

## **Chapter 123**

### **ZONING**

#### **GENERAL REFERENCES**

**Land use procedures — See Ch. 25.**

**Subdivision of land — See Ch. 104.**

**Site plan review — See Ch. 97.**



## ARTICLE I

**Purpose; Availability**  
**[Amended 5-16-1979 by Ord. No. 2-79]****§ 123-1. Purpose.**

The purpose of this chapter shall be to adopt a new Zoning Ordinance by readopting and amending the present Zoning Ordinance of the Borough of Branchville in accordance with the Municipal Land Use Law (P.L. 1975, c. 291, N.J.S.A. 40:55D-1 et seq.), so as to provide rules, regulations and standards to guide zoning in the Borough of Branchville in order to promote the public health, safety, convenience and general welfare of the municipality. It shall be administered to ensure the orderly growth and development, the conservation, protection and proper use of land and adequate provision for circulation of traffic, utilities and services.

**§ 123-2. Copies on file; availability.**

Copies of the above-referred-to ordinance are on file for public examination and acquisition at the office of the Clerk of the Borough of Branchville, and three copies are on file at the office of the Clerk of the Borough of Branchville for public inspection during normal business hours, pursuant to the requirements of P.L. 1977, c. 395.<sup>1</sup> Following final adoption, the ordinance will be available upon printing in pamphlet form.

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1. Editor's Note: See N.J.S.A. 40:49-2.1.



ARTICLE II  
**Zoning Districts; Map**

**§ 123-3. Zoning districts. [Amended 5-16-1979 by Ord. No. 2-79; 8-1-2018 by Ord. No. 07-2018]**

The Borough of Branchville is hereby divided into the following districts as listed below:

Residential 1 District, known as "R-1 Zone"

Residential 2 District, known as "R-2 Zone"

Residential 3 District, known as "R-3 Zone"

Commercial District, known as "C Zone"

Professional and Office District, known as "O Zone"

Highway Commercial District, known as "HC Zone"

Planned Residential Zone District, known as the "PR Zone District"

**§ 123-4. Zoning Map. [Amended 5-16-1979 by Ord. No. 2-79]**

The boundaries of the above districts are hereby established as shown on the Zoning Map of the Borough of Branchville, February 1979, prepared by Harold E. Pellow, Associates, Inc., which accompanies and which is hereby adopted and made a part of this chapter.<sup>2</sup>

**§ 123-5. Determination of district boundaries.**

In determining the boundaries of districts shown on the Zoning Map, the following rules shall apply:

- A. Unless otherwise provided, district boundaries shall be construed to coincide with the center line of streets, highways and waterways or such lines extended.
- B. In all cases where a district boundary line is located no farther than 15 feet from a lot line of record, such district boundary line shall be construed to coincide with such lot line.

**§ 123-6. Conformity; interpretation.**

- A. No building or structure shall be erected, moved, altered, rebuilt or enlarged nor shall any land, building or structure be used or arranged to be used for any purpose or in any manner except in conformity with the provisions of this chapter for the district in which such building or land is located.

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2. Editor's Note: The Zoning Map is on file in the office of the Borough Clerk.

- B. No lot shall be formed from part of a lot already occupied by a building unless both the new lot and the remaining lot comply with all requirements of this chapter.
- C. Nothing contained in this chapter shall require any change in the plans, construction or use of a building complying with regulations in force prior to this chapter if the following is found to exist:
  - (1) A building permit shall have been issued before the effective date of this chapter; and
  - (2) The entire building shall have been completed in accordance with the filed plans within one year of the effective date of this chapter.
- D. Any use not permitted by this chapter shall be deemed prohibited. Any list of prohibited uses contained in this chapter shall not be deemed an exhaustive list but has been included for the purpose of clarity and emphasis and to illustrate, by example, some of the uses frequently proposed that are deemed undesirable and incompatible and are thus prohibited.

ARTICLE III  
**Definitions**

**§ 123-7. Definitions and word usage.**

A. Usage. Except where specifically defined herein, all words and terms used in this chapter shall carry their customarily accepted meanings. Words used in the present tense include the future, and the plural includes the singular. The word "lot" includes the word "plot" or "parcel"; the word "buildings" includes the word "structure"; the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied"; the word "dwelling" includes the word "residence."

B. Definitions. The following words or terms shall have the following meanings where used herein:

ACCESSORY BUILDING OR USE — A use or structure customarily incident and subordinate to the principal use of land or buildings and located on the same lot with such principal use or building.

ALTER — As applied to a building, means a change or rearrangement of supporting members or exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

BUILDING — Any structure having a roof supported by columns, piers or walls, including lunch wagons, trailers or other structures on wheels, or having other supports and any unroofed platform, terrace or porch.

BUILDING AREA — The area formed by the intersection of a horizontal plane at average grade level and the vertical planes which coincide with the exterior surface of the building. This area does not include uncovered porches, terraces or steps, nor does "most projected area" include roof overhangs.

BUILDING HEIGHT — The vertical distance measured from the average elevation of the finished grade along the front of the building to the mean elevation of the roof surface.

BUILDING LINE — A line formed by the intersection of a horizontal plane at the average grade level and a vertical plane that coincides with the exterior surface of the building on any side. All yard requirements are measured to the "building line."

BUILDING, MAIN OR PRINCIPAL — A building in which is conducted the main or principal use of the lot on which said building is located.

BUILDING PERMIT — A permit stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this chapter for the zone in which it is located or is to be located.

CELLAR — A story partly underground and having more than 1/2 of its clear height below the average level of the adjoining ground.

DWELLING, SINGLE-FAMILY — A building occupied or intended to be occupied exclusively for residence purposes by one family or one housekeeping unit.

FAMILY — One or more persons who live together in one dwelling unit and maintain a common nonprofit single housekeeping unit. It may consist of a single person or of two or more persons, whether or not related by blood, marriage or adoption. It may also include domestic servants and gratuitous guests.

FIRST FLOOR AREA — Shall be measured by using the outside dimensions of the residential portion of a building, excluding the area of an attached garage. For a split-level or trilevel dwelling, the area shall be considered to be the sum of the areas of the two adjoining residential levels, excluding an attached garage.

GARAGE SALE — The display and/or sale of products, things, items or goods presently located on a residential property or within a residential dwelling or accessory structure. The things, items, goods or products may be displayed and/or sold either outdoors or inside a building. A garage sale does not include the sale of things, items, goods or products brought onto the property for sale.**[Added 12-5-2012 by Ord. No. 19-2012]**

JUNKYARD — Any area and/or structure used or intended to be used for the conducting and operating of the business of selling, buying, storing or trading in used or discarded metal, glass, paper, bags, cordate or any use or disabled fixtures, vehicles or equipment of any kind.

LOT OR ZONING LOT — A piece, parcel or plot of land occupied or designed to be occupied by a building and its accessory buildings, together with such open spaces as are arranged and designed to be used in connection with such buildings.

LOT DEPTH — A mean horizontal distance between the front and rear lot lines, measured at right angles to the street in the general direction of the lot side lines.**[Amended 12-1-1982 by Ord. No. 11-82]**

LOT WIDTH — The horizontal distance between the side lot lines, measured at right angles to the lot depth at the building line.

MOTELS OR TOURIST CAMPS — A building or group of buildings which contains living or sleeping accommodations for transient occupancy and has individual outside entrances to each unit.

NONCONFORMING BUILDING — A building or structure or portion thereof lawfully existing at the time of enactment of this chapter which was designed, erected or structurally altered for a use that does not conform to the use regulations of the district in which it is located.

NONCONFORMING LOT — A lot or parcel which does not have a minimum width or depth or contain the minimum area for the zone in which it is located or the use to which it is being put.

NONCONFORMING USE — A use which lawfully occupied a building or land at the time of enactment of this chapter and which does not conform to the use regulations of the district in which it is located.

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

- (1) Noise.
- (2) Dust.
- (3) Smoke.
- (4) Fumes.
- (5) Odor.
- (6) Glare.
- (7) Flashes.
- (8) Vibration.
- (9) Shock waves.
- (10) Heat.
- (11) Electronic or atomic radiation.
- (12) Objectionable effluent.
- (13) Noise or congregation of people, especially at night.
- (14) Passenger traffic.
- (15) Transportation of things by truck, rail or other means.
- (16) Invasion of nonabutting street frontage by parking.

OPEN SPACE — Any unbuilt area intended to meet the side, rear or front space requirements of this chapter.

OUTDOOR FURNACE — Any equipment, device, appliance or apparatus, or any part thereof, which is a) installed, affixed or situated outdoors; b) wood-, biomass- and/or pellet-fed; and c) utilized for the purpose of combustion of fuel to produce heat or energy used as a

component of a heating system providing heat for any interior space or water source. This term includes but is not limited to wood boilers. **[Added 12-5-2012 by Ord. No. 15-2012]**

PRIVATE GARAGE — A detached accessory building or portion of a main building for the parking of or temporary storage of automobiles of occupants of the main building and wherein not more than one space is rented to persons not residents of the lot or not more than one commercial vehicle not to exceed two tons in net weight is parked or stored.

SIGN AND/OR ADVERTISING STRUCTURE — Every sign, billboard, ground sign, roof sign, sign painted or printed on the exterior surface of a building or structure, illuminated sign, temporary sign, awning, banner and canopy, and includes any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person or product when the same is placed out of doors in view of the general public.

STREET LINE — The line which separates the publicly owned or controlled street right-of-way from the private property which abuts upon said street as distinct from a sidewalk line, curblineline or edge-of-pavement line. In cases where title runs to the center of the street subject to the public easement, the curblineline shall be considered the "street line."

STRUCTURE — Anything constructed or erected which requires permanent location on the ground or attachment to something having such location.

TRAILER — A vehicle or residence on wheels (whether attached or removed), skids or rollers without motive power, designed to be used for human habitation or for carrying persons or property, including a trailer coach or house trailer.

TRAILER CAMP — Land used or intended to be used by tents, trailers or movable dwellings. Two or more trailers, whether parked or supported by foundations, shall constitute a "trailer camp."

YARD, FRONT — An open space extending across the full width of the lot, the depth of which is the minimum horizontal distance between the nearest point on the street line and the nearest part of the main or accessory building.

YARD MEASUREMENT — Front yards shall be measured from the street line as defined in this chapter. On a lot which has frontage on two or more streets, including corner lots, the building setback from each street shall not be less than the required front yard setback in the zone district in which said lot is located. **[Added 12-5-2012 by Ord. No. 14-2012]**

YARD, REAR — An open space extending the full width of the lot between the main building and the rear lot line. The depth of the

required "rear yard" shall be measured horizontally from the nearest part of the main building toward the nearest point of the rear lot line.

**YARD SALE** — The outdoor display and/or sale of products, things, items or goods presently located on a residential property or within a residential dwelling or accessory structure. The display and/or sale is conducted outdoors. A yard sale does not include the sale of things, items, goods or products brought onto the property for sale. **[Added 12-5-2012 by Ord. No. 19-2012]**

**YARD, SIDE** — An open space extending from the front yard to the rear yard between the main building and the side lot line. The width of the required "side yards" shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the main building.



ARTICLE IV  
**District Use Regulations**

**§ 123-8. When site development approval required. [Amended 9-2-1987 by Ord. No. 9-87]**

In all districts, a site development plan approved by the appropriate board shall be required in accordance with Article X for the erection, enlargement, movement, alteration or rebuilding of any building or all principal buildings other than one-family dwellings and, in addition, for all uses of land where no building is proposed but where a building permit or certificate of occupancy is required.

**§ 123-9. Residential 1 District regulations.**

In a Residential 1 District, no building shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used in whole or in part for any use except the following:

A. Permitted uses:

- (1) One-family dwelling.
- (2) Municipal buildings and uses of every kind and nature, including administrative, garage and storage.
- (3) Public schools.
- (4) Parks and playgrounds.

B. Permitted accessory uses.

- (1) Customary home occupations, including real estate and insurance offices and beauty shops, provided that: **[Amended 3-19-1997 by Ord. No. 1-97]**
  - (a) No sign or advertisement is permitted except one nonilluminated name plate or professional sign with an area of not more than two square feet on each side.
  - (b) There is no display of goods. However, garage sales and/or yard sales are permitted with the following limitations:
    - [1] There shall be no more than two such sales per year.
    - [2] Each sale shall be for no more than three consecutive days.
    - [3] All goods shall be removed from the exterior of the property at the conclusion of the sale. A temporary sign advertising the sale no larger than four feet by eight feet may be displayed on the property for a period of 10 days prior to the sale. The sign shall be removed the day after the sale.

[4] Garage sales and/or yard sales are limited to the sale of things, goods or items that presently exist in the home or on the property. No thing, good, or item that is imported or brought onto the property for the purpose of selling that thing, good or item shall be included in a garage sale or yard sale. **[Added 12-5-2012 by Ord. No. 19-2012]**

- (2) Professional office or studio of an artist, attorney, accountant, dentist, musician, teacher, physician, veterinarian or a like use, provided that:
  - (a) Such office or studio is incidental to the residential use of the premises and is carried on by not more than one nonresident assistant.
  - (b) Such office or studio shall occupy not more than 30% of the area of one floor of the main building.
  - (c) Studios where dancing or music instruction is offered to groups in excess of four pupils at one time or where concerts or recitals are held are prohibited.
  - (d) Veterinarian offices shall not be located within 100 feet of any lot line, and no kennel, runway, exercise pen or similar animal housing shall be located within 300 feet of any lot line.
  - (e) There shall be no signs, display or advertisement except one nonilluminated nameplate or professional sign with an area of not more than two square feet on each side.
- (3) Garden house, toolhouse, garage, playhouse, temporary or permanent swimming pool incidental to the residential use of the premises and not operated for gain.
- (4) Private housing of equine animals. The private housing of equine animals is a permitted accessory use, provided the following regulations are complied with. **[Added 12-5-2007 by Ord. No. 06-2007]**

(a) Land requirements.

[1] The minimum land area where equine animals are housed or kept shall be as follows:

**Number of**

**Equine Animals Land Area**

1	1.5 acres, at least 1 acre of which is accessible to the equine animal
2	2.25 acres, at least 1 acre of which is accessible to the equine animals

**Number of  
Equine Animals Land Area**

3 3.00 acres, at least 1.5 acres of which is accessible to the equine animals

4 3.50 acres, at least 2.0 acres of which is accessible to the equine animals

0.50 acre for each additional animal, which shall be accessible to the animals

[2] The area accessible to the equine animals shall be open and planted with grass.

[3] The area shall be fenced with wooden fencing or vinyl fencing. Electric fences are prohibited. The fence must be a minimum of five feet from all property lines and shall not encroach upon the road right-of-way.

(b) Structures. Housing of equine animals must be provided in permanent, anchored barns for all horses or other equine animals on the property at which the animals are kept beyond two days and two nights. Each animal must be provided with a box stall. The animals shall not be housed in horse travel trailers. Barns shall further be regulated according to the following:

[1] Each box stall should be at least 100 square feet.

[2] Minimum floor area of a barn should be at least 125 square feet.

[3] Enclosed roofed storage must be provided for hay, straw, feed and tack.

[4] Rodent-proof feed containers must be provided and used.

[5] Barns must be equipped with adequate electric lighting inside and out. The service line must be laid underground according to the International Building Code for such service.

[6] An all-season waterline must be laid to within a minimum of 25 feet of the barn and should have a rate of flow as specified in the International Building Code.

[7] Barns must be located in the rear area of the property.

[8] Barns must be located no closer than 75 feet from the sides or back property line boundaries.

- (c) Disposition of manure.
- [1] Manure may not be kept in any area of the one-hundred-year floodplain nor within 100 feet of any brooks or watercourses or as required by state laws, rules and regulations, if more stringent.
  - [2] Manure disposal area must be in a low-profile position, cause no nuisance, and be at least 50 feet from a property line and no closer than 200 feet to any other existing residential-purpose permanent building or structure, attached garage, swimming pool, tennis court or patio located on adjoining premises.
  - [3] The manure must be collected from the barn area and maintained or disposed of in a sanitary manner. If stored, a covered enclosure or covered pit shall be provided to prevent offensive odors, fly breeding and other nuisances.
  - [4] The manure shall be stored in such location that stormwater runoff shall not carry the effluent or manure off site.
- (d) Horse vans and trailers. Vehicles intended for the transportation of recreational horses, such as vans and trailers, may be maintained on the premises, provided they do not violate the provisions of any other ordinance of Branchville Borough.
- (e) Lessons and boarding. Giving rider lessons or instructions, leasing of horses or other similar activities, or boarding or housing the horse or horses of other people is not allowed under private housing of equine animals. This is not to preclude having a riding instructor come to the private residence to give lessons to members of that household.
- (f) No site plan application need be filed with the Planning Board for the private housing of the landowner's own horses or equine animals. A plan shall be submitted to the Zoning Officer and Construction Official showing the location of brooks and other watercourses, barns, fenced-in areas, manure storage areas and distances from the same to the adjacent property lines.
- (g) If the within regulations cannot be complied with, then a land occupant desiring to house equine animals shall be required to obtain a variance from the Zoning Board of Adjustment.

### **§ 123-10. Residential 2 District regulations.**

In a Residential 2 District, no building, structure or premises shall be used and no building or part of a building shall be erected which is arranged,

intended or designed to be used in whole or in part for any purposes except the following:

A. Permitted uses.

- (1) Any use permitted in Residential 1 District, including accessory uses therein permitted.
- (2) Conversion of dwelling into apartments, subject to the following requirements:
  - (a) Separate kitchen facilities and toilet facilities shall be provided for each apartment.
  - (b) Each apartment shall be arranged so that it is a separate unit having either separate exit facilities or a separate door leading to a common hall so that there is no access from one apartment directly to the other.
  - (c) Each apartment shall have a minimum floor area of 500 square feet.
  - (d) There shall be no enlargement of the existing dwelling.

B. Permitted accessory uses. The same accessory uses are permitted in the Residential 2 District as are permitted in the Residential 1 Zone District. **[Added 12-5-2007 by Ord. No. 07-07]**

**§ 123-11. Residential 3 District regulations. [Added 5-16-1979 by Ord. No. 2-79]**

In a Residential 3 District, no building shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used in whole or in part for any use except the following:

A. Permitted uses.

- (1) Same as R-1 Zone.

B. Permitted accessory uses.

- (1) Same as R-1 Zone.

**§ 123-12. Commercial District regulations.**

A. In a Commercial District, no building, structure or premises shall be used and no building or part of a building shall be erected which is arranged, intended or designed to be used in whole or in part for any purpose except the following:

- (1) Permitted uses. **[Amended 5-19-2004 by Ord. No. 2-2004]**

- (a) Retail stores, eating places, taverns, service establishments, banks, business and professional offices, research, houses of

worship, food stores, barbershops, beauty shops and post office.

- (b) General commercial uses such as, but not limited to, building supply, lumberyards, plumbing supply, contractors' yards and shops, wholesaling, sale of farm equipment and garden equipment, sale of feed and grain, storage and warehousing facilities, sheet metal fabrication, cabinetmaking and wood-working.
  - (c) Municipal buildings and municipal uses of every kind and nature, including administrative, garage and storage.
  - (d) Public schools.
  - (e) Parks and playgrounds.
  - (f) Where the ground floor of a building is devoted to retail stores or other uses permitted under § 123-12A(1)(a) and (b), the upper floors of the building may be used for residential apartments subject to all applicable provisions of the Uniform Construction Code and subject to the following requirements:
    - [1] Separate kitchen facilities and toilet facilities shall be provided for each apartment;
    - [2] Each apartment shall be arranged so that it is a separate unit having either separate exist facilities or a separate door leading to a common hail so that there is no access from one apartment directly to the other.
    - [3] Each apartment shall have a minimum floor area of 500 square feet.
- (2) Permitted accessory uses.
- (a) Parking facilities.
  - (b) Other uses normally accessory to the permitted uses.
  - (c) Signs, subject to the following:
    - [1] All signs shall conform to the provisions of the supplemental sign regulations §§ 123-17 and 123-18 (freestanding, attached to building or painted on building).
    - [2] Only one sign with a total area on either side of not more than 30 square feet.
    - [3] No signs may be erected or painted which direct attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises.

(d) Indoor and outdoor sales. **[Added 3-19-1997 by Ord. No. 1-97]**

[1] Indoor sales. Houses of worship and other tax exempt charitable organizations as defined in the Internal Revenue Code or nonprofit corporations organized in accordance with the laws of the State of New Jersey or a recognized national service organization are permitted to hold sales indoors in this zone district at any time.

[2] The houses of worship and the other entities listed in Subsection A(2)(d)[1] above may conduct sales outdoors within this zone district, provided that the following requirements are complied with:

[a] The outdoor sales shall take place no more than once per season.

[b] The outdoor sale shall not exceed seven consecutive days in duration.

[c] A temporary sign no larger than four feet by eight feet is permitted on the property where the sale is located for a period of 14 days prior to the sale. Said sign shall be removed the day after the sale is concluded.

B. Prohibited uses.

(1) Service station or gas station.

(2) Heavy manufacturing.

(3) Manufacturing uses involving production of the following products from raw materials: asphalt, cement, charcoal and fuel briquettes and chemicals; anything of an explosive nature; coal, coke and tar products, explosives and fertilizers.

(4) Junkyards, automobile dismantling plants or storage of used parts of automobiles or other machines or vehicles or of dismantled or junked automobiles or equipment.

(5) Aboveground storage tanks for flammable liquids or gas exceeding 2,000 gallons.

**§ 123-13. Professional and Office District regulations.**

A. In a Professional and Office Zone, no building shall be used and no part of a building shall be erected or altered which is arranged, intended or designed to be used in whole or in part for any use except the following:

(1) Permitted uses.

(a) General business and professional offices.

- (b) Any other use that is determined by the Zoning Board of Adjustment to be of the same general character as the above permitted use.
  - (c) Municipal buildings and uses of every kind and nature, including administrative, garage and storage. **[Added 4-4-1990 by Ord. No. 1-90]**
- (2) Permitted accessory uses.
- (a) Any use or structure found by the Zoning Board of Adjustment to be customarily incident and subordinate to the principal use of the land or building and located on the same lot with the principal use or building.
  - (b) Private garages and parking areas shall be permitted for all vehicles used in the course of the business operated on the premises.
- B. Off-street parking requirements.
- (1) There shall be provided a minimum of two offstreet parking spaces plus one space either within a garage or in a lot for each regular employee of the office.
  - (2) The builder or owner shall submit with its plans an estimate of the ultimate number of employees of the office and an estimate of the average number of visitors, customers or clients which might be expected at one time. Parking spaces must be provided for as many cars as may be reasonably expected at any one time.
- C. Signs.
- (1) Each professional office in a building shall be permitted space upon a sign, which space shall not exceed two square feet in area, subject, however, to the limitation that the sign upon which the abovementioned space is permitted shall not exceed 60 square feet in area. Such sign may be lighted. Neon lights and flashing signs are prohibited.

#### **§ 123-14. Highway Commercial District regulations.**

In a Highway Commercial District, no building shall be used and no part of a building shall be erected or altered which is arranged, intended or designed to be used in whole or in part for any use except the following:

- A. Permitted uses. **[Amended 5-16-1979 by Ord. No. 2-79]**
- (1) Any use permitted in the O District. **[Amended 5-19-2004 by Ord. No. 2-2004]**
  - (2) Retail stores and restaurants.

- (3) Light industrial uses (activities which involve the fabrication or assembly of standardized parts as contrasted to a processing activity which would involve a physical or chemical process that would change the nature or character of the product or raw material).
  - (4) Scientific or research laboratories devoted to research, design or experimentation and processing and fabrication incidental thereto.
  - (5) The wholesaling of goods and services, including the warehousing or storage of goods, provided such activities and inventories are conducted entirely within an enclosed structure or are conducted in open yard areas which are adequately screened from view from adjacent lots or roads.
  - (6) Where the ground floor of a building is devoted to retail stores, restaurants or general business or professional offices, or any other use that it is determined by the Zoning Board of Adjustment to be of the same general character as these uses, the upper floors of the building may be utilized for residential apartments, provided the following provisions are complied with: **[Added 5-19-2004 by Ord. No. 2-2004]**
    - (a) The provisions of the Uniform Construction Code.
    - (b) Separate kitchen facilities and toilet facilities shall be provided for each apartment.
    - (c) Each apartment shall be arranged so that it is a separate unit having either separate exit facilities or a separate door leading to a common hall so that there is no access from one apartment directly to the other.
    - (d) Each apartment shall have a minimum floor area of 500 square feet.
- B. Permitted accessory uses.
- (1) Parking facilities.
  - (2) Other uses normally accessory to the permitted uses.
  - (3) Signs, subject to the following:
    - (a) All signs (including freestanding, attached to building or painted on building) shall conform to the provisions of §§ 123-17 and 123-18.
    - (b) There shall be permitted 160-square-foot sign for each building. The sign may be lighted. Neon lights and flashing signs are prohibited.

- (c) No signs may be erected or painted which direct attention to a business commodity, service or entertainment conducted, sold or offered elsewhere than on the premises.

**§ 123-14.1. Planned Residential Zone. [Added 7-5-2017 by Ord. No. 06-2017]**

- A. Purpose. The purpose of the PR Zone is to provide an additional housing option within the Borough to allow for a high-quality, environmentally friendly community, with market rate as well as low- and moderate-income housing. It is intended that any development that is designed and constructed in accordance with this section be done in a manner that protects the environmentally sensitive features of the area and provides an integrated open space network that connects existing and future open space and recreational assets of the Borough where possible. Furthermore, the purpose of this Zone is to seamlessly connect the affected properties (Sites A and B) with the existing community fabric of the Borough. Each site shall be governed by a comprehensive site plan for the entire site approved by the Planning Board. Each site may be developed in phases. It is also the intent of this section to bring the Borough into compliance with the judicial certification requirements associated with the Borough's affordable housing obligation and those requirements are adopted herein by reference.
- B. Lands to be included. The following tracts are hereby included within the PR Zone and are identified as follows: Site A, consisting of Block 504 Lots 7, 10 and 10.04; and Site B, consisting of Block 602 Lots 1, 7, 7.02, 9 and 10.
- C. Definitions. For the purpose of interpretation and implementation of this section, the following words and terms shall have the definitions provided. All other words and terms in this section shall have the definitions provided in § 123-7.

ADMINISTRATIVE AGENT — An individual or firm appointed by the Borough to administer the affordable housing program as required in N.J.A.C. 5:80-1 et seq., and specifically N.J.A.C. 5:80-26.14 and N.J.A.C. 5:80-26.18 as those regulations may, from time to time, be amended. The duties of the Administrative Agent are set forth in those regulations.

AFFORDABLE HOUSING OBLIGATION — The PR Zone has been designed and structured so that a realistic opportunity will exist within the Borough to meet Branchville's affordable housing obligation, as determined by the judicial certification process that governs the affordable housing issue as of the date of this section. The court order and related documents associated with the Borough's affordable housing obligation are attached to this ordinance in order to provide further clarification, as well as some of the specific provisions associated with the Borough's obligation, not actually specified in this

section.<sup>3</sup> In addition, the term "affordable housing," as used herein, is intended to be consistent with N.J.A.C. 5:80-1 et seq. and the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. "Affordable" means, in the case of ownership, that the sales price for the unit conforms with the standards set forth in N.J.A.C. 5:80-26.6 and, in the case of a rental unit, that the rent for the unit conforms to the standard set forth in N.J.A.C. 5:80-26-12 and as those terms and that law may be amended from time to time.

**AGE-RESTRICTED HOUSING** — A residence occupied by a person who is 55 years of age or older, consistent with the Federal Fair Housing Act, and provided that no children under 18 years of age are permitted to reside in the buildings so restricted.

**BUFFER** — A continuous area of open spaces, landscaped areas, fences, walls, berms or any combination thereof used to physically separate one use or property from another.

**FAIR HOUSING ACT** — The Fair Housing Act, Federal Fair Housing Amendments Act of 1988, P.L. 100-430 (September 13, 1988) and amendments thereto, including but not limited to the Housing for Older Persons Act of 1995, P.L. 104-76 (December 1995), and any judicial or administrative interpretations or decisions affecting said legislation.

**FRONT OF BUILDING** — For residential buildings where there is direct entrance from the exterior to each dwelling unit therein, the "building front" shall mean all exterior walls that face a public or private road or common open space. Such buildings may have two fronts and no rear. For residential buildings where there is a common entrance from the exterior to all dwelling units therein, the "building front" shall mean all exterior walls in which such common entrance is located.

**GROSS DENSITY** — The number of units per acre as determined by dividing the total number of dwelling units by the total acre of the tract.

**INTERNAL ROADWAY** — A private, traveled way or cartway providing access from an exterior public street to parking areas and/or private driveways.

**SCREENING** — A method of visually shielding one abutting or nearby structure or use from another by fencing, walls, berms or reasonably sized plantings.

D. Permitted principal uses.

- (1) Single-family detached residences (Site B only), attached single-family/townhouse and/or multifamily housing, as regulated herein.
- (2) Multifamily affordable housing, restricted solely to occupancy by low- and moderate-income households, only when constructed as part of a development under Subsection D(1), pursuant to the

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3. **Editor's Note: Said documents can be found in the Borough's offices.**

affordable housing regulations required as part of the Borough's judicial certification.

E. Permitted accessory uses and structures.

- (1) Signs. One sign identifying the development may be located at each entrance. A sign may have two sign faces, not to exceed 30 square feet per side. In the case of monument signs, the sign area shall be defined as the message area of the sign, not including the basic monument structure. Directional signs are permitted as needed to enhance traffic safety. Other signs shall be provided as otherwise regulated in Borough ordinances.
- (2) Recreational uses and activities, such as, but not limited to, common open spaces, walking paths, gazebos, swimming pools, putting greens and tennis courts.
- (3) Clubhouse buildings, which may include athletic and recreational facilities, meeting rooms, club rooms and other facilities for social activities, homeowners' association offices, a wellness center, mailboxes, maintenance and equipment storage and ancillary kitchen facilities.
- (4) Private and shared garages and off-street parking for private vehicles.
- (5) Fences and walls, as permitted and regulated by Borough ordinances.
- (6) Administration or management offices, gatehouses, maintenance, storage and utility buildings.

F. General area, bulk and yard requirements. These requirements shall apply to the entire tract, inclusive of any property that may, as part of a development application, be subdivided from the original lot to be dedicated to the Borough or used for affordable housing. The general requirements shall be as follows:

- (1) Minimum tract size: Site A, nine acres; Site B, 12 acres; for individual lots: single-family detached residences, 5,000 square feet; townhouses, 2,000 square feet. In addition, the following minimum dimensional requirements shall apply:

<b>Item</b>	<b>Single-family Detached</b>	<b>Townhouse</b>
Lot width	50 feet	25 feet
Lot depth	100 feet	70 feet
Front yard setback	25 feet	15 feet
Rear yard setback	30 feet	15 feet
Side yard setback	6 feet	None

<b>Item</b>	<b>Single-family Detached</b>	<b>Townhouse</b>
Building coverage	60%	65%
Total lot coverage	80%	85%

- (a) Minimum building setbacks from external lot lines: 50 feet.
  - (b) Maximum number of dwelling units in the PR Zone: Site A, 85 dwelling units (including affordable units); Site B, 95 dwelling units (including affordable units). Note the actual number of units allowed will be determined by the site constraints and acceptable design standards. Furthermore, any existing structures may be redesigned to accommodate additional units, but those units will be counted as part of the total number of units allowed on each site.
  - (c) Maximum allowable site disturbance for buildings and parking areas: 75%, pursuant to other Borough requirements if applicable.
- (2) The total number of units permitted within Sites A and B must not only meet the density requirements of the Zone, but also the density limitations imposed by the New Jersey Residential Site Improvement Standards (N.J.A.C. 5:21).

G. Specific area, bulk and yard requirements. These requirements shall apply to Site A as follows:

- (1) Minimum number of affordable units: 20.
- (2) Maximum gross density: 10 units per acre.
- (3) Maximum building coverage: 35% of total tract area.
- (4) Maximum total impervious coverage, including building coverage: 65% of total tract area.
- (5) Minimum common open space: 25% of tract area.
- (6) Minimum distance between buildings: Not less than 1 1/2 times the proposed maximum building height.
- (7) Maximum building length: 250 feet.
- (8) Minimum distance from buildings to internal roadway: 25 feet.
- (9) Minimum distance to common parking area: 10 feet (except where parking is provided beneath building).
- (10) Maximum building height: 2 1/2 stories or 35 feet; three stories are permitted where the topographic conditions allow for a building design that incorporates the change in grade.

- (11) Minimum horizontal breaks in building facade: one break that varies the setback by a minimum of four feet for every 50 feet of building length. A break may consist of a balcony, patio, porch, deck or overhang.
  - (12) Rooflines must be varied in order to reduce the visual mass of the building.
  - (13) Maximum number of dwelling units per structure: 10.
- H. Specific area, bulk and yard requirements. These requirements shall apply to Site B as follows:
- (1) Maximum number of affordable units: 22.
  - (2) Minimum number of single-family detached units: 10.
  - (3) To the greatest extent possible, the site plan for Site B shall locate the required new single-family detached units adjacent to the off-site existing single-family detached units bordering Site B.
  - (4) Maximum density: 10 units per acre.
  - (5) Maximum building coverage: 30% of total tract.
  - (6) Maximum total impervious coverage, including building coverage: 55% of total tract area.
  - (7) Minimum common open space: 25% of total tract area.
  - (8) Minimum distance between buildings: Not less than 1 1/2 times the proposed maximum building height.
  - (9) Maximum building length: 250 feet.
  - (10) Minimum distance from buildings to internal roadway: 25 feet.
  - (11) Minimum distance to common parking area: 10 feet (except where parking is provided beneath building).
  - (12) Maximum building height: 2 1/2 stories or 35 feet; three stories are permitted where the topographic conditions allow for a building design that incorporates the change in grade.
  - (13) Minimum horizontal breaks in building facade: one break that varies the setback by a minimum of four feet for every 50 feet of building length. A break may consist of a balcony, patio, porch, deck or overhang.
  - (14) Rooflines must be varied in order to reduce the visual mass of the building.
  - (15) Maximum number of dwelling units per structure: 10.
- I. Requirements for low- and moderate-income housing:

- (1) The low- and moderate-income housing units may be subdivided from the original tract and built on a separate lot.
- (2) The building design for the low- and moderate-income units must be similar in style and character to the building design for the market rate units.
- (3) The low- and moderate-income housing units may be constructed with access to a private road only, without frontage on a public road or right-of-way.
- (4) The Borough of Branchville Administrative Agent shall determine the income qualifications of potential residents. However, the developer shall monitor the same and provide the income qualifications of potential residents to the Branchville Administrative Agent, in accordance with N.J.A.C. 5:80-1 et seq. and, specifically, N.J.A.C. 5:80-26.18, as the same may be amended from time to time. All administrative costs associated with determining the income qualifications of potential residents and the monitoring of same, plus any reporting requirements, shall be the sole responsibility of the developer.
- (5) If the low- and moderate-income housing units are built on a separate lot, the bulk requirements for these units shall be as follows:
  - (a) Maximum building coverage: 40% of total lot area.
  - (b) Maximum total impervious coverage, including building coverage: 60% of total lot area.
  - (c) Minimum common open space: 40% of total lot area.
  - (d) Maximum building height: three stories or 45 feet.
  - (e) Minimum building setbacks from external lot lines: 50 feet.
  - (f) Maximum building length: 250 feet.
  - (g) Minimum horizontal breaks in building facade: one break that varies the setback by a minimum of four feet for every 50 feet of building length. A break may consist of a balcony, patio, porch, deck or overhang.
  - (h) Rooflines must be varied in order to reduce the scale of the building.
  - (i) Minimum distance between buildings: Not less than 1 1/2 times the proposed maximum building height.
  - (j) Minimum distance from buildings to internal roadway: 25 feet.
  - (k) Minimum distance to common parking area: 10 feet (except where parking is provided beneath building).

- J. General exceptions. Extensions into the required separations between buildings, and setbacks from buildings to streets, parking areas and external lines shall be permitted as follows:
- (1) By eaves with an overhang of not more than two feet.
  - (2) By rainwater leaders, windowsills, chimneys and other such fixtures.
  - (3) By bay windows not more than 12 feet wide and for a depth not to exceed three feet.
  - (4) By an open porch or steps leading into the building, which shall not have any sidewall or other enclosure and may have a fixed roof, canopy or other covering, limited to the dimensions of said porch.
  - (5) By a patio, provided that the surface shall be not more than 18 inches above the ground level and that the improved area shall be without walls and railings, and shall be without a roof, canopy or other fixed covering.
  - (6) By cantilevered balconies.
- K. Accessory structure requirements.
- (1) Except for fences and retaining walls, accessory buildings and structures shall meet the property line setbacks of principal buildings.
  - (2) Minimum accessory building setback to residential buildings: 25 feet.
  - (3) Minimum accessory building setback to another accessory building: 15 feet.
  - (4) Minimum setback of swimming pools, tennis courts and other surfaced recreation facilities to external property lines: 50 feet.
  - (5) Maximum height (other than clubhouse): 20 feet.
  - (6) Clubhouse buildings shall be set back from all internal roadways by at least 25 feet. Parking areas for clubhouse buildings shall be set back at least 10 feet from the building. The maximum height of clubhouse buildings shall be 45 feet.
- L. Occupancy restrictions.
- (1) Any housing within the age-restricted portion of the PR Zone is subject to an age restriction whereby each market-rate unit shall be occupied by at least one person 55 years of age or older.
  - (2) In accordance with the exemption under the Fair Housing Act, no permanent resident shall be under the age of 18.

- (3) The foregoing occupancy restriction is intended to qualify all housing within the district as "55 or Over Housing" under the "Housing for Older Persons Act" exemption of the Fair Housing Act.
- (4) This restriction shall not apply to resident employees, such as a manager or superintendent, or to any affordable units provided within the project.
- (5) The foregoing occupancy restriction shall be set forth in a master deed or other recorded instrument applicable to all of the dwellings in the development. The master deed or other recorded instrument shall contain procedures governing the sale, transfer and rental of units within the district so that the developer and homeowners' association can enforce the occupancy restrictions set forth herein. The master deed or other recorded instrument may be recorded on a phased basis as long as the above occupancy restriction applies to every dwelling within the phase. The above occupancy restriction also shall be set forth or referred to in every deed conveyance to an individual dwelling unit in the development.

M. Common open space implementation requirements.

- (1) Open space areas shall be preserved by permanent deed restriction for active or passive recreation space. All or part of this open space area may, at the discretion of the developer, be dedicated to the Borough or maintained as a common open space. The Borough is under no obligation to accept such dedication, if offered.
- (2) Active recreation space shall be improved with facilities, buildings and structures for indoor and outdoor recreational activities consistent with the residential character of the development and the lifestyle needs of the residents therein.
- (3) All active open space shall be connected to residential areas with walkways or other reasonable means of access.

N. Environmentally constrained areas.

- (1) No environmentally constrained area shall contain any structures or impervious surfaces, nor shall any land disturbance be permitted, except that structures and impervious surfaces may be constructed and land may be disturbed within environmentally constrained areas to the extent provided for in the following table.

<b>Constraint Category</b>	<b>Permitted Land Disturbance within Constraint Area as Percentage of Total Land Disturbance on Lot</b>
Steep slopes 15% to 20%	30%

<b>Constraint Category</b>	<b>Permitted Land Disturbance within Constraint Area as Percentage of Total Land Disturbance on Lot</b>
Greater than 20% to 25%	15%
Greater than 25%	5%
Wetlands/transition areas	As regulated by NJDEP
Floodplains, rock outcrops, high groundwater and shallow bedrock	Any proposed disturbance of lands containing these constraint categories shall be required to demonstrate engineering feasibility
Riparian buffers, floodplains or any USGS-identified streams	As regulated by N.J.A.C. 7:8, Stormwater Management Rules, except no additional fill shall be placed within a floodplain

- (2) Man-made steep slopes, such as those associated with rights-of-way and culverts, are exempt from the disturbance limitations.

O. Roads and circulation.

- (1) The development of Sites A and B shall be achieved by an internal access road, which may, at the Borough's discretion, be of a boulevard design and which shall connect with a public road. The internal road may remain as a private road - constructed to Borough standards - or may be dedicated to the Borough, at the Borough's discretion.
- (2) Not all units within Sites A and B shall be required to be serviced by the internal access road. Where frontage exists on a public road, lots and/or buildings may have direct access to that road, subject to accepted access design standards and traffic safety considerations.

P. General design standards.

- (1) Buffers shall be provided and maintained, inclusive of the required side and/or rear yard, of not less than 50 feet from all external lot lines of both Sites A and B. The buffer area shall, to the extent possible, be kept in its natural state where wooded. Where natural vegetation is sparse or nonexistent, the area shall be supplemented and planted to provide a year-round natural vegetative screen. The required buffer area shall be included for the purpose of computing compliance with the common open space requirements and yard setback requirements of this chapter. Only the following uses shall be permitted in a buffer area, and the disturbance created by same shall be held to a minimum:

- (a) Detention and stormwater management basins.
  - (b) Underground utilities.
  - (c) Walkways, trails and bicycle paths.
  - (d) Roadways.
  - (e) Fences and retaining walls, where needed.
  - (f) Gatehouse.
- (2) Landscaping shall be provided throughout Sites A and B to provide a natural setting for building structures and recreational facilities. All islands or unpaved areas within a street shall be landscaped. Existing vegetation will be retained and maintained to the greatest extent possible. Indigenous vegetation shall be chosen for its weather-tolerant and decorative qualities, as well as its ability to support native wildlife.
  - (3) Walkways shall be provided between residential buildings and common parking areas and around the site. Walkways shall have a minimum width of four feet and shall meet ADA grade requirements when required.
  - (4) No natural vegetation shall be disturbed except as approved by the Planning Board pursuant to a site plan application. The site plan shall indicate the maximum area of clearing and the natural areas to be maintained.
  - (5) Adequate lighting fixtures for walks, steps, parking areas, driveways, streets and other facilities shall be provided at locations to provide for the safe and convenient use of the same. Fixtures shall be situated and designated in keeping with the character of the area and shall be adequately shielded to screen windows of dwelling units, both off and on the site, from direct and indirect light. No flashing, intermittent, moving light shall be permitted.
  - (6) Air-conditioning units and other HVAC equipment shall be screened and insulated for aesthetic and acoustical purposes.
- Q. Circulation and parking standards.
- (1) All public streets, internal roadways and private driveways shall be designed and constructed in accordance with the requirements of the New Jersey Residential Site Improvement Standards. Private driveways shall be designed and constructed in accordance with the applicable sections of the Branchville Borough Land Development Standards.
  - (2) A gatehouse may be located at the entrance to a development, at the discretion of the Planning Board.

- (3) Residential off-street parking requirements shall be provided in accordance with the Branchville Borough Ordinances and the New Jersey Residential Site Improvement Standards. Furthermore, all parking areas shall be designed and constructed in accordance with the applicable sections of the Branchville Borough Ordinances.
  - (4) Required off-street parking for residents and visitors may be provided via a combination of the following: in private driveways and garages and common garages under residential buildings or in surface parking lots. No on-street parking may be used to fulfill the off-street parking requirement.
  - (5) Said parking shall be landscaped, lighted and conveniently located within 150 feet of the housing to be served with the exception of visitor parking.
- R. NJDCA regulations. The ownership, homeowners' association and maintenance requirements of any projects within the PR Zone shall be in accordance with the regulations of the New Jersey Department of Community Affairs.
- S. Affordable housing obligation. In accordance with the housing element of the Borough's Master Plan and the corresponding judicial certification provisions, the development of both Sites A and B have associated with them the obligation to provide affordable housing as provided for in this section and in the Borough's judicial certification.
- T. Other municipal ordinances. Unless otherwise stated herein, any development in the PR Zone shall be subject to all applicable ordinances of the Borough of Branchville. Where there is any conflict between the provisions of this section and the provisions of the Site Plan Ordinance and/or the Land Subdivision Ordinance, the provisions of this section shall prevail.
- U. Required studies/reports. Any application for development involving Sites A and B, unless waived by the Planning Board, shall include the following:
- (1) Environmental impact statement.
  - (2) Fiscal impact analysis 07.
  - (3) Traffic study.
  - (4) Stormwater plan.
  - (5) Affordable housing implementation program.

## ARTICLE V

**District Dimensional Regulations****§ 123-15. Schedule of regulations. [Amended 5-16-1979 by Ord. No. 2-79; 11-18-1981 by Ord. No. 81-3P; 4-5-1995 by Ord. No. 1-95; 7-21-2004 by Ord. No. 5-2004]**

The following schedule of regulations (except as modified in § 123-16) shall apply to the area of lots, width and depth of lots, the heights of buildings, the yards and other open spaces to be provided, minimum floor area and all other matters contained therein, as indicated for the various districts established by this chapter:

A. Residential 1 District and Residential 2 District.

(1) Area and yard requirements. The following requirements shall apply to all uses in the Residential 1 District and Residential 2 District:

(a) Principal building, minimum requirements.

- [1] Minimum lot width: 100 feet.
- [2] Minimum lot depth: 150 feet.
- [3] Minimum lot area: 15,000 square feet.
- [4] Minimum side yard: 15 feet.
- [5] Minimum front yard: 35 feet.
- [6] Minimum rear yard: 35 feet.
- [7] Minimum livable first-floor area for ranchtype house: 960 square feet.
- [8] Minimum livable first-floor area for two-story house, exclusive of basement: 750 square feet.
- [9] Maximum height, measured from front elevation: 35 feet. There is an exemption from this height limitation when a structure is required to be raised to meet state or federal flood elevation standards. This exemption applies to the construction of a staircase or other attendant structure necessitated by such raising. This exemption from the height limitation shall apply only to the minimum extent necessary to allow the structure to meet the new elevation requirements with adequate means of ingress and egress. **[Amended 6-4-2014 by Ord. No. 03-2014]**

(b) Accessory building.

- [1] Minimum requirements.

- [a] Distance to side line: 15 feet.
- [b] Distance to rear line: 15 feet.
- [c] Distance to other building: 15 feet.
- [d] Maximum height measured from front elevation: 16 feet.

- [2] Accessory buildings are not permitted in the front yard.
- [3] No accessory buildings shall be located closer to a right-of-way line than the principal building.
- [4] There shall be no more than two accessory buildings on a lot.
- [5] No accessory building shall occupy more than 1,000 square feet and no accessory building shall occupy more than 30% of the rear yard, whichever is less.

B. Residential 3 District.

- (1) Area and yard requirements. The following requirements shall apply to all uses in the Residential 3 District:

- (a) Principal building, minimum requirements.

- [1] Minimum lot width: 100 feet.
- [2] Minimum lot depth: 150 feet.
- [3] Minimum lot area: 20,000 square feet.
- [4] Minimum side yard: 30 feet.
- [5] Minimum front yard: 35 feet.
- [6] Minimum rear yard: 35 feet.
- [7] Minimum livable first-floor area for ranch-type house, exclusive of basement: 1,200 square feet.
- [8] Minimum livable first-floor area for two-story bi-level house exclusive of basement: 800 square feet.
- [9] Maximum height, measured from front elevation: 35 feet. There is an exemption from this height limitation when a structure is required to be raised to meet state or federal flood elevation standards. This exemption applies to the construction of a staircase or other attendant structure necessitated by such raising. This exemption from the height limitation shall apply only to the minimum extent necessary to allow the structure to meet the new elevation

requirements with adequate means of ingress and egress.  
**[Amended 6-4-2014 by Ord. No. 03-2014]**

(b) Accessory buildings.

[1] Minimum requirement.

[a] Distance to side line: 15 feet.

[b] Distance to rear line: 15 feet.

[c] Distance to other building: 15 feet.

[d] Maximum height, measured from front elevation: 16 feet.

[2] Accessory buildings are not permitted in the front yard.

[3] No accessory buildings shall be located closer to a right-of-way line than the principal building.

[4] There shall be no more than two accessory buildings on a lot.

[5] No accessory building shall occupy more than 1,000 square feet and no accessory building shall occupy more than 30% of the rear yard, whichever is less.

C. Commercial District.

(1) Area and yard requirements. The following requirements shall apply to all uses in the C Commercial District:

(a) Principal building, minimum requirement.

[1] Minimum lot width: 100 feet.

[2] Minimum lot depth: 100 feet.

[3] Minimum lot area: 15,000 square feet.

[4] Minimum side yard: 15 feet.

[5] Minimum front yard: 35 feet.

[6] Minimum rear yard: 35 feet.

[7] Maximum height, measured from front elevation: 35 feet. There is an exemption from this height limitation when a structure is required to be raised to meet state or federal flood elevation standards. This exemption applies to the construction of a staircase or other attendant structure necessitated by such raising. This exemption from the height limitation shall apply only to the minimum extent necessary to allow the structure to meet the new elevation

requirements with adequate means of ingress and egress.  
**[Amended 6-4-2014 by Ord. No. 03-2014]**

- (b) Accessory building.
  - [1] Minimum requirement.
    - [a] Distance to side line: 15 feet.
    - [b] Distance to rear line: 15 feet.
    - [c] Distance to other building: 15 feet.
    - [d] Maximum height, measured from front elevation: 35 feet.
    - [e] Accessory buildings are not permitted in the front yard.
  - [2] No accessory buildings shall be located closer to a right-of-way line than the principal building.
  - [3] There shall be no more than two accessory buildings on a lot.
  - [4] No accessory building shall have a floor area or footprint which is greater than 60% of the floor area of the principal building.
  - [5] No accessory building shall occupy more than 30% of the rear yard area.

D. Professional and Office District.

- (1) Area and yard requirements. The following requirements shall apply to all uses in the D Professional and Office District:
  - (a) Principal building, minimum requirement, bulk regulations.
    - [1] Minimum lot width: 200 feet.
    - [2] Minimum lot depth: 200 feet.
    - [3] Minimum lot area: 40,000 square feet.
    - [4] Minimum side yard: 15 feet.
    - [5] Minimum rear yard: 35 feet.
    - [6] Minimum front yard: 35 feet.
    - [7] Maximum height, measured from front elevation: 60 feet. There is an exemption from this height limitation when a structure is required to be raised to meet state or federal flood elevation standards. This exemption applies to the construction of a staircase or other attendant structure

necessitated by such raising. This exemption from the height limitation shall apply only to the minimum extent necessary to allow the structure to meet the new elevation requirements with adequate means of ingress and egress. **[Amended 6-4-2014 by Ord. No. 03-2014]**

(b) Accessory building.

[1] Minimum requirement.

[a] Distance to side line: 15 feet.

[b] Distance to rear line: 35 feet.

[c] Distance to other building: 20 feet.

[d] Maximum height, measured from front elevation: 60 feet.

[2] Density. Buildings in this zone shall not occupy more than 10% of the zoning lot.

[3] Accessory buildings are not permitted in the front yard.

[4] No accessory buildings shall be located closer to a right-of-way line than the principal building.

[5] There shall be no more than two accessory buildings on a lot.

[6] No accessory building shall have a floor area or footprint which is greater than 60% of the floor area of the principal building.

[7] No accessory building shall occupy more than 30% of the rear yard area.

E. Highway Commercial District.

(1) Area and yard requirements. The following requirements shall apply to all uses in the Highway Commercial District:

(a) Yard regulations for uses permitted in the R-1 District, R-2 District or O District and for retail stores and restaurants.

[1] Principal building, minimum requirement.

[a] Minimum lot width: 200 feet.

[b] Minimum lot depth: 200 feet.

[c] Minimum lot area: 40,000 square feet.

[d] Minimum front yard: 50 feet.

[e] Minimum rear yard: 50 feet.

- [f] Minimum side yard: 20 feet.
  - [g] Maximum height, measured from front elevation: 35 feet. There is an exemption from this height limitation when a structure is required to be raised to meet state or federal flood elevation standards. This exemption applies to the construction of a staircase or other attendant structure necessitated by such raising. This exemption from the height limitation shall apply only to the minimum extent necessary to allow the structure to meet the new elevation requirements with adequate means of ingress and egress. **[Amended 6-4-2014 by Ord. No. 03-2014]**
- [2] Accessory buildings.
- [a] Minimum requirement.
    - [i] Distance to side line: 20 feet.
    - [ii] Distance to rear line: 35 feet.
    - [iii] Distance to other building: 20 feet.
    - [iv] Maximum height, measured from front elevation: 35 feet.
  - [b] Accessory buildings are not permitted in the front yard.
  - [c] No accessory buildings shall be located closer to a right-of-way line than the principal building.
  - [d] There shall be no more than two accessory buildings on a lot.
  - [e] No accessory building shall have a floor area or footprint which is greater than 60% of the floor area of the principal building.
  - [f] No accessory building shall occupy more than 30% of the rear yard area.
- (b) Yard regulations for light industrial, scientific or research laboratories or wholesale commercial uses.
- [1] Principal building, minimum requirements.
    - [a] Minimum lot width: 200 feet.
    - [b] Minimum lot depth: 200 feet.
    - [c] Minimum lot depth: 200 feet.
    - [d] Minimum lot area: 80,000 square feet.

- [e] Minimum front yard: 100 feet.
  - [f] Minimum rear yard: 50 feet.
  - [g] Minimum side yard: 50 feet.
  - [h] Maximum height, measured from front elevation: 60 feet. There is an exemption from this height limitation when a structure is required to be raised to meet state or federal flood elevation standards. This exemption applies to the construction of a staircase or other attendant structure necessitated by such raising. This exemption from the height limitation shall apply only to the minimum extent necessary to allow the structure to meet the new elevation requirements with adequate means of ingress and egress. **[Amended 6-4-2014 by Ord. No. 03-2014]**
- [2] Accessory building.
- [a] Minimum requirement.
    - [i] Distance to side line: 35 feet.
    - [ii] Distance to rear line: 35 feet.
    - [iii] Distance to other building: 20 feet.
    - [iv] Maximum height, measured from front elevation: 60 feet.
  - [b] Accessory buildings are not permitted in the front yard.
  - [c] No accessory buildings shall be located closer to a right-of-way line than the principal building.
  - [d] There shall be no more than two accessory buildings on a lot.
  - [e] No accessory building shall have a floor area or footprint which is greater than 60% of the floor area of the principal building.
  - [f] No accessory building shall occupy more than 30% of the rear yard area.



ARTICLE VI  
**Supplemental Regulations**

**§ 123-16. Outdoor furnaces.<sup>4</sup> [Added 12-5-2012 by Ord. No. 15-2012]**

Outdoor furnaces are prohibited in all zone districts. No accessory structure shall be permitted to house or enclose an outdoor furnace.

**§ 123-17. Sign restrictions; permits.**

No sign, billboard, advertising display or structure, poster or device shall be erected, moved, enlarged or reconstructed except as expressly permitted in this chapter and only after a permit has been issued by the Building Inspector; provided that this section shall not apply to traffic signs placed by municipal, County or state governments.

**§ 123-18. Prohibited signs.**

The following types of signs or artificial lighting are prohibited:

- A. Flashing lights, including any light that is not stationary and constant in intensity and color.
- B. Signs which project over the right-of-way line of a street.
- C. Signs which compete for attention with or may be mistaken for a traffic signal.

**§ 123-19. Temporary signs.**

Upon application, the Building Inspector may grant permits for the locating of temporary signs for special purposes, even though not in conformity with the provisions of this chapter, for single periods not to exceed 60 days. Such permit is not renewable without the permission of the Planning Board and then only for similar period or periods of 60 days.

**§ 123-20. Storage of boats and travel trailers.**

Not more than one boat and one travel trailer may be stored on an occupied lot in a residential district. Neither a boat or a travel trailer may be kept between the street line and the building in the residential district.

**§ 123-21. Trailers as construction offices.**

Except as provided in § 123-20, the storage, parking or use of a trailer is prohibited in all districts, except that the Building Inspector may issue a temporary permit for an office trailer for a period not to exceed six months

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4. Editor's Note: Former § 123-16, Building setbacks, was repealed 5-16-2007 by Ord. No. 02-2007.

when the trailer is used in connection with the construction or alteration of a building. Any such trailer cannot be used for dwelling purposes.

**§ 123-22. Certificates of occupancy for nonconforming uses.**

Upon the adoption of this chapter, any person desiring to obtain a certificate of occupancy to continue an existing nonconforming use may obtain same from the Building Inspector within a period of six months from the date of the adoption of this chapter. After said six-month period, said certificate of occupancy can only be obtained from the Board of Adjustment after a hearing under such rules and regulations as may be made by the Board of Adjustment. This section is not in any way to suggest that it is mandatory to obtain this certificate of occupancy for a nonconforming use.

**§ 123-23. Height of fences or walls. [Added 11-18-1981 by Ord. No. 81-5P]**

No fence or wall, including an agricultural or living fence, shall be erected higher than six feet, except that fences for security purposes in or around a utility, industrial or commercial use may be erected to a maximum of 12 feet in height.

**§ 123-23.1. Compliance with State Highway Access Management Code. [Added 12-2-1998 by Ord. No. 3A-98]**

Land adjacent to state highways shall be developed in conformity with the State Highway Access Management Code adopted by the Commissioner of Transportation, N.J.A.C. 16:47-1 et seq.; lands adjacent to County roads shall be developed in accordance with the County Access Management Code adopted pursuant to N.J.S.A. 27:16-1; and land abutting Borough roads shall comply with the requirements relating to access contained in Chapter 101 of the Branchville Borough Code.

**§ 123-23.2. Certain accessory structures prohibited. [Added 12-5-2012 by Ord. No. 11-2012]**

Accessory structures commonly known as PODS® and commercial storage containers are prohibited in all zones. Truck trailers used for storage are prohibited in all zones. However, there are the following exceptions:

- A. Any structure used for permitted commercial agricultural and horticultural uses which qualify under the Farm Land Assessment Act, N.J.S.A. 54:4-23 et seq. and the Right To Farm Act, N.J.S.A. 4:1C-1 et seq.
- B. PODS® used for temporary storage during construction are permitted, but the location must first be approved by the Construction Official.

**§ 123-23.3. Parking of certain commercial vehicles in residential zoning districts prohibited. [Added 12-5-2012 by Ord. No. 09-2012]**

No commercial vehicle with more than six road wheels shall be permitted to park between the hours of 8:00 p.m. and 7:00 a.m. in residential zone districts and residential areas. This prohibition includes, without limitation, trucks, tractor-trailers, and other commercial vehicles (with the exception of approved vehicles providing emergency services).

**§ 123-23.4. Sight triangles on corner lots. [Added 12-5-2012 by Ord. No. 14-2012]**

- A. On a corner lot, there shall be no construction of a structure, a planting, a fence or other improvement at a height of more than 24 inches above the level of the adjacent public streets.
- B. The owner or occupant of a corner lot shall maintain a sight triangle in which there is no construction of a structure, planting, fence or other improvement above a height of 24 inches above the level of the adjacent public streets within the sight triangle area. The "sight triangle" is defined as an area outside the right-of-way which is bound by the intersecting street lines and a straight line connecting the sight points, one each located on the intersecting street center lines the following distance away from the intersection center lines: 90 feet.

**§ 123-23.5. Hours of operation. [Added 8-3-2016 by Ord. No. 07-2016]**

The Branchville Borough Planning/Zoning Board of Adjustment shall have the power to regulate the hours of operation of a business, commercial, manufacturing or industrial use in order to promote and protect the public health, safety and welfare of the people and to protect against hazards and unreasonable use of property and to protect neighboring properties when reviewing any land use application for development.



ARTICLE VII  
**Nonconforming Buildings and Uses**

**§ 123-24. Continuation of existing uses; restoration or repair.**

Any nonconforming use or structure existing at the time of the passage of this chapter may be continued upon the lot or in the building so occupied and any such structure may be restored or repaired in the event of partial destruction thereof.

**§ 123-25. Restrictions on continuance of existing uses.**

Any nonconforming use of buildings or open land may be continued but:

- A. Shall not be enlarged, altered, extended, reconstructed or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter.
- B. Shall not be moved to another location where such use would be nonconforming.
- C. Shall not be changed to another nonconforming use without approval by the Board of Adjustment and then only to a use which is of the same or of a more restrictive nature.
- D. Shall not be reestablished if such use has been discontinued for any reason for a period of one year.

**§ 123-26. Undersized lots.**

A lot which complies with all provisions of the chapter except for lot size and which was a separate lot prior to the adoption of this chapter may have a building permit issued for the construction of a one-family house if side line and setback provisions of Article V are complied with.



ARTICLE VIII  
**Enforcement**

**§ 123-27. Building permits required; applications.**

No building in any district shall be erected, reconstructed, restored, structurally altered or moved without a building permit duly issued upon application to the Building Inspector. No building permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of this chapter and the Building Code.<sup>5</sup> Any building permit issued in violation of the provisions of this chapter shall be void and of no effect without the necessity for any proceedings or revocations or nullifications thereof, and any work undertaken or use established pursuant to any such permit shall be unlawful.

- A. Every application for a building permit shall contain the following information and be accompanied by the required fee and by a plot plan drawn to scale and signed by the person responsible for such drawing:
- (1) The block and lot numbers as they appear on the Tax Map of the municipality.
  - (2) The exact size and locations on the lot of the proposed building or buildings or alterations of an existing building and of other existing buildings on the same lot.
  - (3) The dimensions of all yards in relation to the subject building and the distance between such building and any other existing buildings on the same lot.
  - (4) The existing and intended use of all buildings, existing or proposed, the use of land and the number of dwelling units the building is designed to accommodate.
  - (5) Such topographic or other information with regard to the building, the lot or neighboring lots as may be necessary to determine that the proposed construction will conform to the provisions of this chapter.
- B. No building permit shall be issued for the construction or alteration of any building upon a lot without access to a street or highway as stipulated in N.J.S.A. 40:55D-35. **[Amended 5-16-1979 by Ord. No. 2-79]**
- C. No building permit shall be issued for any building where the site plan of such building is subject to approval by the Planning Board, except in conformity with the plans approved by the said Board.
- D. No building permit shall be issued for a building to be used for any conditional use in any district where such use is allowed, except by

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5. **Editor's Note: Building construction is regulated under the State Uniform Construction Code Act. See N.J.S.A. 52:27D-119 et seq.**

approval of the Planning Board. **[Amended 5-16-1979 by Ord. No. 2-79]**

- E. The building permit application and all supporting documentation shall be made in duplicate. Upon the issuance of a building permit, the Building Inspector shall return one copy of all filed documents to the applicant.
- F. The Building Inspector shall, within 20 days after the filing of a complete and properly prepared application, either issue or deny a building permit. If a building permit is denied, the Building Inspector shall state in writing to the applicant the reasons for such denial.<sup>6</sup>  
**[Amended 5-16-1979 by Ord. No. 2-79]**

**§ 123-28. Code Enforcement Officer/Zoning Officer.<sup>7</sup> [Added 12-5-2012 by Ord. No. 17-2012]**

- A. Appointment. The Code Enforcement Officer/Zoning Officer shall be appointed by the Borough Council. The term of office shall be for one calendar year.
- B. Duties. The duties of the Code Enforcement Officer/Zoning Officer shall be as follows:
  - (1) To enforce the following Codes of the Borough:
    - (a) The Zoning Ordinance;
    - (b) The Subdivision Ordinance;<sup>8</sup>
    - (c) The Site Plan Ordinance (§§ 97-19, 97-20, 97-22, 97-23);
    - (d) All ordinances relating to signs, both temporary and permanent;
    - (e) Ordinances governing peddlers, hawkers, and vendors;
    - (f) The Abandoned Motor Vehicles Ordinance;<sup>9</sup>
    - (g) The ordinance relating to zoning permits (§§ 123-35 through 123-44);
    - (h) The prosecution of violations under § 123-29.
  - (2) It shall be the duty and responsibility of the officer to quarterly make a survey of the Borough of Branchville for the purpose of determining the existence of violations of any of the ordinances

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6. Editor's Note: Former Subsections G and H, which immediately followed, regarding expiration of a building permit and fees, respectively, were repealed 6-18-2008 by Ord. No. 03-2008.

7. Editor's Note: Former § 123-28, Duties of Building Inspector, was repealed 6-18-2008 by Ord. No. 03-2008.

8. Editor's Note: See Ch. 104, Subdivision of Land.

9. Editor's Note: See Ch. 113, Vehicles, Abandoned.

aforementioned, and to issue appropriate violation notices, and to take all other appropriate measures, including the institution of suits or complaints in the Municipal Court or Superior Court of the State of New Jersey, and to abate or enjoin the continued violation of any such ordinance.

- (3) The officer shall investigate all complaints of violations which come to his or her attention and shall give the person complained of, or the owner of the property where the violation appears to have occurred, reasonable notice to correct or eliminate such violation. If such violation shall not be corrected or eliminated within five business days or within such extension the officer may grant, it shall be the duty of the officer to file a complaint against such person or property owner for such violation for hearing before the appropriate court.
- (4) The officer shall keep a record of all complaints received and of all actions taken to abate any violations or prosecute any violations and shall submit a report monthly to the Borough Council of such actions. The officer shall also submit an annual report to the Borough Council on or before January 31 of the subsequent year reporting upon the activities of his or her office during the prior year.

#### **§ 123-29. Violations and penalties.**

- A. Any person, firm, partnership or corporation who shall violate any of the provisions of this chapter or who shall fail to comply therewith, or who shall erect, alter, enlarge, rebuild or move any building or buildings or structure in violation thereof, or who shall put into use any lot of land in violation of a statement or plan submitted thereunder, or who shall refuse reasonable opportunity to inspect any premises shall be liable, upon conviction, to the penalties provided by § 1-15 of this Code. **[Amended 1-16-2008 by Ord. No. 01-2008]**
- B. Every day that any violation continues beyond five days after notification that such violation exists shall constitute a separate offense. Such notice shall be in writing. Said notice may be affixed to the building permit.
- C. The imposition of the penalties shall not preclude the Borough or any person from instituting appropriate legal action to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation, or to prevent the unlawful occupancy of a building, land or premises.



ARTICLE IX

**Board of Adjustment**

**[Amended 5-16-1979 by Ord. No. 2-79; 11-18-1981 by Ord. Nos. 81-3P and 81-4P]**

**§ 123-30. Board established.**

There is hereby established a Board of Adjustment for the Borough of Branchville and procedures for the operation of same as set forth in the Land Use Procedures Ordinance of the Borough,<sup>10</sup> together with the amendments and supplements thereto.

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**10. Editor's Note: See Ch. 25, Land Use Procedures.**



## ARTICLE X

**Site Plan Approval****[Amended 5-16-1979 by Ord. No. 2-79]****§ 123-31. Approval required; exceptions. [Amended 6-18-2008 by Ord. No. 03-2008]**

Except as hereinafter provided, no construction permit shall be issued for any structure until a site plan has been reviewed and approved by the appropriate board, except that subdivision or individual lot application for detached one- or two-dwelling-unit buildings and their accessory building(s) shall not require site plan approval.

**§ 123-32. Standards for site plans.**

Site plans shall be in accordance with the provisions of the Site Plan Review Ordinance of the Borough of Branchville.<sup>11</sup>

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**11. Editor's Note: See Ch. 97, Site Plan Review.**



ARTICLE XI  
**Amendments**

**§ 123-33. Procedure for amendment; protests.**

- A. The regulations, limitations, restrictions and provisions of this chapter may be amended, changed, modified or repealed and the boundaries of any district may be changed by ordinance, but no amendment or change shall become effective unless the ordinance proposing such amendment or change shall first have been submitted to the Planning Board for approval, disapproval or suggestions and the Planning Board shall have a reasonable time, not less than 30 days, for consideration and report, and in the case of an unfavorable report by the Planning Board, such amendment shall not become effective except by a favorable vote of two-thirds (2/3) of the governing body of the municipality.
- B. A protest against such proposed amendment or revision of a zoning ordinance may be filed with the Borough Clerk, signed by the owners of 20% or more either of the area of the lot or land included in such proposed change or of the lots or lands extending 200 feet in all directions therefrom inclusive of street space, whether within or without the municipality. Such amendment or revision shall not become effective following the filing of such protest except by the favorable vote of 2/3 of all the members of the Borough Council. **[Amended 5-16-1979 by Ord. No. 2-79]**



ARTICLE XII  
**Interpretation**

**§ 123-34. Standards for interpretation.**

In the interpretation and application of the provisions of this chapter, said provisions shall be held to be the minimum requirements adopted for promoting the health, safety and general welfare of the inhabitants of the Borough of Branchville. The interpretation and application of the provisions of this chapter shall be in harmony with the spirit and intent of this chapter to promote the general welfare of the community and to carry out the purposes set forth in N.J.S.A. 40:55-32.<sup>12</sup>

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**12. Editor's Note: See now N.J.S.A. 40:55D-65, 40:55D-66 and 40:55D-67.**



ARTICLE XIII  
**Zoning Permits**  
**[Added 11-15-1989 by Ord. No. 11-89]**

**§ 123-35. Uses requiring permit.**

A zoning permit shall be required in the following instances:

- A. Before changing the use of any building, structure, lot or parcel of land or a portion thereof or allowing said change.
- B. Before constructing, erecting, altering or enlarging or permitting the construction, erection, alteration or enlargement of any building or structure on a lot or tract of land or before occupying any building, structure, lot or tract of land where the use has been changed.

**§ 123-36. Conformance with chapter.**

A zoning permit shall show that every building or premises or part thereof and the proposed use thereof are in conformity with the provisions of the Zoning Ordinance or in conformity with the provisions of a variance granted according to law.

**§ 123-37. Issuance; operations after revocation.**

All zoning permits shall be issued in triplicate, and one copy shall be posted conspicuously on the premises affected whenever construction work is being performed thereon. No owner, contractor, workman or other person shall perform any building operations of any kind unless the zoning permit covering such operation has been previously issued. Furthermore, no building operations of any kind shall be performed after notification of the revocation of said zoning permit.

**§ 123-38. Recordkeeping.**

A record shall be kept of all zoning permits issued, and the original applications therefor shall be kept on file in the same manner as applications for building permits. No owner, tenant or other person shall use or occupy any building or structure hereafter erected or altered, the use of which shall be changed after passage of this chapter, without first obtaining a zoning permit.

**§ 123-39. Continuance of effect.**

A zoning permit, unless revoked, shall continue in effect so long as there is no change of use of the premises.

**§ 123-40. Actions upon application.**

- A. The Zoning Officer shall act upon all such applications within 15 days after receipt of a fully filled-in application or shall notify the applicant, in writing, of his refusal to issue such permit and the reasons therefor.
- B. Failure to notify the applicant in case of such refusal within said 15 days shall entitle the applicant for a zoning permit to file an appeal to the Zoning Board of Adjustment as in the case of a denial.

**§ 123-41. Waiver of plans.**

The Zoning Officer may waive plans on minor alterations not affecting structural change.

**§ 123-42. Fees.**

The Zoning Officer shall collect a fee of \$20. for each zoning permit so issued, except that if a certificate of occupancy is required, no additional charge shall be made for issuance of a zoning permit.

**§ 123-43. Revocation.**

If it shall appear at any time to the Zoning Officer that the application or accompanying plans are in any material respect false or misleading or that the work being done upon the premises is materially different from that called for in the application previously filed with him or may be in violation of any provision of this chapter or that the conditions imposed by either the Planning Board or the Board of Adjustment are not being met within the time or in the manner required by the approving authority, he may forthwith revoke the zoning permit.

**§ 123-44. Filing of records and reports.**

- A. Records. It shall be the duty of the Zoning Officer to keep a record of all applications for zoning permits and a record of all permits issued, together with a notation of all special conditions involved. He shall file and safely keep copies of all plans submitted, and the same shall form a part of the records of his office and shall be available for the use of the Borough Council and of other officials of the Borough.
- B. Reports. The Zoning Officer shall prepare a monthly report for the Borough Council summarizing, for the period since his last report, all zoning permits issued, complaints of violations received and action taken by him with respect thereto. Such report shall be in a form and shall contain such information as the Borough Council may direct. A copy of such reports shall be made available to the Construction Official and to the Tax Assessor.