivision, site plan, conditional use or a variance approval and in those cases only where the amount of soil to be removed from the site has been noted on plans for said development authorized by said approval(s).
- C. Applications for conditional use permits shall be made in writing to the Commercial Township Land Use Board in accordance with the provisions of Article XII. Resource extraction may be permitted as a conditional use after thorough consideration being given to the following criteria

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herein this Section and specifically Items 1 through 8 below and a determination by the Board that the said requirements and criteria have been satisfied:

1. All conditions of this Section and other relevant sections applicable to the said land mining or earth extraction operation have been met including the provisions of Article X, Design and Performance Standards;
  2. The applicant satisfies the Land Use Board that the proposed resource extraction operation area, when completed and reclaimed as required herein this Section 9.12, will be suitable and appropriate for the type of development which was set forth in an earlier approval or which the applicant and the Land Use Board agreed would be the type and quality suitable to the development to be permitted after the cessation of mining;
  3. That the applicant owns or has a legal interest in the land upon which the mining will take place and shall sign the development review application submitted to the Board;
  4. The posting of appropriate performance and maintenance guaranties as per Article XI of this Ordinance prior to the issuance of a license for a resource extraction operation, to ensure that all required improvements related to site plan review of the Existing Conditions Plan, the Operational Plan and the Reclamation Plan occur as represented, and that the Future Land Use Plan is implemented in accordance with the representations set forth as required;
  5. Roads in the area where resource extraction operation is to occur are deemed in suitable condition for the commercial-type traffic generated by the proposed sand mining;
  6. The resource extraction operation will not have an adverse impact or affect on the residential, commercial or business, conservation or recreational activities and uses in the area, and the applicant for a resource extraction conditional use permit meets his burden of proof to show that there will be no deleterious effects from such mining or extraction activities on uses in the area;
  7. Traffic patterns in the area where mining or resource extraction operations will occur will not be unduly disrupted or adversely affected during the period when active mining or resource extraction operations are taking place;
  8. There will be no detrimental effect upon any municipal entities in the area such as, but not limited to, schools, recreational areas, parks or conservation preserves, police or other such public activities, services or uses.
- D. **Burden of proof** It is the applicant's burden of proof to show that all of the criteria set forth in this Ordinance for a proposed resource extraction operation are met by a preponderance of the evidence. It is also the developer's burden to show that allowing sand mining in the use area will meet the requirements of this Ordinance and that the subject area is particularly appropriate for both resource extraction at the present time, and the proposed or agreed upon future land use activities to be developed at the cessation of sand mining.
- E. **Application Requirements**
1. Application for a conditional use permit and site plan approval for a resource extraction operation shall be made in writing in accordance with the provisions of Article XII, "Development Review Procedures," and shall be accompanied by the completed appropriate Township application forms,

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checklists, Section and all accompanying plans, reports, statements or other documentation as required by this Ordinance or any other documentation deemed necessary by the applicant. The "site plan" for an application for a resource extraction operation shall be the series of plans required in Checklist "K" – Resource Extraction and as noted in C.4 above in this Section.

2. The application shall be accompanied by any applicable fees required as per Section 13.1 of this Ordinance and the establishment of an escrow account in accordance with the provision of Section 13.2 of this Ordinance.

F. **Duration of Approved Plan** Resource extraction operations shall be approved for five (5) year periods provided that the applicant complies with the requirements of the Commercial Township regulations for resource extraction as set forth in Ordinance No. 93-338, as amended and supplemented from time to time, and provided that the applicant can demonstrate that the proposed resource extraction operation complies with standards set forth herein in this Section 9.12 and other applicable regulations in this Ordinance or other applicable laws.

G.. **Renewals** Any applicant who wants a continuation of a resource extraction conditional use permit for an additional period of time, not to exceed five (5) years, must apply for same to the Land Use Board at least one hundred twenty (120) days before the expiration of the said permit. The applicant shall be allowed to utilize drawings, site plans, and descriptions supplied to the Land Use Board at the time of the issuance of the original conditional use permit so long as the applicant certifies by affidavit that mining has not been done outside the originally permitted area and said application and supporting data, documents, plans and other information remain valid and are the intent of the applicant.

If granted, the renewed conditional use permit shall be valid for a further five (5) year period.

H. **Emergency extensions** In accordance with Ordinance No. 93-338, as amended and supplemented from time to time, an emergency extensions of an expiring conditional use permit for a resource extraction operation may be granted by the Land Use Board for periods not to exceed three (3) months on application for same if good cause is shown and extenuating circumstances are demonstrated as to why a renewal application has not been submitted or approved. Situations that may qualify as an "emergency" will be decided on a case by case basis by the Land Use Board.

No more than two (2) consecutive ninety-day emergency extensions may be granted. If an emergency extension is denied and/or if the conditional use permit has expired and no request for an emergency extension is pending or has been approved, all mining in the previously permitted area shall immediately cease. If an extension of the conditional use permits granted, the applicant's sand mining license for the area in question may be extended by the Township Committee during the term of the conditional use extension, so long as the applicant pays the required fees for the license and keeps its performance bond in full force.

### I. Standards relating to earth extraction operations

1. **Size of tract** Any tract of land to be used for a earth extraction operation shall be at least twenty-five (25) acres in size unless it is contiguous to lands in the same ownership or leasehold interest used for active land mining operations at the date of the application for a permit, in which case the coordination of rehabilitation plans between new and existing uses will be required.

### 2. Setbacks



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- a. Resource extraction activities shall not be conducted closer than three hundred (300) feet from:
    - (1) The boundary of any zone where such operations are not permitted;
    - (2) The boundary of any adjoining property line unless such adjoining property is in the same ownership or leasehold interest as the permit property, and an appropriate easement or deed restrictions are provided so that the setbacks required herein this Ordinance are not violated if the adjoining property is conveyed or separated from the permit property;
    - (3) The edge of the right-of-way of any dedicated street, road or highway.
  - b. When it is determined that such setback areas are not suitable for proposed future permitted development due to environmental constraints of the site such as areas subject to flooding, severe limitations for an on-site sewage disposal system, topography, or other constraints, or when a more desirable layout for the Future Land Use Plan can be achieved, the setback may be reduced to that deemed necessary by the Land Use Board provided that an average setback of 300 feet is maintained. In no case, however, shall such a setback be reduced to less than one hundred fifty (150) feet unless:
    - (1) The affected adjoining property owner(s) specifically request in writing that the buffer requirements be reduced or waived; and
    - (2) The Land Use Board determines that the future use of the site will be enhanced, the residents of the Township will benefit from the waiver of this requirement, and that no deleterious precedent will be set that is adverse to the principles of the zone plan and this Ordinance.
  - c. The total minimum buffer area required shall be equal to the area derived by computing that which is required for a standard three hundred (300) foot buffer;
  - d. Building, permanent structures that make noise audible beyond the property line, use light that is visible beyond the property line, or create dust, and which are actively used in mining or subsequent production and/or processing operations, shall not be located closer than five hundred (500) feet to the public right-of-way or any dwelling;
  - e. Such buildings and structures actively used in mining or subsequent production and/or processing operations are considered to be a "disturbed area" and therefore, must be located within a permitted area. Such buildings and structures not located in a permitted area must be permitted and are subject to licensing and fee charges accordingly; and
  - f. No building, structures or non-permanent structures that make noise, use lights or create dust, and which are actively used in mining or subsequent production and/or processing operations which are in place prior to the enactment of Ordinance No. 93-338, shall be subject to the five hundred (500) foot setback requirement of paragraph d above. All of the above however, shall be considered to be a nonconforming use if located within five hundred (500) feet of a public right-of-way or any dwelling, and any addition to same must be approved by the Land Use Board.
3. **Buffer zones** On the property covered by the setback requirements above, there shall be maintained with this setback an undisturbed buffer zone of natural foliage trees, or other suitable plantings of at least one hundred (100) feet in width, and such zones are to be specifically shown

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on the plans with a complete description of the type of natural cover containing thereon. The Land Use Board may require in its discretion, additional screening such as additional vegetative cover, landscaped earth mounds or berms, or dense evergreen plantings if necessary to properly screen or buffer the operation from surrounding uses.

4. **Production and processing operations** All buildings, structures and equipment used for mining shall be constructed, maintained and operational in such a manner as to reduce, as far as practical, noise, vibration, or dust in order to minimize the impact on adjacent or surrounding uses.
5. **Consistency with reclamation plan** All mining operations shall be conducted in a manner not inconsistent with the approved Reclamation Plan and in such a manner that the objectives of said Plan may be realized after the sand, gravel, and other material has been removed.
6. **Access roads** Haul roads shall be located in such a manner as to minimize the impact on existing land uses and to avoid the routing of vehicles to and from the mining operation over streets or roads that primarily serve developed areas. Entrances shall be restricted to as few as are absolutely necessary, preferably no more than two unless warranted by specific conditions of the site or operation.
7. **Signs** Traffic control signs shall be provided and maintained by the operator on internal roads and all entrances when necessary for safety reasons. All entrances shall be clearly marked with identification of the operator of the facility and type of facility. All entrances and routes shall be clearly marked in order to guide workers, haulers, and authorized visitors who may be unfamiliar with the site, to designated areas, i.e. offices, loading areas and similar locations. All areas where access is to be restricted because of safety reasons shall be clearly marked. All signs shall be in accordance with the provisions of Section 8.11, "Signs," as applicable.
8. **Security gate** Security gates or other suitable guard mechanisms shall be provided at all entrances leading to or from public roads or rights-of-way which shall prohibit access during periods of non-operation.
9. **Dust and dirt control** Roads within the site shall be constructed in such a manner as to minimize and control the amount of dust created including the amount of mud and dirt carried onto the public roads by the wheels of vehicles from the site which, when deposited on roads, will contribute to dust problems over a wider area. If deemed necessary, the Land Use Board may require special treatment at the areas where access roads meet public roads for a distance on the access road not to exceed three hundred (300) feet and with a width not to exceed twenty-two (22) feet. The special treatment may consist of gravel, stone, oil treatment, or paving, as deemed appropriate.
10. **Fire Protection** There shall be provided at the plant and office facilities and at other location specifically requested by the Fire Chief of appropriate fire district wherein said plant and facilities are located, a water supply connection or hook-up facility for fire equipment use. Such facility shall be reviewed and approved by the Fire Chief of the fire district in which said plant and facilities are located.
11. **Grading** No slopes that exceed the angle of repose of the particular soil type shall be permitted to remain. All slopes shall be maintained in a safe manner such that they are not subject to sliding or shifting.

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12. **Topsoil preservation** As an integral part of each resource extraction operation a sufficient amount of arable topsoil shall be set aside and retained within or near the permit area to cover disturbed areas in accordance with the approved Reclamation Plan. The amount required shall be a quantity which, when spread, will provide a minimum depth of six inches (6") of topsoil, or an amount equal to that which was removed, whichever is less, throughout all areas to be restored (6" is equivalent to 800 cubic yards per acre). This material shall, where practical, be used for temporary screening or creation of berms. All topsoil stockpiles must be treated, planted and graded in accordance with "Standards for Soil Erosion and Sediment Control in New Jersey," adopted by the N.J. Soil Conservation Committee, as amended, in order to minimize the process of erosion by wind or water upon adjacent properties, public roads or streams.
13. **Erosion Control** Erosion control methods shall be in accordance with the approved plan based on "Standards for Soil Erosion and Sediment Control in New Jersey," adopted by the N.J. Soil Conservation Committee, as amended.
14. **Protection of vegetation** Existing trees, woods and ground cover shall be protected and retained to the maximum extent possible. Clearing shall be strictly limited only to those areas which are absolutely necessary for the proposed mining operation. Reestablishment of trees and vegetation shall be required in those areas which are unnecessarily destroyed. However, this provision shall not prohibit agricultural or forestry uses or activities permitted within the applicable zoning district.
15. **Protection of water tables** Maximum depth of the excavation shall not be below existing groundwater, except in such cases where the approved Reclamation Plan indicates that a lake or lakes will be part of the final use of the land, or where such Plan indicates that adequate fill and overburden will be used to refill such excavations for conformance with the approved Reclamation Plan. No resource extraction operation shall be conducted in such a manner as to permanently alter the water table of surrounding inhabited properties, or to alter the stability of adjacent lands, or to create a potential subsidence of adjacent lands.

Prior to commencement of earth or resource extraction operations, the operator shall install as a monitoring device, observation and monitoring wells in accordance with the following table based on a total of all permit areas currently applied for and previously approved.

0 to 50 acres -	2 wells
50 to 100 acres -	3 wells
Each additional 100 acres -	1 additional well

These wells shall be located and constructed to a depth and in accordance with details approved by the Land Use Board, and each well shall have a permanent reference bench mark on or adjacent to the facility. As the extraction area increase for new permit periods, those wells may have to be relocated in order to adequately surround the perimeter of the excavated areas.

### J. Standards relating to reclamation

1. **Exceptions** The operator to whom any conditional use permit and license for a resource extraction operation were issued is responsible for the reclamation of the area in compliance with the approved Reclamation Plan on file with the Township unless the area is sold to a public agency and that public agency does not want the Reclamation Plan implemented.

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2. **Progressive reclamation** Land restoration shall be planned and implemented as contemporaneously as possible with the extraction of the resource considering the ultimate use of the area as set forth in the Reclamation Plan. Such restoration should include the following steps:
  - a. Removal and storage of the topsoil and overburden;
  - b. Terracing or sloping the pit or face walls during the extraction period;
  - c. Final grading and sloping of the worked out area;
  - d. Replacing and contouring the topsoil and other overburden; and
  - e. Re-vegetation
3. **Timing**
  - a. Reclamation shall commence as soon as is practical in accordance with the approved Operation Plan and good land reclamation and forestry and landscaping practices;
  - b. Reclamation of a permit area shall be completed in accordance with the approved Reclamation Plan within three (3) years of the expiration date of the permit; and
  - c. Mining licenses must continue to be kept current and performance bonds posted kept in full force and effect until reclamation of the permitted are has been completed. Maintenance guaranties in accordance with the provisions of Section 11.3 shall be required as part of any reclamation.
4. **Dry pit rehabilitation** The dry pit may be back filled with sand, gravel, overburden, topsoil or other non-noxious, non-flammable and non-combustible solids, excluding junk or refuse. All other rehabilitation activities for dry pits shall conform to all other applicable standards of this Ordinance.
5. **Wet pit rehabilitation** Like dry pit rehabilitation, the wet pit may be filled and any filling must be accomplished in accordance with the conditions set forth for dry pit rehabilitation. In the alternative, the wet pit may be converted into a lake in accordance with the approved Reclamation Plan and all other applicable standards of this Ordinance and applicable regulations.
6. **Site clearance** All stumps, boulders and other debris resulting from the excavation or related activities shall be disposed of by approved methods. Non-vegetative natural debris like boulders or stone may be disposed of on-site if covered with a minimum of two feet of soil.
7. **Removal of topsoil** When topsoil is removed, sufficient arable soil as required by subsection 1.12 hereinabove shall be set aside on the site for spreading over the reclamation area. These stockpiles of topsoil should be used to minimize the effects of erosion by wind or water upon public roads, streams or adjacent land uses.
8. **Slopes** All banks shall be left in accordance with the topography established in the approved Reclamation Plan and shall be sloped at a slope not exceeding three (3) feet horizontal to one (1) foot vertical. Slopes under the water shall also be sloped no steeper than three (3) feet horizontal to one (1) foot vertical for the first twenty-five (25) feet from the normal water level of the pond. Thereafter, slopes shall not exceed a stable angle of repose of the soil material at the bottom of the

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pond.

9. **Drainage** Reclamation should be accomplished in such a way that natural waterways and storm drainage where they enter or exit the premises shall be altered only to the least degree necessary to carry out excavation and related activities. Any alteration of natural waterways or storm drainage shall not adversely affect public roads or neighboring land uses.

10. **Grading**

- a. When the extraction operation has been terminated, the area shall be graded as close to the natural contour of the land as possible to facilitate planning; and
- b. All regrading and reclamation shall be undertaken with the minimum amount of disturbance in order to minimize the amount of compaction of the soil.

11. **Landscaping**

- a. A planting plan shall be prepared by a professional landscaper or forester showing the areas to be planted, final grades, type and quality of plant material to be used, and all specification necessary for implementation;
- b. Planting shall not be performed later than May 15<sup>th</sup> or earlier than September 15<sup>th</sup> of the any given year. It is preferable and recommended that planting be performed in the early spring of each year, if possible;
- c. All planting and plant scheduling shall be in accordance with the approved planting plan; and
- d. If soil erosion is critical on the site, basic mulch shall be required such as cut grass, weeds, leaves or similar waste plant material or spotted low shrubs and herbaceous materials such as weeping love grass. The much composition and/or material to be used shall be identified and detailed on the approved planting plan. In areas of excessive weeds the ground shall be prepared prior to planting with the use of a disc, rotary tiller, spring tooth harrow or similar cut harrow. In meeting the requirements of this subsection best management practices shall be utilized and identified as part of the planting plan.
- e. All plants shall be nursery growth seedlings and planted in accordance with the following standards:

	<u>Seedlings per Acre</u>
Slopes less than 15%	1,000
Slopes over 15%	1,200

In approving the Planting Plan, the Land Use Board may increase said plantings per acre as deemed necessary for reasonable cause.

- f. All rows shall be planted with the same specific type of plant material;
- g. Set forth below is the recommended plant list for vegetation to be used in the Planting Plan. Other plant material (See Section 10.4AA) may be used as approved by the Land Use Board with the advice of a professional arborist or landscape architect;

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- (1) Pinus rigida – Pitch Pine
  - (2) Pinus strobes – White Pine, Eastern White Pine
  - (3) Betula populifolia – Gray Birch
  - (4) Liquidambar styraciflua – American Sweet Gum
- h. When a more desirable or compatible plan for the proposed use can be achieved, the Land Use Board may approve an alternate plan presented for its review or commissioned by it. The applicant must establish and demonstrate to the satisfaction of the Land Use Board that his plan will be more suitable for the proposed use than the provisions of subsections a through g above to overcome the Board's approval of an alternate plan.
- K. **Compatibility with approved Future Land Use Plan** All provisions of the approved Reclamation Plan shall be consistent and compatible with the approved Future Land Use Plan and provide as much flexibility as is possible for similar but varying future land use patterns.
- L. **Abandoned uses/termination of operations** In the case of a resource extraction operation a determination of abandonment shall be made as set forth in Sections 7.1 and 7.2 and subject to said determination being reviewed and affirmed by the Land Use Board. Said determination shall be made in accordance with the definition of "abandonment" as set forth in Section 3.3 of this Ordinance and a determination that a resource extraction operation has cease to operate, is not undertaking general maintenance of the operation and its facilities as set forth in this Ordinance and/or is not in compliance with a condition or conditions of the conditional use permit, site plan approval and/or the license issued, nor to have instituted the implementation of the reclamation plan as approved by the Land Use Board. Whenever a resource extraction operation has been deemed abandoned, a new application shall be required for said operation to be restarted at the site.
- Within six (6) months, unless extended by a resolution of the Land Use Board, after notice of the termination from the operator of a resource extraction operation, or after a determination of abandonment of such operation, or whenever a resource extraction operation fails to operate according to the standards and requirements of this Ordinance and/or in accordance with any approval granted after due notice having been given to the operator of said resource extraction operation, all unused structures, buildings and equipment along with all building, structures and equipment presently used in such operation shall be dismantled and removed by and at the expense of the operator last operating such building, structures and equipment.
- Such buildings, structures and equipment need not be dismantled and removed and shall be exempt from such requirement for dismantlement and removal so long as same are in good repair and may reasonably be expected to be used for continued land mining operations or for some other purpose permitted in the zoning district wherein any such buildings, structures or equipment are located. The burden of providing that any such buildings, structures or equipment qualify under this exemption shall be the responsibility of the land mining company to establish by clear and convincing evidence.
- M. **Future Land Use Standards**
1. **Zoning conformance** The approved Future Land Use Plan shall be based on acceptable sound



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planning practices in conformance with the adopted Township Master Plan, Zoning Plan (Map) existing zoning regulations of this Ordinance and all relevant Township and other plans or regulations applicable to the site.

2. **Compatibility with surrounding land use** The approved Future Land Use Plan for the former resource extraction operation site shall be compatible with adjacent and surrounding present land uses and potential future land uses.
3. **Development pattern** Development shall be planned to avoid adverse impacts on the desirable future development and/or subdivision of adjoining land, and strip development along existing roadways shall be discouraged. The approved Future Land Plan should conform to design standards that will provide safe and efficient access to the neighborhood street and highway system, relate the design of the plan to the natural topography and existing vegetation cover of the site, and contribute to the harmonious development of the Township and enhance the public health, safety and welfare of the community.
4. **Conformance with Reclamation Plan** The approved Future Land Use Plan shall exhibit conformance with the Reclamation Plan as approved by the Land Use Board and shall make maximum use of those areas reclaimed and rehabilitated. The two plans shall be used in conjunction with each other so that reclamation efforts are not wasted for probable future land uses and to avoid irreversible mistakes.
5. **Flexibility** The greatest degree of flexibility shall be utilized in the design of the Future Land Plan to make it adaptable to accommodating probable future land uses. To this end, all reasonable alternatives for future land use should be considered and investigated, and more than one Future Land Use Plan sketch may be submitted to justify the Reclamation Plan submitted.
6. **Lakes and ponds** The use of lakes and ponds resulting from wet pit excavations shall be highly encouraged, carefully evaluated for their potential aesthetic and recreational values and for their value as recharge and retarding basins in stormwater management.
7. **Environmental considerations** The Future Land Use Plan shall not promote or create the potential for serious pollution problems for serious air or water pollution problems or degradation of the environment of the site proposed for a resource extraction which would be in violation of all local, state and federal pollution standards or other environmental laws or regulations and promote or seriously jeopardize the health, safety and welfare of the community.
- N. **Performance and maintenance guaranties required** Prior to the issuance of final site plan approval and any zoning permit or certificate of occupancy, the owner or operator shall file with the Township Clerk a performance guarantee as provided for in Section 11.2 of this Ordinance to cover the costs of any site improvements required by site plan review and approval. The Township Committee shall determine the form and amount the performance guaranty is to be posted as set forth in Ordinance 93-338, the Commercial Township Mining and Extraction Code, as amended or supplemented from time to time.
- O. **Right of access guarantee** The performance guarantee shall be accompanied by an agreement signed by the applicant and land owner, if a different person, granting the Township the right to access to the property or properties involved to make inspections, to insure compliance during the period of operation and to perform all necessary reclamation of bonded property in the event of forfeiture of the performance guaranty.



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- P. **Existing resource extraction operations defined** Existing resource extraction operations shall be defined as any area which has been and, at the time of adoption of these regulations, is being operated as part of the regular business of the operator and/or owner of such land area and shall include the entire tract of land on which the operation is situated (extending to the limits of adjacent properties and/or other contiguous land of the operator).
- Q. **Obtaining and issuance of mining permits mining/resource extraction regulations** Any application for a conditional use permit and site plan approval shall be subject to the applicant obtaining of mining license as provided for in Ordinance No. 93-338, as amended or supplemented from time to time.

### 9.13 (RESERVED)

- 9.14 **Roadside stand or artisan's display** Roadside stands or artisan's displays as defined in Section 3.3 may be established as provided in the Schedule of District Regulations and according to the following standards:

A. **Roadside stand.**

1. The parcel proposed for development has road frontage of at least fifty (50) feet with one (1) defined entrance/exit from the road;
2. The stand shall be maintained in good repair on a well-kept site and shall maintain no display of goods closer than forty (40) feet to a road right-of-way line and shall supply adequate on-site parking area;
3. A minimum of twenty-five percent (25%) of the produce offered for sale in a roadside stand shall be grown on the property whereon the stand is located and the sale of live animals or poultry shall be prohibited;
4. The maximum sales area of the establishment shall not exceed five thousand (5,000) square feet;
5. A maximum of three (3) temporary off-site signs shall be permitted during periods of operation only, each not more than six (6) square feet in area. Additionally, forty-eight (48) square feet of identification sign area shall be permitted either on the stand or within thirty (30) feet thereof. All signs permitted in connection with roadside stands shall conform to the provision of Section 8.8 of this Ordinance.

- B. **Artisan's display** An area may be established to display the products, artwork, crafts or work of an artist, artisan or craftsperson on the property of their studio or workshop. Such a display may be permitted in the case of a home occupation according the provisions of Section 8.6 of this Ordinance and notwithstanding the provisions of Section 8.6, provided that the items displayed are made on-site and are deemed by the Zoning Officer as the work of the artist, artisan or craftsperson residing and/or working at that location. Such an area shall comply with the following regulations:

1. A display shall be designed and limited in size and scope to offering examples of the work which is undertaken at the site and/or is for sale thereon. It can take the form of a small table, showcase or step-like platform showing products or the hanging of items from line, rack or roof, ceiling or gables of a front porch. Such a display shall not exceed ten (10) to twelve (12) square feet in area

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and only one (1) such display area shall be permitted per site. No items shall be so displayed unless the owner thereof is present and open for business except where a showcase is permanently established and items displayed therein are kept secure.

In the case of a wood worker, furniture maker, carpenter shop or other wood working craftsman making products for sale to the general public and subject to the approval of the Land Use Board, a display area may be permitted within the front yard area that does not exceed a twenty four (24) square foot area that may include selected samples of only those wood products made on the premises. Such display may not create impervious or impermeable surfaces for such areas. Any signs shall be limited to eight (8) square feet in area total. The Land Use Board may permit additional outside display area in the rear of the property adjacent to the woodworking shop, studio or another accessory structure, but such additional area shall not be used for outdoor storage of products made on site.

2. No additional signs shall be permitted since the purpose of allowing the artisan's display is to advertise the products made there and for sale.
3. No self-standing display separate from a structure shall be located closer than ten (10) feet of any right-of-way or thirty (30) feet of an adjoining property line, nor shall it be located at the intersection of a driveway and/or roadways in such a way as to create a problem for driver vision.
4. No display of goods or products not made on-site by a resident artist, artisan or craftsperson will be permitted in an artisan's display as permitted by this Section.

### 9.15 (RESERVED)

**9.16 Studio or workshop.** A studio or workshop may be located as permitted in the Schedule of District Regulations and the following conditions and/or regulations:

- A. A studio or workshop established in conjunction with a home occupation, professional home occupation or a village home occupation may be considered an accessory thereto the home occupation and if it complies with the area requirements as set forth in Section 8.6 of this Ordinance. A studio or workshop shall not create nuisances from undue noise, smoke, glare, traffic or intrusion on adjoining properties. In considering a conditional use and/or reviewing a site plan for a studio or workshop, the Land Use Board shall find that such request should be granted and/or make such requirements for location or use of said studio or workshop as it deems necessary to reduce or eliminate such nuisances to the extent practicable based on the information submitted to the Board.
- B. When permitted as set forth in the schedules of district regulations districts a studio or workshop shall not be created as a separate structure if more than two (2) accessory structures exist on the lot involved. In such a case, the studio or workshop must either be located within the principal or one of the accessory structures or be attached thereto provided that it meets all the set back requirements for the zoning district in which it is located. When said studio or workshop is a freestanding structure, it shall be provided with access to the roadway upon which the property involved abuts.
- C. A studio or workshop that will be utilized for the sale of products or the gathering of people for classes, activities or shows shall provide additional parking accommodate said additional use. If the public is to be admitted to the studio or workshop on a regular basis as noted herein above,

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then the studio or workshop shall pedestrian access ways connecting the studio or workshop to any parking area and/or the street. Lighting and handicapped accessibility shall also be provided.

- D. A studio or workshop shall be designed, equipped and operated in such a way as to prevent noise, smoke, dust, fumes, glare or other nuisances from the activities conducted inside. When located within a residentially zoned area, the studio or workshop shall not be opened to the public before sunrise or after sunset except for classes or special events like recitals or shows held within the studio or workshop structure. Such special events shall not be held more often than once in any calendar quarter of the year. Any display of goods or products made or assembled on-site shall only be permitted in accordance with the provision of Section 9.14B above.
- E. No studio or workshop established as part of a home occupation shall exceed a height of thirty-five (35) feet, nor shall it exceed the permitted square footage for an accessory use of a home occupation as set forth in Section 8.6 of this Ordinance. Set back dimension for home occupation studios or workshops shall comply with those permitted for a garage in the zoning district in which they are located. For all other studios or workshops maximum and minimum dimensions and setbacks shall be set forth in the schedule of district regulations of the zoning district in which said proposed studio or workshop is to be located.

In the case where an existing residence on an adjoining lot whereon a studio or workshop is proposed, is located less than the required setback for a home in the zoning district in which it is located, the Land Use Board may, if possible, increase the setback required for a proposed studio and workshop to the extent that the above noted residence's setback is deficient from its setback to maintain the intent of this Section in terms of location of a studio or workshop. If not possible, the Land Use Board shall determine that

### 9.17 Towers and telecommunications facilities

- A. **Findings** The Federal Telecommunications Act of 1934 as amended by the Telecommunications Act of 1966 (hereafter "The Act") grants the Federal Communications Commission exclusive jurisdiction over: (a) the regulation of the environmental effects of radio frequency (R.F.) emissions from telecommunications facilities; and (b) the regulation of radio signal interference among users of the R.R. spectrum.

The Township's regulation of towers and telecommunications facilities within the Township will not have the effect of prohibiting any person from providing wireless telecommunications services in violation of the Act.

- B. **Purposes** The general purpose of this Section is to regulate the placement, construction and modification of towers and telecommunication facilities in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of a competitive telecommunications marketplace as it relates to the Township of Commercial.

Specifically, the purposes of this Section are: (a) to regulate the location of towers and telecommunications facilities within the Township of Commercial; (b) to protect residential areas and land use from potential adverse impact of towers and telecommunication facilities; (c) to minimize adverse impact of towers and telecommunication facilities through careful design, location, landscaping and innovative camouflaging techniques; (d) to promote and encourage shared use/collocation of towers; (e) to promote and encourage the utilization of technological designs that will either eliminate or reduce the need for erection of new tower structures to support

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antenna and telecommunications facilities; (f) to avoid potential damage to property and personal injury to residents caused by towers and telecommunications facilities by insuring that such structures are soundly and carefully designed, constructed, modified, maintained and removed when no longer used or are determined to be structurally unsound; (g) to insure that towers and telecommunications facilities are compatible with surrounding land use.

### **C. Development of Tower**

1. Towers shall be a conditional use in all zoning districts within the Township of Commercial subject to the Land Use Board approval except the River Conservation and Flood Plain District as per Section 8.10 of this Ordinance and any land subject to the River Management Plan adopted by the Township of Commercial and the National Park Service. Any application for a tower shall require conditional use approval (Section 12.6) and major site plan approval (Sections 12.1 through 12.4). To the greatest extent possible, both requirements shall be considered in a single application.
2. No person shall build, erect or construct a tower upon any parcel of land within any zoning district as set forth above unless approval has been received by the Land Use Board of the Township of Commercial.
3. Towers are exempt from maximum height restrictions of the districts where located. Towers shall be permitted to a height of 150 feet subject to the satisfaction of the remaining requirements of this section. Towers may be permitted in excess of 150 feet in accordance with the provisions of this Section entitled: "Criteria for Site Plan Development Modifications."
4. No new tower shall be built, constructed or erected in the Township unless the tower is capable of supporting at least two or more additional telecommunication facilities comparable weight, size and surface area to the telecommunications facility installed by the applicant.
5. All persons seeking to build a tower must submit an application regarding the same to the Township Land Use Board. The application must include all information and documentation as set forth in Checklist – Schedule "J" – Tower and Telecommunication Facility Application.
6. The Land Use Board may require the applicant to supplement any information that is considered inadequate or that the applicant has failed to supply. Any application may be denied on the basis that the applicant has not satisfactorily supplied the information set forth in subsection 5 above. Applications shall be reviewed by the Land Use Board in a prompt manner and all decisions shall be supported in writing setting forth the reason for approval or denial.
7. The applicant must produce evidence at the hearing before the Land Use Board addressing whether there are existing towers within the vicinity which could be utilized by the applicant as an alternative to constructing the new tower. The applicant shall also be required to provide evidence and testimony as to the availability of placing the tower atop any structure of at least two stories or twenty-four feet in height within the vicinity.

### **D. Setback**

1. Setback for each tower shall be 150% of the height of the tower from the property line on all sides. Example: a one hundred (100) foot tower would have to be set back at least one hundred fifty (150) feet from each property line on the property where said tower would be located.

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2. Setback requirements for towers shall be measured from the base of the tower to the property line of the parcel of land on which it is located.
  3. Setback requirements may be modified, as provided in subsection Q of this Section, when placement of a tower in a location which will reduce the visual impact can be accomplished.
- E. **Structural Requirements** All towers must be designed and certified by an engineer to be structurally sound, and at a minimum, be in conformance with the Uniform Construction Code and BOCA National Property Code and all other standards as set forth in this Section or as otherwise applicable. All towers in operation shall be fixed to land.
- F. **Buffer Requirements** For purposes of this Section, the distance between towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan of the proposed tower. Tower separation distances from residentially zoned lands shall be measured from the base of the tower to the closest point of residentially zoned properties. The minimum tower separation distance from residentially zoned land and from other towers shall be calculated and applied irrespective of the Township's jurisdictional boundaries.
1. Towers shall be separated from residentially zoned lands by a minimum of two hundred (200) feet or two hundred percent (200%) of the height of the proposed tower, whichever is greater. To the extent that this subsection imposes a greater setback requirement than otherwise set forth in this Section, this subsection shall be controlling.
  2. Proposed towers must meet the following minimum separation requirements from existing towers or towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to this Section:
    - a. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice or guyed towers by a minimum of fifteen hundred (1,500) feet.
    - b. Self-supporting lattice or guyed tower structures shall be separated from all other self-supporting guyed towers by a minimum of fifteen hundred (1,500) feet.
    - c. Self-supporting lattice or guyed tower structures shall be separated from all monopole towers by a minimum of seven hundred and fifty (750) feet.
- G. **Method to Determine Tower Height** Measurement of the tower height for the purpose of determining compliance with all requirements of this Section shall include the tower structure itself, the base pad and any other telecommunication facilities attached thereto which extend more than twenty (20) feet over the top of the tower itself. Tower heights shall be measured from grade.
- H. **Illumination** Towers shall not be artificially lighted except as required by the Federal Aviation Administration. Upon commencement of construction of a tower in cases where there are residential uses located within a distance which is three hundred percent (300%) of the height of the tower from the tower and when required by Federal law, dual mode lighting shall be requested.
- I. **Exterior Finish** Towers not requiring FAA painting or marking shall have an exterior finish

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which enhances the compatibility with adjacent land uses and the same shall be approved by the Land Use Board. For example, earth tone colors may be required for the fifty (50) feet portion of the tower which is close to land or shows background as a forest or other type scenery, or blue or sky colors may be required for the portion of the tower extending above fifty (50) so that the same would blend in with the natural horizon.

- J. **Landscaping** All landscaping on a parcel of land containing towers, antenna support structures or telecommunications facilities shall be in accordance with the applicable landscaping requirements as set forth in Sections 10.4D, V and AA of this Ordinance. In addition to said requirements, the Township may request a perimeter of tree which upon maturity would be thirty (30) feet or higher forming a circular pattern around such tower, antenna support structure or telecommunications facility. Additionally, any non-tree area shall be an aesthetically pleasing environment to enhance the compatibility with adjacent land use. A wooden fence may also be required, and any landscaping shall be installed outside of any such fencing. A fence may be required for safety purposes. All trees required shall be compatible with indigenous pineland trees.
- K. **Access** The parcel of land upon which a tower is located must provide access to at least one (1) paved vehicular parking space onsite. Additional parking may be required by the Land Use Board based on use. Adequate area must exist for vehicles to turn around at the site. All access roads to the site must be paved with asphalt or be of compacted gravel.
- L. **Stealth Design** All towers must attempt to use stealth design. For purposes of this Section, the term "stealth design" shall be defined as the design of any tower or telecommunications facilities which enhances its compatibility with adjacent land uses, including, but not limited to architectural design to look other than a tower such as light poles, power (utility) poles, and trees. The term "stealth" does not necessarily exclude the use of camouflaged lattice, guyed or monopole tower designs.
- M. **Telecommunications Facilities on Antenna Support Structures** Any telecommunications facilities which are not attached to a tower may be permitted on any antenna support structure if the applicant shall, by written certification to the Zoning Officer, establishes the following at the time plans are submitted for a building permit:
1. That the height from grade of the telecommunications facilities shall not exceed the height from grade of the antenna support structure by more than twenty (20) feet.
  2. That any telecommunications facilities and their appurtenances, located above the primary roof of an antenna support structure, are set back one (1) foot from the edge of the primary roof for each one (1) foot in height above the primary roof of an antenna support structure, if such facilities are appropriately screened from view through the use of panels, walls, fences or other screening techniques approve by the Township. Setback requirements shall not apply to stealth antennas which are mounted to the exterior of antenna support structures below the primary roof, but which do not protrude more than eighteen (18) inches from the side of such an antenna support structure.
- Telecommunications facilities are prohibited on all other structures.
- N. **Modifications of Towers** A tower existing prior to the effective date of this Section (May 3, 2001), which was in compliance with the Township zoning regulations immediately prior to the effective date of this section, may continue in existence as a nonconforming structure. Such

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nonconforming structure may be modified, demolished and rebuilt without complying with any of the additional requirements of this Section, except subsection F, "Buffer Requirements," subsection O, "Certification and Inspections," and subsection P, "Maintenance," provided:

1. The tower is being modified or demolished and rebuilt for the sole purpose of accommodating, within six (6) months of the completion of the modification or rebuild, additional telecommunications facilities comparable in weight, size and surface area to the discrete operating telecommunications facilities of any person currently installed on the tower.
2. An application for a development permit is made to the Township Land Use Board which shall have the authority to issue a development permit without further approval. The grant of a development permit pursuant to this subsection allowing for modification or demolition and rebuild of an existing nonconforming tower shall not be considered a determination that the modified or demolished and rebuilt tower is conforming.
3. The height of the modified or rebuilt tower and telecommunications facilities do not exceed the maximum height allowed under this Ordinance.

Except as provided in this subsection, a nonconforming structure or use may not be enlarged, increased in size or abandoned. For purpose of this Section a nonconforming use which is discontinued for a period of more than one hundred eighty (180) days, unless said discontinuance is for repairs, shall be considered abandoned. This Section shall be interpreted to legalize any structure or use existing at the time this Section is adopted which structure or use is in violation of any of the ordinances of the Township or any other Federal, State or County statutes, regulations, ordinance or other laws prior to the enactment of this Section.

### **O. Certification and Inspections.**

1. All towers shall be certified by a licensed professional engineer to be structurally sound and in conformance with the requirements of the Uniform Construction Code and the BOCA National Code and all other construction standards set forth in applicable Township ordinances and Federal and State law. For new monopole towers, such certification shall be submitted with an application pursuant to subsection D of this Section and said application shall be resubmitted every five (5) years thereafter. For existing monopole towers the next certification shall be submitted within 60 days from January 4, 2001 and then every five (5) years thereafter. For new lattice or guyed towers such certification shall be submitted with an application pursuant to subsection D of this Section and shall be resubmitted within sixty (60) days of January 4, and then every two (2) years thereafter (January 4, 2001 is effective date of Township Ordinance No. 2000-416).
2. The Township or its agents shall have the authority to enter onto any property upon which a tower is located between the inspections and certifications required above to inspect the tower for purposes of determining whether it complies with all sections of this ordinance and any Federal or State law or State, County or Federal rule or regulation.
3. The Township reserves the right to conduct such inspections at any time upon reasonable notice to the tower owner. No notice is required for emergency inspections. All expenses related to such inspections by the Township shall be borne by the tower owner(s).

### **P. Maintenance**

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1. Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries and nuisances to the public.
2. Tower owners shall install and maintain towers, telecommunications facilities, wires, cables, fixtures and other equipment in substantial compliance with the requirements of the national Electric Safety Code and all FCC, State, and local regulations and in such manner that will not interfere with the use of property.
3. All towers, telecommunications facilities and antenna support structures shall at all times be kept and maintained in good condition and working order, and shall be repaired so that the same shall not menace or endanger the life or property of any person.
4. All maintenance or construction of towers, telecommunications facilities or antenna support structures shall be performed by licensed maintenance and construction personnel.
5. All towers shall maintain compliance with current RF emission standards of the FCC and other applicable FCC rules and regulations.
6. In the event that the use of the tower is to be discontinued by the tower owner, the tower owner shall provide written notice to the Township of its intent to discontinue the use and the date when said use shall be discontinued. The tower owner shall be specifically responsible. If FCC approval is required, the tower shall be dismantled within six (6) months from the time it is no longer being used for telecommunication purposes and FCC approval is obtained, but in no event shall the tower exist in excess of twelve (12) months from the time of its discontinued use.

### **Q. Criteria for Site Plan Development Modifications**

1. Notwithstanding the tower requirement provided in this Ordinance, modifications to the requirements may be approved by the Land Use Board as a conditional use in accordance with the following:
  - a. In addition to the requirements for a tower application, the application for modification shall include the following:
    - (1) A description of how the plan addresses any adverse impact that might occur as a result of approving the modification
    - (2) Description of off-site or on-site factors which mitigate any adverse impact which might occur as a result of the modification
    - (3) A technical study that documents and supports the criteria submitted by the applicant upon which the request for modification is based. The technical study shall be certified by a licensed professional engineer and shall document the existence of the facts related to the proposed modifications and its relationship to surrounding rights-of-way and properties.
    - (4) For modification of the setback requirement, the application shall identify all parcels of land where the proposed tower could be located, attempts by the applicant to contact and negotiate an agreement for collocation, and the result of such attempts.



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- (5) The Land Use Board may require the application to be reviewed by an independent engineer under contract to the Township to determine whether the antenna study submitted supports the basis for the modification requested. The cost to review by said engineer shall be reimbursed from the applicant's escrow account.<sup>1</sup>
- b. The Land Use Board shall consider the application and modification based on the following criteria, in addition to the statutory criteria for the grant of a use variance (N.J.S.A. 40:55D-70d).
  - (1) That the tower as modified will be compatible with and not adversely impact the character or integrity of surrounding properties and the existing zones.
  - (2) Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the mitigation.
  - (3) That the tower shall not negatively impact upon the scenic qualities of the Maurice River System including its tributaries in the Township of Commercial.
  - (4) Written statement from the Township Emergency Management Coordinator that the proposed tower not negatively impact upon any emergency medical evacuation ("medivac") landing areas in regular use at the time of the application.
  - (5) In addition, the Land Use Board may include conditions on the site where the tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed tower to mitigate any adverse impacts which arise in connection with approval of the modification.
2. In addition to the requirement of subsection 1, in the following cases the applicant must also demonstrate, by written evidence, the following:
  - a. In the case of a requested modification to the setback requirement under subsection D, that the setback requirement cannot be met on the parcel of land upon which the tower is proposed to be located and the alternative for the person is to locate the tower at another site which is closer in proximity to residentially zoned land.
  - b. In the case of a request for modification to the separation and buffer requirements from other towers set forth in subsection F that the proposed site is zoned industrial or heavy industrial and the proposed site is at least double the minimum standard for separation from residentially zoned lands as provided in said subsection F.
  - c. In the case of a request for modification of the separation and buffer requirements from residentially zoned land as set forth in subsection F that the applicant provides written technical evidence from an engineer that the proposed tower and telecommunications facility must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system and that the applicant or owner is willing to create approved landscaping and other buffers to screen the tower from being visible to residentially zoned properties.
  - d. In the case of a request for modification of the height limits for towers and telecommunication facilities or to meet the minimum height requirements for antenna support structures that the

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<sup>1</sup> See Checklist "H"

## Commercial Township Development Regulations Ordinance

modification is necessary to:

- (1) Facilitate collocation of telecommunications facilities in order to avoid construction of a new tower; and
- (2) To meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from an engineer that demonstrates that the height of the proposed tower is the minimum height required to function satisfactorily, and no tower that is taller than such minimum height shall be approved.

### R. Abandonment

1. If any tower shall cease to be used for a period of 365 consecutive days, the Township Committee of the Township Committee or the Township Land Use Board, through the Township Clerk, shall notify the owner, with a copy to the applicant, that such site has been abandoned. The owner shall have thirty (30) days from the receipt of said notice to show, by a preponderance of the evidence, that the tower has been in use or under repair during such period, the Township Committee shall issue a final determination of abandonment, and the owner shall have seventy-five (75) days thereafter to apply to the FCC for the dismantling; within one hundred eight (180) days of such FCC approval of the dismantling, the owner shall dismantle and remove the tower. If no such FCC approval is necessary, then said tower shall be dismantled and removed within one hundred eighty (180) days of the cease of use. In no event shall the tower not be dismantled within 365 days from the cease of use.
2. As security for the obligations set forth in this Section, the applicant at the time of submitting the application shall post a bond in an amount as determined by the Township Engineer, being of such amount to cover the anticipated cost of dismantling and any removal of any tower.

S. **Minimum lot area** The minimum lot area for any lot which will have a tower located thereon within the Township shall be sufficient to comply with the setback requirements set forth in subsection D. The minimum lot area shall be sufficient to permit a setback of a minimum 150% of the height of the tower measured from the perimeter of the base of the tower to the nearest property line. The height of the tower shall be calculated as set forth in subsection G.

T. **Site plan review** All applications to determine whether or not a tower may be sited within the Township shall be submitted to be reviewed and approved by the Township Land Use Board. In addition to addressing the requirements set forth in this Section, the Land Use Board shall consider any and all additional site plan requirements.

U. **Federal approvals** In addition to the requirements set forth herein this Section, all applicants must receive any and all necessary Federal and State approvals including, but not limited to, approval from the F.C.C. and the F.A.A., if applicable.

V. **Signs** No signs shall be permitted at or on any towers or antenna support structures except signs warning of any potential danger at such location.

9.18 **Village-oriented commercial or retail use** A village-oriented commercial or retail use as defined in Section 3.3 of this Ordinance may be established as set forth in Schedule of District Regulations subject to the following conditions:

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- A. Purpose. The purpose of this Section is to permit and regulate retail and commercial activities and uses including the manufacturing of certain goods within village as identified in adopted Township Master Plan, and that will meet the needs of the villages' residents and/or visitors while protecting the village character and most especially, the mixing of residential and commercial uses so characteristic of a village setting as delineated in the Township Master Plan.
- B. Standards.
1. In determining whether or not a particular land use activity meets the above noted definition of village-oriented commercial or retail use, the Land Use Board or Zoning Officer shall find that the use is a common activity which can reasonably be expected to meet the village's needs. Thus the retail activity would include the sale of goods and services aimed at the village's market and which market is not to be considered larger than the Township and its adjoining municipalities. It would also however, include shops and services aimed at those visiting the village and/or its environs for recreational, educational and similar or related reasons. Such uses might include, but are not limited to, canoe rental, bird enthusiasts' shop, or other retail uses selling a good or service related to the special characteristics of the village or its environs.
  2. The use shall be located and designed to reduce nuisances to adjoining residential properties. In reviewing the site plans for same, adequate buffering and screening shall be provided to prevent glare, noise or debris from causing nuisances to adjoining properties used for residential purposes.
  3. No such village-oriented commercial or retail use shall be open for business after midnight or before 6:00 A.M. Hours of proposed business or operation shall be provided as part of the site plan submitted and shall be found by the Land Use Board to be reasonably normal hours of operation for the type of business activity and not destructive of the village character. Where hours of operation are to be beyond sunset thereby requiring lighting, additional requirements can be imposed to reduce or eliminate nuisances to adjoining residentially-used properties.
  4. All such uses shall provide adequate on-site parking as required by Section 8.8 or the Land Use Board may determine as allowed by Section 8.8 that sufficient existing parking within a reasonable distance from the site is sufficient to handle the expected patron parking needs and reduce or eliminate the need for additional parking, except that parking for all employees of the village-oriented commercial or retail use shall be located on-site. If off-site parking is not public, then the applicant shall provide evidence of an agreement for use of private off-site parking facilities in connection with meeting the parking needs for a specific site.
  5. Site plan review and approval shall be required for any village-oriented commercial or retail use or activity.
- C. Any village-oriented commercial or retail use approved shall only continue to operate so long as it complies with the provisions of this Section, Ordinance and the provisions or conditions imposed as part of site plan approval. Failure to comply with any of these above mentioned requirements shall be deemed a violation of the zoning permit and this Ordinance.

### **9.19 Windmills, energy conservation devices, generators and private communications facilities.**

Windmills, including those used for the production of electric current, energy conservation devices such as solar panels for heating, generators for supply of emergency power supply and private communication installations, including non-commercial television and/or radio towers,

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antennae, satellite dishes and similar devices, may be installed as set forth in the Schedules of District Regulations, subject to the following conditions:

- A. Windmills shall be permitted in connection with A Agricultural, RR Rural Resource, and C/R Commercial/Recreation Zoning Districts when they meet the following standards:
  - 1. The proposed windmill will not block, interfere or otherwise substantially impair a scenic vista or corridor as identified in this Ordinance or the view of said scenic vista or corridor for a residential structure on property adjoining the property whereon the proposed windmill will be located.
  - 2. The primary purpose of a proposed windmill(s) will be to provide power for the principal use of the property whereon said windmill(s) is to be located and shall not be for the generation of power for commercial purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a windmill designed to meet the energy needs of the principal use.
  - 3. The windmill and its location on the property involved shall be designed to reduce or avoid any nuisances to surrounding properties and to limit any noise from said windmill from being heard off the property where said windmill is located. The actual side and rear yard setbacks for a windmill shall be determined by the Land Use Board and shall be based upon the height of the proposed windmill.
  - 4. No windmill shall exceed a height greater than two hundred (200) feet. No windmill shall be located as close to a property line as to result in any portion of the windmill at any time, whether erect or in the event the windmill should fall or be toppled, to overhang, cross or otherwise extend beyond the property line.
  - 5. No windmill shall be located in any required front yard area with the exception of windmills on properties located on the Maurice River located within the C/R Commercial Recreation Zoning District.
  - 6. Installation of a windmill shall require site plan review when constructed for use in connection with a non-residential use activity.
- B. Energy conservation devices such solar heating panels and private communications equipment, such as dish or disc antennae, satellite antennae, television or radio towers and similar devices, shall be permitted in all zoning district as a conditional use in accordance with the following conditions:
  - 1. No energy conservation or communications equipment shall be located in any required front yard area to the extent practical given the need for solar access in the case of energy conservation equipment.
  - 2. Energy conservation or communications equipment shall not be attached to the front facade or roof area of any structure or building wherever practical given the requirements for said equipment such as solar access or satellite alignment.
  - 3. When any dish, disc or satellite antennae not installed on a principal structure and is to be located within fifteen (15) feet of adjoining property, it shall be screened with plant material to the extent practical to reduce unsightly appearance without affecting performance.

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4. No communication equipment shall be permitted which causes interferences or problems for adjoining properties' communication equipment or reception of television, radio or other communication signals.
  5. Wherever practical and possible, energy conservation and communication equipment shall be so located on a property so as not to be visible from the street.
  6. Construction and erection of such equipment shall be subject to the Uniform Construction Code and shall at no time constitute a threat to public safety, health or welfare.
- C. The permanent installation of electrical generators for the emergency provision of power shall be permitted in all zoning districts in accordance with the following provisions:
1. All such permanent installation of an emergency power generator shall be located either within a structure or partial structure or be provided with suitable buffering, baffles and mufflers to reduce noise perceptible to adjoining properties and shall meet all safety requirements set forth in Township ordinances or regulations and Federal, State or County laws or regulations. Zoning and construction permits are required for the permanent installation of an emergency power generator.
  2. Such generators shall be subject to review and approval by the Township Fire Safety Coordinator and/or the Fire Chief of the local fire district wherein the said generator is to be installed.
  3. The minimum set back for a permanently installed emergency power generator shall be 100 feet from the nearest property line if not installed within a structure or partial structure and fifty (50) feet if installed within a shelter.
  4. Any emergency power generator shall be kept within a locked enclosure and the means of starting such generator shall likewise be secured to prevent accidental operation. "Secured" as used herein shall mean that any switch or mechanism to start shall require a key or other means of activating the generator and including any key being left in the equipment.
  5. Such emergency generator shall be used only when electrical power transmission is not available from the local electrical power provider or utility. Use of an electrical generator for provision of electrical power on a non-emergency basis shall not be permitted.
  6. The provisions of this Section shall not apply to a windmill used for the generation of electrical power as set forth in subsection A above.
- 9.20 Yard sales.** An owner or person in possession of real estate used for residential purposes may hold a yard, tag or garage sale not more than three (3) times in any calendar year upon applying for a permit from the Zoning Officer. Issuance of such a permit shall be based on the following conditions:
- A. A tag, yard or garage sale shall not exceed two (2) consecutive days.
  - B. A maximum of four (4) temporary off-site directional signs measuring not over two (2) square feet in area each for any tag, yard or garage sale for which a permit is issued. All such signs shall be placed and removed in accordance with the provisions of Section 8.11 of this Ordinance, except that no sign permit shall be required for such signs. Signs must be removed by the applicant

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within three (3) days after the event.

- C. Any tag, yard or garage sale shall be conducted only during the hours of daylight. The Zoning Officer may impose restrictions on the location of such a tag, yard or garage sale on a property and the hours of operation of said sale where it is determined, based upon consultation with the appropriate officials, that said sale would create a traffic hazard.
- D. Tax exempt organizations are exempt from obtaining a permit under this Section, but shall be subject to the standards set forth herein in connection with the frequency, hours of operation and the signs allowed for such sales.
- E. All tables and merchandise shall be moved inside within 24 hours of the end of the permit or the permit holder will be subject to zoning violations.

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### **ARTICLE X DESIGN AND PERFORMANCE STANDARDS**

- 10.1 Applicability.** Any application for development within the Township of Commercial shall demonstrate conformance to design standards that will encourage orderly development patterns within the municipality. Each development submitted for review and approval in accordance with this Ordinance shall conform to the design provisions and performance standards and requirements contained herein.
- 10.2 Conformance with Township Master Plan.** All proposed developments shall conform to the proposals and conditions or standards shown on the adopted Township Master Plan as amended. The conformance to and impact upon proposed streets, drainage rights-of-way, school sites, public parks, recreational areas or open spaces, scenic and/or historic sites, community facilities, utilities or conservation areas, or other facilities or areas shown on the officially adopted Master Plan shall be considered by the Land Use Board in the review of plats and plans for development and may be referenced by it in setting conditions for the approval of any proposed development.
- 10.3 General standards.**
- A. Future development. All improvements proposed in any future development shall be designed and installed in such a way as to connect to any existing facilities and to enable future connections or extensions of expanded or new facilities. Wherever possible, improvements shall be designed to handle present and probable future development to the reasonable extent practical.
  - B. Character of land. Land which the Land Use Board finds to be unsuitable for proposed subdivision or their use due to environmental constraints, such as but not limited to: flooding, improper drainage, steep slopes, soil conditions, or the existence thereon of historic sites, or vegetative or wildlife habitat; and where the effect of such lots or development would have on remaining lands or other features or characteristics which can reasonably be expected to be harmful to the health, safety and general welfare of the present or future inhabitants of the development and/or its surrounding areas, shall not be developed unless acceptable and adequate measures or methods are formulated by the applicant to eliminate and satisfactorily mitigate the problem(s) or adverse impact(s) which would meet the standards and regulations of this Article and other applicable regulations.
- 10.4 Specific provisions and standards enumerated.** All developments shall be subject to the specific provisions or standards contained in this section. In the case of residential developments, the Residential Site Improvement Standards, as amended and supplemented from time to time according to law, shall supercede the standards included herein dealing with the same provisions or improvement in connection with residential development. The following provisions and standards shall be addressed and satisfied in connection with any required development review and approval:
- A. **Agriculture** All agricultural activities and fish and wildlife activities, including the preparation of land and the planting, nurturing and harvesting of crops, shall be carried out in accordance with the recommended management practices established for the particular agricultural activity by the New Jersey Department of Agriculture, the Soil Conservation Service, and the New Jersey Agricultural Experimental Station at Rutgers, the State University of New Jersey.

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**B. Air Quality** All development shall adhere to the relevant air quality standards of N.J.A.C. 77:27, *et seq.* Adherence to the standards of this section shall be determined by means of an air quality simulation model approved by the New Jersey Department of Environmental Protection and Energy pursuant to N.J.A.C. 7:27-18.3.

**C. Blocks**

1. The length, width and acreage of street blocks shall be sufficient to accommodate the size lot required in the zone district in which it is to be located and to provide for convenient access, circulation control and traffic study.
2. Blocks over 1,000 feet in length within residential areas shall be discouraged, but where they are used, pedestrian crosswalks or bikeways between lots may be required in locations deemed necessary by the . No block within a residential area shall exceed 1,500 feet in length.
3. Within commercial and industrial areas, block length shall be sufficient to meet area and yard requirements for such uses and to provide proper street access and circulation.

**D. Buffers and screening** Wherever buffers or screening are required, it shall be installed according to the following:

1. Buffer areas shall require site plan review and are required along all lot lines and street lines which separate a non-residential use from either an existing residential use or residential zoning district. Buffer areas shall be developed in an aesthetic manner for the primary purpose of screening views and reducing noise, glare, blowing debris or other nuisances' perception or effect beyond the lot. No structure, use, activity, storage of materials, or parking of vehicles shall be permitted within a buffer area.
2. The standards for the location and design of buffer areas are intended to provide flexibility in order to provide effective buffers. The location and design of buffers shall consider the use of the portion of the property being screened, the distance between the use and the adjoining property line, differences in elevations, the type of buffer such as dense planting, existing woods, a wall or fence, buffer height, buffer width, and other combinations of man-made and natural features. The buffer shall be designed, planted, graded, landscaped and developed with the general guideline that the closer a use or activity is to a property line, or the more intense the use; then the more effective the buffer area must be in obscuring light and vision, and reducing noise or other nuisances beyond the lot.
3. All buffer areas shall be planted and maintained with either grass or ground cover together with a screen of live shrubs or scattered plantings of live trees, shrubs, or other plant material meeting the following criteria:
  - a. The preservation of all natural wooded tracts shall be an integral part of all development plans and may be calculated as part of the required buffer area provide that growth is of a density and the area has sufficient width to serve the purpose of a buffer. Where additional plantings are necessary to establish an appropriate tone for an effective buffer, said plantings shall conform to Section 10.4AA of this Ordinance;
  - b. Plant materials uses in screen planting shall be at least three (3) feet in height when planted and be



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of such density as will obscure, throughout the full course of the year, the glare of vehicle headlights emitted from the premises;

- c. The screen planting shall be so placed that at maturity it will not be closer than three (3) feet from any street or property line;
  - d. Trees shall be at least eight (8) feet in height and four (4) inches in caliper when planted, free of disease and insect pests, and approved stocked as required by Section 11.4AA of this Ordinance;
  - e. Any plant material which does not live shall be replaced within one (1) year or one (1) growing season; and
  - f. Screen plantings and landscaping shall be broken at points of vehicular and pedestrian ingress and egress to assure a clear sight triangle at all street and driveway intersections.
4. Constructed screening shall consist of a masonry wall or barrier or a uniformly painted fence of one (1) material highly resistant to weather conditions or decay and at least six (6) feet in height, no more than eight (8) feet above finished grade at the point of construction. Such wall, barrier or fence may be opaque or perforated, provided that not more than fifty percent (50%) of its area is open. Whenever a masonry wall is deemed appropriate and/or necessary, it shall set back one (1) foot from any property line and shall not be located in any front yard area. This requirement shall not apply to a retaining wall as defined in Section 3.3 of this Ordinance.
5. Whenever buffers are required, the Land Use Board may specify that earthen berms be utilized. Such berms shall be not less than five (5) feet in height as measured from the grade of the adjoining road or land they are intended to screen. They shall be designed and constructed to blend with surface drainage plans for the property being developed and to not create surface runoff problems for adjoining properties. Berms, when required or proposed, shall be provided with a minimum four (4) inches of topsoil, seeded and landscaped with trees and shrubs as set forth in Subsection 4 hereinabove.
6. In order to assure the preservation and maintenance of required buffer areas or screening, the Land Use Board may require specific deed restrictions, provision for maintenance of such areas by individual property owners or homeowners associations, easements and other legal restrictions which will provide a means of preserving and maintaining the buffer area and/or screening required and permit the Township or other third parties to become involved in the event that a property owner or homeowners association fails to comply with the provisions of any such legal restrictions.
7. The following special screening standards shall apply:
- a. New utility distribution lines and telephone or cable television lines to locations not presently served by utilities shall be placed underground, except for those lines which are located on or adjacent to active agricultural operations and resource extraction operations as per Section 9.12.
  - b. All electric utility transmission lines shall be located on existing towers or underground to the maximum extent practical.
  - c. Above-ground generating facilities, switching complexes, pumping and/or substations, or other electronic equipment cabinets including home emergency electric generators shall be screened

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with vegetation from adjacent uses and streets in accordance with the provisions of this Article.

- d. Whenever reverse frontage is required in connection with a proposed development, there shall be established a minimum twenty (20) foot buffer area along the rear of any lot or lots adjacent to the roadway. Said buffer area shall be provided with landscaping and screening sufficient to buffer said property from the noise, light glare or other nuisances of traffic along the adjoining roadway. Fencing may also be required where there is a concern for safety of residents gaining access to the adjoining roadway or vehicles crossing the buffer area. Such buffer area shall be established by easement or deed restrictions suitable to the Township's Solicitor prior to approval of the development application where such reverse frontage is a condition of approval.
- E. **Concrete structures** Concrete structures shall conform to the American Society for Testing Materials cement designations C-150, Type 1 for Standard Portland Cement; C-150, Type 3 for High Early Strength Portland Cement; and C-175, Type 1-A for air entraining Portland Cement. Vinsol resin or Darex A.E.A. shall be used as the air-entraining agent and both fine and coarse aggregate shall conform to requirements therefore of the New Jersey Department of Transportation Standard Specifications, as amended and supplemented.

The following standards shall be met unless modified by the Township Engineer:

1. Unless otherwise specified, all concrete shall be air-entrained, having four percent (4%) to seven percent (7%) entrained air.
2. Concrete shall be Class A, B, C, or D.  
  
Required reinforcing steel shall be intermediate grade deformed bars conforming to American Society for Testing Materials designation A-15 and A-305, as amended and supplemented.
4. Required joint filler shall be a cellular compression material conforming to the requirements therefore of the New Jersey Department of Transportation Standard Specifications, as amended and supplemented.
5. In the construction of required concrete structures, the Township Engineer will determine the slump range within which the contractor may work. Transit mix concrete may be used if obtained from sources approved by the Township Engineer. On-site mixing and proportioning equipment will also be subject to the approval of the Township Engineer.
6. Forms shall conform to lines, dimensions and grades shown on plans and may only be omitted when soil conditions and workmanship permit accurate excavation to specifications. Forms shall be firmly braced, tight and capable of resisting movement, bulging or mortar leakage. Forms shall be smooth and clear and shall be completely removed.
7. Soil base for concrete work shall be properly finished to prescribed lines, grades and dimensions and shall be approved by the Township Engineer or his representative before concrete is placed. All areas to receive concrete shall be free of frost, foreign matter and excessive damp when concrete is placed. All concrete shall be handled and placed so as to avoid segregation. Concrete that has begun to set or has been contaminated with foreign materials or that has too much water shall not be used. Pouring shall be done in a continuous process until an individual section is complete. All concrete shall be thoroughly compacted with vibrator or other suitable equipment. Finished concrete shall have a wood-float finish unless specified by the Township Engineer and

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shall be kept continuously moist for a period of three (3) days. Curing shall be accomplished at the direction of the Township Engineer. Expansion joints shall be provided as prescribed and shall extend the full thickness of the concrete. Concrete shall not be poured when the temperature is below forty degrees Fahrenheit (40N F.) or during periods of precipitation unless precautions acceptable to the Township Engineer have been taken to prevent damage to the work. Precautions to avoid freezing of the concrete shall be in accordance with the current recommendations of the American Concrete Institute.

- F. Curbs and gutters** The standard monolithic concrete curb and gutter as contained in the Traffic and Transportation Plan Update, prepared by the Cumberland County in 1981, be required along the pavement edge of all streets. As provide in the Master Plan, the Land Use Board may, at its discretion, permit roll-type curb along local streets.
- G. Development name** The proposed name of any development shall not duplicate, or too closely approximate, the name of any other development in the Township or in close proximity to it, nor shall a proposed name of a development use as part of its name the name of another municipality adjoining or within a reasonable distance from the Township of Commercial. The Land Use Board shall be the final authority to designate the name of proposed development to assure compliance with this requirement which shall be determined at the preliminary stage of development review. This subsection shall not apply to any established development which is within the Township.
- H. Energy conservation** Whenever and wherever feasible, buildings should be sited so as to allow maximum use of sunlight or winds in connection with energy generation and/or conservation. All buildings and structures hereinafter erected or constructed, altered or added onto are encouraged to use renewable energy sources, within the limits of practicability, feasibility and cost considerations depending on the proposed use of the structure and its location.

In the case of new developments, the majority of all structures in said development should, where feasible, have their long axis located within thirty degrees (30°) of true South.

Wherever plantings are proposed or required as provided under the provisions of this Ordinance, no plantings of trees, shrubs or any object shall be permitted which will result in shading or interfering with solar access to the South wall of any proposed building. When reviewing proposed landscaping for any proposed development, the Land Use Board shall not require or permit, where reasonably able to do so, any planting or object which will substantially interfere with solar access to adjacent buildings or existing solar energy devices or structures.

### **I. Fire protection**

1. All dead-end roads shall terminate in a manner which provides safe and sufficient entry and exit for fire equipment. Additionally, all driveways providing access to a structure and which are in excess of 50 feet in length from the abutting road right-of-way to the residential structure being served by said driveway, shall be a minimum of fifteen (15) feet in width so as to be sufficient to accommodate large emergency vehicles and be surfaced with a gravel base and maintained by the property owner. The driveway shall have a loop or "k" turnaround located within 100 feet of any house. The driveway width and a height clearance of fifteen (15) feet shall be established and maintained free of vegetation, low hanging tree limbs and overhead wires.
2. The rights-of-way of all roads shall be maintained so that they provide an effective fire break.

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3. All proposed developments of twenty-five (25) units or more will have two (2) access ways to public rights-of-way and said access ways shall be of such width and surface composition sufficient to accommodate and support firefighting equipment.
4. Wherever a central water supply system will serve a development, provision shall be made for fire hydrants along the streets and/or on the walls of non-residential structures as approved by the appropriate fire district or other appropriate fire official, the Township Engineer and in accordance with Fire Insurance Rating Organization Standards.

### **J. Fish and wildlife**

1. No development shall be carried out in the Township unless it is designed to avoid irreversible adverse impacts on habitats that are critical to the survival of any local populations of those threatened or endangered animal species designated by the Department of Environmental Protection and Energy pursuant to N.J.S.A. 23:2A-1 *et seq.*
2. All development or other authorized activity shall be carried out in a manner which avoids disturbance of fish and wildlife habitats that are essential to the continued nesting, breeding and feeding of significant populations of fish and wildlife in identified critical areas.

### **K. Historic resource preservation**

1. A cultural resource survey shall accompany all applications for development proposed within a zoning district with the term "Village" in its title and all applications for major development in order to determine whether any significant historic resources exist on the parcel. In general, the survey shall include: a statement as to the presence of any properties listed on the National and State Registers of Historic Places on the site or within the area of the project's potential environmental impacts; a thorough search of state, local and any other pertinent inventories to identify sites of potential significance; a review of the literature and consultation with professional and vocational archaeologists knowledgeable about the area; thorough pedestrian and natural resources surveys, archaeological testing as necessary to provide reasonable evidence of the presence or absence of historic resources of significance, adequate recording of the information gained and methodologies and sources used, and a list of personnel involved and qualifications of the person(s) performing the survey.
  - a. This requirement for a survey may be waived by the Land Use Board if:
    - (1) There is insufficient evidence of significant cultural activity on the project site or, in the case of archaeological resources, within the vicinity;
    - (2) The evidence of cultural activity on the site lacks the potential for importance because further recording of the available data will not contribute to a more comprehensive understanding of such culture; or
    - (3) The evidence of cultural activity lacks any potential for significance pursuant to the standards of b below.
  - b. A resource shall be deemed to be significant if it possesses integrity of location, design, setting, materials, workmanship, feeling, and association which reflects its significance in American

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history, architecture, archaeology or culture under one or more of the following criteria:

- (1) The presence of structures, sites or areas associated with events of significance to the cultural, political, economic or social history of the nation, state, local community; or
  - (2) The presence of structures, sites or areas associated with the lives of persons or institutions of significance to the cultural, political, economic or social history of the nation, state, local community; or
  - (3) The presence of structures that represent the work of a master, or that possess high artistic values, or that embody the distinctive characteristics of a type, period or method of construction, or that represent a distinguishable entity of significance to the architectural, cultural, political, economic or social history of the nation, state, or local community, although its components may lack individual distinction; or
  - (4) The presence of a site or area which has yielded or is likely to yield significant information regarding the history or archaeological history of the Township and area.
2. The Land Use Board may require the following information researched and presented to document resources which are not found to be significant but which are otherwise found to present graphic evidence of a cultural activity.
    - a. A narrative description of the resource and its cultural environment;
    - b. Photographic documentation to record the exterior appearance of buildings, structures, and engineering resources;
    - c. A site plan depicting in correct scale the location of all buildings, structures, and engineering resources; and
    - d. A New Jersey State inventory form as published by the New Jersey Department of Environmental Protection and Energy for buildings and a narrative description of any process or technology if necessary to elaborate upon the photographic record.
  3. If archaeological data is discovered on a site at any time after construction has been commenced, notify the Land Use Board and take all reasonable steps to protect the archaeological data in accordance with the "Guidelines for the Recovery of Scientific Prehistoric, Historic and Archaeological Data: Procedures for Notification, Reporting, and Data Recovery" (36 C.F.R. 66).
  4. Whenever a site or structure that is on a recognized historic register, plan, documented historic survey or other appropriate listing undertaken by a public or privately recognized historic preservation organization or entity, the Land Use Board shall when reviewing a development application and/or plan for a property adjacent to land whereon said historic site or structure is located, consider requiring measures to prevent such new development from adversely impacting the historic site or structure. When deemed appropriate, the Land Use Board may require as the Board deems reasonable and appropriate the following:
    - a. Increased setbacks where possible given the lot size involved;
    - b. Installation of landscaped buffers, fencing of an appropriate style or design, or a combination of

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landscaping and fencing to screen the historic site or structure from the new development if the Board finds that said new development or its appurtenant accessory uses or activities will conflict with or create adverse visual impact(s) upon the historic site or structure which could be minimized or eliminated by the imposition of such setbacks, buffers, screening or landscaping. When required, said buffers, screening or landscaping shall comply with the provisions of Subsections 10.4D and AA accordingly.

- c. Require that any proposed lighting for the new development does not adversely impact the historic site or structure or said site's or structure's own lighting.
- d. Encourage that elements of an historic structure be utilized in the design and decoration of the new development to the extent feasible from a design, utilitarian and economic perspective. Where utilized effectively, the Board may at its discretion, determine that increased setbacks, buffers or other measures as noted above in subsection b may be reduced or are not needed. The use of design and decoration elements is encouraged within all areas of the Township where historic sites and structures are located, but in particular within the Township's villages where the close proximity of residences and structures accentuates differences in styles, design and the effects of land use activities.
- e. Outdoor displays as provided for by Section 9.14 of this Ordinance, shall be located, sized and designed to minimize adverse visual impacts on an adjoining historic site or structure unless such site or structure also has similar displays.

**L. Homeowners association** A homeowners association may, or in some cases, shall be required to be established for the purpose of owning and assuming maintenance responsibilities for the common lands and property designed within a development provided the Land Use Board is satisfied that the organization will have a sufficient number of members to reasonably expect a perpetuation of the organization in a manner enabling it to meet its obligations and responsibilities in owning and maintaining any property for the benefit of owners or residents of the development. If established, the organization shall incorporate the following provisions:

- 1. Membership by all property owners, condominium owners, stockholders under a cooperative development and other owners of property or interests in the project shall be mandatory. Required membership and the responsibilities upon the members shall be in writing between the organization and each member in the form of a covenant with each agreeing to liability for his pro rata share of the organization's costs.
- 2. The organization shall be responsible for liability insurance, taxes, maintenance and any other obligations assumed by the organization, and shall hold the municipality harmless from any liability. The organization shall not be dissolved and shall not dispose of any open space or property by sale or otherwise, except to an organization conceived and established to own and maintain the open space or property for the benefit of such development, and thereafter such organization shall not be dissolved or dispose of any of its open space or property without first offering to dedicate the same to the Township or municipalities wherein the land is located.
- 3. The assessment levied by the organization upon each member may become a lien on each member's property. The organization shall be allowed to adjust the assessment to meet changing needs.
- 4. The organization shall clearly describe in its bylaws all the rights and obligations of each tenant

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and owner, including a copy of the covenant, model deeds, and articles of incorporation of the organization and the fact that every tenant and property owner shall have the right to use all common properties. These shall be set forth as a condition of approval and shall be submitted prior to the granting of final approval by the Land Use Board.

5. The articles of incorporation, covenants, bylaws, model deeds, and other legal instruments shall insure that control of the organization shall be transferred to the members based on a percentage of the development's units sold and/or occupied and shall clearly indicate that in the event such organization shall fail to maintain the common open space or common property or lands in reasonable order and condition, the Township may serve written notice upon such organization or upon the owners of the development setting forth the manner in which the organization has failed to maintain the common open space or common property or lands in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within fifteen (15) days thereof, and shall state the date and place of a hearing thereon which shall be held within fifteen (15) days of the notice. At such hearing, the designated Township body or officer, as the case may be, may modify the terms of the original notice as to deficiencies and may give a reasonable extension of time not to exceed sixty five (65) days within which they shall be cured.

If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within fifteen (15) days or any permitted extension thereof, the Township, in order to preserve the common open space and common property or land and maintain the same for period of one (1) year, may enter upon and maintain such land. Said entry and maintenance shall not vest in the public any rights to use the common open space and common property and land except when the same is voluntarily dedicated to the public by the owners. Before the expiration of said year, the Township shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space and common property or land, call a public hearing upon fifteen (15) days written notice to such organization and to the owners of the development, to be held by the Township at which hearing such organization and the owners of the development shall show cause why such maintenance by the municipality shall not, at the election of the Township, continue for a succeeding year.

If the Township shall determine that such organization is ready and able to maintain said open space and property or land in reasonable condition, the Township shall cease to maintain said open space and property or lands at the end of said year. If the municipality shall determine such organization is not ready and able to maintain said open space and property or land in reasonable condition, the Township may, in its discretion, continue to maintain said open space and property or land during the next succeeding year, subject to a similar hearing and determination in each year thereafter. The decision of the Township in any such case shall constitute a final administrative decision subject to judicial review.

6. The cost of such maintenance by the Township shall be assessed pro rata against the properties within the development that have a right of enjoyment of the common open space and property or land in accordance with assessed values at the time of imposition of the lien, and shall become a lien and tax on said properties and be added to and be part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officers and in the same manner as other taxes.

**M. Lighting** All area lighting shall provide translucent fixtures with shields around the light source. The light intensity provided at ground level shall have a minimum of five-tenths foot candle over all parking and pedestrian walkway areas. Light intensity at residential property lines shall not

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exceed 0.1 foot candle. For each fixture and lighted sign, the total quantity of light radiated above a horizontal plane passing through the light source shall not exceed seven and one-half percent (7.5%) of the total quantity of light emitted from the light source. Any other outdoor lighting shall be shown on the site plan in sufficient detail to allow determination of the effects at the property line and on nearby streets, driveways, residences and overhead sky glow. No lighting shall shine directly or reflect into windows, or onto streets and driveways in such a manner as to interfere with driver vision. No lighting shall be of a yellow, red, green or blue beam, nor be of a rotating, pulsating, beam or other intermittent frequency. The intensity of such light source, light shielding, the direction and reflection of the lighting and similar characteristics shall be subject to site plan approval by the Land Use Board. The objective of these specifications is to minimize undesirable off-site effects.

### **N. Lots**

1. Lot dimensions and area shall not be less than the requirements of the Schedule of Zoning District Regulations.
2. To the extent practical, side lot lines shall be either at right angles or radial to street lines.
3. Each lot must front upon an approved street improved to Township standards, with a right-of-way of at least fifty (50) feet. In the case of subdivisions located on existing streets approved to Township standards which do not have a right-of-way of fifty (50) feet and are not shown on the adopted Township Master Plan or Official Map as proposed for future widening, the front yard setback shall be measured from a line twenty-five (25) feet equidistant to and parallel with the existing street centerline.
4. Through lots with frontage on two (2) streets will be permitted only under the following conditions:
  - a. Where the length of the lot between both streets is such that future division of the lot into two (2) lots is improbable; and
  - b. Access shall be to the street with the lower traffic function and the portion of the lot abutting the other street shall be clearly labeled on the plat, and in any deed, that street access is strictly limited to the street with the lower traffic function.
5. Where extra width has either been dedicated or anticipated for widening of existing streets, zoning consideration shall begin at such new street line and all setbacks shall be measured from such line.
6. Whenever land has been dedicated or conveyed to the Township by the owner of a lot in order to meet the minimum street width requirements or to implement the official map or master plan, and which lot existed at the effective date of this Ordinance, the zoning officer or construction official shall not withhold a building and/or occupancy permit when the lot depth and/or area was rendered substandard due to such dedication and where the owner has no adjacent lands to meet the minimum requirements.
7. For proper development of the land within the Township, all new lots shall have an average lot depth no greater than 250% of the average lot width, except where the width exceeds three times the zoning requirement.



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8. No new lot shall adversely affect the development of the remainder of the parcel being subdivided or the adjoining properties. In addition, no new lot shall conflict with the provisions of the adopted Master Plan, Official Map or this Ordinance.

**O. Manholes, inlets and catch basins** Whenever manholes, inlets or catch basins are proposed and/or required to be constructed they shall be constructed according to the "New Jersey Department of Transportation Standards for Road and Bridge Construction," most recent edition, and the New Jersey Department of Transportation Standard Detail Drawings for size and type of structure(s) proposed.

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

**Q. Off-site and Off-tract Improvements** As a condition of preliminary approval and prior to any construction or filing of an application for final approval of a subdivision or site plan, the applicant shall have made cash payments or, with the consent of the Township Committee, installed, in the manner provided below, with respect to the immediate or ultimate installation of any required off-site and/or off-tract improvements:

1. Allocation of costs; criteria in determining allocation. The allocation of costs for off-site and/or off-tract improvements, as between the applicant, other property owners, and the Township or any one or more of the foregoing, shall be determined by the Land Use Board, with the assistance of the appropriate Township agencies, on the basis of the total cost of the off-tract improvements, the increase in market values of the property affected and any other benefits conferred and the needs created by the application, population and land use projections for the general area of the applicant's property and other areas to be served by the off-site or off-tract improvement, the estimated time of construction of the off-site or off-tract improvements and the condition and periods of usefulness, which periods may be based upon the criteria of N.J.S.A. 40A:2-22. Requirements for off-site and/or off-tract improvements shall be consistent with N.J.S.A. 40:55D-42. In addition, the following criteria may also be considered, as well as any other reasonable criterion the Land Use Board deems is necessary to protect the health, safety and general welfare of the Township:

- a. Streets, curbs, sidewalks, shade trees, street lights, street signs and traffic light improvements may also be based upon the anticipated increase of traffic generated by the application. In determining such traffic increase, the Land Use Board may consider traffic counts, existing and projected traffic patterns, quality of roads and sidewalks in the area and other factors related to the need created by the application and the anticipated benefits thereto.

- b. Drainage facilities may also be based upon or be determined by the drainage created by or affected by a particular land use, considering:

- (1) The percentage relationship between the acreage of the application and the acreage of the total drainage basin.
- (2) The use of a particular site and the amount of area to be covered by impervious surfaces on the site itself.
- (3) The use, condition and status of the remaining area in the drainage basin.

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- c. Water supply and distribution facilities may be also based upon the added facilities required by the total anticipated water use requirements of the property of the applicant and other properties in the general area benefiting there from.
  - d. Sewerage facilities may be based upon the proportion that the total anticipated volume of sewage effluent of the applicant's property and other properties connected to the new facility bears to the existing capacity of the existing sewerage facilities, including but not limited to, lines and other appurtenances leading to and servicing the applicant's property. Consideration may also be given to the types of effluent and particular problems requiring special equipment and added costs for treatment. In the event that the applicant's property shall be permitted to be connected to existing sewer facilities, the applicant shall pay a charge or be assessed in accordance with law.
- 2. Determination of cost of improvements. The costs of installation of required off-site and/or off-tract improvements shall be determined by the Land Use Board with the advice of the Township Committee and/or Township Engineer and appropriate Township or other agencies involved.
  - 3. Manner of construction. When those estimates are received, the Township Committee shall then decide whether the off-site or off-tract improvement is to be constructed by:
    - a. The Township as a general improvement;
    - b. The Township as a local improvement; or
    - c. The applicant under a formula providing for partial reimbursement by the Township for benefits to properties other than the subdivision or site plan project involved in the application.
  - 4. Amount of contribution. When the manner of construction has been determined, the applicant may be required to provide a cash deposit to the Township of one (1) of the following amounts:
    - a. If the improvement is to be constructed by the Township as a general improvement, an amount equal to the difference between the estimated cost of the improvement and the estimated total amount, if less, by which all properties to be serviced thereby, including the subject property, will be specifically benefited by the off-site or off-tract improvement.
    - b. If the improvement is to be constructed by the Township as a local improvement, then, in addition to the amount referred to in Subsection 10.4Q.4.a above, the estimated amount by which the subject property will be specifically benefited by the off-tract improvement.
    - c. If the improvement is to be constructed by the applicant, an amount equal to the estimated cost of the off-site or off-tract improvement, less an offset for benefits to properties other than the subject property.
  - 5. Payment of allocated costs.
    - a. The estimated costs of the off-site or off-tract improvement allocated to the applicant, if deposited in cash, shall be paid by the applicant to the Township Chief Financial Officer, who shall provide a suitable depository therefore, and such funds shall be used only for the off-site or off-tract improvement for which they are deposited or improvements serving the same purpose, unless such improvements are not initiated by the Township within a period of ten (10) years from the date of

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payment, after which time said funds so deposited shall be returned, together with accumulated interest or other income thereon, if any.

- b. In the event that the payment by the applicant to the Township Chief Financial Officer provide for herein is less than its share of the actual cost of the off-site or off-tract improvement, then it shall be required to pay its appropriate share of the cost thereof.
  - c. In the event that the payment by the applicant to the Township Chief Financial Officer provide for above is more than its appropriate share of the actual cost of installation of the off-site or off-tract improvement, it or its successor or assigns shall be repaid an amount equal to the difference between the deposit and its share of the actual cost.
  - d. If the applicant shall deem that any of the amounts so estimated by the Land Use Board are unreasonable, it may challenge them and seek to have them revised in appropriate proceedings brought to compel subdivision or site plan approval.
  - e. If the applicant and the Land Board cannot agree with respect to the applicant's appropriate share of the actual cost of the off-site or off-tract improvement or the determination made by the officer or board charged with the duty of making assessments as to special benefits, if the off-site or off-tract improvement is to be constructed as a local improvement, no approval shall be granted; provided, however, that the applicant may challenge each determination and seek to have it revised in appropriate judicial proceedings in order to compel subdivision or site plan approval.
6. Assessment of properties. Upon receipt from the applicant of its allocated share of the costs of the off-site or off-tract improvements, the Township may adopt a local improvement assessment ordinance for the purpose of construction and installation of the off-site or off-tract improvements based upon the actual cost thereof. Any portion of the cost of the improvements not defrayed by a deposit by the applicant may be assessed against benefiting property owners by the Township. Any assessments for benefits conferred made against the applicant or its successors in interest shall be first offset by a pro rata share credit or the allocated costs previously deposited with the Township Chief Financial Officer pertaining thereto. The applicant or its successors in interest shall not be liable for any part of an assessment for such improvements unless the assessment exceeds the pro rata share credit for the deposit, and then only to the extent of the deficiency.
  7. Credit for work performed. In the event that the applicant, with the Township's consent, decides to install and construct the off-site or off-tract improvement or any portion thereof, the certified cost shall be treated as a credit against any future assessment for that particular off-site or off-tract improvement or portion thereof constructed by the Township in the same manner as if the developer had deposited its apportioned cost with the Township Chief Financial Officer, as provided herein.
  8. Installation of improvements by applicant.
    - a. At the discretion and option of the Township and with the consent of the applicant, the Township may enter into a contract with the applicant providing for the installation and construction of off-site or off-tract improvements by the applicant upon contribution by the Township of the remaining unallocated portion of the cost of the off-site or off-tract improvement. Whenever the Township shall enter into such an agreement with an applicant, said applicant shall provide proof of compliance with all laws and/or regulations which would be binding on the Township if it were to be undertaking said development, such as but not limited to, the Public Contracts Law, payment

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of prevailing wage, the Equal Opportunities Employment Act, Americans with Disabilities Act, and any other requirement being in effect at time of construction.

- b. In the event that the Township so elects to contribute to the cost and expense of installation of the off-site or off-tract improvements by the applicant, the portion contributed by the Township shall be subject to possible certification and assessment as a local improvement against benefiting property owners in the manner provided by law, if applicable.
9. Compliance to design criteria. Should the applicant and the Township enter into a contract for the construction and erection of the off-site or off-tract improvements to be done by the applicant, said contract shall observe all requirements and principals of this Ordinance in the design of such improvements.
- R. Off-street parking and loading standards.** The following shall apply to all off-street loading and parking facilities required by Sections 8.7 and 8.8 of this Ordinance:

1. There shall be appropriate means of access to a street or alley, as well as sufficient area to permit on-site maneuvering and docking.
2. The minimum dimensions of stalls and aisles in parking facilities shall be as follows:
  - a. The area dimension for a parking space is typically two hundred (200) square feet in a ten by twenty foot (10' x 20') shape. For compact vehicles, this size can be reduced to nine by eighteen feet (9' x 18') if permitted by the Land Use Board.
  - b. Parking space depth shall be at least eighteen (18) feet, with said dimensions measured on the angle for all angle parking. Parallel parking spaces shall be a minimum of 22 feet in length.
  - c. Minimum width of aisles providing access to parking spaces for one-way traffic only, varying with the angle of parking, shall be:

Angle of Parking (Degrees)	Minimum Aisle Width (Feet)
Parallel	12
30	12
45	14
60	18
90	24

- d. Minimum width of aisles providing access to stalls for two-way traffic shall be twenty-five (25) feet.
3. Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other vehicle. In addition, parking spaces within any parking areas shall be designed to provide physical barriers to prevent vehicles parked therein to touch an adjoining building, structure or planted area or to overhang or protrude into planted areas or pedestrian walkways.
4. The width of entrance and exit drives shall be:

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- a. A minimum of twelve (12) feet for one-way use only.
  - b. A minimum of twenty (20) feet for two-way use.
  - c. A maximum of thirty-five (35) feet at the street line and fifty-four (54) feet at the curb line.
5. The maximum width of driveways and sidewalk openings measured at the street lot line shall be thirty-five (35) feet, and the minimum width shall be twenty (20) feet for loading facilities.
  6. For the purpose of servicing any property held under single and separate ownership, entrance and exit drives crossing the street line shall be limited to two (2) along the frontage of any single street, and their center lines shall be spaced at least eighty (80) feet apart in the case of loading facilities and thirty (30) feet apart for parking areas. On all corner properties, there shall be spaced a minimum of sixty (60) feet, measured at the curb line, between the centerline of any entrance or exit drive and the street line of the street parallel to said access drive.
  7. All loading spaces and access drives shall be at least five (5) feet from any side or rear lot line.
  8. All artificial lighting used to illuminate any loading space or spaces shall be so arranged that no direct rays from such lighting shall fall upon any neighboring properties.
  9. The arrangement of off-street loading spaces shall be such that no vehicle would have occasion to back out into the street.
  10. Off-street loading spaces shall be designed and used in such a manner as to at no time constitute a nuisance or hazard or unreasonable impediment to traffic.
  11. The screening requirements of Section 10.4D shall be applicable to all loading areas, including access and maneuvering areas, abutting residential or commercial zoning districts, and in the case of off-street parking areas of greater than ten (10) spaces, from all lots in an abutting residential zoning district, including lots located across a street.
- S. Planned developments** Any project proposed as a planned development shall follow the appropriate zoning criteria of this Ordinance and the applicable subdivision and/or site plan review criteria contained herein. Prior to approval of any planned development, the Land Use Board shall find the following facts and conclusions:
1. All planned development shall be designed to the specific planned development provisions of this Ordinance. The planned development provisions shall supersede any conflicting portions of this Ordinance to the extent of such inconsistencies.
  2. Proposal for maintenance and conservation of the common open space shall be reliable and, if proposed to be handled by a private agency, shall be established in accordance with the "Homeowners association" provisions of Section 10.4L of this Ordinance. Also, the amount, location, and purpose of common open space shall be adequate for the use intended.
  3. The physical design of the proposed development for public services, control of vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment shall be adequate to comply with appropriate portions of the Master Plan, this Ordinance and reasonable planning design criteria.

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4. The proposed planned development will not have an unreasonably adverse impact upon the area in which it is proposed to be established.
  5. In the case of a proposed planned development which contemplates construction over a period of years, the terms and conditions intended to protect the interests of the public and of the residents, occupants and owners of the proposed planned development in the total completion of the project shall be found adequate and clearly defined and protected.
- T. Recreational facilities** All recreational areas and facilities shall be designed in accordance with the New Jersey Department of Environmental Protection and Energy publication entitled: Administrative Guidelines: Barrier Free Design Standards for Parks and Recreational Facilities. In reviewing proposed recreational improvements and facilities in connection with the provisions of this Ordinance, the Land Use Board shall be guided by the standards contained in N.J.A.C. 7:50-6.143(a) 2 and 6.144(a) 1-3.

Any residential development involving twenty (20) or more residential lots, excluding planned developments, apartments and townhouse projects or other residential developments wherein open space and recreational area provision is required by this Ordinance, shall be required to provide one thousand five hundred (1,500) square feet per lot within said development, but in no case less than one (1) acre of open space and recreational area for the use and enjoyment of the residents of said development. This requirement shall not apply to a planned residential cluster development as per Section 9.9.

Whenever recreational area or facilities are proposed or required under the provisions of this Ordinance, they shall conform to the following standards where applicable:

1. Said recreational area shall not be utilized for street rights-of-way, driveways, parking areas, utility stations, required buffer strips or other non-recreational or open spaces uses.
2. Not more than fifty percent (50%) of the total space saved shall be located in one (1) or more of the following: a floodplain, wetlands, areas with a slope greater than ten percent (10%), watercourses, bodies of water or other areas deemed unsuitable for recreational purposes due to environmental or conservation reasons made evident by the Land Use Board's review of the environmental impact of the proposed development, including any environmental impact statement which might be required by this Ordinance.
3. When the required area of recreational and open space to be set aside as provided herein exceeds three (3) acres, at least fifty percent (50%) of the total open space shall be developed by the applicant for active recreational activities, facilities and uses which shall be found suitable to the residents of the proposed development. Activities, facilities or uses deemed appropriate and acceptable include, but are not limited to, swimming pools, tennis, basketball and volleyball courts, ball fields, tot-lots, golf courses, bicycle paths, trails and similar active recreational pursuits. The remaining portion of the required open space may, with Land Use Board approval and if warranted by the environmental impact review, be permanently devoted to one (1) or more of the following open space or land uses: parks, landscaped areas or gardens (including residents' garden plots), woodland conservation areas, game preserves, stream preservation areas, wetlands, watershed protection or floodplain areas or similar conservation areas which permit only passive recreational activities.

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4. All such recreational areas shall be reviewed by the Land Use Board, found adequate and approved. In its review, the Land Use Board shall investigate the size of the parcels devoted to open space and recreational areas, their location within the development, the topography and soils of said areas and the suitability of the uses contemplated or proposed, the configuration of the parcels under consideration, facilities and improvements to be provided, the provision made for maintenance and access to said parcels, traffic flow around said parcels, the ecological aspects, the staging and timing of the recreational area development and how various categories of recreational facilities or areas and their location will be proportionally related to the staging of the development of housing units or other uses if such staging is proposed. The Land Use Board shall find that such recreational or open space areas conform to the provisions of Subsections 9.9K and L and make whatever requirements necessary in granting preliminary approval to said development to assure compliance with the above cited sections of this Ordinance.
5. Said recreational area or open space shall be owned and maintained by a homeowners association unless the developer or the homeowners association offers the dedication of said area or space to the Township which accepts as provided for in connection with cluster developments in Subsection 9.9L.

- U. Sanitary sewers** Sanitary sewer facilities shall be provided and installed in accordance with N.J.A.C. 5:21 for sewerage treatment facilities and according to N.J.A.C. 9:9a for individual subsurface disposal systems. Sewerage systems shall only be permitted in areas indicated for sewer service in the State of New Jersey Statewide Water Quality Management Plan (WQM) and where permitted by the N.J.D.E.P. through sewer connection approval. Sanitary sewer pumping systems shall be designed in accordance with N.J.A.C. 7:14.

All sanitary sewer systems plans and specifications shall be submitted to the Township Engineer prior to N.J.D.E.P. permit application submission.

### **V. Scenic**

1. Except for those roads which provide for internal circulation within residentially developed areas, all public paved roads in the Township shall be considered scenic corridors. In addition, the Maurice River shall be considered a special scenic corridor except that portion of river frontage located within the localities of Bivalve and Shellpile.
2. Special requirements for scenic corridors:
  - a. Except as otherwise provided in this Subsection, no permit shall be issued for development on a scenic corridor other than for agricultural products sales establishments unless the applicant demonstrates that all buildings are set back at least one hundred (100) feet from the centerline of the corridor.
  - b. If compliance with the one hundred (100) foot setback is strained by environmental or other physical considerations, such as wetlands, or active agricultural operations, the building shall be set back as close to one hundred (100) feet as practical and the site shall be landscaped in accordance with the provisions of Sections 10.4D & AA of this Ordinance so as to provide screening from the corridor.
  - c. If an applicant for development approval demonstrates that existing development patterns of the corridor are such that buildings are set back less than one hundred (100) feet within one thousand

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(1,000) feet of the site proposed for development, then a setback shall be set for the proposed development which is consistent with the established development pattern, providing that the site is landscaped in accordance with the provisions of Article X so as to provide screening between the building and the corridor.

- W. Stormwater management** The standards for storm water management as contained in the New Jersey Residential Site Improvement Standards, Subchapter 7 thereof (N.J.A.C. 5:21-7), as amended, and the implementation of the N.J. Department of Environmental Protection Stormwater Management Rules (N.J.A.C. 7:8), as amended and as set forth in the Commercial Township Ordinance Establishing Minimum Stormwater Management Requirements and Controls.
- X. Structure and Building Design and Site Location** In reviewing site plans for freestanding buildings and structures, and depending on individual site characteristics, consideration shall be given to positioning that provides a desirable visual composition, avoids blocking natural vistas, provides a desirable space enclosure, does not unnecessarily alter existing topography and vegetation and otherwise respects established natural conditions and surrounding buildings and structures.

Consideration shall also be given to building materials, use of color and/or texture, massing, fenestration and advertising features as they relate to site conditions and harmonize with similar elements in surrounding buildings and structures.

**Y. Traffic and circulation**

1. **Access** - Where a driveway serves right-turning traffic from a parking area providing two hundred (200) or more parking spaces and/or the abutting road has a peak hour traffic volume exceeding one thousand (1,000) vehicles per hour, an acceleration lane shall be provided in accordance with *A Policy of Geometric Design of Rural Highways*, published by the American Association of State Highway Officials.

Where a driveway serves an entrance to a development providing fifty (50) or more parking spaces, a deceleration lane shall be provided for traffic turning right into the driveway from any collector or arterial road. The deceleration lane is to be at least two hundred (200) feet long and at least thirteen (13) feet wide, measured from the abutting road curb line. A minimum forty (40) foot curb return radius will be used from the deceleration lane into the driveway.

Any driveway providing access from a public street or way to any permitted use or structure shall comply with the following regulation:

- a. Driveways shall enter the street or road right-of-way at an angle between seventy-five degrees (75°) and one hundred five degrees (105°).
- b. The portion of the roadway lying between the right-of-way line of the street and the driveway shall be surfaced as a driveway extension.
- c. Any curb opening shall be properly reconstructed to the satisfaction of the Township Engineer. Where curbing does not exist and conditions warrant, an adequate drain pipe shall be installed as determined by the Township Engineer.
- d. Driveway grades shall not exceed eight percent (8%) for a distance of forty (40) feet for any street



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or road right-of-way, unless otherwise approved by the Township Engineer.

- e. Driveway widths at the street right-of-way lines shall be a minimum of ten (10) feet and maximum of twenty (20) feet in connection with single-family residential uses. All other uses shall conform of the driveway regulations contained herein or as required by the Township Engineer.
- f. The number of driveways provided from a site directly to any road shall be as follows:

Use	Length of Site Frontage (feet)	No. of Driveways
Residential	200 or less	1
Commercial	200 or less	1
Commercial on arterial or collector road	200 to 500	2
All uses	Over 800	To be determined by Land Use Board upon receipt of advice from the Township Engineer

- g. All entrance and exit driveways to a road shall be located to afford maximum safety to traffic on the road.
- h. Any exit driveway or driveway lane shall be so designed in profile and grading and shall be so located as to permit the following maximum sight distance measured in each direction along any abutting road; the measurement shall be from the driver's seat of a vehicle standing on that portion of the exit driveway that is immediately outside the edge of the road travel-lane or shoulder:

Allowable Speed on road (mph)	Required Sight Distance (feet)
25	150
30	200
35	250
40	300
45	350
50	400

- i. Wherever a site occupies a corner of two (2) intersecting roads, no driveway entrance or exit may be located within a minimum of thirty (30) feet from the point of tangency of the existing or proposed curb radius of that site.
- j. No entrance or exit driveway shall be located on the following portions of any collector or arterial road: on a traffic circle, on a ramp of an interchange, within thirty (30) feet of the beginning of any ramp or other portion of an interchange, nor on any portion of such road, where the grade has been changed to incorporate an interchange.
- k. Where two (2) or more driveways connect a single site to any one (1) road, a minimum clear distance of one hundred (100) feet measured along the right-of-way line shall separate the closest edges of any two (2) such driveways.
- l. Driveways used for two-way operation shall intersect any collector or arterial road at an angle as

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near ninety degrees (90°).

- m. Driveways used by vehicles in one (1) direction of travel (right turn only) shall not form an angle smaller than sixty degrees (60°) with a collector or arterial road unless acceleration and deceleration lanes are provided.
- n. The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily onto the land development for which a site plan is prepared. The required maximum and minimum dimensions for driveways are indicated in the following table. Driveways serving large volumes of daily traffic or traffic over twenty-five percent (25%) of which is truck traffic shall be required to utilize high to moderate dimensions. Driveways serving low volumes of daily traffic or traffic with less than twenty-five percent (25%) truck traffic shall be permitted to use low to minimum dimensions.

TABLE 2

Type of Development	One-way - - Operation curblinedriveway		Two-way - - Operation curblinedriveway	
	opening (feet)	width (feet)	opening (feet)	width (feet)
5 to 10 family residence	12 - 15	10 - 13	12 - 30	10 - 26
10 family or more	12 - 30	10 - 26	24 - 36	24 - 46
Commercial and industry	24 - 50	24 - 34	24 - 50	24 - 46
Service station	15 - 36	12 - 34	24 - 36	20 - 34

- o. The surface of any driveway subject to Township site plan approval shall be constructed with a permanent pavement of a type specified by standards set by the Township Engineer. Such pavement shall extend to the paved traveled way or paved shoulder of the road; required driveway dimensions are specified in Section 10.4Y.1.n above.
- p. Any vertical curve on a driveway shall be flat enough to prevent the dragging of any vehicle undercarriage. Any driveway profiles and grades shall be submitted to and approved by the Township Engineer.

Should a sidewalk be so located with respect to the curb at a depressed- curb driveway that it is likely to cause undercarriage drag; the sidewalk should be appropriately lowered to provide a suitable ramp gradient.

- q. In the case where a home is to be set back 50 feet or more from a public street or road, the driveway to said residential dwelling shall be constructed a minimum of fifteen (15) feet in width for single passage of a large emergency vehicle and have a suitable gravel base.
2. **Bikeways** - Bikeways shall be required when the Land Use Board finds provision of said bikeway(s) would be needed and utilized based upon probable volume of bicycle traffic, the development's location in relation to other populated areas, or its location with respect to any overall bike route or trail adopted or established by the Land Use Board or other applicable agency.

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Bikeways shall generally not exceed a grade of three percent (3%), except for short distances, and they should be a minimum of five (5) feet wide for one-way and eight (8) feet wide for two-way travel. Bikeways shall be designed and constructed in accordance with the specifications and standards of the Township Engineer.

3. **Customer service areas** - Any site plan for a development that provides for temporary stopping space on-site for vehicles of customers or patrons seeking service at a roadside business or business catering to drive-in service where the customer does not leave his/her vehicle, such a farm roadside stand, gasoline service station, drive-in bank, restaurant providing take-out food service or similar use, shall ensure that the stopping or maneuvering space is at least ten (10) feet removed from the right-of-way of the adjoining road or street(s). In addition, sufficient waiting or standing area for vehicles approaching the drive-in window or service area shall be provided on-site to prevent the stacking of vehicles onto the road or shoulder area within the public right-of-way.

Maneuvering space or area on-site shall be sufficient to that no vehicle must back into the street or shoulder area thereof. Any lane used exclusively for a drive-in window(s) or service area(s) shall be separate from and in addition to driveway area sufficient to permit other on-site traffic to maneuver around the site without being block by the customer service area standing traffic.

4. **Sidewalks** - Sidewalks shall be required along all streets and in particular within designated village area zoning districts for major commercial, residential and industrial developments. It is the intent of this Ordinance that the village concept of planning, which encourages safe pedestrian traffic, be enforced for the improvement of the Township villages' safety and character. In reviewing a request for a waiver of this requirement, the Land Use Board shall be guided by the probable volume of pedestrian traffic, the street classification in instances where streets are involved, school bus stops, the development's location in relation to other populated areas or pedestrian traffic generators, and the general type of improvement intended. The Land Use Board shall further only grant waivers which are in accordance with the provisions, goals and objectives of the adopted Township Master Plan.

When required and unless reduced or altered in size or location by the Land Use Board, all sidewalks shall conform to the following standards:

- a. Sidewalks shall be at least four (4) feet wide and located as approved by the Land Use Board. Sidewalks shall be at least four (4) inches thick, except at the point of vehicular crossing where they shall be at least six (6) inches thick, of Class C concrete, having twenty-eight (28) day compression strength of four thousand (4,000) p.s.i. and shall be air-entrained.
- b. Finished sidewalks shall be true to specified lines, grades and curvatures. Completed work shall be adequately protected from traffic and the elements.

Where deemed appropriate by the Land Use Board, based on projected pedestrian traffic, site conditions and the character of the area, i.e., especially in village zoned or designated areas, the Land Use Board may permit the installation of pedestrian walkways instead of full concrete sidewalks as required above. Such walkways may be constructed of stone, mulch or chips designed and installed to provide a safe, useable means of pedestrians to walk to or from parking areas or along roadways in village settings. Whenever a waiver is requested from the requirement of sidewalk installation, the Land Use Board shall first consider requiring a pedestrian walkway, before granting a waiver for no means of pedestrian accommodation and access.

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5. **Sight triangles** - Sight triangles shall be required at each quadrant of an intersection of streets, and where deemed necessary by the Land Use Board, at the intersection of streets and driveways. The area within sight triangles shall be either dedicated as part of the street right-of-way or maintained as part of the lot adjoining the street and set aside on any subdivision or site plan as a sight triangle easement. Within a sight triangle, no grading, planting or structure shall be erected or maintained more than thirty (30) inches above the street centerline or lower than eight (8) feet above the street centerline except for street name signs and official traffic regulation signs. Where any street or driveway intersection involves earth banks or vegetation, including trees, the developer shall trim such vegetation and trees as well as establish proper excavation and grading to provide the sight triangle.

On local streets the sight triangle is that area bounded by the intersecting street lines and a straight line which connects "sight" points located on each of the two intersecting street lines the following distances away from the intersection street lines: arterial streets at one hundred thirty (130) feet; collector streets at sixty (60) feet; and local streets at thirty-five (35) feet. Where the intersecting street are both arterial, both collectors, or one arterial and one collector, two overlapping sight triangles shall be required formed by connecting the sight points noted above with a sight point thirty-five (35) feet on the intersecting street. In the case of county roads, county regulations shall apply if applicable.

Any proposed development requiring subdivision or site plan approval shall provide sight triangle easements at each driveway with the driveway classified as a local street for purposes of establishing distances. In the case of a subdivision where actual location of driveways may not yet be established at the time of subdivision approval, the deed for the lot(s) involved in the said subdivision shall contain the requirement for the property owner to establish and maintain the sight triangle areas at street and driveway intersection as required by this Section.

The classification of existing and proposed streets shall be those as defined in the adopted Master Plan or as designated by the Land Use Board at the time of the application for approval for a new street, not included in the Master Plan. Portions of a lot set aside for the sight triangle may be calculated in determining the lot area and may be included in establishing the minimum setbacks required by the Schedule of District Regulations.

### 6. Streets

- a. All development shall be served by improved streets with an all-weather base and pavement with an adequate crown. Streets shall be designed in accordance with **A Policy on Geometric Design of Highways and Streets**, American Association of State highway and Transportation Officials (AASHTO), latest edition, and the **Asphalt Handbook for County and Municipal Engineers**, New Jersey Society of Municipal Engineers (NJMSE), latest edition. Street design shall be based on their functional classification according to the United States Department of Transportation Federal Highway Administration's functional classification of highways. A standard local street shall have a cartway width of 40 feet consisting of two 12-foot travel lanes and two 8-foot parking lanes. Depending on the nature of the neighborhood and intensity of use, curbs, sidewalks and utility areas may be required. Residential developments shall be governed by the N.J. Residential Site Improvement Standards, N.J.A.C. Title 5, and Chapter 21.
- b. When a development adjoins land capable of being developed or subdivided further, suitable provision shall be made for optimum access from the adjoining tract to existing or proposed



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streets.

- c. Local streets shall be designed to discourage through traffic.
- d. To conserve energy and permit the greatest potential for buildings to have a Southern exposure, all new streets shall have an East/West orientation whenever possible considering topographic features and existing land use patterns.
- e. In all residential districts, development bounded by an arterial or collector street shall control access to such streets by having all driveways intersect minor streets. Where the size, shape, location, or some other unique circumstances may dictate no other alternative than to have a driveway enter an arterial or collector street, the lot shall provide on-site turnaround facilities so it is not necessary to back any vehicle onto an arterial or collector road and butting lots may be required to use abutting driveways with one curb cut. All lots requiring reverse frontage shall have an additional twenty-five (25) feet of depth to allow for the establishment of the buffers outlined below unless such buffers are established in a reserve strip controlled by the Township, County or State.

That portion of the development abutting an arterial or collector street right-of-way shall either be planted with nursery grown trees to a depth of not more than the twenty-five (25) feet as a buffer strip along the right-of-way line and for the full length of the development so that in a reasonable period of time a buffer area will exist between the development and the abutting roadway, or, where topography permits, earthen berms may be created at a sufficient height to establish a buffer between the development and the roadway. Berms shall not be less than five (5) feet in height; they shall be planted with evergreens and deciduous according to a landscaping plan so as to be designed to have no adverse effect on nearby properties. All trees shall be of nursery stock having a caliper of not less than two and one-half (2 1/2) inches measured three (3) feet above ground level and be of an approved species as set forth in Subsection AA herein. They shall be of symmetrical growth, free of insect pests and disease, suitable for street use, and durable under the maintenance contemplated.

- f. In all developments the minimum street right-of-way shall be measured from lot line to lot line and shall be in accordance with the following schedule, but in no case shall a new street that is a continuation of an existing street be continued at a width less than the existing street although a greater width may be required in accordance with the following schedules. Where any arterial or collector street intersects another arterial or collector street the right-of-way and cartway requirements shall be increased by ten (10) feet on the right side of the street(s) approaching the intersection for a distance of three hundred (300) feet from the intersection of the center lines

Street Classification	R.O.W. Width	Traffic Lanes	Width between Curbs	Total Utility and Right-of-way Outside the Curbs*
Arterial or Major Collector	66 feet	2 @ 12 feet	40 feet	26 feet
Minor Collector	66 feet	2 @ 12 feet	40 feet	26 feet
Local Street	50 feet	2 @ 12 feet	30 feet	10 feet

\*Shall be a minimum of four (4) inches deep topsoil stabilized, fertilized and seeded with grass.

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- g. No development showing reserve strips controlling access to streets or another are, either developed or undeveloped, shall be approved except where the control and disposal of land comprising such strips has been given to the Township Committee under conditions imposed by the Land Use Board.
- h. In the event that a development adjoins or includes existing Township streets that do not conform to widths as shown on either the Master Plan or Official Map or the street width requirements of this Ordinance, additional land along both sides of said street sufficient to conform to the right-of-way requirements shall be anticipated in the subdivision design by creating over-sized lots to accommodate the widening at some future date. The additional widening may be offered to the Township for the location, installation, repair and maintenance of streets, drainage facilities, utilities and other facilities customarily located on street right-of-way and shall be expressed on the plat as follows: "Street right-of-way easement granted to the Township of Commercial permitting the Township to enter upon these lands for the purpose provided for and expressed in the "Development Regulations Ordinance of the Township of Commercial." This statement on an approved plat shall in no way reduce the subdivider's responsibility to provide, install, repair or maintain any facilities installed in this area dedicated by ordinance or as shown on the plat or as provided for by any maintenance or performance guaranty. If a subdivision is along one (1) side only, one-half of the required extra width shall be anticipated.
- i. The actual design and construction of all streets or roads within the Township shall be subject to review and approval of the Township Engineer in accordance with the provisions of this Ordinance, any adopted Master Plan or Official Map and any other applicable ordinances of Commercial Township or acceptable engineering standards.
- j. Where dead-end streets or cul-de-sacs are utilized, they shall conform to the following standards:
  - (1) Dead-end streets of a permanent nature (where provisions for the future extension of the street to boundary of the adjoining property is impractical or impossible) or of a temporary nature (where provision is made for the future extension of the street to the boundary line of adjoining property) shall provide a turnaround at the end with a right-of-way radius of not less than fifty (50) feet and a cartway radius of not less than forty (40) feet. The center point for the radius shall be on the centerline of the associated street or, if offset, to a point where the cartway radius also becomes a tangent to one (1) of the curb lines of the associated street. In all cases, the radius shall be sufficient to permit the maneuvering and turning of emergency vehicles including fire trucks.

The maximum radius of a cul-de-sac shall be fifty (50) feet in zoning districts with a minimum lot width of 150 feet or more and sixty (60) feet in zoning districts with a lot width requirement of less than 150 feet. The right of-way radius of the turnaround shall be sixty (60) feet and seventy (70) feet for these respective zoning districts. No cul-de-sac turnaround shall exceed a radius of seventy (70) feet except if an adequate landscaped circle is provided in which two-way traffic is maintained.
  - (2) If a dead-end street is of temporary nature, provisions shall be made for removal of the turnaround and reversion of the excess right-of-way to the adjoining properties as off-tract responsibility of the developer creating the street extension when the street is extended.
  - (3) A dead-end street or cul-de-sac shall provide access to a minimum of six (6) lots and a

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maximum of fourteen (14) lots. No cul-de-sac shall exceed 750 feet in length measured from the intersecting street right-of-way to the end of the turnaround right-of-way.

- k. No street shall have a name which will duplicate or so nearly duplicate in spelling or phonetic sound the names of existing streets so as to be confusing therewith. The continuation of an existing street shall have the same name. The names of new streets must be approved by the Land Use Board.
- l. Streets for residential developments not having preliminary approval on, or submitted for approval after June 3, 1997, shall conform to the requirements of N.J.S.A. 40:55D-40.1 through 40.5 with respect to residential site improvement standards. All other streets shall be constructed in accordance with the following standards and specifications:
  - (1) Arterial roads and streets
    - 6 inches gravel base course
    - 4 inches bituminous stabilized base
    - 2 inches FABC-1 surface course
  - (2) Collector streets
    - 6 inches gravel base course
    - 4 inches bituminous stabilized base
    - 2 inches FABC-1 surface course
  - (3) Local street
    - 8" gravel base course
    - 2" FABC-1 surface course

Where sub-base conditions are wet, springy or of such nature that surfacing would be inadvisable without first treating the sub-base, these areas shall be excavated to a depth of at least six (6) to twelve (12) inches below the proposed sub grade and filled with a suitable sub-base material as determined by the Township Engineer. Where required by the Engineer, a system of porous concrete pipe, sub-surface drains shall be constructed beneath the surface of the paving and connected to a suitable drain. After the sub-base material has been properly placed and compacted, the parking area surfacing material shall be applied.

- m. In the case of local streets within a development where the Township Committee determines that the length of the street and the nature of adjacent uses warrant such reduction in the width of the paved surface, the width required in Subsection 10.4Y.6.f may be reduced, but in no case shall the paved width of a local street be less than twenty-six (26) feet.
- n. Street signs shall be installed by the developer in a manner and of a material to be approved by the as recommended by the Township Engineer. All such signs shall be installed free of visual obstruction.
- o. The developer of any subdivision or development shall provide for the installation of the underground service for and all poles and fixtures for street lighting. Street lighting shall be provided in accordance with the recommendations of the Township Engineer and as required by the Land Use Board. Adequate lighting shall be provided at all intersections and elsewhere as deemed necessary by the Land Use Board. The developer shall pay to the Township the costs of operation of said street lighting (as determined by the standard rates of the servicing utility) until



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the street upon which said street lights are installed is accepted by the Township Committee as a public street.

- p. All streets and shoulder areas shall be paved in accordance with the standards and specifications of the Township Engineer based upon current engineering practice, the regulations of this Ordinance and other applicable ordinances, regulations and the Standard Specifications for Road and Bridge Construction of the New Jersey Department of Transportation, as currently amended.
- q. Whenever a development abuts or crosses municipal boundaries, access to those lots within the Township shall be from within the Township as the general rule. Wherever access to a development is required across land in an adjoining municipality as the exception, the Land Use Board may require documentation that such access is legally established, and that the access road is adequately improved and may condition issuance of building permits and/or certificate of occupancy on said lots to such access road's improvement as required herein.

### **Z. Utilities**

- 1. New utility distribution lines and telephone lines to locations not presently served by utilities shall be placed underground, except those line which are located on or adjacent to active agricultural operations.
- 2. All electric utility transmission lines shall be located within existing rights-of-way on existing towers or underground to the maximum extent practical.

### **AA. Vegetation and landscaping**

- 1. No development shall be carried out unless it is designed to avoid irreversible adverse impacts on the survival of any local populations of threatened or endangered plants listed in applicable Federal, State or local list of threatened or endangered plants.
- 2. All clearing and soil disturbance activities shall be limited to that which is necessary to accommodate an activity, use or structure which is permitted by this Ordinance.
- 3. Where practical, all clearing and soil disturbance activities associated with an activity, use or structure, other than agriculture, forestry and resource extraction, shall:
  - a. Avoid wooded areas, including New Jersey's Record Trees as published by the New Jersey Department of Environmental Protection in 1991 and periodically updated; and
  - b. Re-vegetate or landscape areas temporarily cleared or disturbed during development activities.
- 4. Applications for major development shall contain a landscaping or re-vegetation plan which incorporates the elements set forth in subsection 5 below.
- 5. In order to conserve water, conserve natural features and reduce pollution from the use of fertilizers, pesticides and other soil supplements, all landscaping or re-vegetation plans prepared pursuant to subsection 4 above or required pursuant to Section 13.11D.2.c of this Ordinance shall incorporate the following elements:
  - a. The limits of clearing shall be identified;

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- b. Existing vegetation, including New Jersey's Record Trees as published by the New Jersey Department of Environmental Protection and Energy in 1991 and periodically updated, shall be incorporated into the landscape design where practical;
  - c. Permanent lawn or turf areas shall be limited to those specifically intended for active human use such as play fields, golf courses and lawns associated with a residence or other principal non-residential use. Existing wooded areas shall not be cleared and converted to lawns except when directly associated with and adjacent to a proposed structure; and
  - d. Native shrubs and trees shall be used for re-vegetation or landscaping purposes within the Township. Other shrubs and trees may be used in the following circumstances:
    - (1) When the parcel to be developed or its environs contain a predominance of shrubs and tree species not of a native species;
    - (2) For limited ornamental purposes around buildings and other structures; or
    - (3) When limited use of other shrubs or tree species is required for proper screening or buffering.
6. All shade trees shall have a minimum diameter of two and one-half (2½) inches measured three (3) feet above the ground. Trees shall be planted in sufficient frequency to provide shade, shall be balled and wrapped in burlap, nursery grown, free from insects and disease, and true to species and variety.

Stripping trees from a lot or filling around trees on a lot shall not be permitted unless it can be shown that grading requirements necessitate removal of trees, in which case those lots shall be replanted with trees to re-establish the tone of the area to conform to adjacent lots. Dead or dying trees shall be replaced by the developer during the next recommended planting season.

7. Off-street parking areas located in commercial or industrial zoning districts providing parking spaces for one hundred (100) or more vehicles shall provide suitable landscaping to break the monotony of the paved area. Divider strips and buffers, islands and other such landscaped areas within parking lots or areas shall be planted with grass, shrubs, bushes and shade trees in order to alleviate an otherwise barren expanse of open, paved or parking area and unsightly appearance and as an aid to storm water disposal. Adequate provisions shall be made to ensure that such landscaping shall be maintained in good condition. Such planting shall be designed so as not to interfere or impair solar access for any structure or use located on the same property therewith, nor to cause visual obstruction for traffic using the property involved or streets abutting same.
8. Open space adjacent to buildings, not surfaced such as walkways, driveways, parking areas, utility areas or other required improvements in any multi-family residential project, shall be graded and seeded to provide a thick stand of grass or other ground cover material. Suitable and sufficient landscaping with trees and shrubs shall be provided for each dwelling units as approved by the Land Use Board. Once again care shall be taken to prevent interference with solar access to structures or units either now or in the future as plants and trees grow.
- AB. Visual obstruction** In any district, nothing shall be erected, placed or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2½) feet and ten

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(10) feet above the centerline grade of an abutting street or streets within the sight triangle area as established elsewhere in this Ordinance.

### **AC. Water quality**

1. All development permitted under this Ordinance shall be designed and carried out so that the quality of surface and groundwater shall be protected. Except as specifically authorized in this Section, no development which degrades surface or groundwater quality or which establishes new point sources of pollution shall be permitted.
2. The owner of every on-site septic waste treatment facility shall, in accordance with the provisions of Chapter 326 of the Solid Waste Management Act, N.J.S.A. 13:1E-1, et seq. and Section 201 of the Clean Water Act:
  - a. Have the facility inspected by a technician at least once every three (3) years;
  - b. Have the facility cleaned at least once every three (3) years; and
  - c. Once every three (3) years submit to the Board of Health serving the Township a sworn statement that the facility has been inspected and cleaned and is functional, setting forth the name of the person who performed the inspection and cleaning and the date of such inspection.
4. Use any of the following prohibited substance in the Township to the extent that such use will result in direct or indirect introduction of such substances to any surface, or ground or surface water or any land:
  - a. Septic tank cleaner, and
  - b. Waste oil.
5. Apply any herbicide to any road or public utility right-of-way within the Township unless necessary to protect an adjacent agricultural activity.
6. The owners of commercial petroleum storage tanks shall comply with the requirements of Chapter 102 of the Laws of 1986.

### **AD. Water management**

1. All surface water runoff shall be managed in accordance with the standards contained in § 11.4AC.2.e (Water Quality).
2. Inter-basin transfer of water between watersheds shall be avoided to the maximum extent practical.
3. Buildings serviced by a central sewage system shall be designed to include water saving devices.

### **AE. Water supply**

1. Where water is accessible from a servicing utility, the developer shall arrange for the construction of water mains in such a manner as to make adequate water service available to each lot, dwelling unit or use within the development. The entire system shall be designed in accordance with the

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requirements and standards of the Township, County and/or State of New Jersey agency having approval authority and shall be subject to their approval.

The system shall also be designed with adequate capacity and sustained pressure for present and probable future development.

2. Water supply facilities and systems shall be provided and installed in accordance with the specifications of this Ordinance and as required and approved by the Township Engineer. Said water supply facilities and systems shall be designed and installed for either immediate or future connection with a public or on-site community water supply facility or system approved by the appropriate State agency and the Township of Commercial. In areas where public water supply does not exist or is not expected to be provided within a reasonable period of time in the opinion of the Land Use Board, the Board may waive the requirement that water supply systems and facilities be installed to connect to or with a public system or facilities.
3. In those cases where a public water supply facility or system is not presently available and the site of the proposed development is unsuitable and unsafe in terms of public health, for individual, on-site water supply facilities, as determined by the New Jersey Department of Environmental Protection and Energy, Department of Health or other appropriate agency, an on-site "community" water supply system approved by the New Jersey Department of Environmental Protection and Energy and the Township of Commercial governing body, shall be installed. Said on-site system shall be provided in addition to the required installation of water supply facilities for those areas expected to be provided with public water supply facilities or systems within a reasonable period of time.
4. Where public water is not available, potable water supply shall be provided to each lot on an individual well basis. Appropriate and necessary testing within reason of land(s) proposed for development may be required by the Land Use Board so as to determine the suitability of the site, the proper location and evidence the site can provide for adequate water supply. Individual wells shall be designed and installed in accordance with the requirements and standards of the Township, County and/or State agency having appropriate jurisdiction.

### **AF. Wetlands**

1. Development shall be prohibited in all wetlands and wetlands transition areas except as specifically authorized in this Section.
2. Beekeeping shall be permitted in all wetlands.
3. Fish and wildlife management activities shall be permitted in all wetlands subject to the standards of this Article and provided that the activities do not result in a significant adverse impact.
4. Low intensity recreational uses which do not involve use of a structure, including hunting, fishing, trapping, hiking, boating, and swimming, and other low intensity recreational uses provided that any development associated with those other uses does not result in a significant adverse impact on the wetlands as set forth in Section 10.4AF.9 below.
5. Docks, piers, moorings, and boat launches for the use of a landowner shall be permitted in all wetlands, provided that this use will not result in a significant adverse impact and conforms to all State and Federal regulations.

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6. Commercial or public docks, piers, moorings, and boat launches shall be permitted provided that:
  - a. There is a demonstrated need for the facility that cannot be met by existing facilities;
  - b. The development conforms with all State and Federal regulations, and
  - c. The development will not result in a significant adverse impact as set forth in Section 10.4AF.9 of this Ordinance.
7. Bridges, roads, trails and utility transmission and distribution facilities and other similar linear facilities provided that:
  - a. There is no feasible alternative route or site for the facility that does not involve development in a wetland or, if none, that another feasible route which results in less significant adverse impacts on wetlands does not exist;
  - b. The need for the proposed linear improvement cannot be met by existing facilities or modification thereof;
  - c. The use represents a need which overrides the importance of protecting the wetland;
  - d. Development of the facility will include all practical measures to mitigate the adverse impact on the wetland; and
8. Agricultural and horticultural use, as defined in Section 3.3 of this Ordinance and limited by Section 10.4AF.9.
9. A significant adverse impact shall be deemed to exist where it is determined that one or more of the following modifications of a wetland will have an irreversible effect on the ecological integrity of the wetland and its biotic components, including, but not limited to threatened or endangered species of plants or animals:
  - a. An increase in surface water runoff discharging into a wetland;
  - b. A change in the normal seasonal flow patterns in the wetland;
  - c. An alteration of the water table in the wetland;
  - d. An increase in erosion resulting in increased sedimentation in the wetland;
  - e. A change in the natural chemistry of the ground or surface water of the wetland;
  - f. A loss of wetland habitat;
  - g. A reduction of wetland habitat diversity;
  - h. A change in wetland species composition; or
  - i. A significant disturbance of areas used by indigenous and migratory wildlife for breeding, nesting

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or feeding.

10. Determination under Section 10.4AF.9 above shall consider the cumulative modifications of the wetland due to the development being proposed and any other existing or potential development which may affect the wetland.

**10.5 Compliance with zoning regulations.** All developments shall comply or conform to the provision of this Ordinance including the Schedule of District Regulations. Standards and regulations contained in Article VIII of this Ordinance shall be met in addition to all standards and regulations contained within this Article.

**10.6 Grants of waivers or adjustments by the Land Use Board.**

- A. Where due to special conditions, a literal enforcement of the provisions of this Article will result in unnecessary hardship or be detrimental to the stated goals and objectives of the Township's development policy as expressed in the Township Master Plan, the Land Use Board may by resolution, grant such waiver from or adjustment to the requirements of this Article as will not be contrary to the public interest and will carry out and implement the objectives of the Township Master Plan and this Ordinance.
- B. All requests for waivers or adjustments to the design standards contained in this Ordinance shall be submitted in writing to the Land Use Board and shall clearly set forth reason(s) why literal enforcement would not be possible, would cause substantial hardship (detailing such hardship) or be contrary to Township planning goals and objectives.
- C. In reviewing such requests, the Land Use Board shall give consideration to the development size, anticipated or recognizable adverse impact(s), public health and safety, natural and existing conditions at the development site or adjacent thereto and reasonable feasibility of the design standard to the development proposed.

**10.7 Inspection.**

- A. All improvements and performance standards in this Article, when required or applicable of or to a developer, shall be subject to inspection by the Township Engineer or other appropriate officials, who shall be notified by the developer at least seven (7) days prior to the start of construction. No underground installation shall be covered until inspected and approved by the Township Engineer.
- B. The Land Use Board may require the developer to provide an office or shelter suitable for use by the on-site Township inspector(s) when the development size and intensity warrants the same due to the scope and complexity of required improvements. All costs for supplying and maintaining said office on-site shall be borne by the developer.
- C. A final inspection of all improvements and utilities will be started within ten (10) days' notification by the developer to determine whether the work is in agreement with the approved final plats or plans and the Township specifications. Upon receipt of a final inspection report, action will be taken to release or declare in default any performance guaranty concerning such improvements as set forth in Article XI of this ordinance. Inspection by the Township of the installation and improvements shall not subject the Township to liability, suits or claims of any kind that may at any time arise because of defects or negligence during construction.

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### **ARTICLE XI PERFORMANCE AND MAINTENANCE GUARANTIES**

**11.1 Guaranties required.** No final plat or site plan shall be approved by the approval by the Land Use Board or zoning permit issued by the Zoning Officer or officials or agency authorized to issue said zoning permits, until completion of all required improvements, as shown on the approved preliminary plat or site plan or as set forth in the resolution granting preliminary approval, shall have been so certified to the Land Use Board by the Township Engineer, unless the developer shall have filed with the Township a performance guaranty sufficient form and in amount to cover the costs of all such improvements or the uncompleted portions thereof as estimated by the Township Engineer as provided by N.J.S.A. 40:55D-53, guaranteeing the installation of such uncompleted improvements on or before a date to be specified by the Land Use Board. Said performance guaranty shall also include a provision guaranteeing the restoration of the any approved project which is terminated after ground disturbance begins.

**11.2 Form of required performance guaranties.**

- A. The form of the performance guaranty required by Section 12.1 of this Article shall be subject to the review and approval of the Township Solicitor. Said performance guaranty shall be in an amount equal to 120% of the Township Engineer's estimate of the cost of construction of the required improvements.
- B. Any such guaranty shall be drawn in favor of the Township of Commercial and shall run for a period to be fixed by the Land Use Board, but in no case for a term less than the time period of any permit which is to be issued as a result of a guaranty's posting. With the consent of the obligor and the surety agent, if there is one, the Township Committee may, by resolution, extend the term of such performance guaranty for an additional period of time. The amount of the performance guaranty may be reduced by resolution of the Township Committee when portions of the required improvements have been installed to the satisfaction of the Township Committee and on the recommendation of the Township Engineer for said improvements acceptance and based on all required inspections performed by the Township Engineer including, but not limited to, those set forth in Section 10.7 of this Ordinance. All guaranties submitted shall make specific reference to the terms and conditions imposed by the Land Use Board and should identify the resolution or other action taken by the Land Use Board for the purpose.
- C. If the use 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 Township for the reasonable cost of the improvements not completed or corrected, and the Township may, either prior to or after the receipt of the proceeds thereof, complete such improvements. Additionally, the performance guaranty shall include a clause providing that in the event that an development for which the performance guaranty was posted is started and then abandoned by the developer prior to issuance of a building permit, but after the start of site clearing and/or improvement installation, the performance guaranty shall be used to restore the site sufficient to allow its future use and stabilize any disturbance.
- D. All performance guaranties shall be submitted to the Secretary of the Land Use Board. The Secretary of the Land Use Board shall forward one (1) copy of the guaranty to the Municipal Engineer, who shall notify the Land Use Board that the performance guaranty is in sufficient

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amount to assure completion of all required improvements.

- E. The Secretary of the Land Use Board shall *also* forward a copy of the performance guaranty to the Township Solicitor, who shall review and approve same as to form and execution. The Township Solicitor shall notify the Land Use Board as to the acceptability of the performance guaranty in terms of its form and execution.
- F. Upon granting of final plat approval and after receipt of an approved final plat or site plan, the Secretary of the Land Use Board shall forward any performance guaranties posted with and accepted by the Land Use Board to the Township Clerk for filing. The Land Use Board Secretary shall maintain a record of all performance guaranties received by the Township in connection with subdivision or site plan review and approval and shall, within ninety (90) days of the expiration of any guaranty, notify the Township Committee of said pending guaranty expiration. Copies of said notice shall be sent to the Township Clerk, Solicitor and Engineer.
- G. Reduction of performance guaranty as provided in Section 11.2B above and release of any performance guaranties posted in connection with a development review and approval by the Township Land Use Board or other approval authority shall be in accordance with the provisions of N.J.S.A. 40:55D-53, as amended.

### **11.3 Maintenance guaranties.** Whenever the Land Use Board requires a developer to post a maintenance guaranty, it shall be in accordance with the following:

- A. The developer shall execute a maintenance guaranty and post said guaranty with the Township in sufficient amount for maintenance and repair of all improvements required to be installed by the developer. The maintenance guaranty shall be for a period of two (2) years from the date of final acceptance of the improvement(s) by resolution of the Township Committee, after recommendation of acceptance by the Township Engineer, and its amount shall be equal to fifteen (15) percent of the Township Engineer's estimate of the cost of construction of the required improvement(s). The maintenance guaranty shall apply to such repairs as may be necessitated by substandard original construction or by damage by the developer in the course of development.
- B. The maintenance guaranty shall be in a form as provided for Section 11.2A of this Article.
- C. All maintenance guaranties shall be submitted to the Township Clerk. The Township Clerk shall forward one (1) copy of the guaranty to the Township Engineer, who shall notify the Township Committee and the Township Attorney that the maintenance guaranty is in sufficient amount as provided herein this Section.
- D. The Township Clerk shall forward a copy of any maintenance guaranty to the Township Attorney, who shall review and approve same as to form and execution. The Township Attorney shall notify the Township Committee as to the acceptability of the maintenance guaranty in terms of form and execution.
- E. Upon acceptance of a maintenance guaranty, the Township Clerk shall notify the Secretary of the Land Use Board, who shall maintain a record of all guaranties received by the Township in connection with development review in accordance with the provisions of Section 11.2F of this Article.
- F. Release of a maintenance guaranty shall be by resolution of the Township Committee, after



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recommendation of release of the guaranty by the Township Engineer based on inspection of all required improvements required and covered by the maintenance guaranty as set forth in Section 10.7, "Inspections" of this Ordinance.

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### **ARTICLE XII DEVELOPMENT REVIEW PROCEDURES**

#### **12.1 Subdivision and site plan review required.**

- A. All subdivision and/or resubdivision of land within the Township, as defined in Section 3.3 of this Ordinance, shall be reviewed by the Land Use Board in accordance with the provisions of this Ordinance.
- B. Except as otherwise provided, no zoning or construction permit shall be issued for any new building or use or any enlargement or alteration of any building or use unless a site plan for said building or use is first submitted to and approved by the Land Use Board of the Township, and no certificate of occupancy shall be given or remain valid unless all construction and site utilization conforms to an approved site plan. This requirement shall pertain to all uses and structures in all zoning districts, except that:
  - 1. Site plans shall not be required for: for any subdivision or individual lot applications for detached one or two dwelling-unit building, permitted accessory uses to a single-family dwelling such as a private garage or swimming pool; a farm use or any permitted accessory use thereto such as barn, silo, storage shed or related structure.
  - 2. Site plan review and approval will not be required in connection with the alteration and repair of an existing structure or use, when the Zoning Officer determines that the alteration or repair:
    - a. Will not result in additional lot coverage;
    - b. Will conform to the maximum and minimum building standards set forth in this Ordinance;
    - c. Will not increase the number of off-street parking or loading spaces required as set forth in Sections 8.7 and 8.8 of this Ordinance; and
    - d. Is not in connection with a use subject to the provisions of Article IX of this Ordinance.

#### **12.2 Application Procedures.**

- A. Any applicant for subdivision or site plan review and approval, shall obtain all necessary forms and checklists as per Section 12.11 of this Ordinance from the Land Use Board Administrative Officer. Said Officer shall inform the applicant of the steps to be taken in securing Land Use Board action and of the regular meeting dates of the Board. Except as otherwise provided in Section 12.1.B of this Ordinance, an applicant seeking subdivision or site plan approval shall, with the knowledge of the Zoning Officer, submit twenty (20) copies of all plans, together with a completed application form and the appropriate checklists for the type(s) of development proposed as required by Section 12.11 herein, to the Land Use Board administrative officer at least twenty one (21) days prior to a regularly scheduled Land Use Board meeting.
- B. The Land Use Board shall determine, on the basis of advice from the Board's administrative officer and its professional staff and/or the Township Engineer as detailed herein below, that the application is complete and properly submitted as of that date, or that the application is incomplete, as provided in N.J.S.A. 40:55D-10.3, in which latter case the applicant shall be

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notified in writing of the deficiencies therein by the Board or the Board's designee for the determination of completeness within forty-five (45) days of the application's initial submission as to the additional information or materials required. The applicant may request that one or more of the submission requirements be waived, in which event the Board or its designee shall grant or deny the request within forty-five (45) days.

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

1. **Administrative determination of preliminary completeness.** The administrative officer shall make a determination of preliminary completeness prior to listing any matter on the agenda for a meeting of the Board. In the event that the administrative officer determines that the application is not complete, the administrative officer shall so advise the applicant in writing, indicating the items which the administrative officer has found to be lacking. The failure of the administrative officer to have mentioned an item to an applicant shall not preclude the Board from finding an application incomplete. Only the Board shall have the authority to make final determinations of completeness and shall make a determination of completeness prior to hearing any application.
2. **Advance filing requirement.** Any applicant for which a hearing is required shall receive a determination of preliminary completeness at least ten (10) days prior to the meeting date, and the completeness of the application shall be determined as of said meeting date. If the application is not determined to be preliminarily complete as of that date, the application shall not be placed on the agenda for the meeting unless the applicant has requested waivers as to the items which are incomplete, and included in any public notice the request for such waivers. In such case, the request for waivers shall be placed on the agenda if the application is otherwise determined to be preliminarily complete, and if the Board approves the waivers and otherwise finds the application complete, the application may be heard at that meeting.

### **12.3 Initial approvals.**

#### **A. Minor subdivision or site plan.**

1. Application for minor subdivisions and site plans for conventional developments as defined in Section 3.3 of this Ordinance shall not be subject to a public hearing provided that a conditional use or zoning variance request is not involved in connection with said application(s). All site plans not deemed "minor" by the Land Use Board based on the provisions of Section 3.3 of this Ordinance shall require a public hearing with notice as set forth in Section 12.14 of this Ordinance.
2. Final approval of a minor subdivision and preliminary approval in the case of a site plan which involves ten (10) acres of land or less, and ten (10) dwelling units or less, shall be granted or denied within forty-five (45) days from the date the application for said minor subdivision or site plan is determined to be completed or within such time as may be consented to by the applicant.
3. In granting final approval to a minor subdivision or site plan, the Land Use Board may condition such approval on terms ensuring the provisions of improvements pursuant to the provisions of

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Article X and XI of this Ordinance as deemed applicable by the Board. In approving an application, the Land Use Board may impose any modifications or conditions it deems necessary to carry out the intent of this Ordinance or to protect the health, safety and general welfare.

4. Approval of a minor subdivision shall expire one hundred ninety (190) days from the date the Land Use Board approval unless within such period a plat in conformity with such approval and the provisions of the Map Filing Law, or a deed clearly describing the approved minor subdivision, is filed by the applicant with the County Clerk, the Municipal Engineer and the Municipal Tax Assessor. Copies filed with the Municipal Engineer and Tax Assessor must show proof of filing with the County Clerk. Any such plat or deed must be signed by the Chairman and Secretary of the Township Land Use Board before it will be accepted for filing by the County Clerk.

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

5. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision or site plan approval was granted, shall not be changed for a period of two (2) years after the date of minor subdivision or site plan approval, provided however that in the case of a minor subdivision the approved minor subdivision shall have been duly recorded as required in Subsection 4 above. Extensions of said period may be granted by the Land Use Board in accordance with the provisions of N.J.S.A. 40:55D-46.1c for minor site plans and 40:55D-47g for minor subdivisions.

### **B. Major subdivision; site plans for conventional developments which involve more than ten (10) acres or more than ten (10) dwelling units; and planned developments.**

1. Preliminary applications for major subdivision, site plans for conventional developments which involve more than ten (10) acres or more than ten (10) dwelling units, or any planned development shall be subject to public hearing after notice properly given by the applicant as provided in Section 12.14 of this Ordinance, and preliminary approval shall be granted or denied within ninety-five (95) days from the date an application is determined to be complete or within such further time as may be consented to by the developer. Otherwise, the Land Use Board shall be deemed to have granted preliminary approval of the subdivision plat or site plan, except in the case of those applications subject to the provisions of Section 12.4 of this Ordinance, and a certificate of the administrative officer as to the failure of the Land Use Board to act shall be issued on request of the applicant.
2. In the case of any planned development as permitted by this Ordinance, the Land Use Board shall find prior to the approval of such planned development the following facts and conclusions:
  - a. That departures by the proposed development from zoning regulations otherwise applicable to the subject property conform to the standards of this Ordinance;

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- b. That the proposals for maintenance and conservation of the common open space are reliable, and the amount, location and purpose of the common open space are adequate;
  - c. That provisions through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment are adequate;
  - d. That the proposed planned development will not have an unreasonably adverse impact upon the area in which it is proposed to be established;
  - e. In the case of a proposed development which contemplates construction over a period of years, that the terms and conditions intended to protect the interests of the public and the residents, occupants and owners of the proposed development in the total completion of the development are adequate;
3. In the event that preliminary approval of such subdivision or site plan is denied because of failure to comply with municipal or regional development regulations, a notation to that effect, together with the signature of the administrative officer of the Land Use Board, shall be placed on the plat or plan, and reasons for the denial shall be stated in the denial resolution.
4. Preliminary approval of a major subdivision, site plan or planned development shall be granted by resolution, which shall set forth any conditions that must be met, including design standards and improvements required by Article X, required performance guaranties as set forth in Article XI, and plat or plan changes that must be made precedent to final action. A notation indicating preliminary approval shall be placed on each plat or plan, said notation to clearly state that preliminary approval does not authorize recording in the case of a subdivision, nor the issuance of a zoning or construction permit in the case of a site plan, together with the signature of the Chairman and Secretary of the Township Land Use Board.
5. Preliminary approval of a subdivision plat or site plan shall confer upon the applicant the following rights:
  - a. That the general terms and conditions on which approval were granted shall not be changed for a three (3) year period from the date of preliminary approval, unless modified by ordinance with respect to public health or public safety objectives pursuant to N.J.S.A. 40:55D-49a.
  - b. That the applicant may submit for final approval on or before the expiration date of preliminary approval, the whole or a section or sections of preliminary subdivision or site plan.
  - c. That the applicant may apply for and the Land Use 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 as provided in N.J.S.A. 40:55D-49c.
  - d. In the case of a subdivision or site plan for an area of fifty (50) acres or more the Land Use Board may grant the rights referred to in subsections a, b and c of this Section for such period of time, longer than three (3) years, as provided for in N.J.S.A. 40:55D-49d.
6. That the Land Use Board may grant extensions of said preliminary approval pursuant to

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subsections c and d of this section subject to the provisions of N.J.S.A. 40:55D-49e and f.

### **12.4 Final approvals of site plans, major subdivision and planned developments.**

A. A developer seeking final approval of a major subdivision, site plan or planned development shall, with the knowledge of the zoning administrative officer, submit twenty (20) paper prints of the final plan, together with original and processed tracings as required by the Map Filing Law in the case of subdivisions, along with a completed application form, to the Land Use Board administrative officer at least ten (10) days prior to a regularly scheduled Land Use Board meeting.

B. The Land Use Board, at its next regularly scheduled meeting, shall determine, on the basis of advice from the Board's administrative officer and its professional staff and/or the Township Engineer, that the application is complete and properly submitted as of that date, or that the application is incomplete, as provided in N.J.S.A. 40:55D-10-3, in which latter case the applicant shall be notified in writing of the deficiencies therein by the Board or the Board's designee for the determination of completeness within forty-five (45) days of the applicant's initial submission as to the additional information or materials required. The applicant may request that one or more of the submission requirements be waived, in which event the Board or its designee shall grant or deny the request within forty-five (45) days.

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

C. Final approval of a major subdivision, site plan or planned development shall be granted only after all requirements and conditions imposed at the time of preliminary approval have been complied with including the conditions of Section 12.3B.2 of this Ordinance, as applicable, with respect to a planned development. Annotation indicating approval shall be placed on each plat or plan, together with the signatures of the Chairman and the Secretary of the Land Use Board.

D. An application for final approval shall be granted or denied within forty-five (45) days from the date it is determined to be complete or within such further time as may be agreed to by the applicant. Otherwise, the Land Use Board shall be deemed to have granted final approval, and a certificate of the Land Use Board administrative officer as to the failure of the Land Use Board to act shall be issued on request of the applicant.

E. Final approval of a major subdivision shall expire ninety-five (95) days from the date of signing the plat unless within such period the plat shall have been duly filed by the developer with the County Clerk. The Land Use Board, for good cause shown, may extend the period of recording for an additional period, not to exceed one hundred ninety (190) days from the date of the signing of the plat. The Land Use Board may extend the ninety five (95) or one hundred ninety (190) days as provided by N.J.S.A. 40:55D-54.

F. The Land Use Board is authorized pursuant to N.J.S.A. 40:55D-51 to grant exceptions from the requirements for subdivision or site plan approval and to simultaneously review and approval or deny conditional uses or site plans with review of subdivision approval.

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- G. Final approval of a major subdivision, site plan or planned development shall confer upon the developer the following rights:
1. Zoning requirements applicable to the preliminary approval first granted and all rights conferred upon the developer as set forth in Section 12.3.B.4, whether conditionally or otherwise, shall not be changed for a period of two (2) years after the date of final approval, provided that in the case of a major subdivision the rights conferred by this Section shall expire if the plat has not been duly recorded in accordance with the expiration provisions set forth in Section 12.4.E. If the developer has followed the standards prescribed for final approval, and in the case of a major subdivision has duly recorded the plat as required herein, the Land Use Board may extend for such period of protection for extensions of one (1) year, but not to exceed three (3) such extensions. Notwithstanding any other provisions of this Ordinance, the granting of final approval of a major subdivision or site plan terminates the time period of preliminary approval given pursuant to Section 12.3.B.4 for any portions granted final approval.
  2. In the case of a subdivision or site plan for a planned development or residential cluster of fifty (50) acres or more, or a conventional subdivision or site plan of one hundred fifty (150) acres or more, or site plan for development of a nonresidential floor area of 200,000 square feet or more, the Land Use Board may extend the period of protection granted under Section 12.4.G.1 as provided in N.J.S.A. 40:55D-52.
  3. That the Land Use Board may grant extensions of final approval pursuant to subsections G.1 and G.2 of this section subject to the provisions of N.J.S.A. 40:55D-52c and d.

### **12.5 General development plan.**

- A. Any developer of a parcel of land greater than 100 acres in size for which the developer is seeking approval of a planned development pursuant to the provisions of this Ordinance, may submit a general development plan to the Land Use Board prior to the granting of preliminary approval of that development by the Land Use Board as provided in Section 12.3 of this Ordinance. Twenty (20) copies of said general development plan shall be submitted.
- B. The Land Use Board shall grant or deny general development plan approval within ninety five (95) days after submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. Failure of the Land Use Board to act within the period prescribed shall constitute general development plan approval of the planned development.
- C. A general development plan shall contain all information required in Section 12.11, Checklist "I" – General Development Plan of this Ordinance and shall set forth the permitted number of dwelling units, the amount of nonresidential floor space, the residential density and the nonresidential floor area ration for the planned development, in its entirety, according to a schedule which sets forth the timing of the various sections of the development. The planned development shall be developed in accordance with the general development plan approved by the Land Use Board notwithstanding any provisions of N.J.S.A. 40:55D-1 *et seq.* or any ordinance or regulation adopted pursuant thereto after the effective date of the approval.
- D. The term of effect of the general development plan approval shall be determined by the Land Use Board using the guidelines set forth in subsection E below, except that the term of the effect of the approval shall not exceed twenty (20) years from the date upon which the developer receives final

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approval of the first section of the planned development pursuant to N.J.S.A. 40:55D-1 *et seq.*

- E. In making its determination regarding the duration of the effect of approval of the development plan, the Land Use Board shall consider: the number of dwelling units or amount of nonresidential floor area to be constructed, prevailing economic conditions, the timing schedule to be followed in completing the development and the likelihood of its fulfillment, the developer's capability of completing the proposed development, and the contents of the general development plan and any conditions which the Land Use Board attaches to the approval thereof.
- F. In the event that the developer seeks to modify the proposed timing schedule, such modification shall require the approval of the Land Use Board. The Land Use Board shall, in deciding whether or not to grant approval of the modification, take into consideration prevailing economic and market conditions, anticipated and actual needs for residential units and nonresidential space within the Township and the region, and the availability and capacity of public facilities to accommodate the proposed development.
  - 1. Except as provided hereunder, the developer shall be required to gain the prior approval of the Land Use Board if, after approval of the general development plan, the developer wishes to make any variation in the location of land uses within the planned development or to increase the density of residential development or the floor area ratio of nonresidential development in any section of the planned development.
  - 2. Any variation in the location of land uses or increase in density or floor area ratio approval in reaction to a negative decision of, or condition of development approval imposed by the N.J. Department of Environmental Protection pursuant to N.J.S.A. 13:19-1 *et seq.*, shall be approved by the Land Use Board if the developer can demonstrate to the satisfaction of the Land Use Board, that the variation being proposed is a direct result of such determination by the N.J. Department of Environmental Protection.
- G. Except as provided hereunder, once the general development plan has been approved by the Land Use Board, it may be amended or revised only upon application by the developer approved by the Land Use Board. A developer, without violating the terms of approval pursuant to this Ordinance, may, in undertaking any section of the planned development, reduce the number of residential units or amount of nonresidential floor space by no more than fifteen percent (15%) or reduce the residential density or nonresidential floor area ratio by no more than fifteen percent (15%); provided, however, that a developer may not reduce the number of residential units to be provided pursuant to N.J.S.A. 52:27D-301 *et al.* without prior Township approval.
- H. The Land Use Board shall in accordance with the provisions of N.J.S.A. 40:55D-45.7 shall certify completions of each section of a general development plan, determine any general development failure to complete or comply, or determine the termination of a general development plan approval.
- I. In the event that a development which is the subject of an approved general development plan is completed before the end of the term of the approval, the approval shall terminate with the completion of the development. For the purposes of this Section, a development shall be considered complete on the date upon which a certificate of occupancy has been issued for the final residential or nonresidential structure in the last section of the development in accordance with the timing schedule set forth in the approved general development plan and the developer has fulfilled all of his obligations pursuant to the approval.



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### 12.6 Conditional uses.

- A. Recognizing that certain uses, activities and structures are necessary to serve the needs and convenience of the Township and, at the same time, recognizing that such uses may be or may become harmful to the public health, safety and general welfare, if located or operated without proper consideration of existing conditions and character of the surrounding properties, such uses are hereby designated "Conditional uses" and listed as such under the appropriate zone district contained in the Schedule of District Regulations. In addition to other powers conferred by this Ordinance, the Land Use Board shall have the power to authorize the granting of a permit for a conditional use after site plan approval and determination that no detrimental environmental impact will result from the conditional use, under terms and conditions established and set forth in this Ordinance and in accordance with the following general stipulations and guidelines:
1. The uses for which application is being made is specifically authorized as a conditional use in the Schedule of District Regulations for the district in which it is proposed.
  2. The design, arrangement and nature of the particular use is such that the public health, safety and general welfare will be protected.
  3. That reasonable consideration is afforded the character of the neighborhood and the district, the conservation of property values, the avoidance of congestion of vehicular traffic and the avoidance of any unnecessary hazards.
  4. That the proposed use conforms to any special regulations set forth in this Ordinance for the specific use proposed.
- B. Twenty (20) copies of an application for a conditional use permit along with site plans of the proposed conditional use as required by Section 12.6B.2 of this Ordinance, shall be submitted in accordance with the provisions of Section 12.3 and 12.4 hereinabove.
1. Within ninety-five (95) days from the date said application is determined complete, the Land Use Board shall, by resolution, either approval or disapproval of the application. Failure of the Land Use Board to act within the period prescribed shall constitute approval of the application, and a certificate of the Administrative Officer as to the failure of the Land Use 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 Clerk for purposes of filing subdivision plats. A conditional use shall require a public hearing and proper noticing of adjoining property in the manner prescribed by the New Jersey Municipal Land Use Law, as currently amended, prior to the Land Use Board determining whether or not to grant the conditional use.
  2. In reviewing an application for a conditional use permit, said review shall include site plan review as provided in accordance with Section 12.1 of this Article. The Land Use Board shall review applications, including the site plans, in accordance with all standards and regulations of this Ordinance and as to conformity with the goals, objectives and policies of any adopted Master Plan.
  3. In approving an application, the Land Use Board may impose any modifications or conditions it deems necessary to carry out the intent of this Ordinance or to protect the health, safety and general welfare of the public.

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4. The Land Use Board shall notify the Zoning Officer, in writing, as to its decision and any special conditions imposed in connection with the approval actions.
5. The Zoning Officer shall approve or deny applications for conditional use permits in accordance with Land Use Board action. All conditional use permits shall be issued only in accordance with applicable conditions contained in this Ordinance or imposed by the Land Use Board. The Land Use Board administrative officer shall transmit one (1) copy of all approved and denied applications to the Township Tax Assessor, Zoning Officer, Construction Code Official and Township Engineer.

### 12.7 Zoning appeals and applications.

- A. Appeals to the Land Use Board may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the Zoning Officer. Each appeal shall be taken within the sixty-five (65) day period prescribed by filing a notice of appeal with the officer from whom the appeal is taken together with three (3) copies of said notice with the administrative officer of the Land Use Board. Said notice of appeal shall specify the grounds for said appeal. The officer from whom the appeal is taken shall forthwith transmit to the Land Use Board all papers constituting the record upon which the action appealed from was taken.
- B. Filing.
  1. Applications addressed to the original jurisdiction of the Land Use Board without prior application to an administrative officer shall be filed with the administrative officer of the Land Use Board. Twenty (20) copies of the application shall be filed. At the time of filing the appeal or application, but in no event less than fifteen (15) days prior to the date set for the hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provision of this Ordinance or any rule of the Land Use Board. The applicant shall obtain all necessary forms from the Secretary of the Land Use Board. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting dates of the Board.
  2. If the applicant is a corporation or partnership, said applicant shall list the names and addresses of all stockholders or individual partners owning at least ten percent (10%) of its stock of any class or at least ten percent (10%) of the interest of a partnership, as may be the case, as required by N.J.S.A. 40:55D-48.1.
  3. If a corporation or partnership owns ten percent (10%) or more of the stock of a corporation or ten percent (10%) or greater interest in a partnership, subject to a disclosure as set forth above, that corporation or partnership shall list the names and addresses of its stockholders holding ten percent (10%) or more of its stock or of ten percent (10%) or greater interest in the partnership, as may be the case, and this requirement shall be followed by every corporate stockholder or partner in a partnership, until the names and addresses of the non-corporate stockholders and individual partners, exceeding the ownership criterion of ten percent (10%) as set forth in N.J.S.A. 40:55D-1 *et seq.* have been listed.
  4. Failure to comply with Subsections 2 and 3 above by any corporation or partnership shall be cause for disapproval of the application.
- C. An appeal stays all proceedings in furtherance of the action in respect to which the decision

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appealed from was made, unless the officer from whom the appeal is taken certifies to the Land Use Board, after the notice of the appeal shall be filed with him/her, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by an order of the Superior Court of New Jersey upon notice to the officer from whom the appeal is taken and on due cause shown.

### **D. Time limit for decisions.**

1. The Land Use Board shall render its decision no later than one hundred twenty (120) after the date:
  - a. An appeal is taken from the decision of an administrative officer; or
  - b. A complete application for development is submitted to the Board pursuant to the provisions of N.J.S.A. 40:55D-72b.
2. Failure of the Board to render a decision within such period of one hundred twenty (120) days or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.

## **12.8 Application for sign and yard sale permits**

### **A. Sign permits**

1. Applications for a sign permit shall be submitted to the Zoning Officer when the sign to be erected or installed is for an existing use or structure and is not part of a development requiring site plan review. The Zoning Officer shall review said application and plans submitted as required by Section 8.11 and shall, within two (2) weeks of receipt of the application:
    - a. Issue a permit if said proposed sign(s) conforms to all provisions of Section 8.11 of this Ordinance;
    - b. Require full site plan review as per Section 12.1 through 12.3 of this Article; or deny the permit, in which case the Zoning Officer shall set forth, in writing, the reasons for said denial.
  2. In the case of a sign or signs to be erected or installed as part of an application for subdivision or site plan approval, the proposed signs shall be shown on the subdivision plat or site plan and be reviewed and approved as part of the overall subdivision plat or site plan by the Land Use Board. The Zoning Officer shall be authorized by the approval of the subdivision plat or site plan submitted thereto to issue the appropriate permit(s) for the sign(s) shown on said approved plat or plan.
- B. Yard sale permits** Applications for yard sale permit shall be made to the Zoning Officer or his/her designee, who shall issue or deny said permit in accordance with the provisions of Section 9.20 of this Ordinance and payment of any requisite fee as per Section 13.11 of this Ordinance.

## **12.9 Informal discussion of a development proposal**

- A. At the request of the developer, the Land Use Board shall grant an informal review of a concept plan for a proposed development for which the developer intends to prepare and submit an

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application for development. The developer shall not be required to submit any fees for such informal review unless a request is made that the Board's professionals be present or provide informal comments (See Subsection D below). The developer shall not be bound by any concept plan for which review is requested, and the Land Use Board shall not be bound by any such review and/or comments made during same.

- B. Any sketch plats containing proposals and/or designs for drainage, streets, subdivision layout or site design shall be only for discussion and informal review and comment. The data included on an informal submission shall include sufficient basic data to enable the Land Use Board and the developer to comment upon design concepts, such as building locations, ingress and egress, parking and major natural features that will have to be recognized or may influence certain design criteria, and the prospective developer's basic intent for provision of water, sewage and stormwater facilities. Informal sketches to scale of possible plans for development of the area. They are not binding on the Township or upon the developer and do not necessitate accurate engineered drawings. The Township or developer bear no liability resulting from the informal discussion of such concept plans for development since by their nature they are not actual applications with supporting documentation and properly drawn and certified plats or plans.
- C. Although the minutes of a meeting of the Land Use Board wherein an informal discussion was part of the agenda may so note said discussion, no written findings, conclusions or reports shall be issued by the Board as a result of an informal discussion.
- D. If a developer requests review of plans or sketches by the Board's professional staff, a development review escrow account will be required to be established with the Township in accordance with the provisions of Section 13.2, "Escrow Fees." Said account will be used to pay the costs of the staff review. No charges will be assessed to the escrow account established if extemporaneous comments or opinions are made by a Board professional present at a meeting and has not been asked to specifically review plans or sketches in advance thereof the Board meeting when the informal review will occur.

### 12.10 Plat and plan details and conformity

- A. **Form of submission** No development application as defined in this Ordinance shall be accepted unless submitted in proper form, and no plat or plan shall be accepted for consideration unless it conforms to the specific checklist requirements, as set forth herein, as to form, content and accompanying information, and complies with the provisions of the New Jersey Map Filing Law, as amended. All plats and plans shall bear the signature, seal, license number and address of the professional authorized to draw same.
- B. **Specifications and checklist and information to be submitted for complete application for development** A development application shall be deemed complete for purposes of commencing the applicable period of time for action by the approval authority when so certified by its or its authorized committee or designee as set forth in Section 12.2. All applications and accompanying plans or plats shall contain all of the information required and as stipulated in the various checklists set forth in Section 12.11.
- C. **Waivers from plat or plan details** The Land Use Board upon written request of the applicant may waive any plat or plan details required in connection with the provisions of this ordinance where it finds that said waived detail(s) is/are not required in order to adequately review the plat or plan, and that the waiving of said detail(s) shall not be detrimental to the adopted Township

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Master Plan or the provisions of this ordinance.

**12.11 Checklists for determining completeness adopted** The following checklists shall be used in determining the completeness of any development application submitted to the approval authority are hereby adopted by reference and made a part of this ordinance:

- Checklist "A" General Information Required
- Checklist "B" Minor Site Plan
- Checklist "C" Preliminary Major Site Plan
- Checklist "D" Land Subdivision
- Checklist "E" Environmental Impact Statement
- Checklist "F" Sign – Plan Details
- Checklist "G" Variance Application
- Checklist "H" Supplemental Details for Specific Uses
- Checklist "I" General Development Plan
- Checklist "J" Local Communications Facilities Application – Supplemental Information
- Checklist "K" Resource Extraction

The administrative officer of the Land Use Board or other approving authority shall provide all applicants for development approval with a copy of all applicable checklists as noted above for the proposed development involved. Said checklist(s) shall be completed and submitted along with all documentation and plans or plats as indicated on said checklist(s) to the administrative officer at the time of his/her making application for development review. The checklist or checklists shall be used in determining completeness of the application for review submitted as required by N.J.S.A. 40:55D-10.3. (See Appendix A)

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

**12.13 Hearings.** The Land Use Board shall hold a hearing on each application for development consistent with the provisions of N.J.S.A. 40:55D-1, et seq. and this Ordinance and such hearings shall be conducted according to the provisions of this Section.

- A. Rules. The Land Use Board shall make rules governing the conduct of hearings before such bodies which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et seq. or of this Ordinance.
- B. Oaths. The officer presiding at the hearing or such person as he may designate shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law (N.J.S.A. 2A:67A-1 et seq.) shall apply.
- C. Testimony. The testimony of all witnesses relating to an application for development shall be

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

- D. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
- E. Records. The Land Use Board shall provide for the verbatim recording of the proceedings by stenographic, mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request of any interested party at his/her expense. The Land Use Board in furnishing a transcript of the proceedings to an interested party at his/her expense shall not charge such interested party more than the maximum permitted in N.J.S.A. 2A:11-15. Said transcript shall be certified in writing by the transcriber to be accurate.

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

- A. Public notice shall be given by publication in the official newspaper of the Township at least ten (10) days prior to the date of the hearing.
- B. Notice shall be given to the owners of all real property as shown on the current tax duplicate or duplicates located in the State and within two hundred (200) feet in all directions of the property which is the subject of such hearing, provided that this requirement shall be deemed satisfied by notice to the (1) condominium association in the case of any unit owner whose unit has a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it.
  - 1. Such notice shall be given by serving a copy on the owner as shown on the said current tax duplicate or his agent in charge of the property or by mailing a copy thereof by certified mail to the property owner at his address as shown on the said current tax duplicate. A return receipt is not required.
  - 2. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners association, because of its ownership of common elements or areas located within two hundred (200) feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation, without further notice to unit owners, co-owners or homeowners on account of such common elements or areas.
- C. Notice of hearings on applications for development involving property located within two hundred (200) feet of an adjoining municipality shall be given by personal service or certified mail to the Clerk of such municipality, which notice shall be in addition to notice required to be given pursuant to Section 12.14B of this Article to the owners of lands in such adjoining municipality which are located within two hundred (200) feet of the subject premises.
- D. Notice shall be given by personal service or certified mail to the County Planning Board of a

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hearing on an application for development of property adjacent to an existing county road or proposed road shown on the Official County Map or on the County Master Plan, adjoining other county land or situated within two hundred (200) feet of the subject premises.

- E. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a State highway.
- F. Notice shall be given by personal service or certified mail to the State Planning Commission of a hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. The notice shall include a copy of any maps or documents required to be on file with the Township Clerk pursuant to N.J.S.A. 40:55D-10.
- G. All notices hereinabove specified in this Section shall be given at least ten (10) days prior to the date fixed for hearing, and the applicant shall file an affidavit of proof of service with the Land Use Board.
- H. Any notice made by certified mail as hereinabove required shall be deemed to be complete upon mailing in accordance with the provisions of N.J.S.A. 40:55D-14.
- I. Form of notice. All notices required to be given pursuant to the terms of this Ordinance shall state the date, time and place of the hearing; the nature of the matters to be considered; identification of the property proposed for development by street address, if any, or by reference to lot and block number as shown on the current tax duplicate in the Township Tax Assessor's Office; and the location and time at which any maps and documents for which approval is sought are available as required by law.

**12.15 Furnishing list of property owners.** Pursuant to the provisions of N.J.S.A. 40:55D-12c, the Township Tax Assessor shall, within seven (7) days after receipt of a request therefore and upon receipt of payment of a fee of twenty five cents (\$.25) per name or ten dollars (\$10.), whichever is greater, make and certify a list from the current tax duplicate of names and addresses of owners to whom the applicant is required to give notice pursuant to Section 12.14 of this Ordinance.

**12.16 Form of decisions; copies.** The Land Use Board shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. The Land Use Board shall provide the findings and conclusions through:

- A. A resolution adopted at a meeting held within the time period provided by N.J.S.A. 40:55D-1, *et seq.* For action by the Land Use Board on the application for development; or
- B. A memorializing resolution adopted at a meeting held not later than forty five (45) days after the date of the meeting at which the Land Use Board voted to grant or deny approval. Only the members of the Land Use Board who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution. An action pursuant to N.J.S.A. 40:55D-9 (resulting from failure of a motion to approve an application) shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution. The vote of any such resolution shall be deemed to be a memorialization of the action of the Land Use Board and not to be an action of the Land Use Board; however, the date of the adoption of the resolution shall constitute the date of the decision for purposes of mailings, filings and publications required by

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subsections h and I of N.J.S.A. 40:55D-10. If the Land Use Board fails to adopt a resolution or a memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary manner for an order compelling the Land Use Board to reduce its findings and conclusions to writing within a stated time and the cost of the application, including attorneys' fees, shall be assessed against the Township.

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

**12.17 Publication of decisions.** A brief notice of every final decision shall be published in the official newspaper of the Township. At a minimum, the notice shall clearly identify the nature of the Board action requested; the public meeting or meetings at which the matter was heard and decided; and whether or not the application was granted. Such publication shall be arranged by the administrative officer of the Land Use Board without charge to the applicant. Said notice shall be sent to the official newspaper for publication within ten (10) days of the date of such decision.

**12.18 Disclosure of ownership.** A corporation or partnership applying to Land Use Board for permission to subdivide a parcel of land into six or more lots, or applying for a variance to construct a multiple dwelling of twenty five (25) or more family units or for approval of a site to be used for commercial purposes shall list the names and addresses of all stockholders or individual partners owning at least ten percent (10%) of its stock of any class or at least ten percent (10%) of the interest in the partnership, as the case may be. Said disclosure shall be in compliance with the provisions of Section 12.7B.2 through 4 of this Article.