

Zoning and Land Use ORDINANCES

of the

Borough of Manville

Somerset County

New Jersey

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BOROUGH OF MANVILLE
LAND DEVELOPMENT ORDINANCE

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Note: This Table of Contents is for information and is not an official part of the ordinance.

BOROUGH OF MANVILLE

ORDINANCE

THE LAND DEVELOPMENT ORDINANCE OF THE

BOROUGH OF MANVILLE (1987)

BE IT ORDAINED by the Borough of Manville, in the County of Somerset, State of New Jersey, as follows:

ARTICLE 1

GENERAL PROVISIONS

101. SHORT TITLE

This Ordinance shall be known and may be cited as THE LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF MANVILLE.

102. PURPOSE AND SCOPE.

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

103. DEFINITIONS.

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

103.1 See "Definitions" contained in Article 3, The Zoning Ordinance of the Borough of Manville.

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

103.3 Administrative Officer. The Clerk of the Board to whom the application for development is submitted.

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

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

103.6 Critical Area. See Article 5, Section 502(d).

103.7 Development Committee. The Planning Board Chairman may appoint a committee of at least three members of the Planning Board, for the purpose of reviewing subdivision and site plan applications prior to action by the entire Planning Board, to provide initial review as to whether such applications comply with all

ordinance provisions and to make recommendations to the Planning Board for classification and action. In the event that no such Development Committee shall be appointed, the functions shall be performed by the Planning Board itself. Such Development Committee shall have no authority to act for the Board nor to bind the Board, but is merely an initial review and recommendatory body.

103.8 Site Plan. "Site plan" means a development plan of one or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways, (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices, and (3) any other information that may be reasonably required in order to make an informed determination pursuant to an ordinance requiring review and approval of site plans by the Planning Board adopted pursuant to Article 3 (C.40:55D-37 et seq.) the Municipal Land Use Law.

"Minor Site Plan" - See Section 302.2b

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

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

a. Arterial streets are those which are used primarily for fast or heavy traffic.

b. Collector streets are those which carry traffic from minor streets including the principal entrance streets of a residential development and streets for circulation within such a development.

c. Minor streets are those which are used primarily for access to the abutting properties.

d. Marginal service streets are streets which are parallel to a adjacent arterial streets and highways; and which provide access to abutting properties and protection from through traffic.

e. Alleys are minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

103.11 Subdivision; Resubdivision; Minor Subdivision.

a. "Subdivision" means the division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this act, if no new streets are created: (1) divisions of land found by the planning board or subdivision committee thereof appointed by the chairman to be for agricultural purposes where all resulting parcels are 5 acres or larger in size, (2) divisions of property by testamentary or intestate provisions, (3) divisions of property upon court order, including but not limited to judgments of foreclosure, (4) consolidation of existing lots by deed or other recorded instrument and (5) the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown designated as separate lots, tracts or parcels on the tax map of atlas of the municipality. The term "subdivision" shall also include the term "resubdivision."

b. "Resubdivision" means (1) the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law or (2) the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or other instrument.

c. "Minor Subdivision". A subdivision of land that does not involve (1) the creation of more than 2 lots, including the remainder of the original lot; (2) planned

development as defined in the Municipal Land Use Law; (3) any new street; or (4) extension of any off-tract improvement, the cost of which is to be prorated pursuant to Section 30 of the Municipal Land Use Law (C. 40:55D-42).

104. COMPLIANCE.

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

105. PERMITS.

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

106. EXCEPTIONS.

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

107. PREPARATION OF PLANS BY LICENSED PROFESSIONALS.

Except for plats submitted under the "Informal Discussion" provisions of Article 5, and Sketch Plats of minor subdivisions and minor site plans, all plans, plats and drawings, and all studies and certifications which require a particular expertise, shall be prepared by a person licensed by the State of New Jersey to perform the particular work so presented or certified, and shall bear the seal of such person. See, for example, Sections 308.1, 309.1, 309.4, 603(D), and 707.

108. PUBLIC UTILITIES.

Where specific data is called for in this ordinance relating to a public utility installation, such as location cross-sections, circuit arrangement, system flow, and the like, and the public utility involved in electric, gas, water or communications, due consideration shall be given to Board of Public Utility guidelines as to proprietary interests of such public utilities concerning system security and public safety. Information as required by this ordinance (i.e., Sections 307.1-4, 308.3-6, 308.3-10, and 308.5) is for general purpose relating to land development as expressed in the Municipal Land Use Law. Additional information as required by the Borough Engineer for review and approval of construction plans of a developer, which the public utility does not furnish directly to the developer, may be discussed with an provided by the public utility to the Borough Engineer.

ARTICLE 2

PLANNING BOARD AND BOARD OF ADJUSTMENT

201. PLANNING BOARD

201.1 Establishment of Planning Board. There is hereby established pursuant to Ch. 291 P.L. 1975, in the Borough of Manville, a Planning Board of 7

members and 2 alternate members consisting of the following four classes:

Class I. The Mayor.

Class II. One of the officials of the municipality other than a member of the governing body to be appointed by the Mayor.

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

Class IV. Four other citizens of the municipality to be appointed by the Mayor with consent of the Council.

The members of Class IV shall hold no other municipal office. A member of the environment commission who is also a member of the Planning Board as required by R.S. 40:56A-1 shall be a class IV planning board member.

201.2 TERMS. The term of the member composing Class I shall correspond with his official tenure. 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. The term of the 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. Alternate members shall be appointed by the Mayor with consent of Council in accordance with provisions set forth in N.J.S.A. 40:55D-23.1.

The terms of all Class IV members first appointed pursuant to this Ordinance shall be so determined that to the greatest practicable extent the expiration of such term shall be distributed evenly over the first four years after their appointment as determined by resolution of the governing body provided however that nothing herein shall affect the term of any present member of the Planning Board, all of whom shall continue in office until the completion of the terms for which they were appointed. Thereafter all Class IV members shall be appointed for terms of four years except as otherwise hereinabove provided. All terms shall run from January 1 of the year in which the appointment is made.

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

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

201.5 ELIGIBILITY TO VOTE WHERE HEARING MISSED. A member of the Planning Board who was absent for one or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his absence from one or more of the meetings; providing, however, that such board member has available to him the transcript or recording of all of the hearing from which he was absent, and certifies in writing to the board that he has read such transcript or listened to such recording.

201.6 ORGANIZATION OF PLANNING BOARD. The Planning Board.

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

201.7 POWERS AND DUTIES GENERALLY. The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this Ordinance. In the issuance of

subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S. 2A:67A-1 et seq.) shall apply. It shall also have the following powers and duties.

a. Make and adopt, from time to time, amend, a master plan for the development of the municipality, in accordance with the provisions of C. 40:55D-28.

b. Receive, review and act upon applications for subdivisions and site plans in accordance with the provisions of this Ordinance and the Municipal Land Use Law C.40:55D-1 et seq.

c. Approve conditional use applications in accordance with the provisions of the zoning ordinance pursuant to C.40:55D-67.

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

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

f. Annually prepare a program of municipal capital improvement projects projected over a term of six years, and amendments thereto, and recommend same to the governing body.

g. Consider and make report to the governing body within thirty-five days after referral as to any proposed development regulations submitted to it pursuant to the provisions of C.40:55D-28(a) and also pass upon other matter specifically referred to the Planning Board by the governing body pursuant to the provisions of C.40:55D-26(b).

h. When reviewing applications for approval of subdivision plats, site plans or conditional uses, the Planning Board shall have the power to grant to the same extent and subject to the same restrictions as the Board of Adjustment:

(a) Variances pursuant to subsection 57c of the Municipal Land Use Law (40:55D-70c).

(b) Direction pursuant to section 25 of the Municipal Land Use Law (40:55D-34) for issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to section 23 of the Municipal Land Use Law (40:55D-32).

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

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

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

202. BOARD OF ADJUSTMENT.

202.1 ESTABLISHMENT OF ZONING BOARD OF ADJUSTMENT. Pursuant to the provision of Chapter 291, of the Laws of New Jersey, 1978, and as amended by Chapter 38, of the Laws of New Jersey, 1978, the Zoning Board of Adjustments is hereby created to consist of seven (7) members and two (2) alternate members, as hereinafter set forth.

202.2 MEMBERSHIP; TERMS. The members of the Zoning Board of Adjustments shall be appointed by the Mayor with consent of the Council.

Each term of membership on the Board of Adjustment shall be four (4) years from January 1 of the year of their appointment. There terms of the 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 (4) years after their appointment; provided that the initial term of no member shall exceed four (4) years. Nothing in this ordinance shall, however, be construed to affect the term of any present member of the Zoning Board of Adjustment, all of whom shall continue in office until the completion of the term for which they were appointed.

The two Alternate Members of the Zoning Board of Adjustment shall also be appointed by the Mayor with consent of Council. The term of each alternate member shall be two (2) years.

Alternate members shall be designated at the time of appointment by the Mayor and Council appointing them as "Alternate No. 1" and "Alternate No. 2." Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. 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.

A vacancy occurring otherwise than by expiration of term shall be filled by appointment for the unexpired term only.

202.3 ELECTIVE OFFICE - REMOVAL FROM OFFICE.

a. No member may hold any elective office or position under the municipality.

b. A member may, after public hearing if he requests it, be removed by the governing body for cause.

202.4 ORGANIZATION. The Board of Adjustment shall elect a chairman and vice-chairman from its members and select a secretary who may or may not be a member of the Board of Adjustment or a municipal employee.

202.5 APPROPRIATION S; EMPLOYMENT OF EXPERTS AND STAFF.

a. The governing body shall make provision in budget and appropriate funds for the expenses of the Board of Adjustment.

b. The Board of Adjustment may employ, or contract for, and fix the compensation of legal counsel, other than the municipal attorney, and experts and other staff and services as it shall deem necessary, not exceeding the amount appropriated by the governing body for its use.

202.6 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 Investigations Law of 1953 (N.J.S. 2A:67A-1 et seq.) shall apply.

202.7 POWERS GRANTED BY LAW. The Board of Adjustment shall have such powers as are granted by law to:

a. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of the zoning ordinance.

b. Hear and decide requests for interpretation of the map or zoning ordinance, or for decisions upon other special questions upon which such Board is authorized by the Zoning Ordinance to pass.

c. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions, or by reason of other extraordinary and exceptional situation or condition of such piece of property the strict application of any regulation pursuant to the Zoning Ordinance of the Borough would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of

such regulation so as to relieve such difficulties or hardship, including a variance for a conditional use; provided, however, that no variance shall be granted under this subsection to allow a structure or use in a district restricted against such structure or use; and provided further that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board shall review a request for a variance pursuant to subsection 47a of the Municipal Land Use Law (40:55D-60) and Section 201.7h of this ordinance; and

d. In particular cases and for special reasons, grant a variance to allow departure from regulations pursuant to the Zoning Ordinance of the Borough, including, but not limited to, allowing a structure or use in a district restricted against such structure or use, but only by affirmative vote of at least five members.

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

202.8 ADDITIONAL POWERS.

a. The Zoning Board of Adjustment shall, in addition to the powers specified in Section 202.7, have power given by law to:

1. Direct issuance of a permit pursuant to section 25 of the Municipal Land Use Law (40:55D-34), for a building or structure in the bed or a mapped street or public drainageway, flood control basin or public area reserved on the official map.

2. Direct issuance of a permit pursuant to section 27 of the Municipal Land Use Law (40:55D-36) for a building or structure not related to a street.

b. The Zoning Board of Adjustment shall have the power to grant to the same extent and subject to the same restrictions as the Planning Board, subdivision or site plan approval pursuant to this article, or conditional use approval pursuant to section 54 of the Municipal Land Use Law (40:55D-67) and the provisions of the Zoning Ordinance of the Borough of Manville, whenever the proposed development requires approval by the Zoning Board of Adjustment of a variance pursuant to subsection d of section 57 of the Municipal Land Use Law (40:55D-70) being Section 202.7 d of this Ordinance. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals by the Zoning Board of Adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance. The number of votes and board members required to grant any such subsequent approval shall be as otherwise provided in the Act and this ordinance for the approval in question, and the special vote pursuant to the aforesaid subsection d of section 57 of the Municipal Land Use Law shall not be required.

c. Whenever an application for development requests relief pursuant to subsection b. of this section, the Zoning Board of Adjustment shall grant or deny approval of the application within 120 days after submission by a developer of a complete application to the administrative officer or within such further time as may be consented to by the applicant. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in the Municipal Land Use Law. Failure of the Board to act within the period prescribed shall constitute approval of

the application and a certificate of the administrative officer as to the failure of the Zoning Board of Adjustment to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

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

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

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

202.11 ELIGIBILITY TO VOTE WHERE PART OF HEARING MISSED. A member of the Board of Adjustment who was absent for one or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his absence from one or more of the meetings; provided, however, that such board member has available to him the transcript or recording of all of the hearing from which he was absent, and certifies in writing to the board that he has read such transcript or listened to such recording.

202.12 APPEALS AND APPLICATIONS.

a. Appeals to the Board of Adjustment may be taken by any interested party affected by any decision of an administrative officer of the municipality based on or made in the enforcement of the zoning ordinance or official map. Such appeal shall be taken within 20 days by filing a notice of appeal with the officer from whom the appeal is taken specifying the grounds of such appeal. The officer from whom the appeal is taken shall immediately transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken.

b. A developer may file an application for development with the Board of Adjustment for action under any of its powers without prior application to an administrative officer; provided, however, that such direct application may not be used to circumvent the time limitation set forth in (a) above.

203. PROVISIONS APPLICABLE TO BOTH THE PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT.

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

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

on notice to its members and the public in accordance with municipal regulations.

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

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

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

203.4 CONDUCT OF MEETINGS.

a. Oaths.

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

b. Testimony.

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

c. Evidence.

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

d. Records.

Each board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The board shall furnish a transcript, or duplicate recording in lieu thereof, on request to any interested party at his expense. The Board, in furnishing a transcript of the proceedings to an interested party at his expense shall not charge such interested party more than the maximum permitted in N.J.S. 2A:11-15. Said transcript shall be certified in writing by the transcriber to be accurate.

203.5 DECISIONS.

a. Each decision on any application for development shall be reduced to writing as provided in this subsection, and shall include findings of facts and conclusions based thereon.

b. Failure of a motion to approve an application for development to receive the number of votes required by approval shall be deemed an action denying the application.

c. The board may provide such written decision and findings and conclusions either on the date of the meeting at which the board takes to grant or deny approval, or, if the meeting at which such action is taken occurs within the final 45 days of the applicable time period for rendering a decision on the application for development, within 45 days of such meeting by the adoption of a resolution of memorialization setting forth the decision and the findings and conclusions of the board thereon. An action resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above, notwithstanding the time at which such action occurs within the applicable time period for rendering a decision on the application.

d. The adoption of a resolution of memorialization pursuant to this subsection shall not be construed to alter the applicable time period for rendering a decision on the application for development. Such resolution shall be adopted by a vote of a majority of the members of the board who voted for the action previously taken, and no other member shall vote thereon. The vote on such resolution shall be deemed to be a memorialization of an action of the board, and not to be an action of the board; except that failure to adopt such a resolution within the 45 day period shall result in the approval of the application for development, notwithstanding any prior action taken thereon.

e. Whenever a resolution of memorialization is adopted in accordance with this subsection, the date of such adoption shall constitute the date of the decision for the purposes of the mailings, filings and publications required by Section 203.6 of this Ordinance.

203.6 MAILING AND PUBLICATION OF DECISION.

a. A copy of the decision shall be mailed by the board within 10 days of the date of decision to the applicant, or if represented then to his attorney, without separate charge, and to all who request a copy of the decision and have paid the fee established by the Board for such service. A copy of the decision shall also be filed in the office of the Borough Clerk, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the Borough.

b. A brief notice of every final decision shall be published in the official newspaper of the Borough. Such publication shall be arranged by the secretary of the Planning Board, or Zoning Board of Adjustment, as the case may be, without separate charge to the applicant. The period of time in which an appeal of the decision may be made shall run from the first publication of the decision.

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

203.8 CONDITIONAL APPROVALS.

a. Regulations of the development of land and the attachment of reasonable conditions to development applications is an exercise of valid police power delegated by the state to this municipality. The applicant has the duty of compliance with reasonable conditions laid down by the Approving Authority for design, dedication, improvements, and the use of land so as to conform to the physical and economical development of the municipality and to the safety and general welfare of the future residents and/or owners in the development and in the community at large.

b. Where County Planning Board review or approval is required on a subdivision or site plan, the Approving Authority shall condition any approval it grants upon either timely receipt of a favorable report by the County Planning Board or approval by the County Planning Board. If the County Report is negative or attaches conditions, and is within time, the original action by the Municipal Approving Authority shall be null and void and a new resolution shall be adopted which considers the County Planning Board's report.

203.9 USE OF OTHER BOARDS AND AGENCIES. The Approving Authority (whether the Planning Board of the Board of Adjustment) is encouraged to seek advice from other boards, agencies, and departments of the Board such as the fire company, police department, Board of Health, Board of Education, and Rescue

Squad, with respect to any application for land development or utilization.

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

204. EXEMPTIONS

204.1 EXEMPTIONS FROM SUBDIVISION REGULATIONS. As provided in the Municipal Land Use Law, the following shall not be considered subdivisions within the meaning of said Law or this ordinance, if no new streets are created:

1. divisions of land found by the Planning Board or Development Committee thereof appointed by the Chairman to be for agricultural purposes where all resulting parcels are 5 acres or larger in size.

2. divisions of property by testamentary or intestate provisions.

3. divisions of property upon court order, and

4. conveyances so as to combine existing lots by deed or other instrument.

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

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

Note: See Sec. 302.2b as to Minor Site Plans.

ARTICLE 3

DEVELOPMENT REVIEW PROCEDURES AND PLAT DETAILS

301. INTRODUCTION AND PURPOSES.

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

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

302. EXEMPTIONS.

302.1 EXEMPTIONS FROM SUBDIVISION REGULATIONS. As provided in the Municipal Land Use Law, as amended, the following shall not be considered subdivisions within the meaning of said Law or this ordinance, if no new streets are created:

(1) divisions of land found by the Planning Board or subdivision committee thereof appointed by the chairman to be for agricultural purposes where all resulting parcels are 5 acres or larger in size,

(2) divisions of property by testamentary or intestate provisions,

(3) divisions of property upon court order, including but not limited to judgments or foreclosure,

(4) consolidation of existing lots by deed or other recorded instrument, and

(5) the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations (this ordinance and the Zoning Ordinance of the Borough of Manville), and are shown and designated as separate lots, tracts or parcels on the tax map of the Borough of Manville.

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

302.2 EXEMPTIONS FROM SITE PLAN REVIEW REQUIREMENTS; MINOR SITE PLANS.

a. Exemptions.

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

b. Minor Site Plans.

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

(1) requires less than ten parking spaces, as required by the Zoning Ordinance, contains less than 2,000 new or additional square feet of floor area, and has not more than twenty-five (25) per cent lot coverage; and

(2) does not involve a planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to section 30 of the Municipal Land Use Law (40:55D-42); and

(3) contains the information reasonably required in order to make an informed determination as to whether the requirements established by this ordinance for approval of a minor site plan have been met.

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

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

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

The zoning requirements and general terms and conditions, whether conditional or otherwise, upon

which minor site plan approval was granted, shall not be changed for a period of 2 years after the date of minor site plan approval.

303. SIMULTANEOUS REVIEW.

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

304. INFORMAL DISCUSSION.

304.1 An informal submission is optional. Any person may appear at a regular meeting of the Approving Authority for informal discussion with reference to an informally prepared plat of sufficient accuracy to be used for purpose of discussion. The purpose of such a discussion will be to review overall development concepts in order to assist the applicant in the preparation of subsequent plans. No decisions will be made and no formal action taken on an informal discussion.

304.2 An informal submission of a site plan shall include sufficient basic data to enable the Approving Authority and the applicant to comment upon design concepts such as building location, ingress and egress, parking, major natural features that will have to be recognized or may influence certain design criteria, and the applicant's basic intent for water, sewerage and storm drainage facilities. Informal submissions are sketches to scale of possible plan(s) for the development of an area. They are not binding on the Borough or upon the developer and do not necessitate accurate engineered drawings.

305. SUBMISSION OF SKETCH PLAT.

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

305.1 FILING PROCEDURE. The developer shall file with the administrative officer at least two (2) weeks prior to the meeting of the Approving Authority, 10 black on white or blueprint copies of the sketch plat, 4 completed copies of the application for, five (5) copies of covenants, deed restrictions and easements, three (3) copies of deeds for any lands offered to the Borough, the applicable fee, and such other data as the Approving Authority may require.

305.2 ACTION BY THE APPROVING AUTHORITY.

305.2-1 The Approving Authority shall review the submission for its completeness and take action on accepting no later than its first regular meeting following the two week review period. If incomplete, the material shall be returned to the developer for a re-submission at least two (2) weeks prior to a subsequent meeting. If complete, the Approving Authority shall classify the application as a minor or major development and shall approve, approve with conditions or deny the application within forty-five (45) days of the date of submission to the administrative officer or such further time as may be consented to by the applicant. The decision shall be in writing and shall be sent to the applicant and the newspaper as required in Section 203.5 and 203.6.

305.2-3 Before any approved sketch plat of a major subdivision or site plan or any approved final plat of a minor subdivision or site plan is returned to the

developer, the administrative officer shall have sufficient signed copies of the plat (and deed if a deed is also prepared) to forward a copy to each of the following, retaining one (1) copy for the Approving Authority's file:

- (a) Borough Engineer.
- (b) Construction Official.
- (c) Tax Assessor.
- (d) County Planning Board.
- (e) Borough Clerk.
- (f) Borough Board of Health.

305.2-4 Approval of a minor subdivision shall expire 190 days from the date of Borough approval unless within such period a plat in conformity with such approval, including any conditions imposed by the Approving Authority, and in conformity with the provisions of the "Map Filing Law," P.O. 1960, C 141 (46:23-9.9 et seq.), or a deed clearly describing the approved minor subdivision is filed by the developer with the County Recording Officer, the Borough Engineer and the Borough Tax Assessor. Any such plat or deed accepted for such filing shall have been signed by the chairman and secretary of the Approving Authority (or the vice chairman or assistant secretary in their absence, respectively). In reviewing the application for development for a proposed minor subdivision the Approving Authority may accept a plat not in conformity with the "Map Filing Act," P.L. 1960, C. 141 (46:23-9.9 et seq.), provided that if the developer chooses to file the minor subdivision as provided herein by plat rather than deed such plat shall conform with the provisions of said act.

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

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

305.2-5 When the Approving Authority determines that any proposed development may create, either directly or indirectly, an adverse effect on either the remainder of the property being developed or nearby property, the Approving Authority may require the developer to revise the plat. Where the remaining portion of the original tract is of sufficient size to be developed or subdivided further, the developer may be required to submit a sketch plat of the entire remaining portion of the tract to indicate a feasible plan whereby the design of the proposed development together with subsequent subdivisions or development will not create, impose, aggravate, or lead to any such adverse effect(s).

305.2-6 If classified as a major development and either approved or approved with conditions as a major development, a notation to that effect including the date of the Approving Authority's action shall be made on all copies of the plat and shall be signed by the chairman and secretary of the Approving Authority (or vice chairman or assistant secretary in their absence, respectively), except that the minor plats shall not be signed until all conditions are incorporated on the plat. All conditions on minor developments shall be complied with within ninety (90) days of the meeting at which conditional approval was granted, otherwise the conditional approval shall lapse. If classified as a major development, sketch plat modification are not required. Any conditions shall be incorporated on the preliminary plat.

306. SUBMISSION OF PRELIMINARY PLAT.

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

306.1 FILING PROCEDURE. Any developer shall submit to the Administrative Officer at least two (2)

weeks prior to the meeting of the Approving Authority, 10 black on white or blueprint copies of the preliminary plat, 4 completed copies of the application form for preliminary approval; 5 copies of any protective covenants, deed restrictions and easements, applying to the land being developed; 4 copies of the drainage calculations, Environmental Impact Statement as required in Article 5, and Soil Erosion and Sediment Control data as required in Article 4 of this ordinance; the application fee, and such other data as may be required by the Approving Authority.

306.2 ACTION BY THE APPROVING AUTHORITY.

306.2-1 The submission for preliminary approval of a major subdivision shall be examined by the Administrative Officer and a determination made as to whether the same constitutes a 'complete application' as defined in the Municipal Land Use Law as amended. If the application is found to be incomplete, the developer shall be notified in writing of the deficiencies therein by the board or the board's designee for the determination of completeness within forty-five (45) days of submission of such application or it shall be deemed to be properly submitted. If determined to be a 'complete application' a public hearing date shall be set and notice given as required by this ordinance in Article 10.

306.2-2 Upon submission of a plat and before approval of a plat, the Administrative Officer shall submit one (1) copy of the plat and supporting data to the County Planning Board, Borough Engineer, Environmental Commission, and any other agency or person as directed by the Approving Authority for their review and action. Each shall have thirty (30) days from receipt of the plat to report to the Approving Authority. In the event of disapproval, such report shall state the reasons therefor. If any agency, or person fails to report to the Approving Authority within the thirty (30) day period, said plat shall be deemed to have been approved by them. Upon mutual agreement between the County Planning Board and the Approving Authority, with approval of the applicant, the thirty (30) day period for a County Planning Board report may be extended for an additional thirty (30) days and any extension shall so extend the time within which the Approving Authority is required to act.

306.2-3 If the submission is accepted as a subdivision, the Approving Authority shall grant or deny preliminary approval of a subdivision of two (2) or fewer lots within forty-five days (45) days of the date of such submission or within such further time as may be consented to by the developer. Upon the submission of a complete application for a subdivision of more than two (2) lots, the Approving Authority shall grant or deny preliminary approval within ninety-five (95) days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the Approving Authority shall be deemed to have granted preliminary approval to the subdivision.

306.2-4 The submission for preliminary approval of a site plan shall be examined by the Administrative Officer and a determination made as to whether the same constitutes a 'complete application' as defined in the Municipal Land Use Law as amended. If the application is found to be incomplete, the developer shall be notified in writing of the deficiencies therein by the Administrative Officer within forty-five (45) days of the submission of such application or it shall be deemed to be properly submitted.

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

further time as may be consented to by the developer. Otherwise, the Planning Board shall be deemed to have granted preliminary approval of the site plan.

a. A site plan for ten (10) acres of land or less: within forty-five (45) days of the date of submission.

b. A site plan of more than ten (10) acres: within ninety-five (95) days of the date of submission.

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

306.2-5 If the Approving Authority required any substantial amendment in the layout of improvements in either a site plan or subdivision as proposed by the developer and that plan had been the subject of a hearing, an amended application for development shall be submitted and proceed upon, as in the case of the original application for development. The Approving Authority shall, if the proposed development complies with this ordinance, grant preliminary approval.

306.2-6 The Approving Authority may approve, disapprove, or approve with conditions the application, including action on the Environmental Impact Statement in Article 5. Such action shall not take place until after any required public hearing has been conducted. The decision shall be in writing and shall be sent to the applicant and the newspaper as required by Section 2-3.6. If the Approving Authority grants preliminary approval, its chairman and secretary (or vice chairman or assistant secretary in their absence, respectively) and Borough Engineer shall sign each page of the plat indicating the approval. If the plat is conditionally approved, it shall not be signed until all conditions are complied with. If all conditions are not complied with within One Hundred Eight (180) days from the date of the meeting at which a plat was conditionally approved, the conditional approval shall lapse.

306.2-7 Effect of Preliminary Approval.

Preliminary approval shall, except as provided in paragraph d below, confer upon the applicant the following rights for a three (3) year period from the date of the preliminary approval.

a. That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to: use requirements; layout and design standards for streets; curbs and sidewalks; lot size, yard dimensions and off-tract improvements; any requirements peculiar to site plan approval; except that nothing herein shall be construed to prevent the Borough from modifying by ordinance such general terms and conditions of preliminary approval as related to public health and safety; and

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 the preliminary plat; and

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

307. SUBMISSION OF FINAL PLAT

307.1 FILING PROCEDURES.

307.1-1 The developer shall file with the Administrative Officer at least two (2) weeks prior to the meeting of the Approving Authority one (1) mylar, two (2) cloth and 10 black on white or blueprint prints of the plat and 4 completed copies of the application form for final approval, the performance guarantee including off-tract improvements, if any, any maintenance guarantees, and the applicable fee.

307.1-2 Letters directed to the Chairman of the Approving Authority and signed by a responsible officer of the water company, and gas, telephone and electric utility that has jurisdiction in the area, approving each proposed utility installation design and stating who will construct the facility.

307.1-3 Developer shall file proof that all taxes are paid to date on the property. (See Section 203.7)

307.1-4 The final plat shall be accompanied by a statement by the Borough Engineer that he is in receipt of a map showing all utilities and other improvements (both in the development and off-tract improvements) in exact location and elevation, that he has examined the drainage, erosion, storm water control, and excavation plans and found that the interests of the Borough and of nearby properties are fully protected, and identifying those portions of any improvements already installed and that the developer has either:

a. Installed all improvements in accordance with the requirements of this ordinance and the preliminary plat approval with a maintenance guarantee accompanying the final plat; or

b. Posted a performance guarantee in accordance with this ordinance and the preliminary plat approval for all partially completed improvements or improvements not yet initiated.

307.2 ACTION BY THE APPROVING AUTHORITY.

307.2-1 The Approving Authority shall grant final approval if the detailed drawings, specifications, and estimates of the application for final approval conform to the standards established by ordinance for final approval, the conditions of preliminary approval, and in the case of a major subdivision, the standards prescribed by the "Map Filing Law," 46:23-9.9 et seq.; provided that in the case of a planned development, the Approving Authority may permit minimal deviations from the conditions beyond the control of the developer since the date of preliminary approval without the developer being required to submit another application for development for preliminary approval.

307.2-2 Final approval shall be granted or denied within forty-five (45) days after submission of a complete application to the Administrative Officer, or within such further time as may be consented to by the applicant. An approved final plat shall be signed by the chairman and secretary of the Approving Authority (or vice chairman or assistant secretary in their absence, respectively). Failure of the Approving Authority to act within the period prescribed shall constitute final approval and a certificate of the Administrative Officer as to the failure of the Approving Authority to act shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats.

307.2-3 Whenever review or approval of the application by the County Planning Board is required by 40:27-6.3 or 40:27-6.8, or other statute, the Borough Approving Authority shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

307.2-4 The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer pursuant to the Municipal Land Use Law, whether conditionally or

otherwise, shall not be changed for a period of two (2) years after the date of final approval. If the developer has followed the standards prescribed for final approval, the Approving Authority may extend such period of protection for extensions of one (1) year, but not to exceed three (3) extensions. Upon granting of final approval, the rights conferred upon the applicant by the granting of preliminary approval shall be terminated upon final approval.

307.2-5 Upon final approval, the applicant shall provide:

a. Three (3) sets of final plans and one (1) signed linen and one (1) mylar of the final plan to the Borough Engineer.

b. One (1) mylar and opaque linen copies to the County Clerk per law.

c. One (1) linen to the Borough Clerk.

d. One (1) signed paper print to the Planning Board, Building Inspector, Tax Assessor, County Planning Board and such other borough, county or state officials or other individuals as directed by the Board.

e. One (1) set of final plans to the Approval Authority.

307.2-6 Final approval of a major subdivision shall expire ninety-five (95) days from the date of signing of the plat unless within such period the plat shall have been duly filed by the developer with the County Recording Officer. The Approving Authority may for good cause shown extend the period for recording for an additional period not to exceed One Hundred Ninety (190) days from the date of signing of the plat. No subdivision plat shall be accepted for filing by the County Recording Officer until it has been approved by the Approving Authority as indicated on the instrument by the signature of the Chairman and Secretary of the Approving Authority or a certificate has been issued as to the failure of the Approving Authority to act within the required guarantees. If the County Recording Officer records any plat without such approval, such recording shall be deemed null and void, and upon request of the Borough, the plat shall be expunged from the official records. It shall be the duty of the County Recording Officer to notify the Approving Authority in writing within seven (7) days of the filing of the plat, identifying such instrument by its title, date of filing and official number.

308. PLAT DESIGN STANDARDS FOR SUBDIVISIONS.

308.1 PLAT CONFORMITY. No development application shall be accepted unless submitted in plat form and no plat shall be accepted for consideration unless it conforms to the following requirements as to form, content and accompanying information, and complies with the provisions of N.J.S.A. 46:23-1 et seq. (Map filing law), and Section 107 of this Ordinance.

308.2 SKETCH PLAT FOR CLASSIFICATION. A sketch plat shall be clearly and legibly drawn at an accurate scale of not less than one (1) inch equals one hundred (100) feet in order to include the entire tract on one (1) sheet and shall be based on a certified boundary survey. Plats shall be presented on sheet(s) of one of the following dimensions: thirty by forty-two (30 x 42) inches, twenty-four by thirty-six (24 x 36) inches, eighteen by twenty-four (18 x 24) inches, fifteen by twenty-one (15 x 21) inches, twelve by eighteen (12 x 18) inches, nine by twelve (9 x 12) inches or eight and one-half by thirteen (8-1/2 x 13) inches. The plat shall be designed in compliance with the provisions of Article 7 and shall include a key map with North arrow showing the entire subdivision and its relation to surrounding areas at a scale of not less than one (1) inch equals one thousand (1,000) feet, together with the following information:

308.2-1 The boundary and acreage of the original tract measured to the nearest one-hundredth (0.01) of an acre; the number, acreage and configuration of all lots being created; the area of each lot correct to one-tenth (0.1) of an acre; all existing and proposed lot lines correct to one (1) foot. If the plat is to be submitted for approval as a minor subdivision, existing lot lines as

well as proposed lot lines shall be accurately shown by precise metes and bounds, distances to nearest 0.01 ft.

308.2-2 All existing buildings and structures and their use(s), with the shortest distance from existing building(s) to any proposed or existing lot line, and wooded areas, rock outcrops, streams, lakes, drainage rights-of-way and streets within the limits of the tract(s) being subdivided and within two hundred (200) feet thereof, including the location width and direction of flow of all streams, brooks, drainage structures and drainage rights-of-way. Any existing features to be removed or relocated shall be indicated. Flood hazard area lines and wetlines and swamps within the tract shall be shown, as well as contours, inside the tract and within fifty (50) feet of its boundaries, at sufficient intervals to determine the general surface drainage.

308.2-3 The existing and proposed rights-of-way with dimensions of all easements, sight triangle and all streets within the premises and within two hundred (200) feet thereof, together with existing driveway, street names and the purpose of any easement. The type of street surface material and existing utilities within two hundred (200) feet of the tract shall be shown, including at least one (1) street intersection using the fore-shortened tie distance when same is remote from the property in question.

308.2-4 The Tax Map sheet, block and lot number for the tract and all adjacent lots; the name of the owner and all adjoining property owners as disclosed by the most recent Borough tax records; date, title, graphic scale, North arrow and space for the subdivision application number; zoning district(s), and if the property lies in more than one zoning district, the plat shall indicate all the zoning district lines; and the name, address, phone number and signature of the owner, subdivider and person preparing the plat.

308.3 PRELIMINARY PLAT OF MAJOR SUBDIVISION. The preliminary plat shall be titled as such and shall be clearly and legibly drawn by a licensed New Jersey engineer and/or land surveyor and shall be based on a certified boundary survey by a licensed New Jersey land surveyor, at a scale of not less than one (1) inch equals fifty (50) feet, and shall include a key map with North arrow showing the entire subdivision and its relation to surrounding areas at a scale of not less than one (1) inch equals one thousand (1,000) feet. Plats shall be presented on sheets of one of the following dimensions: 30" x 42", 24" x 36", 18" x 24", 15" x 21", 9" x 12", 12" x 18" or 8-1/2" x 13". If more than one (1) sheet is required to show the entire subdivision, a separate composite map shall be drawn showing the entire subdivision and the sheets on which the various sections are shown, and each detail sheet shall include a key map showing its relation to the whole tract. The plat shall consist of as many separate maps as are necessary to properly evaluate the site and the proposed work. The plat shall be designed in compliance with the provisions of Article 7 and shall show or be accompanied by the following information.

308.3-1 A title containing the name of the subdivision; the name of the Borough, County and State; Tax Map sheet, block and lot number, date of preparation and most recent revision, North arrow, written and graphic scales; the names, addresses, phone numbers and signatures of the owner, subdivider and person(s) who prepared the plat(s) including the seal of the latter; the names of all property owners within two hundred (200) feet of the extreme limits of the subdivision; and space for the subdivision application number.

308.3-2 The boundary and acreage of the original tract measured to the nearest one-hundredth (0.01) of an acre; the number, acreage and configuration of all lots being created; the area of each lot correct to one-tenth (0.1) of an acre; all existing and proposed lot lines correct to 0.01 feet.

308.3-3 A map showing existing and proposed elevations and contour lines over the entire area of the proposed subdivision, together with water-courses and an indication of the final disposal of the surface waters.

All elevations shall be related to two (2) permanent bench marks identified on the plan. Contours shall be shown at not more than two-foot intervals for areas with less than a ten-percent slopes, five-foot intervals for areas with ten or twenty-percent slopes, and ten or twenty-foot intervals for areas with slopes in excess of twenty percent (20%). For tracts containing slopes in more than one (1) category, the subdivider shall show contour lines at the most restrictive interval throughout the tract unless specifically waived by the Approving Authority in lieu of some other satisfactory contour interval and topographic data to meet the objectives of this Ordinance. Such topographic data shall be shown within 200' of the tract boundaries.

308.3-4 The locations and dimensions of railroad rights-of-way, bridges and natural features, such as soil types, wooded area, lakes, rock outcroppings and views within the subdivision, and the locations of individual trees outside wooded areas having a minimum caliper of six (6) inches. The proposed location of shade trees to be provided by the subdivider shall also be shown. Soil types shown shall be based on United States Soil Conservation categories.

308.3-5 All existing and proposed watercourses, including lakes, ponds and marsh areas, accompanied by the following information or data:

a. When a running stream with a drainage area of one-half (1/2) square mile or greater is proposed for alteration, improvement, or relocation, or when a structure or fill is proposed over, under, in or along such a running stream, evidence of approval, required alterations, lack of jurisdiction or denial of the improvement by the New Jersey Division of Water Policy and Supply or such agency having jurisdiction shall accompany the application.

b. Profiles and cross sections at fifty-foot intervals of watercourses, at an appropriate scale, showing the extent of the flood fringe area, top of bank, normal water level and bottom elevations of all watercourses on or within five hundred (500) feet of the subdivision.

c. When ditches, streams, brooks or watercourses are to be altered, improved or relocated, the method of stabilizing slopes and the measures to control erosion and siltation during construction, as well as typical ditch sections and profiles, shall be shown on the plan or accompany it.

d. The total upstream acreage in the drainage basin of any watercourse running through or adjacent to a subdivision including the distance and average slope upstream to the basin ridge line.

e. The total acreage in the drainage basin to the nearest downstream drainage structure and the acreage of that portion of the subdivision which drains to the structure, including the distance and average slope downstream to the structure.

f. The location and extent of drainage and conservation easements and floodway and flood hazard area limits.

g. The location, extent and water levels elevation of all existing or proposed lakes or ponds on or within five hundred (500) feet of the subdivision.

h. Plan, profile drawings and computations for any storm drainage systems, including:

(i) All existing and/or proposed storm water lines on site or within five hundred (500) feet of the subdivision, showing size, profile and slope of the lines, the location of each inlet, manhole or other appurtenance and the pipe material type, strength class or thickness and bedding type.

(ii) The location and extent of any proposed dry wells, groundwater recharge basins, detention basins, flood control devices, sedimentation basins and other water conservation devices.

308.3-6 The names, locations and dimensions of all existing streets within a distance of two hundred (200) feet of the subdivision, including at least one (1) street intersection and showing existing driveways and any connection proposed by the subdivision to existing streets, sidewalks and bike routes outside the subdivision; plans, cross sections, center-line profiles, proposed grades and standard details of all proposed streets, including full details of other utility

improvements within or adjacent to the street right-of-way, including sanitary sewers, curbing, sidewalks, storm drains and water, gas and electric facilities. Typical street cross sections shall indicate the type and width of pavement and the location of curbs, sidewalks, bike routes, sewers, drains, water and gas mains, electric and telephone facilities and appurtenances and shade tree planting. At intersections, the sight triangles, radii of curblines and the location of street signs and traffic control devices shall be clearly indicated. Horizontal scale shall not be less than one (1) inch equals forty (40) feet.

308.3-7 The names, location, right-of-way widths and purpose(s) of existing and proposed easements and other rights-of-way in the subdivision, and the location and description of all existing or proposed boundary control monuments and pipes.

308.3-8 All proposed lot lines, including existing lot lines to remain and those to be eliminated, and all set back lines required by the Zoning Ordinance, with the dimensions thereof. Any lot(s) to be reserved or dedicated to public use shall be identified and shall show proposed improvements, such as but not limited to landscaping, grading, walkways and recreation facilities, if any. Each block shall be numbered and the lots within each block shall be numbered consecutively beginning with number one (1), as acceptable to the Borough Engineer.

308.3-9 Locations of all existing structures and their use(s) in the tract and within two hundred (200) feet thereof, showing existing and proposed front, rear and side yard setback distances and an indication of all existing structures and uses to be retained and those to be removed.

308.3-10 Plans and profiles of proposed on-site, off-site and off-tract improvements and utility layouts (sanitary sewers, storm sewers, erosion control and landscaping, storm-water control, sedimentation basin, excavation, water mains, gas, telephone, electricity, etc.) showing location, size, slope, pumping stations and other details as well as feasible connections to any existing or proposed utility systems. If service is to be provided by an existing utility company, a letter from that company shall be submitted, stating that service will be available before occupancy of any proposed structures.

308.3-11 Zoning district(s), and if the property lies in more than one (1) zoning district, the plat shall indicate the zoning district lines.

308.3-12 Minimum front, rear and wide yard setback lines for the zone.

308.4 FINAL PLAT OF MAJOR SUBDIVISION.

The final plat shall be prepared in compliance with the provisions of the Map Filing Law (N.J.R.S. 46:23-9.9 et seq.), as amended; and shall conform to the following standards and particulars and be accompanied by final plans in accordance with subsection E of this section.

308.4-1 The plat shall be prepared and submitted on a sheet of standard size twenty-four by thirty-six (24x36) inches or thirty by forty-two (30x42) inches, including a margin of at least one-half (1/2) inch and be drawn at a scale of one (1) inch equals one hundred (100) feet, except that a scale of one (1) inch equals fifty (50) feet or larger shall be used where necessary and at special details to provide fully intelligible and legible information throughout. When the overall size of development or the owner's desire to submit final plans in sections will result in more than one (1) sheet, individual sheets or sections shall be numbered, match lines or boundaries with adjacent sheets or sections shall be provided and each sheet shall contain an acceptable key map of the entire tract showing the relation and orientation of the subject to adjacent sections and the total development.

308.4-2 The original plat shall be prepared in waterproof black ink on mylar under the immediate

supervision of and in accordance with the computations of a land surveyor licensed in practice in the State of New Jersey. The original and all submitted black-line prints, translucent mylar, translucent linen and opaque linen copies shall be hand signed and sealed by the responsible surveyor.

308.4-3 The fieldwork for the basic boundary survey shall be precise, with a linear error of closure not to exceed one (1) part in ten thousand (10,000) before adjustment. Angular error of closure shall not exceed fifteen (15) seconds times the square root of n (where "n" equals the number of sides). Field work meeting these standards shall be adjusted and balanced by the compass rule, transit rule or least square analysis, as considered appropriate by the responsible surveyor. All existing boundary evidence for the property in question and/or adjacent properties shall be clearly shown in relation to the boundaries of the property in question. All exterior boundaries shall be clearly identified by bearings precise to the nearest one (1) second of arc and distances precise to the nearest one-hundredth (0.01) of a foot. Permanent concrete monuments conforming to state statutes and extending not less than thirty (30) inches below grade nor more than one (1) inch above shall be indicated on the plat and precisely set in the field along the tract boundary at all corners, sidelines of proposed streets and beginning and ending points of all horizontal curves. Inaccessible corners shall be provided with two (2) offset reference monuments clearly defined on the plat. Additional point-on-line monuments as necessary shall be installed in the field and identified on the plat whenever topographic conditions do not permit corner-to-corner visibility. Unless specifically waived by the Borough Engineer for due cause, the boundaries of all final plats shall be based on the United States Geological Survey bearing datum and all boundary monuments shall be coordinated on the New Jersey plane coordinate system, with North and East coordinates for each monument and corner shown on the plat. The gross tract area and the area of each interior parcel, including parcels dedicated to public use, shall be calculated and shown to the nearest thousandth of an acre of the nearest ten (10) square feet.

308.4-4 The metes and bounds for all interior parcels, streets and/or easements dedicated to public use shall be calculated to the same order of precision and shown on the plat as above described for the tract boundary. Interior monuments shall be indicated on the plat and installed in the field along one (1) side of all street rights-of-way, at all corners of parcels dedicated to public use and at such other additional locations incident to topographic conditions and other factors as the Borough Engineer may find essential to the public interest. Due to the high potential for disturbance or destruction during construction, the installation of interior monuments may be deferred until the completion of final grading and seeding, subject to posting of acceptable performance guarantee.

308.4-5 In addition to tract, lot and street boundary lines above described, the final plat shall identify and provide precise metes and bounds for all necessary easements, sight triangles and other reservations for public or quasi-public use. The grantee of any such public or quasi-public dedication shall be identified on the plat.

308.4-6 The following circular curve data shall be provided for all curvilinear boundaries and street center lines: radius, central angle, tangent distance, chord distance, chord bearing and arc length. Distances shall be shown to the nearest one-hundredths (1/100) foot. Angles and bearings shall be shown to the nearest one (1) second of arc.

308.4-7 Block and lot numbers shall be shown on the final plat in accordance with established standards in conformity with the Borough Tax Assessment Map as approved by the Borough Engineer.

308.4-8 Title block in the lower right-hand portion of the sheet shall include:

- a. The name (and section, where applicable) of the plat.
- b. The current tax assessment block(s) and lot(s) numbers.
- c. The name of the municipality, county and state.
- d. Names and addresses of the owner, applicant and responsible surveyor.
- e. The date of preparation (and revisions, if any).
- f. The plat scale.
- g. Graphic scale.

308.4-9 Bearing datum North (map datum) and true North arrows shall be provided, including the angular difference between map North and true North.

308.4-10 A street names shall be shown, acceptable to the Approving Authority.

308.4-11 The plat shall contain the following endorsements:

- a. Certification by the responsible surveyor that the map was prepared under his/her supervision and is in compliance with state statutes and local ordinances, such certification to be signed, sealed and dated by the responsible surveyor.
- b. Certification by the owner(s) that the plat is in accordance with their free consent and express desires, including their consent to filing, such certification to be signed, dated and sealed by the owner(s) and witness(es). In the case of individual ownership, signature shall be certified by a notary; if a partnership, by all partners and certified by a notary; if a corporation, by an authorized principal of the corporation, certified by the corporate secretary and sealed with the corporate seal. The name and position of each signature party shall be legibly printed below each signature.
- c. Signature block with places to be signed and dated by the chairman and Secretary of the Approving Authority.
- d. Certification that all new streets and easements have been approved by the Borough Mayor and Council and that bonds have been given to the Borough guarantying the completion of improvements to same, such certification to be signed, dated and sealed by the Borough Clerk.
- e. Certification of compliance with "Map Filing Law," applicable local ordinances and regulations, signed and dated by the Borough Engineer.
- f. Certification of compliance with state statutes and approval to file in the County Clerk's office within ninety-five (95) days of approval, such certification to be signed, dated and sealed by the Borough Clerk.
- g. Certification that bond has been given to the Borough guarantying the future setting of a monuments (if any not previously set), such certification to be signed, dated and sealed by the Borough Clerk.
- h. Other appropriate note regarding the dedication of public or private roads, easements, recreation areas, etc., and reference to related deeds of conveyance, such notes to be signed, dated and sealed by the owner.
- i. Signature block for certification by the County Planning Board.
- j. Recording block for use by the County Clerk, with space to insert map number, date and time of filing.

308.4-12 Minimum building setback lines shall be shown for each lot. The names and block, lot and property lines of adjoining owners shall be shown, as disclosed by the current tax assessment records.

308.5 FINAL PLANS ACCOMPANYING FINAL PLAT.

308.5-1 Submission of the final plat shall be accompanied by final plans and other relevant supporting materials, including the following:

- a. Plans, profiles and cross sections, as appropriate, for all new streets, including all utilities and street improvements; public utility easements; site grading and drainage, including detail plans for stormwater detention facilities or stream encroachment as approved by the County Engineer and/or State

Department of Environmental Protection, Division of Water Resources; and sanitary sewerage plans as approved by the Borough Engineer.

b. Copies of all required permits or relevant agreements for proposed utility improvements related to drainage, sewerage, gas, water, electric, telephone or other facilities.

c. Copies of proposed deeds of conveyance for all new streets, sight triangles, easements, recreation parcels, school sites and/or other land restrictions.

d. Design calculations for sanitary sewerage and storm drainage facilities, signed, dated and sealed by the responsible project engineer.

308.5-2 Plans shall be standard size (twenty-four by thirty-six (24 x 36) inches or thirty by forty-two (30 x 42) inches) and shall be drawn to an appropriate scale necessary to clearly show the scope and detail of the proposed work sufficient for the Borough Engineer to make a quantitative engineering analysis and to assure proper construction in accordance with Borough standards. A standard size cover sheet shall be provided which shall include, as a minimum:

a. A key map, at a scale not greater than one (1) inch equals one thousand (1,000) feet of the property in question and all adjacent lots, streets and watercourses within two thousand (2,000) feet of the property boundaries.

b. A general location plan, at a scale not greater than one (1) inch equals two hundred (200) feet, of the property in question, showing proposed streets and utility systems.

c. Index for the complete set of plans.

309. PLAT DESIGN STANDARDS FOR SITE PLANS.

309.1 PLAT CONFORMITY.

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

309.2 Sketch Plan for Classification and Approval shall include the same data as required in Section 308.2 except that the graphic scale shall be 1" = 10', 20', 30', 40' or 50'. This submission shall also show the applicable data called for in the Building and use Plan, Circulation Plan, Natural Resources Plan, Facilities Plan, and Flood Hazard Area Considerations in Section 309.5 except that an Environmental Impact Statement may be waived or modified by the Approving Authority as may be the requirements for the amount of detail in the plans listed above. If the submission is classified as a minor site plan, final action may be taken on the sketch plat.

309.3 A Sketch Plat of a Major Site Plan shall show to scale the lot lines, proposed building(s) proposed use(s), parking, loading, on-site circulation, driveways, streams, approximate flood hazard area, wooded areas, contours based on U.S.G.S. or similar available datum, approximate on-site or on-tract, storm water detention facilities and water and sewer service. The scale shall be 1" = 10', 20', 30', 40' or 50'.

309.4 PRELIMINARY SITE PLAN PLAT.

309.4-1 Each site plan shall be submitted at a scale of 1" = 10', 20', 30', 40' and 50'. All plats shall be submitted on one of the following standard sheet sizes: 30" x 42", 24" x 36", 18" x 24", 15" x 21", 9" x 12", 12" x 18", or 8-1/2" x 13". If one sheet is not sufficient to contain the entire territory of the tract, the tract may be divided into sections to be shown on separate sheets of equal sizes, all sheets with the same scale, with references on each sheet to the adjoining sheets, provided that one sheet at a smaller scale is attached which shows the entire project on one sheet of the same size (see Section 107).

309.4-2 Each plan shall include the following data:

- a. Name of the development.

b. Appropriate places for the signatures of the Approving Authority Chairman and Secretary, the dates of the official Approving Authority actions and dates of the signatures.

c. A small key map giving the general location of the tract in relation to the remainder of the community.

d. Zone district(s) in which the lot(s) are located.

e. North Arrow.

f. Date of the original plan and each subsequent revision date.

g. Graphic scale.

h. Total tract acreage to one one-hundredth (1/100) of an acre.

i. An outbounds survey of the tract certified by a licensed land surveyor.

j. Existing and proposed streets and street names.

k. Existing and proposed streams and easements.

l. Flood hazard areas based on one-hundred-year-plus storms.

m. All dimensions and areas needed to confirm conformity to this ordinance, such as but not limited to building area, lot lines, parking and loading spaces, setbacks, buffers and yards.

n. The site in relation to all remaining contiguous lands in the applicants or owner's ownership.

o. All roads, driveways, watercourses and existing buildings within two hundred (200) feet of the tract.

309.5 SITE PLAN INFORMATION FOR PRELIMINARY AND FINAL APPROVAL.

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

309.5-1 Building and Use Plan.

This plan shall show the size, height, location, arrangement and use of all existing and proposed structures and signs, including proposed total building coverage in acres or square footage and percent of the lot coverage, with an architect's scaled elevations of the front, side and rear of any structure and sign to be erected or modified to the extent necessary to apprise the Approving Authority of the slope of the proposed work. Any existing structures on the site shall be identified as either to remain or to be removed. There shall be included a written description of the proposed use(s) and operation(s) of the building(s), including the number of employees or members of nonresidential buildings; the proposed number of nonresidential buildings; the proposed number of shifts to be worked and maximum employees of each shift; expected truck and tractor-trailer traffic; emission of noise, glare, vibration, heat, odor, air and water pollution; safety hazard; and anticipated expansion plans incorporated in the building design. Floor plans shall be submitted where more than one (1) use is proposed with different parking standards.

309.5-2 Circulation Plan.

This plan shall show access streets and street names, acceleration/deceleration lanes, access points to public streets, sight triangles, traffic channelization, easements, fire lane, driveways, aisles and lanes, curbs, curb cuts with ramps for handicapped persons, number and location of parking and loading spaces (including the designated wider spaces for the handicapped), loading berths or docks, pedestrian walks, provisions for handicapped as required by the "Barrier Free Regulations," and all related facilities for the movement and storage of goods, vehicles and persons on the site, and including lights, lighting standards, signs and driveways within the tract. Sidewalks shall be shown from each entrance/exit along expected paths of pedestrian driveways, other buildings on the site and across common yard areas between buildings. Plans shall be accompanied by cross sections of new streets, aisles, lanes, driveways and sidewalks. Any expansion plans for the proposed use shall show feasible parking and loading expansion plans to accompany building expansion.

309.5-3 Natural Resources Plan.

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

b. A separate written environmental impact statement shall be submitted, which shall comply with the requirements of the Environmental Impact Statement Article 5. Maps and data shall be submitted where required by Articles 5 and 6 of this Ordinance, or any provision of the zoning ordinance.

309.5-4 Facilities Plan.

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

309.6 FINAL SITE PLAN PLAT

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

310. PLANNING BOARD IN "USE VARIANCE" PROCEDURE.

Whenever an application or appeal is made for a variance to allow a structure or use in a district restricted against such structure or use, one copy of the application and supporting documents shall be forwarded by the Administrative Officer to the Planning Board, together with a notice of the hearing date. The Planning Board shall review the material and may make recommendations to the Board of Adjustment at the public hearing on the application. The Planning Board's recommendations may contain, among other things, the Planning Board's opinion as to the compatibility of the proposal to the master plan; application which may have been or are currently being processed by the Planning Board for similar uses elsewhere in the Borough, land use, traffic and

other data relevant to the application which the Planning Board has in its files; and what conditions, if any, the Planning Board would recommend be imposed on the applicant to improve compatibility with the master plan and zoning ordinance should the Board of Adjustment grant the variance. In view of the fact that such application for a use variance to the Board of Adjustment may vest jurisdiction in the Board of Adjustment to review site plan and/or subdivision in connection with the subject property, the Planning Board may also communicate to the Board of Adjustment the recommendations of the Planning Board relative to site plan and/or subdivision.

ARTICLE 4

SOIL EROSION AND SEDIMENTATION CONTROL

401. PURPOSE.

The purpose of this ordinance is to control soil erosion and sediment damages and related environmental damage by requiring adequate provisions for surface water retention and drainage and for the protection of exposed soil surfaces in order to promote the safety, public health, convenience and general welfare of the community.

402. DEFINITIONS.

a. For the purpose of this Ordinance certain rules or word usage apply to the text as follows:

1. Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.

2. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.

3. The word or term not interpreted or defined by this article shall be used with a meaning of common or standard utilization.

b. The following definitions shall apply in the interpretation and enforcement of this ordinance, unless otherwise specifically stated:

1. "Applicant." A person, partnership, corporation or public agency requesting permission to engage in land disturbance activity.

2. "Application for development" means a proposed subdivision of land, site plan, conditional use, zoning variance, planned unit development or building permit.

3. "Approved Plan" means a plan for soil erosion and sediment control that meets the standards promulgated by the State Soil Conservation Committee pursuant to Chapter 251, P.L. 1975 and has been found to be such by the local Approving Authority. When such plan is reviewed by the Somerset-Union Soil Conservation District, "approved plan" shall be a plan which receives the approval of the District or is deemed approved by the District by reason of the expiration of the time allotted by Section 7 of said Act without action by the District.

4. "Committee" means the State Soil Conservation Committee in the Department of Agriculture, established pursuant to R.S. 4:24-3.

5. "Critical Area." A sediment producing highly erodible soil or severely eroded area.

6. "District" means the Somerset-Union Soil Conservation District organized pursuant to R.S. 4:24-7 et seq.

7. "Disturbance" means any activity involving the clearing, excavating, storing, grading, filling or transportation of soil or any other activity which causes soil to be exposed to the danger of erosion.

8. "Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice and gravity.

9. "Excavation or Cut" means any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated.

10. "Farm Conservation Plan" means a plan which provides for use of land, within its capabilities and treatment, within practical limits, according to chosen use to prevent further deterioration of soil and water resources.

11. "Land" means any ground, soil or earth including marshes, swamps, drainageways and areas

not permanently covered by water within the municipality.

12. "Plan" means a scheme which indicates land treatment measures including a schedule of the timing for their installation, to minimize soil erosion and sedimentation.

13. "Project" means the disturbance of more than 5,000 square feet of the surface area of land for the accommodation of construction for which the Standard Building Code of the State of New Jersey would require a building permit, except that the construction of a single-family dwelling unit shall not be deemed "project" under this act unless such unit is part of a proposed subdivision, site plan, conditional use, zoning variance, planned development or building permit application involving two or more such single-family dwelling units.

14. "Sediment" means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site or origin by air, water or gravity as a product of erosion.

15. "Site" means any plot, parcel, or parcels of land.

16. "Soil" means all unconsolidated mineral and organic material of any origin.

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

18. "Stripping" means any activity which significantly disturbs vegetated or otherwise stabilized soil surface including clearing and grubbing operations.

403. PROCEDURE.

a. Regulation

No land area shall be disturbed by any person, partnership, corporation, municipal corporation or other public agency within this municipality unless: the applicant has submitted to the building inspector a plan to provide for soil erosion and sediment control for such land area in accordance with the Standards, and such plan has been approved; and a valid land disturbance permit has been issued, except as exempted by Section 406.

By way of amplification and not by way of limitation, certification and approval of a soil erosion and sediment control plan is required for the following application categories: subdivision, site plan, conditional use, zoning variance, planned development and construction permit.

b. Data Required

The applicant must submit a separate soil erosion and sediment control plan for each noncontiguous site. The applicant may consult with the District in the selection of appropriate erosion and sediment control measures and the development of the plan. Such plans shall contain:

1. Location and description of existing natural and man-made features on and surrounding the site including general topography and soil characteristics and a copy of the District soil survey (where available).
2. Location and description of proposed changes to the site.
3. Measures for soil erosion and sediment control which must meet or exceed the Standards, as herein defined.
4. A schedule of the sequence of installation of planned erosion and sediment control measures as related to the progress of the project including anticipated starting and completion dates.
5. All proposed revisions of data required shall be submitted for approval.
6. Where the scope of the proposal is such that the Borough Engineer or Planning Board finds that formal submission to the Somerset-Union Soil Conservation District shall be required, the applicant shall supply the information as shall be required by said District, which may include the following:

(a) Resource data:

- (1) Soil map with area outlined.
- (2) Existing vegetation

(3) Floodplain delineation maps, if available.

(4) On-site soil or geological investigation information available.

(5) Special natural features to be considered.

(6) Other resource or inventory data as required.

(b) Plans and drawings:

(a) Contour map of original ground, two feet interval preferred.

(b) Proposed layout with exact location referenced.

(1) Cultural features existing and proposed roads, buildings, drainage systems, sanitary systems, structural conservation practices, etc.

(2) Individual lot profiles if original ground exceeds 8% or an erosion grade, profiles to show proposed cuts and/or fills.

(3) Profiles or surface and/or subsurface drainage systems.

(4) Cross-sections of the following items:

(a) Structural conservation or erosion control practices such as but not limited to: diversions (including berm and channel), waterways (swales) ponds and/or debris basins, etc.

(b) Stream channel or drainage way improvements.

(c) Cuts and fill exceeding three feet in depth except for foundation excavations.

(5) Delineation of proposed disturbed and non-disturbed areas.

(6) Off-site conditions adjacent to or below proposed site. Where streams, lakes or ponds are located within 200 feet of proposed subdivision or site.

404. REVIEW AND APPROVAL.

1. Erosion and sediment control plans submitted with subdivision and site plan applications shall be reviewed by the Planning Board and approval as part of the application when in conformance with the Standards. The Board may seek the assistance of the District in the review of such plans and may deem as approved those plans which have been reviewed and determined adequate by the District. The Board may also refer to the Borough Engineer for his review and comments.

Such review and approval shall be made within a period of 30 days of submission of a complete application unless, by mutual agreement in writing between the municipality and the applicant, this period is extended for an additional 30 days. Failure of the municipality to make a decision within such period or such extension thereof shall constitute certification.

2. All other types of soil disturbance not exempted in Section 408 shall come under the review of the designated municipal officer in accordance with their memorandum of understanding with the District.

3. The Planning Board shall generally make decisions under this ordinance as a part of site plan review or subdivision approval. For other approvals, decisions will be made at a public meeting. Notification of the decision will be made to the applicant in writing and officially published within ten (10) days.

The applicant shall be provided with written notice of such decision by the Borough Engineer (or other authorized municipal agent). A copy of such decision including name of applicant, site location by street address and block and lot number and proposed land use shall be sent to the Somerset-Union Soil Conservation District. The municipality shall also make available such other information as may be required by the District.

405. PRINCIPLES AND REQUIREMENTS.

a. GENERAL DESIGN PRINCIPLES.

Control measures shall apply to all aspects of the proposed land disturbance and shall be in operation during all stages of the disturbance activity. The following principles shall apply to the soil erosion and sediment control plan.

1. Stripping of vegetation, grading or other soil disturbance shall be done in a manner which will minimize soil erosion.

2. Whenever feasible, natural vegetation shall be retained and protected.

3. The extent of the disturbed area and the duration of its exposure shall be kept within practical limits.

4. Either temporary seeding, mulching or other suitable stabilization measure shall be used to protect exposed critical areas during construction or other land disturbance.

5. Drainage provisions shall accommodate increased runoff, resulting from modified soil and surface conditions, during and after development or disturbance. Such provisions shall be in addition to all existing requirements.

6. Water runoff shall be minimized and retained on site whenever possible to facilitate ground water recharge.

7. Sediment shall be retained on site to the maximum extent feasible.

8. Diversions, sediment basins and similar required structures shall be installed prior to any on-site grading or disturbance.

b. MAINTENANCE.

All necessary erosion and sediment control measures installed under this Section shall be adequately maintained for one year after completion of the approved plan or until such measures are permanently stabilized as determined by the Borough Engineer.

See maintenance guarantee provisions in Article 10 of this Ordinance.

c. FEES.

The applicant shall pay the Borough Clerk a fee of \$50.00 at the time the application is submitted to cover the cost of providing reviews required by this ordinance, except that where the application is part of the processing of a subdivision or site plan review, no fee shall be required.

d. PENALTIES.

If any person violates any of the provisions of this Article, or the Act under which it is adopted, or any standard promulgated pursuant to the provisions of said Act, or fails to comply with the provisions of a certified plan, the municipality or District may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent such violation or violations and said court may proceed in a summary manner.

Any person who violates any of the provisions of this ordinance, or the Act under which it is adopted, or any standard promulgated pursuant to said Act, or who fails to comply with the provisions of a certified plan, shall be liable to a penalty of not less than \$25.00 nor more than \$3,000.00 to be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.). The Superior Court, County District and Municipal Court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional separate and distinct offense.

e. COMPLIANCE CONDITION PRECEDENT TO CERTIFICATE OF OCCUPANCY.

No certificate of occupancy for a project shall be issued unless there has been compliance with the provisions of a certified plan for permanent measures to control soil erosion and sedimentation. A formal report of such compliance must be filed with the municipal agent authorized to issue certificates of occupancy. A copy of this report shall be sent to the Somerset-Union Soil Conservation District.

f. STOP-CONSTRUCTION ORDER.

The District or the municipality may issue a stop-construction order if a project is not being executed in accordance with a certified plan.

406. EXEMPTIONS

The following activities are specifically exempt from this Article:

1. Land disturbance associated with single-family dwellings on an existing lot, where no construction requiring a building permit is required.

2. Use of land for gardening primarily for home consumption.

3. The disturbance of not more than 5,000 square feet of surface area of land for the accommodation of construction for which the Standard Building Code of the State of New Jersey would require a building permit, except that the construction of a single-family dwelling unit shall be "exempt" unless such unit is part of a proposed subdivision, site plan, conditional use, zoning variance, planned development, or building permit application involving two or more such single-family dwelling units (see definition of "project").

4. Agricultural use of lands when operated in accordance with a farm conservation plan approved by the Local soil conservation district or when it is determined by the local soil conservation district that such use will not cause excessive erosion and sedimentation.

407. INSPECTION AND ENFORCEMENT.

a. The Borough Engineer shall perform or require periodic inspection of the work to ascertain general compliance with the requirements of this Ordinance. The requirements of this Ordinance shall be enforced by the Borough Engineer who shall inspect or require adequate inspection of the work. If the Borough Engineer finds existing conditions not as stated in the applicant's erosion and sediment control plan he may refuse to approve further work and may require necessary erosion and sediment control measures to be promptly installed. The Borough Engineer and Borough Attorney may recommend that the approving authority seek other penalties as provided in Section 405 of this Article.

b. The applicant shall have the certified plan on site during all phases of construction.

ARTICLE 5

ENVIRONMENTAL IMPACT STATEMENT

501. INTENT AND PURPOSE.

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

502. DEFINITIONS.

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

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

c. Site: Any plot, parcel or tract of land.

d. Critical Area:

1. Any land within a flood hazard area (floodway or flood fringe area) as delineated by the Department of Environmental Protection, State of New Jersey, or

2. Any land which contains slopes exceeding twelve (12) percent grade, or

3. Any land where the water table or surface waters cause particular problems of development, or where development is likely to cause damage to the ground water system.

503. APPLICABILITY.

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

a. Applications for a building permit in a residential district for a single-family residence, where the building inspector has determined that no part of the property in question falls in a critical area as defined herein, provided that this exemption shall not apply wherever three or more dwelling units are proposed to be constructed under common ownership or control on contiguous lots or on lots within a major subdivision.

b. Applications for a single use, business or industrial, where the property is one acre or less and where no part of the property is in a critical area as defined herein.

c. Sign permits as required under the zoning ordinance.

504. DATA REQUIRED.

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

a. The location of the project and a description of the project specifying what is to be carried out, including:

1. reason for the project,
2. the detailed plans for proposals and any alternatives mapped and/or described,
3. parks, recreational sites, wildlife, refuges and historic sites mapped and described,
4. existing land use, zoning and master plan delineation of project mapped and described.

b. An inventory of existing environmental conditions at the project site and in the surrounding region (i.e., any area that might be affected by the proposal) which shall describe contours (at intervals not exceeding five feet), air quality, water quality, water supply, hydrology, geology, soils, topography, vegetation, wildlife, aquatic organisms, ecology, demography, land use, aesthetics and history.

c. A listing of all licenses, permits or other approvals as required by Municipal, County or State law and the status of each.

d. An assessment of the probable impact of the project, both adverse and beneficial, on the topics described in (b).

e. Any probable adverse environmental effects which cannot be avoided, including:

1. water quality,
2. air quality,
3. noise,
4. undesirable land use patterns,
5. damage and destruction of significant plant or wildlife systems or other resources,
6. aesthetic values,
7. displacement of people and business,
8. displacement of viable farms,
9. employment and property tax,
10. destruction of man-made resources,
11. disruption of desirable community and regional growth,
12. health, safety and well-being of the public,
13. traffic.

f. A thorough discussion of the steps to be taken, during and after construction, both at the project site and in the surrounding area, to minimize the adverse environmental effects as described in (e).

g. Alternatives to the proposed project, including:

1. that of no project,
2. description of alternatives with an objective evaluation of the alternatives that might avoid some or all of the adverse environmental effects with the rationale for acceptability or nonacceptability of each alternative,
3. an analysis of the costs and social impact of the alternatives.

h. Implications of the proposed action for population distribution or concentration should be estimated and an assessment made of the effect of any possible change in population patterns upon the

resource base, including land use, water and public service of the area impacted.

i. The relationship between local short-term uses of the environmental and the maintenance and enhancement of long-term productivity, assessing the project for each generation as a trustee of the environment for future generations.

j. A reference list of pertinent published information relating to the project, project site and surrounding area.

k. Particular data is required as to:

1. Sewerage disposal facilities. Applicant must show:

(a) Estimated sewage to be generated in gallons per day together with the provision for connection to the public sewer system.

(b) Compliance with State Department of Environmental Protection regulations, where applicable.

(c) Compliance with the rules and regulations of the treatment authority into which sewerage will flow.

2. Water Supply. Applicant must show:

(a) Compliance with State and local regulations.

(b) Location and depth of all private and public water supplies within five hundred (500) feet of the realty improvement.

(c) Location and adequacy of public water supplies to serve the proposed realty improvement.

3. Drainage: storm water control. Applicant must show:

(a) Estimated existing surface water runoff and volume.

(b) Compliance with State regulations.

(c) Compliance with local ordinances relating to drainage and surface water control.

(d) Submission of an erosion and sediment control plan reviewed by the Somerset-Union Soil Conservation District (see Article 4 of this ordinance).

4. Solid Waste Disposal. Applicant must submit a statement of the character and estimated tons per week of solid waste to be generated together with a plan for the disposal of solid wastes in compliance with State Sanitary Code.

5. Air Pollution. Applicant must show that the proposal will have no deleterious effects to the ambient air quality or that no visible smoke or deleterious chemical changes will be produced in the atmosphere by any heating, air conditioning, or incinerating devices or by processing of material.

6. Critical Impact Area. These areas include, but are not limited to: stream corridors, steams, wetlands, estuaries slopes greater than 12%, high acid and highly erodible soils, area of high water table and aquifer recharge and discharge areas. Applicant must show:

(a) A statement of impact on critical impact areas and of adverse effects which cannot be avoided.

(b) Environmental protective measures, procedures and schedules to minimize danger to critical impact areas.

505. REVIEWS AND INSPECTIONS.

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

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

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

The Borough Engineer and Borough Environmental Commission (and Borough Planner, where applicable)

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

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

506. CONDITIONS OF APPROVAL.

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

507. DENIAL OF ENVIRONMENTAL APPROVAL.

a. No subdivision or site plan review requiring an approved environmental impact statement and schedule shall be approved unless the environmental impact statement shall be first or simultaneously approved.

b. The Planning Board may approve or deny approval of the environmental impact statement after a public hearing afforded to the applicant. (Where the application also involves a major subdivision, the public hearing on the environmental impact may be held concurrent with the public hearing on the subdivision.) In such cases, the applicant shall give notice as required by law.

508. EXEMPTIONS.

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

- a. stability of the soil during and after the proposed alteration
- b. drainage patterns and effect on surface water runoff
- c. effects on springs
- d. potential effect on animals and significant plant species
- e. potential air and water pollution, especially any increase in siltation
- f. effect on any construction plans or other environmental changes on critical slope areas or sewage disposal systems
- g. problems related to rock removal
- h. amount of resulting non-agricultural displacement of soil
- i. potential noise pollution
- j. increase in amount of industrial waste
- k. increased problems of industrial or non-industrial waste disposal (subject to review of such problems by the Board of Health)
- l. circumstances or conditions that are peculiar to site or to the application under consideration, that are

not generally applicable to sites or applications in the same general locality, and that would result in imposition of an undue burden on the applicant if an environmental impact statement were required.

509. BOARD OF ADJUSTMENT AS APPROVING AUTHORITY.

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

ARTICLE 6

STORM WATER CONTROL

601. DECLARATION OF PURPOSE AND NEED.

It is hereby found that disastrous floods which have occurred over the past years have caused significant damage to public and private property, health, convenience, and general welfare of the community. It is further found that the significant increase in flood occurrences is partially due to an increase in storm water runoff. The increase in the quantity of storm water runoff is a result of the development of lands with impermeable surfaces in and around the community. It is therefore determined that the special public interest in the control of storm water justifies the regulation of property located within the community as provided in this Ordinance, which in the exercise of the police power of the municipality for the protection of persons and property and for the preservation of the public health, safety and general welfare.

602. DEFINITIONS.

602.1 DESIGN STORM. That amount and rate of precipitation used in formulating the standards hereunder. The design criteria assumes 7-1/2 inches of rainfall in 24 hours, or a maximum rate of 3 inches of rainfall in one hour. All facilities shall be designed to accommodate a 100 year storm frequency.

602.2 DEVELOPMENT. The change in use of any area which would result in a greater amount or velocity of storm water runoff than exists prior to the proposed change.

602.3 IMPERMEABLE SURFACE. Any surface area which absorbs less than 50% of runoff from rainfall.

602.4 PERCOLATION TEST. A test designed to determine the ability of the ground to absorb storm runoff. The details of the test, including certification or observation requirements shall be set by the Borough Engineer and shall be in accordance with engineering standards and practices, as prescribed by Chapter 199, P.L. 1954, as amended and supplemented.

603. PROCEDURE.

603.1 REGULATION. There shall be no land area developed by any person, partnership, corporation, municipal entity, or other public agency, which shall increase the quantity or velocity of storm water emanating from said development as a result of the construction of an impermeable surface or any other change which would increase storm water runoff, except in accordance with a permit issued therefore, as provided by this Ordinance.

603.2 APPLICABILITY. This Ordinance and the requirements and stipulations stated herein shall be applicable to any person, partnership, corporation, municipality entity, or any public agency which shall by any means whatsoever increase the quantity or velocity of storm water runoff emanating from the developed land area, except as exempted as follows:

a. The development of any area from the effective date hereof by the construction or installation of any impermeable surface less than 55 of the total land area in question, or 2,000 square feet, whichever is more restrictive.

b. The construction or reconstruction of any municipal or governmental improvement undertaken either entirely or in part for the purpose of the control of storm water.

603.3 APPLICATION FOR APPROVAL.

a. In cases where the development of land involves the construction of a building or other facility requiring a construction permit, the Construction Official shall determine whether the development involves the construction or installation of an impermeable surface equal to 5% or more of the total land area in question, or 2,000 square feet, as aforesaid (Sed. 603.2 (a)). If the extent of the work to be undertaken by the applicant is found to be exempt, the Construction Official may proceed with the next step toward the issuance of a construction permit. If the extent of the work to be undertaken is such that requires review and approval with regard to the provisions of this Article, the applicant shall proceed to submit an application and other data as outlined in Section 603.4 herein to the Borough Engineer, through the Construction Official. The Borough Engineer, through the Construction Official, upon completing his review of the application and data, shall either approve, tentatively disapprove, or disapprove the application. Upon approval, the Construction Official may proceed with the next step toward the issuance of a construction permit. If tentatively disapproved by the Borough Engineer, the application and data shall be returned to the applicant with appropriate comments and/or requirements to be incorporated into the data and resubmitted for approval.

b. In cases where the development does not require a construction permit, the applicant shall submit an application and other data as outlined in Section 603.4 herein, to the Borough Engineer, through the Construction Official. The Borough Engineer, through the Construction Official, upon completing his review of the application and data shall either approve, tentatively disapprove, or disapprove. Upon approval of the Borough Engineer, the Construction Official, if no site plan review or drainage permit is required, may issue the permit, or, if site plan review or drainage permit is required, shall indicate on the site plan application that the development conforms to the requirements of this Article. If tentatively disapproved by the Borough Engineer, the application and data shall be returned to the applicant with appropriate comments and/or requirements to be incorporated into the data and resubmitted for approval. If disapproved by the Borough Engineer, the applicant may seek relief by appeal to the Mayor and Council under Section 904(b).

c. Where such application involves a single property and does not involve any subdivision of lands, commercial or industrial development, or review or approval by any Somerset County agency, or the Division of Water Resources of the State of New Jersey, and where the property is not located within any "floodway" or "flood hazard area," as the same may now or hereafter be delineated by the State of New Jersey, or on the Flood Insurance Rating Map, or any ordinance of the Borough of Manville, then such report or recommendation of the Borough Engineer shall be made within 35 days after referral to him.

d. Any application not included within (c) above, shall be considered and reviewed by the Borough Engineer or other authority within a reasonable time commensurate with the degree of study required and the scope of the project. When in conjunction with a land subdivision or site plan review, subject to the jurisdiction of the Planning Board or Board of Adjustment, the report shall be made in the first instance to the Planning Board or Board of Adjustment in connection with other phases of such subdivision or site plan.

e. Whenever the aforesaid application is made concurrent with any other application to the Borough, or any of its officials, or the Planning Board or Board of Adjustment, or involves a permit for drainage work under Article 6 of this Ordinance, and such other application involves a site plan, drainage plan or similar detailed plan of the premises, the information required

under this Article may be incorporated in such site plan to the extent feasible in order to avoid duplication.

f. Whenever the application under this Article is made concurrent with any other application to the Borough, or any of its officials, or the Planning Board or Board of Adjustment, the application hereunder shall be considered by such other officials, or Planning Board and/or Board of Adjustment, as the case may be, concurrent with such other application, and the recommendation of such other officials, Planning Board and/or Board of Adjustment, with reference to the requirements of this Article shall be made part of the record and shall be referred to the Mayor and Council prior to the granting of any final approval under this Article.

g. In any case where the approval or recommendation of the Somerset County governing body or the Somerset County Planning Board, or any committee established to act for or on behalf of the County, is required, such approval or recommendation, as the case may be, shall be obtained prior to final action under this Article.

h. In any case where the approval or recommendation of the Department of Environmental Protection, or any division or agency thereof, is required, any final approval under this Article may be made before or after such Department of Environmental Protection approval, but if made before any such approval, approval hereunder shall be expressly conditional upon the securing of approval from the Department of Environmental Protection.

603.4 DATA REQUIRED. Any application submitted for approval must be accompanied by the following data, the payment of the appropriate fees, and be submitted at the proper time.

603.4-1 Any land development for which no site plan review is required (See Section 204.2 application to accompany request for zoning permit and construction permit.

a. Plot Plan showing dimensions of property, proposed buildings, driveways, patios, sidewalks, etc.

b. Percolation Test Report, if required.

c. A topographical plot plan showing final grades and provision for controlling the flow or surface waters approved by the Borough Engineer.

603.4-2 Any land development not covered in 603.4-1, above. Application to accompany site plan or preliminary subdivision application to the Approving Authority.

a. Same data as required for preliminary subdivision. See Section 306.

b. One (1) percolation test and soil log report for each two (2) acres of land when utilizing subsurface recharge system.

c. Design Calculations.

d. Detailed plans for retention - detention facilities.

e. All requirements of Soil Erosion and Sediment Control Article of this Ordinance.

See Section 107.

603.5 DESIGN STANDARDS.

The intent of this Article is to regulate and control storm water runoff as it is increased as a result of the development. The quantity of water to be retained or detained on-site shall be the net difference in discharge as calculated before and after construction. All facilities shall be designed with acceptable engineering practice and standards and are subject to the approval of the Borough Engineer. All facilities shall be designed to accommodate a volume of runoff produced by 7-1/2 inches of rainfall over a twenty-four (24) hour period, or 3 inches of rainfall over one (1) hour period, whichever results in a greater storage requirement. Adjustment for rainfall intensity shall be based on topography, degree of imperviousness and time of concentration. In planning the development, the following on-site storm water retention-detention facilities may be incorporated in the manner prescribed.

603.5-1 SUBSURFACE RECHARGE SYSTEMS.

In cases where the percolation rate of the soil is acceptable, a subsurface system consisting of leaching basins and/or disposal beds may be utilized. In designing the structure, the quantity of water percolation into the ground may be subtracted from the total design discharge to obtain the storage volume required. Provisions shall be made to surface drain the overflow of these structures as required by the Borough Engineer. All types of land development utilizing a subsurface recharge system will require a percolation test and soil log report and engineering design.

603.5-2 DETENTION BASINS.

Detention basins shall be constructed in a manner which will not present a safety or health hazard. Each basin shall contain a water depth and storage volume capable of collecting the runoff of the design storm. The outlet shall be such that the maximum discharge does not exceed the calculated discharge of storm water computed before development.

603.5-3 ROOF TOP STORAGE.

Detention of storm water on roof surfaces by means of essentially flat, slightly pitches roofs to the edges may be constructed. Facilities for the control of the runoff from the roof shall be provided in the form of vertical leaders discharging to any of the facilities mentioned above, or directly to an approved drainage system. In any case involving roof top storage, the increase weight of the water on the roof shall be taken into consideration in the structural design of the building.

603.5-4 Detention facilities shall be designed in conformance with the "Standards for Soil Erosion and Sediment Control in New Jersey," except as modified by the Borough Engineer. Combination detention basins, recharge systems, and roof top storage may be combined and used as one facility subject to the approval of the Borough Engineer.

603.5-5 Due consideration shall be given to the relationship of the subject site to the natural or established drainage pattern.

603.5-6 Surface water runoff shall not be transferred from one drainage watershed to another. A drainage map, noting drainage breaklines and site drainage outlets, for existing and proposed conditions, shall be submitted.

603.5-7 The volume and rate of runoff from the site shall be controlled so that the peak runoff from the site will not exceed that which prevailed before development. Computations for the 2, 10 and 100 year storms shall be submitted identifying each site drainage outlet with the before and after peak runoff.

604. MAINTENANCE AND INSTALLATION.

The owner of any installation or system installed under this Article to control or regulate storm water runoff shall properly maintain such installation or system to insure its correct functioning.

605. EFFECT OF BOROUGH ENGINEER OR OTHER APPROVAL.

The approval by the Borough Engineer, Construction Official, or any other Borough official of proposed final grades or surface water flow, as set forth in Section 603 hereof, shall not be construed as a guarantee that there will be no drainage problems or that surface waters will not be improperly diverted, nor shall such approval in any way restrict the powers or responsibilities of the Borough in the enforcement of any law or ordinance relating thereto.

606. MEMORIALIZATION OF RECORD.

In any case deemed necessary by the Borough Engineer, and not otherwise provided for as, for example, in connection with the filing of a subdivision plat, the existence of drainage features or retention detention facilities shall be memorialized in the office of

the Somerset County Clerk, by deed or reference in a conveyance, so as to provide notice to future owners.

ARTICLE 7

DESIGN AND PERFORMANCE STANDARDS

701. GENERAL

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

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

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

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

702. REQUIRED IMPROVEMENTS

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

702.1 ROADS.

a. Excavation and Embankment.

1. Description. Excavation and embankment shall consist of grading the full width of the right-of-way in conformity with the specifications, accurately to approved line and grade. Grading shall include clearing and grubbing, removal of obstructions, excavating, forming embankments, shaping and sloping, compacting, and all other work that may be necessary to bring the roadway and its side slopes to the required grade, alignment and cross sections. Grading of all intersections (roadway, driveways and approaches) and adjacent property to the limit of the slope lines is included in this section.

2. Clearing and Grubbing. The developer shall remove and dispose of all trees, stumps, roots, brush, weeds, etc., and fill the holes with suitable material and thoroughly compact the same. Disposal by burning shall be permitted only with the express permission of the Fire Chief. Culverts shall be cleaned and cleared of obstructions. All branches of trees which hang within sixteen (16) feet of the surface of the roadway shall be removed.

3. Roadway Excavation. Roadway excavation shall include the removal and satisfactory disposal of all materials taken from within the limits of the work that are necessary for the construction and preparation of the roadbed, embankment, subgrade, shoulders, slopes, side ditches, drainage structures, trenches, waterways, intersections, approaches and private entrances, as indicated or directed. All suitable materials removed from the excavations shall be used as far as practicable in the formation of the embankment, subgrade and shoulders, and at such other places as directed. Ditches and waterways shall be excavated to the depth and width shown on plans, or as may be indicated or directed by the Borough Engineer. During the construction of the roadway the roadbed shall be maintained in such condition that it will be well drained at all times.

4. Embankments. Embankments shall be formed of suitable material placed in successive layers of not more than twelve (12) inches in depth for the full width of the cross section commencing on a subgrade approved by the Borough Engineer, and shall be compacted by approved mechanical equipment and by distributing the necessary hauling uniformly over each succeeding layer. Stumps, trees, rubbish and/or unsuitable material or substance shall not be placed in the embankment, nor shall the embankment be commenced on soft or organic-laden soil.

5. Borrow Excavation. When embankment from "off-site" is required, sufficient suitable material shall be obtained by the developer from borrow pits located beyond the limits of the work. This material, known as "Borrow," shall be of a quality satisfactory for the purpose for which it is required, and it shall be approved by the Borough Engineer. Borrow will include the furnishing, removal, placing and satisfactory compaction of the additional material necessary to complete the embankments, subgrade and shoulders.

6. Formation of Subgrade. The bottom of the excavation of the box to receive the pavement surface shall be true to line, grade and cross-section established or indicated on approved drawings. After all drains and drainage structures have been installed and the subgrade has been shaped and compacted, it shall be brought to a firm unyielding surface by rolling the entire area with an approved three wheel power roller weighing not less than ten tons. Any areas which are soft and yielding or which will not compact readily when rolled or tamped shall be removed. All loose rock or boulders found in the earth excavation shall be removed or broken off to a depth of not less than six (6) inches below the surface of the subgrade. All holes or depressions made by the removal of material shall be filled with suitable material and the whole surface compacted uniformly.

If the surface of a present roadway conforms approximately to the surface of the finished subgrade, it shall be scarified or rooted to a uniform depth for the full width of the paved surface sufficient to eliminate all depressions and irregularities and to permit uniform reshaping. When necessary, additional approved material shall be added to bring the subgrade to the desired elevation and cross section, and the whole shall be rolled as previously specified, until thoroughly compacted. Sod roots and other objectional material shall not be used in forming the subgrade.

7. Protection of Subgrade. All ditches and drains shall be completed before placing any pavement construction material. The developer shall protect the subgrade and keep it drained at all times. Neither foundation nor surfacing material shall be deposited on the subgrade until the subgrade has been checked and approved by the Borough Engineer.

8. Slopes. Slopes in embankment and excavation shall be formed with a slope not steeper

than one (1) unit vertically to two (2) units horizontally, unless otherwise directed by the Borough Engineer.

9. Miscellaneous Structures. The developer shall install underdrains, storm water drains, manholes, inlets, catch basins, gutters, curb and headers, rubble walls, headwalls and culverts, monuments, guard fence, pipe railing, street signs and sidewalks or any other miscellaneous structures required on the approved drawings. The work shall be done in accordance with the current specifications of the New Jersey State Department of Transportation (highways).

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

Curbing shall be installed on all streets and intersections.

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

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

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

c. Street Pavement

1. Foundation Course. The foundation course shall be a minimum compacted thickness of four (4) inches and shall be constructed of 4" Type 5 Class A road stone or 4" of dense graded aggregate, as may be approved by the Borough Engineer. The width of pavement shall be thirty (30) feet or wider as required by the Approving Authority. The method of construction will be in accordance with then current New Jersey State Department of Transportation Specifications.

2. Prime Coat; Base Course; Top Course. There shall be a minimum for (4") bituminous stabilized base course and a two (2") inch FAB-1 top course. The base course shall be cleaned and tack coated prior to placement of the top course, and the top course shall not be placed until the Borough Engineer has approved the base course and has approved the placement of the top course.

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

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

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

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

702.4 STORM SEWERS; DRAINAGE.

a. Storm sewers shall be designed in accordance with accepted engineering practices and be subject to the approval of the Borough Engineer.

b. Pipes shall be considered "flowing full" at maximum capacity.

c. The minimum design velocities at the flowing full condition shall be a minimum of 3 fps and a maximum of 15 fps. Drainage inlets are to have a concrete invert with pipes cut flush with walls. Inlets shall be self-cleaning under low flow conditions.

d. All transitions in slope, horizontal direction, and change in pipe size shall be confined to manholes, catch basins or similar accessible structures.

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

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

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

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

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

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

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

702.10 SHADE TREES. Shade tree shall be planted on each side of every street at intervals of approximately 50 feet and shall be size 1-3/4" to 2" and of the following types: European or Silver Linden; London or Oriental Plane; Norway or Sugar Maple; Red, Pin, Black, Chestnut or Scarlet Oak.

702.11 WATER. The proposed system of water supply shall be shown.

703. OFF-SITE AND OFF-TRACT IMPROVEMENTS.

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

703.1 ESSENTIAL OFF-SITE IMPROVEMENTS.

a. In cases in which a development has no direct access to a public street, improved and meeting the standards of 40:55D-34 and 40:55D-35, or in which it has no direct access to a public sanitary sewer, the Approving Authority may nevertheless grant final plat approval, if otherwise meeting the requirements of this Ordinance, if the developer shall acquire, improve and dedicate to the Borough such street or sanitary sewer

connection between the development and an existing improved public street or sanitary sewer, as the case may be, as shall be approved by the Approving Authority and the Mayor and Council. Such off-site and off-tract connections shall be subject to the provisions of this Article as if they were required improvements for the development. The dedication thereof shall be subject to approval of the Borough Attorney as to form. The provisions of this section shall be applicable only upon the request and with the consent of the developer.

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

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

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

a. At such time during the processing of the development application as the desirability of such off-site and off-tract improvements shall become apparent to the Approving Authority, but in no event beyond the time for the action on the preliminary plat, the Approving Authority shall refer the matter of off-site and off-tract improvements to the Mayor and Council, with

recommendations to the Mayor and Council with regard thereto.

b. If the Mayor and Council agree that the matter should be considered, then the Borough Engineer or other authority retained by the Mayor and Council for such purpose shall determine the nature of the off-site and off-tract improvements required or likely to be required in the area, including:

1. The needs created by the developer's proposed on-site construction or work.

2. The then existing needs in the area, notwithstanding any work of the developer.

3. The reasonably anticipated improvements or foreseeable work on other lands in the area.

c. Said Engineer or other authority shall determine the total estimated costs of such estimated work, including all costs which would be included in any local improvements ordinance which said Borough would be authorized to adopt for said project, and including construction costs, engineering costs, costs of any easement or right-of-way acquisition, legal and advertising costs, contingencies and bonding and assessment costs, and costs of temporary financing.

d. Said Engineer or other authority shall further determine, from the nature of the area and the nature of the work and estimated costs, the anticipated amount that the lands of the developer would be expected to be assessed under local improvement procedures pursuant to N.J.S.A. 40:56-21 et seq., as the same may be amended and supplemented from time to time.

e. The Engineer or other authority shall report to the Mayor and Council the scope of the recommended project, the estimated total costs, as computed under (c) above, and the estimated share of the developer, as computed under (d) above.

f. Based upon the report of the Engineer or other authority as aforesaid, and the recommendation of the Approving Authority, the Mayor and Council shall determine whether to undertake such off-site and off-tract improvements or portions thereof as a local improvement, the cost of which will be specially assessed against properties specially benefited thereby in proportion to and not in excess of the benefits received pursuant to Chapter 56, Title 40 of the Revised Statutes of New Jersey.

g. If the determination of the Mayor and Council shall be that it will not adopt such ordinance for the making of such improvements as a local improvement, the final development layout shall be designed accordingly, and the Approving Authority shall base its further proceedings upon such determination.

h. If the determination of the Mayor and Council shall be to proceed to adopt such local improvement ordinance, it shall proceed in the following manner:

1. If sufficient Borough funds are available to the initial appropriation required for said ordinance, the Mayor and Council may proceed to appropriate such funds and adopt such ordinance, an all subsequent proceedings for the making and for the assessment of the costs of the off-site and off-tract improvements shall be in accordance with such ordinance and the aforesaid statutes of New Jersey, and the final development layout shall be compatible with the off-site and off-tract improvements and the Approving Authority shall proceed accordingly.

2. If sufficient Borough funds are not available for the initial appropriation required for said ordinance, the Mayor and Council may determine the anticipated amount that the lands of the developer would be expected to be assessed, accepting the recommendation of the Borough Engineer, or other authority under (d), above, or making its own determination as to such estimated amount.

(a) The amount so determined by the Mayor and Council shall then be deposited by the developer with the Borough Treasurer prior to final approval of the development and prior to introduction of such local improvement ordinance.

(b) Such deposit shall be made concurrent with an agreement between the developer and the Borough concerning the uses of same, which shall include the following stipulations; that said funds shall be used by the Borough solely for the construction of such off-site and off-tract improvements as specified in said agreement and for the other

expenses incidental thereto, as more particularly set forth in Subsection (c) above, and the acquisition of any easements or rights-of-way in connection therewith; that such deposit may be appropriated by the Borough, with other funds of the Borough, toward the accomplishment of such purposes, and in that connection may be co-mingled with such other funds so appropriated and may be extended by the Borough in connection with such purposes; that if such deposit is not used by the Borough within a specified time agreed upon by the developer, said funds shall be returned to the developer; that upon completion of the work by the Borough or its contractors, the properties specially benefited by such improvement shall be assessed as provided by law, including the property of developer; that such deposit of developer shall be credited against the assessment made upon developer's property (whether or not developer is then the owner thereof), and that if such deposit shall have been less than the amount ultimately assessed and confirmed against such property, then the owner or owners of said property shall pay the difference between the deposit and such assessment, or if the deposit shall exceed the amount so assessed and confirmed, the excess shall be refunded to the developer, without interest.

3. In any case where, although the off-site and off-tract improvements may not be found to be the type of essential off-site and off-tract improvements as defined in Subsection 703.1 (a) or (b) hereof, said off-site and off-tract improvements are found by the Approving Authority to be advisable and important to the sound development of the site, and the Mayor and Council has concurred in said findings and has determined to proceed in accordance with Subsection 703.2 (h) hereof, particularly 703.2 (h), (2) (a) and (b) above, but the developer is unwilling to make such deposit as specified thereunder, then and in that event there shall be no final approval of said development until funds become available for the initial appropriation required to adopt the local improvement ordinance. The determination of priority of Borough funds and availability thereof for such appropriation is a legislative function of the Mayor and Council.

4. The determination of the availability of Borough funds for appropriation to a local improvement ordinance shall be in the sole discretion of the Mayor and Council.

i. The determination of the Mayor and Council as to whether to proceed toward the adoption of a local improvement ordinance under Subsection 703.2 (g) or 703.2 (h), above shall be made as soon as practicable after referral by the Approving Authority, but in any case the Mayor and Council shall make such determination within forty (40) days after the referral and recommendation of the Approving Authority, unless such time shall be extended by the consent of the developer. If no such determination shall be made within such forty (40) day period of within such time as extended, the Approving Authority may proceed as if the Mayor and Council had determined that it would not adopt such local improvement ordinance.

704 EASEMENTS

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

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

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

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

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

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

705. LOTS IN ALL SUBDIVISIONS

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

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

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

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

706. LIGHTING

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

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

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

706.3 Lighting visible to adjoining residential properties shall be appropriately shielded.

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

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

707. LOCATION SURVEY

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

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

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

708. COMPLIANCE WITH OTHER ORDINANCES.

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

ARTICLE 8

GUARANTEES AND INSPECTIONS

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

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

803. The Applicant shall submit an engineer's itemized cost estimate for review and consideration by the Borough Engineer. The Borough Engineer shall review same and shall prepare a performance guarantee estimate and submit same to the Approving Authority as part of his report on final plat review, completely detailing the scope of work and cost required for the construction of necessary public improvements. Said guarantee shall cover maintenance of these improvements until final acceptance by the Mayor and Council.

804. The developer and surety shall guarantee the developer's undertaking and shall secure completion of the improvements within the time specified, but not exceeding two (2) years. The proposed performance guarantee accompanying the final plat shall be submitted to the Approving Authority by the developer. The Approving Authority shall review the proposed performance guarantee and submit it to the Borough Engineer and Borough Attorney for recommendation as to accuracy and form and then to the Mayor and Council for approval and acceptance by resolution. A final plat application shall not be accepted until the performance guarantee has been accepted and approved by the Mayor and Council.

804.1 The performance guarantee shall consist of the performance guarantee estimate and a performance bond, in which the developer shall be principal and acceptable surety company licensed to do business in the State of New Jersey shall be surety, and/or cash or certified check, which shall be deposited with the Borough by payment to the Borough Treasurer. The Borough Treasurer shall issue a receipt for such deposits and shall cause the same to be deposited in a bank approved by the Mayor and Council, in the name of the Borough alone, to be retained as security for completion of all requirements and to be returned to the developer upon completion of all required work, or, in the event of default on the part of the developer, to be used by the Borough to pay the costs of completing the requirements. If the required improvements have not been installed or constructed in accordance with the standards of the Borough or within the stipulated time, but no longer than two (2) years, the obligor and surety for any bond shall be liable thereon to the Borough for the reasonable costs of the improvements or of the uncompleted portions thereof, and upon authorization by the Mayor and Council, the Borough Attorney shall take the necessary steps to obtain such costs from the obligor and surety.

804.2 The total performance guarantee shall equal one hundred twenty percent (120%) of the performance guarantee cost estimate plus an amount equal to fifteen percent (15%) of the cost of any facilities installed prior to final submission as a maintenance guarantee. Ninety percent (90%) of this total shall be in either cash, certified check or surety bond of a bonding company approved by the governing body. The remaining ten percent (10%) shall be in cash and shall be paid in like manner and under the same conditions as the security aforesaid. In the event of default, the ten percent (10%) cash fund herein mentioned shall be first applied to the completion of the requirements and the cash, certified check, or surety bond shall thereafter be resorted to, if necessary, for the completion of the requirements. The cash or surety bond may recite the foregoing provision. The Borough Engineer's certification that the principal has satisfactorily installed or has defaulted in meeting the required standards of construction shall be the basis for governing body action which accepts or rejects the improvements, withholds approval, or may extend the time allowed for installation of the improvements.

804.3 The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the Mayor and Council by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased, or reduced, as the case may be, to an amount not to exceed 120% of the cost

of the installation as determined as of the time of the passage of the resolution.

805. The Borough Clerk shall notify Approving Authority and the Borough Engineer prior to the Approving Authority's next regular meeting that the performance guarantee has been approved and accepted by the Mayor and Council.

806. PRE-CONSTRUCTION CONFERENCE AND INSPECTION FEES.

806.1 Prior to beginning construction, the developer shall arrange for a pre-construction conference between the developer, contractor, and Borough Engineer. All improvements and utility installations shall be inspected during the time of their installation under the supervision of the Borough Engineer to insure satisfactory completion. The Borough Engineer shall be notified by the developer three (3) working days in advance of the start of construction. The cost of said inspection shall be the responsibility of the developer and he shall deposit with the Borough Treasurer cash equal to five percent (5%) of the amount of the performance guarantee prior to beginning construction, but in any event not less than \$250.00. This deposit shall be in addition to the amount for the performance guarantees required and all application fees as outlined above.

If the inspection costs shall exceed the deposit, the developer shall deposit with the Borough Treasurer additional sums upon notice from the Borough Engineer. Any unspent funds shall be returned to the developer at the end of the maintenance period.

Where the development is one designed to take place over a period of years, and it would be an undue hardship to require the developer to post the entire inspection fees at the beginning of the project, the Approving Authority, with the concurrence of the governing body, may authorize the initial deposit to be less than 5% of the total amount of the performance guarantee, with a schedule for replenishment of the fund upon notice from the Borough Engineer.

The inspection fee deposit provided for herein shall be deposited by the Borough Treasurer in an account for such purposes, under the sole control of the Borough, and the Borough shall be reimbursed for inspection expenses in accordance with accounting procedures established by the governing body. Said inspection deposits may be co-mingled with like deposits from other developers, but account book shall be kept so as to identify the particular deposits and charges made against the same.

All inspection costs shall be determined in accordance with prevailing hourly rates on file with the Borough Engineer, including overhead for employees and including overhead and profit for consultants employed as agents of or furnishing testing services and reporting to the Borough Engineer. Inspection work before 8:00 a.m. or after 4:30 p.m. or on weekends or holidays will incur overtime costs.

806.2 Improvement costs, as estimated in this Section, shall be defined to include construction and installation costs of grading, pavement, surveyor's monuments, drainage structures, storm sewers, sanitary sewers and other means of sewage disposal, water mains, fire protection features, streets, gutters, curbs, culverts, sidewalks, street lighting, shade trees, parking areas, landscaping, street signs, erosion and sedimentation control devices, public improvements of open space, and other on-tract improvements.

807. PERFORMANCE OF WORK.

807.1 In no case shall any work be done without permission from the Borough Engineer prior to any such construction so that a representative of the Borough Engineer's office may be present at the time the work is to be done. Prior to the installation of improvements, cut sheets identifying field control points shall be submitted to the Borough Engineer. At

least one (1) up-to-date, complete, "approved for construction" set of plans is to be maintained at the site of the work, available for inspection by contractors, subcontractors, materials men and the Borough inspector during normal working hours.

807.2 Construction procedures, safety equipment and site conditions shall provide for the safety of all personnel, are the continuing responsibility of the owner and shall fully comply with the provisions of the Federal Occupational Safety and Health Act (OSHA) and the State Safety Code, particularly as they relate to excavations, sheeting, shoring, pumping and baling.

807.3 All materials shall be new, free of defects, protected and stored in a safe manner prior to incorporation in the work. The exterior of all structural elements, including pipe materials, shall be clearly marked with the name of the manufacturer of trademark, strength class and standard, date and location of manufacture.

807.4 No underground facilities or materials shall be installed until the trench or general excavation subgrade and materials have been inspected and approved by the Borough Engineer or his duly authorized representative. Defective or damaged materials shall be removed from the site and replaced at the owner's expense. Unacceptable subgrade conditions shall be corrected at the owner's direction, to the approval of the Borough Engineer. Installation procedures shall conform to manufacturer's recommendations and/or trade standards for first-class construction. No underground installation shall be back-filled prior to inspection of the completed work and remedy of any apparent defects in materials or workmanship, except as provided in Subsection 808, below.

807.5 Backfill procedures shall be acceptable to the Borough Engineer incident to protection of the installed work, in addition to the owner's responsibility for safe and proper procedures. Backfill for all excavations within public road rights-of-way shall comply with standards promulgated by the Borough Engineer and adopted by the Mayor and Council. Backfill material shall be select excavated material of low plasticity or suitable off-site or off-tract select material, properly placed and tamped to eliminate unacceptable settlement of following or future surface improvements or adjacent underground improvements.

807.6 The Borough Engineer shall be notified in writing with a copy to the Approving Authority and Building Inspector, not less than one (1) month in advance of the start-up of a new project and not less than two (2) weeks in advance of a general shutdown (winter or end of work) or general restart (spring) of construction on an active project.

808. CONSTRUCTION PERMITS.

Construction permits in a development or in an approved subdivision, except for model buildings in the first section of the development or subdivision, will be issued only when the installation of curbs, utilities in or under the street carway, functioning water supply and waste water disposal facilities, necessary underground and/or surface storm facilities to insure proper drainage of the lots and surrounding land, rough grading of lots according to the standard of the approved soil erosion and sediment control plan for the buffer plantings and berms, street subbase and base courses and such other improvements as are specifically required by the Planning Board are installed to serve all lots and structures within the development or within the section thereof to which final subdivision approval has been granted, prior to the issuance of building permits. The owner shall request and the building inspector shall receive favorable reports from all involved utilities and inspection officials certifying the conditional acceptance for use subject to minor punch list repairs, and final acceptance by the governing body of necessary installed improvements, where appropriate. Permits for model buildings in the first section granted final approval may be issued on

commencement of construction of improvements. The number of permits for such model buildings in the tract shall not exceed six (6) or ten (10) percent of the total number of buildings to be erected upon residential building lots which have been granted preliminary subdivision approval in this subdivision or development, whichever number is less.

As a minimum, these certifications must be received from all involved utility companies, the plumbing inspector, the involved sewerage agency, and the Borough Engineer. Completion of all improvements within the development or approved subsection, including installation of any remaining utilities in or under the sidewalk, installation of sidewalks, surface course paving, final site grading and seeding and plantings, subject only to minor punch list repairs or replacements and final acceptance by the governing body, will be required prior to the issuance of the last 30% of occupancy permits in the development or approved subsection thereof and prior to issuance of building permits in any subsequent subsection of the development, or, in lieu thereof, the owner shall post a cash bond in an amount equal to the cost of said remaining improvements, as determined by the Borough Engineer, said costs to include allowances for contingency and engineering fees and the cost of a maintenance bond, all in accordance with the terms and conditions of the "Borough of Manville Standard Form of Escrow Agreement on Certificates of Occupancy," a copy of which is filed with the Borough Clerk and incorporated herein by reference.

809. Public streetlighting as necessary shall be installed and operational prior to the issuance of any occupancy certificates. Additional public streetlighting as necessary shall be installed and operational prior to the issuance of additional occupancy certificates. The developer shall, in coordination with the electric utility company, Police Department and Mayor and Council, arrange for timely installation and activation of necessary facilities and shall pay all installation, operation and maintenance costs up to the date of final acceptance of the improvements.

810. Fire hydrants as necessary within public road rights-of-way shall be installed and operational prior to the issuance of any certificate of occupancy. The developer, in coordination with the water utility company, Fire Company, Borough Engineer and Mayor and Council, shall arrange for the timely installation and activation of necessary facilities and shall pay all installation, operation and maintenance costs up to the date of final acceptance of the improvements.

811. Inspection by the Borough of the installation of improvements and utilities by the developer shall not subject the Borough to liability for claims, suits or liability of any kind that may arise, because of defects or negligence, it being recognized that the responsibility to provide proper utilities and improvements and to maintain safe conditions at all times on all parts of the tract, whether construction is waiting to start, is in process or is completed, or any combination of conditions on all or a part of the tract, is upon the developer and his contractors or subcontractors, if any.

812. After completing the construction of the public improvements covered by the performance guarantee, the developer shall prepare one (1) set of public improvements and utility plans and the profiles, updated to show "as built" conditions drawn with waterproof black ink on translucent linen, and apply to the Borough Engineer for final inspection of the work. (See Section 814.)

813. The amount of the performance guarantee may be reduced by the Mayor and Council by resolution when portions of the required improvements have been installed and have been inspected and approved by the Borough Engineer, provided, however, that no such reduction shall be approved until the Borough Engineer shall have certified the estimated cost of completing any remaining required improvements, and

provided further that no reduction shall be approved that will result in the performance guarantee or any portion of the performance guarantee being reduced to less than fifteen percent (15%) of the original cost of any improvement(s) until all improvements have been completely installed, approved and accepted by the Mayor and Council and a maintenance guarantee secured as outlined below. Reductions shall be made in the amount of outstanding bonds prior to any reduction of the cash deposit. If any improvements have not been installed in accordance with the performance guarantee, the obligor and surety shall be liable thereon to the Borough for the reasonable cost of completing the improvement(s).

814. Upon substantial completion of all required appurtenant utility improvements, and the connection of same to the public system, the obligor may notify the Mayor and Council in writing, by certified mail addressed in care of the Borough Clerk of the completion or substantial completion of improvements and shall send a copy thereof to the Borough Engineer. Thereupon the Borough Engineer shall inspect all improvements of which such notice has been given and shall file a detailed report, in writing, with the Mayor and Council, indicating either approval, partial approval or rejection of such improvements with a statement of reasons for any rejection. The cost of the improvements as approved or rejected shall be set forth.

The Mayor and Council shall either approve, partially approve or reject the improvements, on the basis of the report of the Borough Engineer and shall notify the obligor in writing, by certified mail, of the contents of said report and the action of the Mayor and Council with relation thereto, not later than 65 days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from all liability pursuant to its performance guarantee, except for that portion adequately sufficient to secure part of the improvements not yet approved; provided that 30% of the amount of the performance guarantee posted may be retained to insure completion of all improvements. Failure of the Mayor and Council to send or provide such notification to the obligor within 65 days shall be deemed to constitute approval of the improvements and the obligor and surety, if any, shall be released from all liability pursuant to such performance guarantee for such improvements.

The obligor shall reimburse the Borough for all reasonable inspection fees paid to the Borough Engineer for the foregoing inspection of improvements.

In the event that final approval is by stages or sections of development pursuant to subsection a. of Section 29 of the Municipal Land Use Law (40:55D-38), the provisions of this section shall be applied by stage or section.

815. If any portion of the required improvements are rejected, the Approving Authority may require the obligor to complete such improvements and, upon completion, the same procedure of notification, as set forth in this section shall be followed.

816. SUSPENSION OF WORK.

Failure of the developer, his contractor, subcontractors or agents to conform to the specifications for installing and/or maintaining improvements as approved by the Approving Authority, or to proceed in a safe manner, rendering conditions hazardous to the workmen, materials, equipment, installation or the public, will be just cause for the suspension of work being performed, and no person, firm or corporation shall have the right to demand or claim damages from the Borough of Manville, its officers, agents or servants by reason of such suspension by the Borough Engineer. Directives for suspension of all or part of the work, as appropriate, shall be in writing delivered by the Borough Engineer, with a copy to the Borough Clerk, Building Inspector, Chairman of the Approving Authority and Mayor within

twenty-four (24) hours. If required, the police powers of the Borough may be used to enforce such suspension of work. Work shall not resume until the cause or causes of such suspension are eliminated to the satisfaction of the Borough Engineer.

817. CONDITIONS AND ACCEPTANCE OF IMPROVEMENTS.

The approval of any plat under this chapter by the Approving Authority shall in no way be construed as acceptance of any street, drainage system or other improvement required by this chapter, nor shall such plat approval obligate the Borough in any way to maintain or exercise jurisdiction over such street, drainage system or other improvement. Acceptance of any street, drainage system or other improvement shall be implemented only by favorable action by the Mayor and Council. No improvement shall be accepted by the Mayor and Council unless and until all of the following conditions have been met:

817.1 The Borough Engineer shall have certified in writing to the Approving Authority and Mayor and Council that all the improvements are complete and that they comply fully with the requirements of this chapter and of other applicable local ordinances.

817.2 MAINTENANCE GUARANTEE.

a. The developer shall have filed with the Mayor and Council and the Mayor and Council shall have accepted and approved a maintenance guarantee of not more than fifteen percent (15%) of the original estimates of the cost of installing the improvements, which guarantee shall run for a period of two (2) years. The final amount of the maintenance guarantee shall be based on the recommendation(s) of the Borough Engineer, who shall consider, among other things, the length of time the improvement has been installed prior to the filing of the maintenance guarantee.

b. The procedures and requirements governing such maintenance guarantee shall be identical to the procedures and requirements for a performance guarantee set forth above.

818. RENEWAL OF PERFORMANCE OR MAINTENANCE GUARANTEES.

In any case where it becomes necessary to renew or extend a performance guarantee or maintenance guarantee, the amount thereof shall be re-computed by the Borough Engineer and may be increased to meet then current conditions and cost estimates.

ARTICLE 9

APPEALS

901. APPEALS AUTHORIZED.

Any interested party desiring to appeal the decision of the Planning Board or Zoning Board of Adjustment shall appeal to the Mayor and Council in the following instances:

901.1 APPEALS FROM BOARD OF ADJUSTMENT DECISIONS:

a. Any final decision of the Zoning Board of Adjustment approving an application for development pursuant to subsection 57d of the Municipal Land Use Law (40:55D-70d) ("use variance").

b. Any final decision of the Zoning Board of Adjustment approving a site plan or subdivision which, if made by the Planning Board, would be Section 901.2 hereof.

901.2 APPEALS FROM PLANNING BOARD DECISIONS:

a. Any final decision of the Planning Board approving any site plan of property involving any use other than single-family dwelling.

b. Any final decision of the Planning Board approving any subdivision of property.

c. Any final decision of the Planning Board approving any environmental impact statement pursuant to Section 507 of this Ordinance.

902. PROCEDURE.

a. The appeal to the Mayor and Council shall be made by serving the Borough Clerk in person or by certified mail with a notice of appeal specifying the grounds thereof and the name and address of the appellant and the name of the address of his attorney, if represented.

b. The appellant shall,

1. within 5 days of service of the notice of the appeal pursuant to subsection a, hereof, arrange for a transcript pursuant to Section 203.3 d of this Ordinance (and pursuant to 40:55D-10 Municipal Land Use Law), for use by the Mayor and Council, (see Sec. 1102).

2. within 35 days of service of the notice of appeal, submit a transcript as otherwise arranged to the Borough Clerk; otherwise the appeal may be dismissed for failure to prosecute.

903. PROCEDURE FOR HEARING APPEALS.

a. The Mayor and Council shall follow the procedures set forth in subsection 8 of the Municipal Land Use Law (40:55D-17) in hearing appeals of decisions made by the Zoning Board of Adjustment or Planning Board, and authorized in Sections 901.1 and 901.2 of this Article, and the Mayor and Council shall adopt rules of procedure for handling other appeals authorized by this Ordinance from decisions of the Borough Engineer.

b. Appeals from final decisions of the Zoning Board of Adjustment and Planning Board, authorized by Sections 901.1 and 901.2 shall be decided by the Mayor and Council only upon the record established before the Zoning Board of Adjustment or Planning Board, as the case may be. The Mayor and Council shall conclude a review of the record below not later than 95 days from the date of publication of notice of the decision below pursuant to Section 203.6, unless the applicant consents in writing to an extension of such period. Failure of the Mayor and Council to hold a hearing and conclude a review of the record below and to render a decision within such specified period shall constitute a decision affirming the action of the board.

904. APPEALS FROM BOROUGH ENGINEER DECISIONS.

Any interested party may appeal to the Planning Board:

a. Any decision of the Borough Engineer pursuant to Article 4 of this Ordinance (Soil Erosion and Sediment Control).

b. Any decision of the Borough Engineer pursuant to Article 6 of this Ordinance (Storm Water Control).

The Planning Board shall establish procedures for handling any appeal brought to it under this Section.

905. APPEALS TO SUPERIOR COURT.

Appeals from decisions of the Board of Adjustment or Planning Board, or other agencies or officials, not provided for herein, shall be to the Superior Court or as otherwise provided for by law.

ARTICLE 10

PUBLIC HEARINGS AND NOTICE

1001. PUBLIC HEARINGS AND NOTICES.

1001.1 WHERE PUBLIC HEARING REQUIRED.

Public hearing, on notice as hereinafter set forth, shall be required in the following development applications:

a. All applications to be heard by the Board of Adjustment, of whatever nature.

b. The following matters to be heard by the Planning Board:

1. All applications for preliminary approval of major subdivisions.

2. All matter before the Planning Board which, if heard by the Board of Adjustment, would require a public hearing.

3. All site plan review involving property located in whole or in part in any critical area.

1001.2 NOTICE OF PUBLIC HEARING.

Whenever a public hearing is required on an application for development pursuant to the Municipal Land Use Law, or pursuant to this ordinance, or pursuant to the Zoning Ordinance of the Borough, the applicant shall give notice thereof as required by the Municipal Land Use Law, as follows:

a. Public notice shall be given by publication in the official newspaper of the Borough at least ten (10) days prior to the date of the hearing.

b. Notice shall be given to the owners of all real property as shown on the current tax duplicate, located within 200 feet in all directions of the property which is the subject of such hearing; provided that this requirement shall be deemed satisfied by notice to the (1) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by: (1) personally serving a copy thereof on the property owner as shown on the said current tax duplicate, or his agent in charge of the property, or (2) mailing a copy thereof by certified mail return receipt requested to the property owner at his address as shown on the said current tax duplicate. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowner's association, because of its ownership of common elements or areas located within 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 200 feet of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality.

d. Notice shall be given by personal service or certified mail to the county planning board of a hearing on an application for development of property adjacent to an existing county map or on the county master plan, adjoining other county land or situated within 200 feet of a municipal boundary.

e. Notice pursuant to subsections c and d of this section, above, shall not be deemed to be required unless public notice pursuant to Section 1001.1 and subsection 1001.2 b are required.

f. All notices hereinabove specified in this Section shall be given by the applicant at least ten days prior to the date fixed for hearing, and the applicant shall file an affidavit of proof of service with the board holding the hearing on the application for development.

g. Any notice made by certified mail as hereinabove required shall be deemed to be complete upon mailing in accordance with the provisions of 40:55D-14.

h. Form of Notice. All notices required to be given pursuant to the terms of this Ordinance shall state the date, time and place of the hearing, the nature of the matters to be considered and identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the municipal tax office, and the location and times at which any maps and documents for which approval is sought are available as required by law.

1002. LIST OF PROPERTY OWNERS FURNISHED.

Pursuant to the provisions of 40:55D-12C, as amended, the Administrative Officer of the municipality, upon the written request of an applicant, shall, within 7 days, make and certify a list from said current tax duplicates of names and addresses of owners to whom the applicant is required to give notice pursuant to Section 1001.2 b. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner not on the list shall not invalidate any hearing or proceeding. A sum not to exceed \$0.25 per name, or \$10.00, whichever is greater, may be charged for such list.

Note: The list supplied by the Administrative Officer will contain only those properties located within the Borough of Manville and within 200 feet in all directions of the property which is the subject to such hearing. If the 200 feet distance in all directions of the property which is the subject of such hearing shall extend into another municipality or municipalities, the applicant shall have the responsibility of obtaining the names and addresses from the current tax duplicates of such other municipality or municipalities.

1003. MATTERS NOT REQUIRING PUBLIC HEARING ON NOTICE.

All matters not requiring public hearing on notice, as above set forth, shall be considered at open public meetings, all actions taken shall be taken at regular, adjourned or special meetings of the approving authority.

ARTICLE 11

FEEES AND CHARGES; TRANSCRIPTS

1101. FEES.

The applicant or developer shall, at the time of filing a submission, pay the following nonrefundable fee to the Borough. Proposals involving more than one use shall pay a fee equaling the sum of the fees for the component elements of the submission. Proposals requiring a combination of approvals, such as subdivision, site plan, variance, conditional use, environmental impact statement, storm water control approval, or the like, shall pay a fee equal to the sum of the fees for each element.

1101.1 SUBDIVISION.

1. Each informal submission or revision: no fee; provided that if engineering review or other consultant review is required, the Approving Authority may determine that the informal review is actually a sketch plat consideration and terminate the review until the procedures for sketch plat are followed.

2. Sketch Plat: \$50.00, plus \$10.00 for each lot.

3. Preliminary Plat: \$60.00 per lot based on the total number of lots in the subdivision, or \$200.00, whichever is greater.

4. Final Plat: \$200.00 or \$40.00 per lot, whichever is greater.

1101.2 SITE PLAN.

1. Each informal submission or revision: no fee; provided that if engineering review or other consultant review is required, the Approving Authority may determine that the informal review is actually a formal submission, and may terminate the review until the procedures for preliminary approval are initiated.

2. Preliminary site plan.

a. Residential:

\$20.00 per unit from 1-10 units; plus
\$15.00 per unit from 11-100 units; plus
\$8.00 per unit from 101 units or more.

Minimum fee: \$200.00
Maximum fee: \$6,000.00

b. Commercial/Industrial:

\$200.00 per acre or \$30.00 per 1,000 sq. ft. of gross floor area, whichever is greater.

Minimum fee: \$200.00
Maximum fee: \$6,000.00

c. Free standing or lighted sign not included in other site plans: \$25.00

3. Final Site Plan.

One-half the preliminary site plan fee.

4. Site Plan revision - \$50.00

5. Performance guarantees, inspection fees and maintenance guarantees shall be in addition to the filing fees and shall be as outlined in Article 8 of this ordinance.

1101.2 ENVIRONMENTAL IMPACT STATEMENT. (Article 5)

A fee equal to 10% of the fee which would be charged under the computations for preliminary site plan, computed under 1101.2, above, but in no event less than \$25.00.

1101.4 STORM WATER CONTROL. (Article 6)

1. Improvement to a single lot on which a one-family dwelling exists (except as exempted by Section 603): \$25.00

2. Initial construction of a single family dwelling on a single lot: \$50.00

3. All other permits shall be based on the land surface or part thereof of the total lot or lots involved, whether actually disturbed or not (however lands which are the subject of an application, but are not proposed for inclusion in the development as lots, open space or roadways, such as lands remaining to the owner, may be excluded from the fee computation) using the following fee schedule:

\$50.00 per 10,000 sq. ft. up to and including 250,000 sq. ft.; an additional fee of \$30.00 per 10,000 sq. ft. from 250,001 sq. ft. up to and including 500,000 sq. ft.; an additional fee of \$15.00 per 10,000 sq. ft. for all areas in excess of 500,001 sq. ft.

1101.5 FEES UNDER THE ZONING ORDINANCE.

1. Board of Adjustment application to "hear and decide appeals," 40:55D-70a - \$25.00.

2. Board of Adjustment application for interpretation, etc., 40:55D-70b - \$35.00.

3. Application for variance pursuant to 40:55D-70c, whether to Board of Adjustment or to the Planning Board, - \$50.00.

4. "Use variance" application, 40:55D-70d,

a. Residential - \$50.00 per dwelling unit.
b. Other uses: \$250.00 per acre or part thereof; with minimum fee of \$250.00 and maximum fee of \$4,000.00.

5. Certificate of Occupancy pursuant to Section 1204 of the Zoning Ordinance - \$50.00. Note: this fee is distinct from any fees which may be required for a certificate of occupancy under the Construction Code.

1101.6 Copies of minutes, resolutions, ordinances and other papers of an Approving Authority, where the Municipal Land Use Law permits a fee to be charged, shall be charged at the same rate per page established pursuant to law for copies of other papers by the Borough.

1101.7 For list of property owners from the current tax duplicate, pursuant to 40:55D-12, \$10.00. This fee applies to development applications within this Borough and also to request for lists of Borough of Manville property owners arising by reason of development applications in adjacent municipalities.

1101.8 Fee for filing appeal to the Mayor and Council pursuant to Article 9 of this Ordinance: \$50.00.

1101.9 Fee for certificate of subdivision, pursuant to 40:55D-56, shall be computed and charged at the same rate as for tax searches pursuant to R.S. 54:5-14.

1101.10 Fee for application for Construction Permit in conflict with Official Map or Construction Permit for lot not related to a street, 40:55D-36 - \$75.00.

1102. TRANSCRIPTS.

1102.1 COPY OF TRANSCRIPT TO APPROVING AUTHORITY.

Whenever any person, whether applicant, developer, or other interested party, shall order or obtain a transcript of any proceedings, or part thereof, before either the Planning Board or Board of Adjustment, and whether such transcript be prepared from tape recordings or court stenographer furnished by such Board or by an applicant, developer, or other interested party, the person shall furnish a copy of such transcript to the Approving Authority, whether Planning Board or Board of Adjustment.

1102.2 TRANSCRIPTS ON APPEAL TO MAYOR AND COUNCIL.

Where a transcript is required on the filing of an appeal to the Mayor and Council (Article 9), and the transcript has not been previously prepared and available, the appellant, at the time of filing the appeal, shall make direct arrangements with the court stenographer who recorded the proceedings, or with the agency which prepares transcripts from the tape recordings for the Planning Board or Board of Adjustment, as the case may be, and shall be responsible directly with such stenographer or agency for the payment of any estimated costs and the payment of all fees for the transcript. Within five (5) days after the filing of the appeal, the appellant shall file with the Borough Clerk (a) proof that such transcript has been ordered; (b) the name and address of the stenographer or agency from whom ordered and; (c) proof of payment of all fees required by such stenographer or agency as deposit or surety for such order.

The transcript on any such appeal shall be an original and two carbon or otherwise legibly reproduced copies.

1102.3 CHOICE OF TRANSCRIPTS.

Where a meeting has been recorded both electronically and by certified court reporter, the transcript shall be prepared from the record of the certified court reporter.

ARTICLE 12

VIOLATIONS AND PENALTIES

1201. VIOLATIONS AND PENALTIES.

1201.1 SUBDIVISION VIOLATIONS AND PENALTIES.

If, before final subdivision approval has been granted, any person transfers or sells or agrees to transfer or sell, except pursuant to an agreement expressly conditioned on final subdivision approval, as owner or agent, any land which forms a part of a subdivision for which approval is required by ordinance pursuant to this act, such persons shall be subject to a penalty not to exceed \$1,000.00 and each lot disposition so made may be deemed a separate violation.

In addition to the foregoing, the Borough may institute and maintain a civil action:

1. For injunctive relief; and
2. To set aside and invalidate any conveyance made pursuant to such a contract of sale if a certificate of compliance has not been issued in accordance with R.S. 40:55D-56, but only if the Borough (1) has a Planning Board and (2) has adopted by ordinance standards and procedures in accordance with R.S. 40:55D-38.

In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land, from which the subdivision was made that remains in the possession of the developer or his assigns or successors, to secure the return of any deposits made or purchase price paid, and also, a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within 2 years after the date of the recording of the instrument of transfer, sale or conveyance of said land or within 8 years, if unrecorded.

1201.2 OTHER VIOLATIONS.

a. Injunctive relief.

In case any building or structure is erected, constructed, altered, repaired, converted, or maintained or any building, structure or land is used in violation of this act or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the Borough or an interested party, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the

occupancy of said building, structure or land, to prevent any illegal act, conduct, business or use in or about such premises.

b. Penalties.

Any person, firm or corporation that shall violate any provisions of this Ordinance, not included in Section 1201.1, shall, upon conviction thereof by any Court authorized by law to hear and determine the matter, be fined such sum not exceeding Five Hundred Dollars (\$500.00), as such Court in its discretion may impose, or if the party so convicted be a natural person, such person may be imprisoned for such term not exceeding ninety (90) days as such Court in its discretion may impose, or be fined such sum not exceeding Five Hundred Dollars (\$500.00) as such Court in its discretion may impose or such natural person may be both imprisoned and fined not exceeding the maximum limits set forth herein, as such Court in its discretion may impose.

Each day that such violation exists shall constitute a separate offense punishable by a like fine or penalty.

1202. PARTIES LIABLE.

The owner of any building or structure, lot or land, or part thereof, and/or the tenant or occupant of any building or structure, lot or land, or part thereof, where anything in violation of this Ordinance shall be placed or shall exist, or be suffered, allowed or permitted to exist, and any architect, builder, developer, contractor, agent, person or corporation employed in connection therewith and who assists in the commission of any such violation shall each be guilty of a separate violation, and upon conviction thereof shall be each liable to the fine or imprisonment, or both, specified in Sections 1201.1 and 1201.2, above.

1203. OTHER REMEDIES.

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

1204. REVOCATION AND RESCISSION OR APPROVAL AND/OR PERMITS.

Whenever it shall come to the attention of either the Planning Board or the Board of Adjustment, that action was taken by such Board based upon fraud or misrepresentation by or on behalf of the applicant as to a material fact, such Board shall have the right to rescind its previous action and to order revocation of any approval, permit, or certificate theretofore granted upon such fraud or misrepresentation. Such rescission and revocation shall remain in effect unless and until such Board shall reinstate such approval following a hearing thereon granted to the applicant within 10 days of any requests therefore by the applicant. The rights of rescission and revocation set forth in this paragraph shall be in addition to the right to proceed under the other paragraphs of this Section.

ARTICLE 13

VALIDITY

1301. SEVERABILITY.

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

ARTICLE 14

REPEALER

1401. REPEALER.

Except as may be specifically set forth in this Ordinance, any and all other ordinances or parts thereof in conflict or inconsistent with any of the terms of this Ordinance are hereby repealed to such extent

as they are so in conflict or inconsistent; provided, however, that the adoption of this Ordinance shall not prevent or bar the continuation or institution of any proceedings for offenses heretofore committed in violation of any existing ordinances of the Borough of Manville.

ARTICLE 15

EFFECTIVE DATE

1501. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon publication of notice after final adoption, as provided in law.

This Ordinance, however, is a substantial re-enactment of the Land Development Ordinance of the Borough of Manville, as amended, and the Planning Board and Board of Adjustment heretofore appointed and serving shall remain as constituted at the time of adoption of this Ordinance, until the terms of the respective members shall expire.

Where construction has begun pursuant to the provisions of the Ordinance repealed hereby, such construction may continue pursuant to such prior approval and pursuant to the terms of the Ordinance in effect at the time of adoption of this Ordinance.

BOROUGH OF MANVILLE

Marion B. Dudash, Mayor

**BOROUGH OF MANVILLE
ZONING ORDINANCE**

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ORDINANCE #643

**THE ZONING ORDINANCES
OF
THE BOROUGH OF MANVILLE**

BOROUGH OF MANVILLE

ORDINANCE

THE ZONING ORDINANCE OF THE BOROUGH OF
MANVILLE

ARTICLE 1

PURPOSE; INTERPRETATION; SCOPE

101. TITLE.

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

102. PURPOSE.

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

103. INTERPRETATION.

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

104. SCOPE.

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

105. RELATION TO THE LAND DEVELOPMENT
ORDINANCE.

This Ordinance shall be read in conjunction with THE LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF MANVILLE, both ordinances being enacted pursuant to the Municipal Land Use Law, P.L. 1975, c. 291.

ARTICLE 2

ZONE DISTRICT: BOUNDARIES

201. ZONE DISTRICTS.

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

S-100 RESIDENTIAL DISTRICT
S-75 RESIDENTIAL DISTRICT
S-60 RESIDENTIAL DISTRICT
S-50 RESIDENTIAL DISTRICT
S-80 RESIDENTIAL DISTRICT

C-COMMERCIAL DISTRICT

202. ZONING MAP.

The boundaries of the districts shall be as shown on a certain map entitled "Zoning Map, Borough of Manville, County of Somerset, State of New Jersey, (1987)" which map has been and is now on file in the Office of the Clerk of the Borough of Manville and will remain on file therein. Said map is hereby adopted and included within this Ordinance as fully as if a replica of said map were printed herewith.

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

203. SCHEDULE OF REQUIREMENTS.

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

204. DISTRICT BOUNDARIES.

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

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

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

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

ARTICLE 3

DEFINITIONS

301. DEFINITION OF TERMS.

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

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

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

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

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

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

301.5 AUTOMOBILE WRECKING. See Junk Yard definition.

301.6 BASEMENT. A story partly underground and having more than one-half (1/2) of its height above the average level of the finished grade at the front of the building. See "Cellar", Sec. 301.9.

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

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

301.9 CELLAR. A story partly underground and having more than one-half (1/2) of its clear height below the average level of the finished grade at the front of the building. (See "Basement", Sec. 301.6).

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

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

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

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

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

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

301.16 FAMILY. One or more persons living together as a single housekeeping unit. A family may consist of single person or two or more persons, related by blood, marriage, or adoption, and including a foster child or children, as contemplated by 40:55D-66 c. It is

specifically provided that four or more persons living together in a club house, fraternity or sorority house, or the like, or four or more persons not related as provided for herein, living together in what is known as "communal house" or the like, shall not be considered a "family" within the meaning of this Ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

301.31 LOT, INTERIOR. A lot other than a corner lot.

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

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

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

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

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

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

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

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

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

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

301.42 PARKING SPACE. An off-street area available for the parking of a motor vehicle and which in this ordinance is held to be a minimum of ten (10) feet wide and twenty (20) feet long, exclusive of passageways and driveways appurtenant thereto, and giving access thereto. The Planning Board or Approving Authority, in reviewing site plans, shall have the power to permit a limited number of parking spaces to be less than the dimensions above, to be marked for compact vehicles only. Adequate provision shall be made for ingress and egress to all parking spaces as approved by the Borough Engineer.

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

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

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

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

a. those of medicine, law, architecture, engineering, accounting, art, religion, music, and other professions which require a similar degree of training and experience and which engage in services to persons (as contrasted with animals or property); and

b. offices of veterinarians for the treatment and care of domestic pets, including veterinarian hospital facilities, provided that all such facilities are housed within buildings. This shall not permit operations commonly known as kennels, whether for coops, runs or other facilities.

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

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

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

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

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

301.52-1 ADVERTISING SIGN. A sign which directs attention to a business, commodity, service, or establishment conducted, sold or offered elsewhere than upon the premises.

301.52-2 BUSINESS SIGN. A sign which directs attention to a business or profession conducted upon the premises. A "for sale" or "to rent" sign relating to

the property on which it is displayed shall be deemed a business sign.

301.52-3 SIGN, AREA OF. The area included within the frame or edge of the sign. Where the sign has no such frame or edge, the area shall be defined by an enclosed four sided (straight sides) geometric shape which most closely outlines said sign.

301.53 SITE PLAN. The general plan or layout of a lot and the installations on the lot showing the location and/or proposed location of main buildings, other structures, streets, driveways, access roads, parking and loading lots and areas, drainage, topography, grading, landscaping, sewerage disposal system, water supply system, easements, signs and utilities, including dimensions of all of the foregoing and elevations of all sides of building(s), together with such other data as will fully disclose the nature of the use or uses proposed. SEE THE LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF MANVILLE.

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

301.54-1 HALF STORY. That portion of a building under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such half-story. A basement shall also be included as a half-story. (See Section 301.6).

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

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

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

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

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

301.61 TRAILER.

a. **TRAILER COACH.** A vehicle or structure used or so constructed as to permit its being used as a licensed conveyance upon the public streets or highways and constructed in such a manner as will permit its occupants as a place of day-to-day habitation for one or more persons. This term shall also include automobile trailers, mobile homes, house

trailers, trailer coaches and camper trailers, excepting therefrom "travel trailers" which are less than six (6) feet in width and less than ten (10) feet in length and which are not used for purposes of day-to-day habitation.

b. **TRUCK TRAILER.** Any vehicle or unit equipped with wheels or similar devices used for the purpose of commerce or transporting goods, stock or merchandise, for transportation on a flat-bed railroad or ship.

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

301.63 YARD.

301.63-1 FRONT YARD. An open, unoccupied space on the same lot with the principal building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of that lot. "Setback line" shall be synonymous with the rear limit of the required front yard area.

301.63-2 REAR YARD. An open space extending across the full width of the lot and lying between the rear line of the lot and the nearest line of any building on the same lot. The depth of a rear yard shall be measured at right angles to the rear line of the lot, or if the lot is not rectangular, then in the general direction of its side building lines.

301.63-3 SIDE YARD. An open, unoccupied space between the side lot line and the building line nearest thereto, extending from the front yard to the rear yard, or in the absence of either, to the street or rear lines as the case may be. The width of the side yard shall be measured parallel to the front lot line.

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

ARTICLE 4

GENERAL PROVISIONS

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

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

402. YARDS AND STREET FRONTAGE.

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

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

402.3 All yards facing on a public street shall be considered front yards and shall conform to the

minimum front yard requirements for the zone district in which located. Corner lots shall provide the minimum front yard requirements for the respective zone district for all intersecting streets, for both principal and accessory buildings.

403. ACCESSORY BUILDING.

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

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

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

403.4 Accessory buildings shall be at least ten (10) feet from any principal building situated on the same lot, unless an integral part thereof, and shall be at least six (6) feet from any other accessory building.

403.5 No accessory buildings shall be erected or constructed closer than ten (10) feet to any side or rear lot line.

404. DWELLINGS IN REAR OF LOTS.

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

405. REDUCTION OF LOT.

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

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

406.1 OFF-STREET PARKING AND DRIVEWAYS. There shall be provided upon every lot in every Residential District, and upon every lot in any other District upon which a dwelling house may now or hereafter be permitted, off-street parking space for at least two vehicles, including a driveway for the same, all of which shall be adequately paved or covered with a substantial material such as asphalt, brick, concrete, gravel, macadam, or stone, or like materials, so as to adequately withstand and not be adversely affected by changes in temperature or weather, the extremes of heat and cold experienced in the Borough, damage from the elements such as, but not limited to, erosion and the wear and tear brought about by the use of such areas by motor vehicles. In any case where any part of said parking area or driveway shall be below grade of the street giving access thereto, the design of said area and the adequacy of the type of material used therein and curbing along the same, shall be subject to approval by the Borough Engineer, guided by the topography, the grades of the street, the effect of the drainage system upon said proposed area, and other principles of sound engineering practice. All off-street parking areas and driveways required herein shall be maintained in good condition. Whenever a garage is provided upon any such lot, the areas within such garage used for motor vehicles may be counted toward the off-street parking spaces required under this subsection.

406.2 COMMERCIAL VEHICLES AND TRAILERS IN RESIDENTIAL DISTRICTS.

a. Not more than one commercial vehicle of a rated capacity of three-quarter (3/4) tone or less, owned or

used by a resident of the premises, shall be permitted to be regularly garaged on a lot in any Residential District; any such commercial vehicles so permitted to be regularly garaged in such district must be garaged and shall not be regularly parked or stored by, on or in the vicinity of such lot without being garaged thereon. No commercial vehicle of a rated capacity of more than three-quarter (3/4) ton, whether owned or used by a resident of the premises or not, shall be regularly parked, stored or garaged on a lot in any Residential District.

b. No trailer designed or used for hauling or transporting shall be regularly parked or stored on, by, or in the vicinity of any lot in any Residential District.

c. No trailers designated or used for dwelling purposes, no boat trailers, no campers, no motorized sleds, and no boats or marine equipment shall be regularly parked or stored on, by or in the vicinity of any lot in any Residential District without being garaged thereon, or placed to the rear of the principal building and no closer than 15 feet from any side or rear property line.

407. DANGEROUS CONDITIONS.

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

408. INCONGRUOUS BUILDINGS.

If the design or construction of any building or use is so markedly incongruous with the character of the neighborhood as to materially affect the value of adjacent or nearby property, the Zoning Officer and/or the Building Inspector shall deny the permit and refer the applicant to the Board of Adjustment which shall act thereon after appeal and hearing in accord with the statutes of New Jersey, and subject to the standards set forth in this Ordinance and the Land Development Ordinance, guiding the exercise of discretion by the Board of Adjustment.

409. TRAFFIC VISIBILITY ACROSS CORNER LOTS.

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

410. PRINCIPAL BUILDING, RESIDENTIAL DISTRICTS.

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

411. OPEN SPACES AROUND BUILDING.

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

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

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

vehicles or employees or customers of a business or industry shall be considered itself a business or industrial use and shall not be permitted in any residential district.

413. NATURE AND EXTENT OF USES OF LAND.

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

414. OUTDOOR STORAGE OR DISPLAY.

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

415. PUBLIC UTILITIES.

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

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

416. SOIL REMOVAL.

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

417. PRESERVATION OF NATURAL FEATURES.

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

418. DUMPING PROHIBITED.

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

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

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

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

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

the subdivision of lands into four (4) or more lots or in connection with the dedication of a new street.

421. PROHIBITED USES.

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

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

421.2-1 All billboards, signboards, advertising signs or devices not expressly related to the business being conducted on the premises, or otherwise specifically permitted by this Ordinance.

421.2-2 Auction market or auction establishments, whether conducted in an enclosed building or structure or not.

421.2-3 Any business or use conducted outside the confines of a building or structure, including by way of illustration and not by way of limitation, junk yards, dismantling or storage of motor vehicles or machinery, the sale or rental of trucks, busses, truck trailers, trailers designed or intended for hauling or transporting, trailers designed or intended for dwelling purposes, campers, recreational vehicles (whether self-contained, motorized, or requiring another vehicle in order to move same from place to place), boats, motorized sleds or carts, motorcycles, motorbikes or the like, or construction, quarrying or tree service equipment, machinery or materials, outdoor amusements, miniature golf courses, golf driving ranges and similar outdoor commercial recreation facilities, or any other business or use conducted outside the confines of a building or structure. The foregoing prohibitions all apply regardless of the manner of registration of any of the vehicles mentioned under the motor vehicle laws, and regardless of whether any of same may also be used for regular passenger transportation.

421.2-4 The sale, rental, leasing, storage, or display of trucks, busses, truck trailers, trailers designed or intended for hauling or transporting, trailers designed or intended for dwelling purposes, campers, recreational vehicles (whether self-contained, motorized, or requiring another vehicle in order to move same from place to place), boats, motorized sleds or carts, motorcycles, motor bikes or the like, or construction, quarrying or tree service equipment, machinery or materials, except only from a totally enclosed building or structure. The foregoing prohibitions shall apply regardless of the manner of registration of any such vehicle under the motor vehicle laws, and regardless of whether any of same may also be used for regular passenger transportation.

421.2-5 Outdoor storage of any kind. See Section 414.

421.2-6 Privately-operated dumps for the disposal of garbage, trash, junk, refuse, and similar materials, whether by landfill, incineration, or otherwise.

421.2-7 Trailer courts or parks, trailer coaches used for dwelling, or any commercial activities related to the outdoor storage, display, exhibition, sale or rental of trailer coaches.

421.2-8 Cemeteries or crematoriums.

421.2-9 Outdoor vending machines, except where specifically permitted incidental to another use.

421.2-10 Any use of any building or premises in such a manner that the health, morals, safety or welfare of the community may be endangered, or which will cause environmental pollution or be inimical to the ecology of the area.

421.2-11 Any use which emits excessive and objectionable amounts of dusts, fumes, noise, odor, smoke, vibration, glare, or waste products.

422. LIMITATION ON VARIANCE OR CONDITIONAL USE.

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

423. COMPUTATION OF DENSITY IN SLOPE AREA.

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

ARTICLE 5

NONCONFORMING BUILDINGS, LOTS AND USES.

501. CONTINUANCE.

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

501.1 That no nonconforming lot shall be further reduced in size.

501.2 That no nonconforming building shall be enlarged, extended or increased, unless such enlargement would tend to reduce the degree of nonconformance, and except as provided the subsection 501.4 hereof.

501.3 That no nonconforming use may be expanded.

501.4 That any single-family dwelling house which is in existence on the effective date of this Ordinance, but which has been rendered nonconforming by this Ordinance, either by reason or area or use, may be extended upon the same lot and may be altered, provided that the yard requirements of the S-50 Residential District are met, and accessory buildings to such an existing single-family dwelling house may be constructed on the same lot to the extent that such buildings are permitted in the S-50 Residential District.

501.5 That the limitations imposed by this Ordinance shall not prohibit the extension, enlargement, alteration, remodeling, repairing, or modernization of any dwelling, nor the construction, extension, enlargement, alteration, remodeling, repairing or modernization of a permitted building or structure accessory thereto in any Residential District existing at the effective date of this Ordinance which conforms to the Ordinance immediately superseded hereby, but which dwelling does not strictly conform to the requirements of this Ordinance, provided, however, that such extension, enlargement, alteration, remodeling, repairing, or modernization of such dwelling, or such construction, enlargement, alteration, remodeling, repairing, or modernization of such permitted accessory building or structure, as the case may be,

does not itself create a violation of any of the provisions of this Ordinance, and provided, further, that no additional families or dwelling units are occasioned thereby.

502. ABANDONMENT.

502.1 If the nonconforming use of any land or building is terminated for a period of time of one year or more, such termination shall be presumed to constitute an abandonment for the purpose of this Ordinance, and the burden shall be placed upon any person asserting that such use was not abandoned, to affirmatively prove such assertion. This provision shall not preclude the finding of an abandonment by reason of cessation or termination of use for a period of less than one year.

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

503. RESTORATION.

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

504. REPAIR FOR SAFETY.

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

505. REVERSION.

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

506. NONCONFORMING LOTS INCLUDED IN CERTAIN PRIOR SUBDIVISIONS.

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

507. UNDERSIZE LOTS.

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

508. CONSTRUCTION APPROVAL PRIOR TO ORDINANCE.

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

according to such plans as filed within one (1) year from the effective date of this Ordinance.

509. ALTERATIONS.

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

510. UNLAWFUL USE NOT AUTHORIZED.

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

511. ESTABLISHMENT OF VALIDITY OF NONCONFORMING BUILDING OR USES.

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

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

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

511.3 If the Zoning Officer, upon submission of the application and proofs to him, does not find that they tend to establish the validity thereof, or if, after review by the Planning Board, said Planning Board does not so find, then the application shall be denied and the applicant shall have the right to appeal such decision to the Board of Adjustment. [40:55-D-70b].

ARTICLE 6

ZONE DISTRICT REGULATIONS

601. S-100 RESIDENTIAL DISTRICT

601.1 PERMITTED USES

601.1-1 Single-family dwelling

601.1-2 Municipal buildings, municipal facilities, deemed necessary by the Mayor and Council, including service facilities such as fire house and rescue squad buildings, whether operated by the municipality itself or by a non-profit organization duly organized for those purposes.

601.1-3 A home professional office for a person residing on the premises, provided that no more than one-half of the floor area of one story of the dwelling be devoted to such use.

601.1-4 Temporary buildings for uses incidental to construction work, provided such buildings are removed upon completion or abandonment of the construction work.

601.2 PERMITTED ACCESSORY USES.

601.2-1 Private garages.

601.2-2 Signs, subject to the provisions of Article 9.

601.2-3 Fences, subject to the provisions of Article 10.

601.2-4 Other normal, incidental residential secondary structures such as private swimming pools, tools sheds, outdoor barbecues, fireplaces, trellises, lamp posts or the like.

601.2-5 Off-street parking facilities, subject to the provisions of Article 8.

601.2-6 Other customary accessory uses and buildings which are clearly incidental to the principal use and building.

601.3 AREA AND BULK REQUIREMENTS.

601.3-1 Height: No building shall exceed a maximum of 2-1/2 stories, or 35 feet.

601.3-2 Front Yard: There shall be a front yard of not less than thirty (30) feet.

601.3-3 Side Yards:

a. Principal buildings: There shall be two side yards, and no side yard shall be less than 12 feet, provided, however, that the aggregate width of the two side yards combined must equal at least 27 feet at the building line.

b. Accessory Buildings: No accessory building shall be closer than 10 feet to a side lot line.

c. Corner Lot: There shall be a side yard on the side street frontage, having a width of not less than 25 feet.

601.3-4 Rear Yard:

a. Principal Buildings: There shall be a rear yard of at least 25 feet.

b. Accessory Buildings: No accessory building shall be closer than 10 feet to the rear lot line.

601.3-5 Maximum Lot Coverage: The combined area of all buildings and structures on any lot shall not exceed 35% of the lot area.

601.3-6 Minimum Lot Area: There shall be a lot area of not less than 10,000 square feet.

601.3-7 Lot Width: There shall be a lot width of not less than 100 feet.

601.4 USES PERMITTED UPON APPLICATION TO THE PLANNING BOARD AS CONDITIONAL USES, SUBJECT TO ARTICLE 7.

601.4-1 Public Utilities

601.4-2 Schools

601.4-3 Churches

601.4-4 Quasi-public buildings and recreation areas

602. S-75 RESIDENTIAL DISTRICT

602.1 PERMITTED USES

602.1-1 Single-family dwelling

602.1-2 Same as Section 601.1-2

602.1-3 Same as Section 601.1-3

602.1-4 Same as Section 601.1-4

602.2 PERMITTED ACCESSORY USES - Same as Section 601.2

602.3 AREA AND BULK REQUIREMENTS

602.3-1 Height: No building shall exceed a maximum of 2-1/2 stories, or 35 feet.

602.3-2 Front Yard: There shall be front yard of not less than thirty (30) feet.

602.3-3 Side Yards:

a. Principal Buildings: There shall be two side yards, and no side yard shall be less than 10 feet provided, however, that the aggregate width of the two side yards combined must be equal to at least 22 feet at the building line.

b. Accessory Building: No accessory building shall be closer than 10 feet to a side lot line.

c. Corner Lot: There shall be a side yard on the side street frontage, having a width of not less than 18 feet.

602.3-4 Rear Yard:

a. Principal Buildings: There shall be a rear yard of at least 25 feet.

b. Accessory Buildings: No accessory building shall be closer than 10 feet to the rear lot line.

602.3-5 Maximum Lot Coverage: The combined area of all buildings and structures on any lot shall not exceed 35% of the lot area.

602.3-6 Minimum Lot Area: There shall be a lot area of not less than 7,500 square feet.

602.3-7 Lot Width: There shall be a lot width of not less than 75 feet.

602.4 USES PERMITTED UPON APPLICATION TO THE PLANNING BOARD AS CONDITIONAL USE, SUBJECT TO ARTICLE 7.

602.4-1 Public Utilities

602.4-2 Schools

602.4-3 Churches

602.4-4 Quasi-public buildings and recreation areas

603. S-60 RESIDENTIAL DISTRICT

603.1 PERMITTED USES

603.1-1 Single-family dwelling

603.1-2 Same as Section 601.1-2

603.1-3 Same as Section 601.1-3

603.1-4 Same as Section 601.1-4

603.2 PERMITTED ACCESSORY USES - Same as Section 601.2

603.3 AREA AND BULK REQUIREMENTS

603.3-1 Height: No building shall exceed a maximum of 2-1/2 stories, or 35 feet.

603.3-2 Front Yards: There shall be a front yard of not less than twenty-five (25) feet.

603.3-3 Side Yards:

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

b. Accessory Buildings: No accessory building shall be closer than 10 feet to a side lot line.

c. Corner Lot: There shall be a side yard on the side street frontage, having a width of not less than 15 feet.

603.3-4 Rear Yard:

a. Principal Buildings: There shall be a rear yard of at least 25 feet.

b. Accessory Buildings: No accessory buildings shall be closer than 10 feet to a side lot line.

603.3-5 Maximum Lot Coverage: The combined area of all buildings and structures on any lot shall not exceed 40% of the lot area.

603.3-6 Minimum Lot Area: There shall be a lot area of not less than 6,000 square feet.

603.3-7 Lot Width: There shall be lot width of not less than 60 feet.

603.4 USES PERMITTED UPON APPLICATION TO THE PLANNING BOARD AS CONDITIONAL USE, SUBJECT TO ARTICLE 7.

603.4-1 Public Utilities

603.4-2 Schools

603.4-3 Churches

603.4-4 Quasi-public buildings and recreation areas

604. S-50 RESIDENTIAL DISTRICT

604.1-1 Single-family dwelling

604.1-2 Same as Section 601.1-2

604.1-3 Same as Section 601.1-3

604.1-4 Same as Section 601.1-4

604.2 PERMITTED ACCESSORY USES - Same as Section 601.2

604.3 AREA AND BULK REQUIREMENTS

604.3-1 Height: No building shall exceed a maximum of 2-1/2 stories, or 35 feet.

604.3-2 Front Yards: There shall be a front of not less than twenty-five (25) feet.

604.3-3 Side Yards:

a. Principal Buildings: There shall be two side yards, and no side yard shall be less than eight feet provided, however, that the aggregate width of the two side yards combined must be equal to at least 18 feet at the building line.

b. Accessory Buildings: No accessory building shall be closer than 8 feet to a side line.

c. Corner Lot: There shall be a side yard on the side street frontage, having a width of not less than 12 feet.

604.3-4 Rear Yard:

a. Principal Buildings: There shall be a rear yard of at least 25 feet.

b. Accessory Buildings: No accessory building shall be closer than 10 feet to the rear lot line.

604.3-5 Maximum Lot Coverage: The combined area of all buildings and structures on any lot shall not exceed 40% of the lot area.

604.3-6 Minimum Lot Area: There shall be a lot area of not less than 5,000 square feet.

604.3-7 Lot Width: There shall be a lot width of not less than 50 feet.

604.4 USES PERMITTED UPON APPLICATION TO THE PLANNING BOARD AS CONDITIONAL USE, SUBJECT TO ARTICLE 7.

604.4-1 Public Utilities

604.4-2 Schools

604.4-3 Churches

604.4-4 Quasi-public buildings and recreation areas

605. S-80 RESIDENTIAL DISTRICT

605.1 PERMITTED USES

605.1-1 Same as Section 601.1

605.1-2 Two-family dwelling

605.2 USES PERMITTED UPON APPLICATION TO THE PLANNING BOARD AS CONDITIONAL USES SUBJECT TO ARTICLE 7.

605.2-1 Same as Section 601.4

605.3 PERMITTED ACCESSORY USES

605.3-1 Same as Section 601.2

605.4 AREA AND BULK REQUIREMENTS

605.4-1 Height:

a. No single-family dwelling or two-family dwelling shall exceed 35 feet or 2-1/2 stories.

b. For all other allowed uses, no building or structure shall exceed 40 feet or three stories.

605.4-2 Front Yard: There shall be a front yard of not less than 25 feet.

605.4-3 Side Yards:

a. There shall be two side yards with an aggregate width of not less than 18 feet, and the width of the narrower side yard shall not be less than 8 feet.

b. On a corner lot there shall be a side yard on the side street frontage, having a width of not less than 15 feet on a lot 60 feet in width; the width of such yard shall be increased six (6) inches for each additional foot of width of the lot in excess of 60 feet, but in no case need such side yard exceed 25 feet in width.

605.4-4 Rear Yard: There shall be a rear yard having a depth of not less than 25 feet.

605.4-5 Maximum Lot Coverage: The lot coverage shall not exceed 40 percent of the lot area.

605.4-6 Minimum Lot Area:

a. For a single-family dwelling and its accessory structures and uses, there shall be a lot area of not less than 6,000 square feet.

b. For a two-family dwelling and its accessory structures and uses, there shall be a lot area of not less than 8,000 square feet.

c. For all other allowed uses, there shall be a lot area of not less than 10,000 square feet.

605.4-7 Lot Width:

a. For a single-family dwelling and its accessory structures and uses, there shall be a lot width of not less than 60 feet.

b. For a two-family dwelling and its accessory structures and uses, there shall be a lot width of not less than 80 feet.

c. For all other allowed uses, there shall be a lot width of not less than 100 feet.

606. C-COMMERCIAL DISTRICT

606.1 PERMITTED USES

- a. Club
- b. Residential dwelling units on second story or above
- c. Rooming or boarding houses, hotels
- d. Retail stores
- e. Barber shops, beauty parlor or similar personal service establishment
- f. Restaurants
- g. Banks
- h. Business, professional or government offices, office buildings
- i. Business schools or studios conducted for gain
- j. Theaters or motion picture theaters
- k. Motor vehicle sales establishment entirely within a building
- l. Bakeries, confectionery, or catering establishment, for sale at retail on the premises only
- m. Drycleaning, dyeing or laundry establishments, employing not more than five (5) persons
- n. Cabinetmaking or upholstering
- o. Printing offices, newspaper offices
- p. Wholesale establishments
- q. Police station, fire house
- r. Municipal parking areas

606.2 AREA AND BULK REQUIREMENTS

606.2-1 Height: No building shall exceed a maximum of four (4) stories or 50 feet.

606.2-2 Front Yard: There shall be a front yard of not less than 10 feet.

606.2-3 Side Yards: The Planning Board shall consider the matter of side yards at site plan reviewing in light of existing buildings on adjacent lands (and light and air thereto), and in view of Section 607.5-1 if a side yard is required to provide parking in the rear. There shall be no more than 200 feet of building without break.

606.2-4 Rear Yard: There shall be a rear yard of not less than 50 feet. No accessory building shall be closer than 20 feet to the rear lot line.

606.2-5 Maximum Lot Coverage: The maximum lot coverage for all buildings and structures shall be limited to 70 percent of the total lot area.

606.2-6 Minimum Lot Area: Each lot shall be of sufficient size in relation to the building and accessory buildings to be constructed thereon to conform to the requirements of this Ordinance, including but not by way of limitation, front yard, rear yards, maximum lot coverage, off-street parking and loading and unloading requirements, and landscaping and buffer area requirements provided, however, that no lot shall contain less than 10,000 square feet.

606.2-7 Lot Width: Each lot shall be at least 100 feet in width at the building line.

606.3 USES PERMITTED UPON APPLICATION TO THE PLANNING BOARD AS CONDITIONAL USE, SUBJECT TO ARTICLE 7:

- 606.3-1 Any conditional uses allowed in S-100 zone
- 606.3-2 Public utilities
- 606.3-3 Service stations, public garages
- 606.3-4 Funeral homes
- 606.3-5 Bowling alleys
- 606.3-6 Indoor entertainment for profit
- 606.3-7 Bar, tavern or other establishment for consumption of alcoholic beverages on the premises.
- 606.3-8 Veterinarian's establishment or animal hospital

606.4 OTHER REQUIREMENTS

606.4-1 Off-street parking. Off-street parking shall be provided; see Article 8. All off-street parking shall be in rear of the premises, and subject to site plan review and approval.

607. I-INDUSTRIAL DISTRICT

607.1 PERMITTED USES.

607.1-1 Plants and facilities engaged in light manufacturing, fabricating, compounding assembling, storing, warehousing, handling, or other processing of commodities, materials or equipment.

607.1-2 Research laboratories and product development facilities.

607.1-3 Executive and administrative offices, including central or headquarter-type buildings occupied by single companies or affiliated members of a corporation entity, which do not include separate offices for rent or lease.

607.1-4 Employee education and training facilities operated by a corporation or firm for use by its employees or employees of other corporations or firms.

607.1-5 Same as Section 601.1-4

607.2 PERMITTED ACCESSORY USES.

607.2-1 Signs, subject to the provisions of Article 9.

607.2-2 Fences and landscaping, subject to the provisions of Article 10.

607.2-3 Off-street parking facilities, subject to the provisions of Article 8.

607.2-4 Loading and unloading ramps and structures, subject to the provisions of Article 8.

607.2-5 Private garage and storage buildings which are necessary to store any vehicles, equipment or materials on the premises.

607.3 AREA AND BULK REQUIREMENTS

607.3-1 Height: No building shall exceed a maximum of two (2) stories, or 35 feet.

607.3-2 Front Yard: There shall be a front yard of not less than 50 feet.

607.3-3 Side Yards: There shall be two (2) side yards, and no side yard shall be less than 25 feet provided, however, that the aggregate width of the two side yards combined must total at least 35% of the lot width at the building line. No accessory building shall be closer than 50 feet to any side lot line.

607.3-4 Rear Yard: There shall be a rear yard of not less than 50 feet. No accessory building shall be closer than 50 feet to the rear lot line.

607.3-5 Maximum Lot Coverage: The combined area of all buildings and structures on any lot shall not cover more than 40 percent of the total lot area.

607.3-6 Minimum Lot Area: No lot shall be less than one (1) acre; and, further, no parcel in the Industrial District containing five (5) acres or less shall hereafter be subdivided, and no parcel in any such zone containing more than five (5) acres shall hereafter be subdivided in such manner that any lot resulting therefrom contains less than three (3) acres.

607.3-7 Lot Width: Each lot shall be at least 300 feet in width at the building line.

607.4 USES PERMITTED UPON APPLICATION TO THE PLANNING BOARD AS CONDITIONAL USE, SUBJECT TO ARTICLE 7.

607.4-1 Public Utilities

607.5 The following performance standards shall apply to all permitted uses in this district:

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

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

If the noise is not smooth and continuous but is of an impulsive or periodic character, the decibel levels indicated above shall be reduced by five percent (5%).

Sound levels shall be measured with a sound level meter and associated frequency analyzer or filter, manufactured in compliance with standard prescribed by the American Standards Association. The Environmental Impact Statement shall address this subsection.

b. Any smoke emitted from any source on the premises shall be of a density less than that described as No. 1 on the Ringelman Chart, as published by the United States Bureau of Mines.

c. No fly ash, dust fumes, vapors, gases, or other forms of air pollution which can cause any damage to health of animals or vegetation, or damage or soiling of other forms of property shall be permitted.

d. No objectionable odors shall be transmitted beyond the property lines of the lot on which the use is located.

e. No activity shall be maintained on the premises which will produce heat or glare beyond any property line.

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

g. No use or activity shall be maintained on the premises which will violate any laws of the State of New Jersey relating to air or environmental pollution.

607.5-1 Residential uses of any type and retail business establishments are categorically prohibited uses in this District. Also prohibited is any use which by its nature would tend to create or in any way result in a detrimental effect upon the surrounding area and the general community.

607.5-2 Industrial uses located in this zone shall set aside not less than twenty percent (20%) of the tract for lawns for landscaping and shall use said area for no other purpose.

607.5-3 Parking areas may be permitted in the front yard, but not closer than 25 feet to the street nor nearer than 10 feet to any building or any property line; parking areas may be permitted in side yards up to 75 percent of the total area of each side yard, but not closer than 10 feet to any property line or building.

607.5-4 Whenever an industrial zone or use abuts a residential zone, a solid and continuous landscape screen shall be planted and maintained. Said landscaping shall consist of massed evergreen and deciduous trees and shrubs of such species and size as will produce, within two (2) growing seasons, a screen at least six (6) feet in height, and of such density as will effectively obscure the light of automobile headlights emitted from the premises throughout the full course of the year. Such buffer planting shall be at least ten (10) feet wide. In addition to such buffer planting, the owner of the business or office property shall erect on the buffer area a fence six (6) feet in height for the purpose of protecting the residential property from litter, debris, and light glare and such other nuisances that would disturb peaceful possession. Such fence shall not be less than seventy-five percent (75%) solid, and shall be located only as shown on the site plan approved by the Planning Board.

607.5-5 The landscape screen described above shall be at least 50 feet in depth from any residential property line.

607.5-6 Whenever the property line abuts an arterial highway a buffer zone one hundred (100) feet in width as measured from said property line or right-of-way shall be provided. Within said buffer zone, no use, activity, or sign shall be established other than the following:

a. Such driveways as may be necessary to provide proper means of ingress and egress for the parking areas and should be on conformance with those standards as set forth in Section of the Ordinance.

b. Directional signs in conjunction with said driveway which are necessary for the proper guidance and control of vehicular traffic provided that not more than one (1) such sign is erected in conjunction with each driveway.

ARTICLE 7

CONDITIONAL USES

701. NATURE OF CONDITIONAL USES

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

702. PROCEDURE

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

The following uses, to the extent the same are listed as permitted conditional uses in any specific district, may

be permitted as a conditional use in such district by the Planning Board; provided, however, that where requirements for maximum lot coverage, lot area, lot width, or minimum floor area outlined in this Article differ from requirements of the specific district, the requirements set forth in this Article shall prevail.

703. MODIFICATION IN PROPOSAL

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

704. CONDITIONS ON APPROVAL

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

705. PUBLIC UTILITIES

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

705.1 With the application, the applicant shall submit:

a. The detailed site plan and all accompanying data and documents as submitted to and considered by the Zoning Officer and Planning Board under the Land Development Ordinance.

b. A plat showing the locations of all existing buildings and structures within two hundred (200) feet of the subject property and showing all streets within one thousand (1,000) feet of the subject property.

c. A plan showing or indicating the distribution routes for said utility to and from said property.

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

a. The proposed installation in a specific location is necessary for the satisfactory provision of services by the utility to the neighborhood or area in which the particular use is to be located;

b. The design of any building in connection with such facilities conforms to the general character of the area, and will not adversely affect the safe, comfortable enjoyment of property rights in the zone in which it is located;

c. Adequate and attractive fences and safety devices will be provided;

d. Sufficient landscaping including shrubs, trees and lawns will be provided and will be periodically maintained;

e. Adequate off-street parking will be provided;

f. All of the area, yard and building coverage requirements of the respective zone will be met.

706. SCHOOLS

Schools, as defined in this ordinance, may be permitted.

706.1 With the application, the applicant shall submit:

a. The detailed site plan and all accompanying data and documents as submitted to and considered by the Zoning Officer and Planning Board under the Land Development Ordinance.

b. Complete architectural plans and specifications of all proposed buildings and structures, and of any existing structures proposed to be continued and used in connection with such proposed school.

c. A statement setting forth in general terms the proposed course of instruction, indicating the grade levels of the pupils to be housed in the building or buildings, the planned pupil capacity of such building or buildings, and the contemplated eventual of the school.

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

a. The curriculum of the proposed school shall be approved by the new Jersey Department of Education.

b. The minimum lot area for nursery school or an elementary school shall be five (5) acres, plus one (1) additional acre for each one hundred (100) pupils, or fraction thereof. The minimum lot area for an intermediate school, junior high school or high school shall be ten (10) acres, plus one (1) additional acre for each one hundred (100) pupils or fraction thereof.

c. No more than ten percent (10%) of the site shall be occupied by buildings.

d. The minimum street frontage for a nursery or elementary school shall be five hundred (500) feet. The minimum street frontage for all other schools shall be seven hundred (700) feet.

e. A front and rear yard, each with a depth of not less than one hundred (100) feet, and two (2) side yards, each with a width of not less than one hundred (100) feet, shall be provided.

f. No parking or play area shall be permitted within seventy-five (75) feet of any street or property line; and no buildings shall be permitted within one hundred twenty-five (125) feet of any street or property line.

g. Off-street parking shall be provided in the following ratios:

Nursery or elementary schools shall provide one (1) parking space for each ten (10) pupils, plus adequate space for buses and delivery vehicles.

All other schools shall provide one (1) parking space for each staff member and employee, plus one (1) parking space for each five (5) pupils, plus adequate space for buses and delivery vehicles.

These requirements may be increased if in the judgment of the approving authority, such considerations as the unavailability of the bus services, the distance from centers of population, or a relatively high percentage of pupils driving their own cars make such increased requirements desirable.

h. No driveway shall open onto a public street or road within one hundred fifty (150) feet of an intersection of such street or road with another public street or road. In determining the suitability of proposed or existing driveways upon the site, the approving authority shall consider such factors as grade and site clearance, the number and pattern of driveways, the number, locations and design of ingress and egress points, the volume of traffic which may be anticipated on the site and upon adjoining roads, and the condition and width of pavement of adjoining roads.

i. Illumination for night athletic activities shall be shielded from view from adjoining streets and residential areas.

706.3 In any case where a school may now be in existence, or may hereafter be granted approval pursuant to the provisions of this Ordinance, in the event of expansion of said school, or in the event of increased staff and/or pupil enrollment of said school beyond that set forth in the statement presented pursuant to Section 706.1c hereof (whether or not such increase in staff and/or pupil enrollment is accompanied by an enlargement of facilities), or in the event of any changes in use or additional facilities, beyond those shown on the site plan approved by the

approving authority the person, firm, corporation, board or body in charge of said school and the owner of the property upon authority in the same manner as for an original application as provided herein.

707. HOSPITALS, PHILANTHROPIC OR CHARITABLE USES

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

707.1 With the application, the applicant shall submit:

a. The detailed site plan and all accompanying data and documents as submitted to and considered by the Zoning Officer and Planning Board under the Land Development Ordinance.

b. Complete architectural plans and specifications of all proposed buildings and structures, and of any existing structures proposed to be continued and used in connection with the proposed use.

c. A statement setting forth in general terms the proposed use or uses, the anticipated number of staff and/or employees, the nature of the services to be rendered, and the total numbers of persons expected to use the proposed facilities at any one time; for example, in the case of a hospital, the maximum number of "beds," or other usual measure of capacity.

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

a. The subject property contains at least five (5) acres.

b. No structure will be erected nearer than seventy-five (75) feet to any street line, nor nearer than fifty (50) feet to any property line.

c. The off-street parking and loading requirements of Article 8 will be met.

d. Buildings will not occupy more than twenty-five percent (25%) of the lot area.

e. All other requirements as set forth in this Ordinance for the zone in which it is to be located are observed; except that the front, rear and side yards shall be increased one (1) foot for each foot by which such building exceeds the height limit herein established for the zone district in which it is to be located, but in no case shall any building exceed a height of thirty-five (35) feet.

f. Such use will in no way be detrimental to the surrounding property values and that the building or use proposed will serve a useful purpose and promote the general welfare of the Borough.

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

708. QUASI-PUBLIC BUILDINGS AND RECREATION AREAS

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

708.1 With the application, the applicant shall submit:

a. The detailed site plan and all accompanying data and documents as submitted to and considered by the Zoning Officer and Planning Board under the Land Development Ordinance.

b. A set of architectural plans and specifications showing proposed buildings and structures.

c. A statement setting forth full particulars on the operation of the proposed use.

d. A complete list of proposed charter membership, including names and resident addresses.

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

a. The proposed use is a *bona fide* non-profit organization operated solely for the recreation and enjoyment of the members of said organization;

b. The proposed use in the proposed location will not adversely affect the safe and comfortable enjoyment of property rights or the values of adjacent properties; that the design of any structure erected in connection with such use will be in keeping with the general character of the area, and that sufficient landscaping, including trees, shrubs, and lawn will be provided to serve as a buffer between said use and any adjoining residential properties, and to insure an attractive appearance for the use;

c. The property proposed to be occupied by such use shall have a minimum lot area of one (1) acre, a minimum road frontage of one hundred fifty (150) feet, and a maximum lot coverage of twenty percent (20%);

d. No building, structure, or active recreational facilities shall be located within fifty (50) feet to an adjacent residential lot.

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

709. RESERVED FOR SUPPLEMENTARY MATERIAL

710. CHURCHES

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

710.1 With the application, the applicant shall submit:

a. The detailed site plan and all accompanying data and documents as submitted to and considered by the Zoning Officer and Planning Board under the Land Development Ordinance.

b. Complete architectural plans and specifications of all proposed buildings and structures, and of any existing structures proposed to be continued and used in connection with such proposed church.

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

a. The lot area shall be not less than three (3) acres.

b. In all other respects, the proposed use and buildings shall comply with the area and bulk requirements of the zone district in which the proposed church is to be located; provided, however, that the approving authority shall have the authority to grant, an exception from the height limitation for a church spire, bell tower or belfry.

711. PUBLIC GARAGES AND MOTOR VEHICLE SERVICE STATIONS

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

711.1 With the application, the applicant shall submit:

a. The detailed site plan and all accompanying data and documents as submitted to and considered by the Zoning Officer and Planning Board under the Land Development Ordinance.

b. To be included in said Site Plan, in addition to those items specified in the Land Development Ordinance, shall be the number and location of fuel tanks to be installed, the dimension capacity of each tank, the depth at which the tanks will be placed below ground, the number and location of pumps to be installed, the type of work to be done and a statement of the number of automobiles which may be garaged.

c. Complete architectural plans and specifications of all proposed buildings and structures, and of any existing structures proposed to be continued and used in connection with such proposed use.

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

a. Gasoline pumps and all service facilities shall be set back at least 37 feet from any street line.

b. Public garages and motor vehicle service stations shall be located on a lot having a frontage of not less than 200 feet.

c. The entire area of the site to be traversed by motor vehicles shall be surfaced with a concrete or asphaltic pavement.

d. No motor vehicle service station or public garage shall be located within 1,500 feet of another motor vehicle service station and said distance shall be measured in a straight line from the nearest boundary of the lot of one such use to be nearest boundary of the other.

e. No part of any public garage or motor vehicle service station shall be used for residence or sleeping purposes.

f. No uses prohibited by any provisions of this Ordinance shall be permitted in conjunction with the use of any property for a public garage or motor vehicle service station, and no such prohibited use shall be permitted, allowed or considered as an accessory use to the use of any premises as such public garage or motor vehicle service station.

712. CONDITIONAL USES SET FORTH IN SECTION 606.3

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

712.1 With the application, the applicant shall submit:

a. The detailed site plan and all accompanying data and documents as submitted to and considered by the Zoning Officer and Planning Board under the Land Development Ordinance.

b. Complete architectural plans and specifications of all proposed buildings and structures, and of any existing structures proposed to be continued and used in connection with such proposed use.

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

a. Sufficient on-site parking is provided.

b. No conditional use set forth in Sections 606.3-6 and 606.3-7 shall be located within 1500 feet of a school, church or another similar conditional use, and the said distance shall be measured in a straight line from the nearest boundary of the lot to the nearest boundary of the other.

ARTICLE 3

PARKING AND LOADING

801. OFF-STREET PARKING REGULATIONS.

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

801.1 Off-street parking for single-family dwellings. Each single-family dwelling shall provide off-street parking space for at least two (2) motor vehicles, which may be provided in the garage and on the driveway.

801.2 Off-street parking for non-residential uses.

801.2-1 All parking areas, passageways and driveways shall be surfaced with a dustless, durable, all-weather pavement (asphalt, bituminous or concrete or equivalent), clearly marked for vehicle spaces, properly graded and adequately drained, all subject to the approval of the Borough Engineer.

801.2-2 The site plan filed pursuant to the Land Development Ordinance shall designate the areas to be used for off-street parking, passageways and driveways, and the dimensions thereof.

801.2-3 Except as provided in Section 801.2-4 hereof, or as may be permitted in Section 803, all parking spaces shall be provided on the same lot as the use to be served by said parking area.

801.2-4 For business uses in the commercial districts, collective off-street parking areas for two (2) or more buildings or uses located on adjacent lots may be permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately, and further provided that the land upon which the collective facilities are located is owned or leased by one or more of the collective users, and provided, further, that no parking space located more than 300 feet from a building may be counted as providing a parking space for that building.

801.2-5 Except as may be otherwise specifically provided in the regulations of this Ordinance, parking areas may be located in any yard space for business uses, and in any yard except the front yard for other than business uses, but shall not be closer than fifty (50) feet to any street line or ten (10) feet to any property line. (This Section does not apply to any permitted non-residential use in any residential district.)

801.2-6 Except as may be otherwise specifically provided in this Ordinance not more than two (2) driveways, of not less than twenty (20) feet nor more than thirty (30) feet in width used as a means of ingress and egress for non-residential off-street parking areas shall be permitted for each two hundred (200) feet of frontage on a public street, nor shall any driveway be located closer than fifty (50) feet to the intersection of the right-of-way lines of two public streets.

801.2-7

a. All parking areas must provide curbing of concrete or equivalent, at least 7 inches above the parking surface, along the outer perimeter of the parking area, as designated by the Planning Board. Where a fence is required the curbing shall run parallel to the fence and at a distance of 5 feet from said fence.

b. When the parking area adjoins a residential district, the following regulations shall also apply:

1. When a parking area for four (4) or more vehicles adjoins a residential district, a planted buffer strip, as defined in Section 1001.1-2, at least ten (10) feet wide shall be provided between the parking area and the adjoining property.

2. A fence shall be erected as provided in Section 1001.1-2.

801.2-8 All parking areas and appurtenant passageways and driveways serving business uses shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation. Adequate shielding shall be provided to deflect light from adjacent residential uses so that no glare is perceptible beyond the property lines.

801.2-9 Off-street parking areas located in the C Commercial District, and which provide parking for twenty (20) or more vehicles shall be provided with shade trees of a type approved by the Planning Board in accordance with the same standards set forth in the Land Development Ordinance. The shade trees shall be located in a planned manner within the parking area in quantity not less than one (1) shade tree for every twenty (20) parking spaces.

801.2-10 Parking spaces shall be provided as follows:

a. Barber and beauty shops - 2 spaces per chair plus one additional space for each employee.

b. Banks, financial, and business offices and professional offices - one parking space for every one hundred fifty (150) square feet of gross floor area or major fraction thereof; home professional office - one parking space for every one hundred fifty (150) square feet of gross floor area or major fraction thereof, devoted to such home professional office use, which shall be in addition to the off-street parking space required for the residential use under Section 801.1.

c. Shopping centers and shopping malls - one parking space for every two hundred (200) square feet of gross floor area or major fraction thereof.

d. Supermarkets, self-service food stores - one parking space for every one hundred (100) square feet of gross floor area or major fraction thereof.

e. Laundromats - one parking space for every two (2) washing machines.

f. Motor vehicle sales and service - one parking space for every two hundred (200) square feet of gross floor area or major fraction thereof.

g. Restaurants (Indoor service only) - one parking space for every four (4) seats for customers, plus one space for every two (2) employees.

h. Bowling alleys - five (5) parking spaces for each bowling lane.

i. Auditorium, churches, theaters, stadiums, assembly halls, and similar places of public and quasi-public assembly having fixed seating facilities - one parking space for every three (3) seats in the main assembly unit.

j. Auditoriums, exhibition halls, assembly halls, union halls, community centers, and similar places of public and quasi-public assembly not having fixed seating facilities - one parking space for every three (3) persons who may legally be admitted therein at one time under the State Prevention Laws.

k. Indoor entertainment for profit establishments and bars and taverns - one parking space for every three (3) persons who may legally be admitted therein at one time under the State Fire Prevention Laws.

l. Hospitals, nursing homes, and similar institutional uses for care of the ill or aged - one parking space for every four (4) beds, plus one additional parking space

for every two (2) employees and members of the staff in the two largest working shifts.

m. Mortuaries and funeral homes - two (2) parking spaces for every fifty (50) square feet of floor area.

n. Non-office public utility installations - five (5) spaces.

o. Parks and other outdoor recreation sites - five (5) parking spaces for each gross acre of land up to fifty (50) acres, and one parking space per gross acre of land above fifty (50) acres.

p. Industrial uses: Parking shall be provided as follows: one parking space for each one thousand (1,000) square feet of building area, plus one parking space for each employee, determined by the maximum number of employees on the premises at any one time, plus five (5) parking spaces. In determining the number of employees, in any case where shift work is involved, where a shift of workers will arrive at the premises before work to relieve a shift that is to depart the site, the number of parking spaces to be provided shall be computed on the basis of the total number of employees on the two largest work shifts.

q. Stores for the retail sale of furniture - one (1) parking space for every five hundred (500) square feet of gross floor area or major fraction thereof.

r. As to any use not specified above, or not otherwise provided for in this Ordinance, provision shall be made for two square feet of parking area for each square foot of floor area in the permitted building.

801.2-11 Where a property or building is used or occupied for more than one of the uses above set forth or otherwise provided for in this Ordinance, the number of parking spaces provided shall be the total required for all such uses contained on said property or in said building, as the case may be.

801.2-12 The minimum number of parking spaces required by this Ordinance shall be kept current with any changes in size or use of a building or property and/or number of employees, as the case may be, in addition to the requirements of a Certificate of Occupancy set forth in Section 1204.2 of this Ordinance. In any case where there is an increase in the size of any building or number of employees, or change in the use of any land or buildings, the occupancy shall immediately report such information to the Zoning Officer who, in conjunction with the Planning Board, shall review such increase to ascertain if additional parking spaces shall be required by reason of such increase or change. In the event any such increase or change shall require additional parking spaces, the same shall immediately be provided; compliance shall be evidenced by a Certificate of Occupancy, and in the event of non-compliance the prior Certificate of Occupancy shall be revoked and the owners, tenants and other parties in interest shall be subject to the penalties of this Ordinance for operation and/or use without a Certificate of Occupancy.

801.2-13 All off-street parking areas, passageways, and driveways shall be subject to the approval of the Zoning Officer and Planning Board to ensure their adequacy, their relation to traffic safety, protection of the adjacent properties, whether residential or otherwise, and conformity to the requirements of this subject to the standards set forth in this Ordinance.

801.2-14 In any Business or Industrial District, parking spaces shall be no closer than ten (10) feet to any building.

802. OFF-STREET LOADING AND UNLOADING PROVISIONS

802.1 For every building, structure or part thereof having five thousand (5,000) square feet or more gross building area, erected and occupied for commerce, manufacturing, storage, goods display, retail store, wholesale store or warehouse, distribution center,

market, restaurant, laundry, dry cleaning, place of public or quasi-public assembly, industry, or other similar uses involved in the receipt and distribution by vehicles of materials or merchandise, there shall be provided and permanently maintained, adequate space for standing, loading, and unloading services in order to avoid undue interference with the public use of streets or alleys, and with areas designated for parking and their passageways and driveways, in accordance with the following standards:

a. Every such building, structure or part thereof having at least 5,000 square feet of gross building area, as aforesaid, but less than 10,000 square feet of such gross building area, there shall be provided at least one (1) truck standing, loading and unloading space on the premises, not less than twelve (12) feet in width, sixty-five (65) feet in length, and fourteen (14) feet in height.

b. For each additional 25,000 square feet of gross building area as aforesaid, or fraction thereof, there shall be provided one additional truck standing, loading and unloading space having the foregoing minimum dimensions.

c. No such truck standing, loading, or unloading space shall be in front of nor visible from the front of any building, and no loading or unloading shall be conducted in front of any building.

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

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

802.4 Off-street loading and unloading areas shall be surfaced with a dustless, all-weather pavement (asphalt, bituminous, concrete or equivalent), which shall be adequately drained, all subject to the approval of the Borough Engineer, and subject to the posting of performance guarantees as set forth in Article 10 of this Ordinance.

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

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

a. A special permit is obtained from the Planning Board in accordance with the provision of this Section.

b. The reduced number of off-street parking or loading spaces to be installed shall not be less than the minimum number found by the Planning Board to be needed to serve adequately the use or prospective use of the building in the light of the occupancy thereof, customers, employees, traffic in connection therewith, and such other factors as are relevant to parking generated thereby.

c. An off-street parking plan providing for not less than the number of parking spaces required by the applicable subsections of Section 801 shall be submitted and, if approved, shall become part of any special permit. That part of such parking layout that represents parking spaces or loading spaces in excess of the reduced number to be installed pursuant to special permit, which excess is not to be installed initially, shall not be encroached upon by buildings or other structures, shall remain readily available for future construction and installation of off-street parking, and shall be maintained in its natural state or with such landscaping as shall be required or approved by the Planning Board.

d. The applicant shall enter into a written agreement with the Borough by which the applicant agrees to construct and install all or any part of such additional off-street parking at any time or times if the Planning Board, after receipt of a complaint from the Zoning Officer or from any interested person, shall by resolution determine to require such construction and installation, and shall so notify the owner of the premises. The agreement shall also provide that the owner shall maintain the area to be covered by the excess parking space in the manner required by the Planning Board pursuant to Section 803.1(d) and that if the owner shall fail to so maintain such area, or fail to construct and install required off-street parking or loading spaces after notice to do so, the Borough shall have the right to enter upon the premises and to cause such maintenance to be performed or such off-street parking to be constructed thereon. The agreement shall further provide that if such maintenance or construction by the Borough becomes necessary, the cost of such, after procedure as required by law, shall become and be a lien on the premises, enforceable and collectible in the same manner as municipal improvement assessments. The form of the agreement shall be subject to approval of the Borough Attorney and shall become a part of any special permit issued.

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

a. A special permit is obtained from the Planning Board after the filing of a "shared parking" application.

b. In considering a "shared parking" application, the Planning Board shall follow the procedure for granting relief under 40:55D-70(b).

c. There shall be filed with the "shared parking" application, the site plan containing all information required by The Land Development Ordinance. If, approved, the site plan shall become a part of the "shared parking" special permit.

d. There shall be filed with the "shared parking" application, five (5) copies of a "shared parking" study prepared by a qualified traffic engineer or transportation planner. If approved, the "shared parking" study shall become a part of any special permit issued. The filing of the written study does not relieve the applicant from the necessity of presenting oral testimony at the time of the hearing on the application. The study shall set forth all criteria used, including peak unit ratios, parking utilization for each unit by half hour periods, parking accumulation totals for each half hour period, employee parking requirements, and any other criteria used in developing the "shared parking" recommendation. Any technical articles, learned treatises or other authorities cited or relied upon shall be listed by title, author, date of publication and address from which copies may be obtained.

e. The applicant shall enter into a written agreement with the Borough to limit and restrict the uses placed or to be placed upon the subject property so that the "shared property" provided will not be overutilized. The written agreement shall provide that upon complaint from the Zoning Officer or from any interested person, the Planning Board may limit the number, type or extent of uses on the premises, or the hours of operation of the uses on the premises, so that the "shared parking" will not be over-crowded. The agreement shall also provide that the covenants and undertakings of the applicant will be binding upon its successors and assigns, and also upon its tenants, subtenants and all other persons acquiring any interest in or possession of the premises. The agreement shall be in recordable form and shall be subject to the approval by the Borough Attorney as to form. The agreement shall become a part of any special permit issued by the Planning Board. The failure of the

applicant to abide by the terms of the agreement shall constitute a violation of the relief granted, which violation may be prosecuted under Article 12 of this Ordinance.

f. The Planning Board shall have the power, in connection with the grant of such "shared parking" special permit, to impose conditions upon the applicant relating to the types of occupancies to be upon the premises, the nature of all commercial uses and their hours of operation. The Planning Board shall have the power to prohibit certain uses or occupancies if the projected parking requirements of the uses or occupancies would overutilize the "shared parking" available.

ARTICLE 9

SIGNS

901. SIGN REGULATIONS

901.1 Signs Permitted in Residential Districts.

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

901.1-1 Nonilluminated or nonflashing-indirectly illuminated name plate sign, situated within the property lines and bearing only the name of the principal occupant and/or the street number of a private dwelling and not exceeding seventy-two (72) square inches in total area; provided, however, that any illumination shall not cause a glare visible beyond the property lines.

901.1-2 Nonilluminated or nonflashing-indirectly illuminated professional signs bearing the name of the professional person or persons using the premises and indicating the profession, each of such signs not to exceed one (1) square foot on either of two (2) sides for each professional occupying the premises.

901.1-3 Signs, identifying a use in a residential district such as a club house, public or quasi-public building or building used solely for nonprofit, church, school, hospital or other like purposes but not including any activity of a retail nature, provided said sign is located on the same premises as the use that it identifies. No such sign shall exceed nine (9) square feet and either of two (2) such signs may be placed upon any property.

901.1-4 Temporary advertising sign pertaining only to the lease or sale of the same premises on which it is placed provided that such sign shall not exceed six (6) square feet in area and shall not be illuminated. Such signs shall be removed within seven (7) days after the execution of any lease, rental agreement or agreement of sale for the premises.

901.1-5 Not more than one (1) sign for each use, profession or activity coming within the provisions of this section shall be permitted for each street contiguous to the premises, but in no case shall there be more than two (2) such signs on the premises.

901.1-6 Such signs as may be required by the Borough, County, State or Federal Government.

901.2 Signs permitted in Commercial and Industrial Districts.

901.2-1 Any sign permitted under Section 901.1.

901.2-2 One (1) nonilluminated or one (1) nonflashing-indirectly illuminated sign identifying each permitted use in a principal building may be applied or attached to the front facade of that building. Such signs shall not project more than twelve (12) inches from the building facade nor extend above the uppermost edge of such facade. Roof-mounted signs are prohibited. Where a principal building fronts on more than one street, such signs may also be placed on the facades facing such additional streets. The total area of all

signs placed on all facades of a building shall not exceed ten percent (10%) of the area of the front facade of the building (where the main entrance is located).

901.2-3 Free-standing business signs are permitted but only if erected on the same premises on which the business to which they refer is conducted. Such signs shall conform to the following:

a. There may be one (1) free-standing sign permitted in the District for each lot to identify the permitted use on the premises. Such sign may be illuminated by nonflashing indirect lighting. The total area of any such sign shall be in accordance with the following schedule:

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

b. In a shopping center or industrial park there may be one (1) directory sign at any location therein which shall not exceed fifteen (15) square feet for each acre of land in such shopping center or industrial park, provided that no such sign shall exceed two hundred (200) square feet in area. In addition, at each point of entrance and exit for vehicular traffic into or from such shopping center or industrial park, one (1) other sign shall be permitted which does not exceed five (5) square feet for each acre of land in such shopping center or industrial park. Such signs shall not exceed fifty (50) square feet in area. In the exterior of a shopping center or industrial park, containing more than one building, there may be one (1) directory sign not exceeding eight (8) square feet for each building unit therein; each such sign must be located within the same zone.

c. In C District having walkways roofed over with a permanent rigid canopy or other such structural device there may be one (1) illuminated or nonilluminated sign for each structure or occupant in such shopping center hanging from the under side of the canopy and not exceeding four (4) square feet.

d. In any area in which a free-standing sign is permitted to be erected or to exist, all refuse and papers shall be kept constantly removed from the ground spaces at least five (5) feet in all directions around the sign, and vegetation shall be kept trimmed so as not to exceed a height of six (6) inches.

902. SIGN PERMITS.

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

903. GENERAL PROVISIONS.

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

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

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

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

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

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

ARTICLE 10

LANDSCAPING AND FENCES

1001. LANDSCAPING.

1001.1 Landscaping consisting of attractive trees, shrubs, plants, natural or synthetic grass lawns and decorative stone or rock gardens, shall be shown on site plans and shall be planted and maintained as required in specific sections of this Ordinance, or as set forth in this Section.

1001.1-1 Industrial uses abutting a residential district. See Section 807.5-4.

1001.1-2 The requirements for business or office districts abutting a residential district shall be the same as stated in Section 807.5-4.

1001.2 Guarantees.

1001.2-1 Whenever landscaping, seeding and/or buffer area planting is required under this Section, or any other Section of this Ordinance, or by the Land Development Ordinance, or by any condition of approval of the Planning Board or Board of Adjustment, the same shall be planted prior to the issuance of the Certificate of Occupancy for the use of the property; provided, however, that when the season or weather conditions do not permit such planting to coincide with the completion of the buildings or structures, same shall be accomplished within a time to be specified in the issuance of such Certificate of Occupancy, based upon the season of the year when issued.

1001.2-2 No Certificate of Occupancy shall be issued for any use requiring landscaping, seeding and/or planted buffer area under this Ordinance, or as a condition of any approval under this Ordinance, unless the owner shall have filed with the Borough the performance guarantees required under the provisions of the Land Development Ordinance of this Borough, sufficient in amount to cover the costs of such required plantings, including replacement thereof and maintenance thereof for a two-year period.

1002. FENCES.

1002.1 Where fences are to be installed as part of an initial application involving a building or other structures, the same shall be shown on the site plan, and the nature of said proposed fence shall be described.

1002.2 Barbed-wire and electrically charged fences are specifically prohibited; however, barbed-wire may be permitted to be installed above a height of six (6) feet on customary security-type fences, if permission therefor is specifically granted by the appropriate authorities.

1002.3 All fences must be erected within the property lines and no fences shall be erected so as to encroach upon a public right-of-way. See also Section 408.

1002.4 Every fence shall be maintained in a safe, sound, upright condition.

1002.5 Spite fences are specifically prohibited, as are "fences" made from used or discarded materials not usually associated with fences, such as but not limited to doors, old lumber and the like.

ARTICLE 11

BOARD OF ADJUSTMENT AND PLANNING BOARD

1101. BOARD OF ADJUSTMENT.

Whenever the term Board of Adjustment is used in this Ordinance, it shall mean the Board of Adjustment of the Borough of Manville as established pursuant to Article 11 of the Land Development Ordinance.

1102. PLANNING BOARD.

Whenever the term Planning Board is used in this Ordinance, it shall mean the Planning Board of the Borough of Manville as established pursuant to Article 11 of the Land Development Ordinance.

1103. PROCEDURES.

The procedures for applications to the Board of Adjustment, and the Planning Board, requirements as to hearings, fees to be charged, and other matters, shall be as set forth in the aforesaid ordinances establishing said boards and in the Land Development Ordinance of the Borough of Manville.

1104. POWERS.

It is intended that the Board of Adjustment and the Planning Board possess all of the powers conferred upon such boards, respectively, by law.

1105. STANDARDS GOVERNING EXERCISE OF DISCRETION BY THE APPROVING AUTHORITY.

In any instance where the Approving Authority, whether Board of Adjustment or Planning Board, is empowered to act upon any application or upon a variance or conditional use, or to exercise its discretion in the granting of any relief pursuant to this Ordinance, or any other applicable law, it shall, in addition to any other factors elsewhere in this Ordinance.

1105.1 Assure itself that the proposed change or use is consistent with the spirit, purpose or intent of the Zoning Ordinance.

1105.2 Determine that the proposed change or use will not substantially injure or detract from the use of neighborhood, and that the use of the property adjacent to the area included in the proposed change, use or plan is adequately safeguarded.

1105.3 Determine that the proposed change or use will serve the best interests of the Borough, and the convenience of the community (where applicable), and the public welfare.

1105.4 Be guided in its study, review and recommendations by sound standards of subdivision practice, where applicable.

1105.5 Consider the suitability of the proposed location of an industrial or commercial use with respect to probable effects upon highway traffic, and assure

adequate access arrangements in order to protect major highways from undue congestion and hazard.

1105.6 Consider the effect of the proposed change or use upon topographical conditions and drainage and flood problems, giving undue consideration to the flood hazard areas set forth on the map referred to in Section 611 of this Ordinance, and provide for preservation of the channel and flow of water in natural streams and water courses and storm water sewers or drainage ditches, to safeguard the public against flood damage.

1105.7 Consider the effect of the proposed change or use upon the logical, efficient and economical extension of public services and facilities such as water, sewers, police and fire protection, and public school, and assure adequate arrangements for sanitation in specific instances.

1105.8 Ascertain the adequacy of sanitation and public safety provisions, where applicable.

1105.9 Require that all commercial or industrial parking, loading, access or service areas shall be adequately illuminated at night while in use, and that such lighting, including sign lighting, shall be arranged so as to protect the highway and neighboring properties from direct glare of hazardous or objectionable interference of any kind.

1105.10 Consider the effect of the proposed change or use upon the ecology of the community to assure adequate environmental protection.

1105.11 The Board of Adjustment or Planning Board, as the case may be, in granting any approvals under this Ordinance may impose such conditions, in addition to those required in this Ordinance, as are necessary to assure that the general purposes and intent of this Ordinance are met. Such conditions may include, but are not limited to, harmonious design of building, planting and its maintenance as a sight or sound screen, and minimizing of noxious, offensive or hazardous elements, preservation of natural features, and the posting of performance guarantees, of the nature required in the Land Development Ordinance, to assure compliance with requirements that will survive initial construction and the issuance of the Certificate of Occupancy.

ARTICLE 12

ADMINISTRATION; PERMITS; CERTIFICATES

1201. ENFORCEMENT.

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

1201.1 Building Inspector. Whenever the term "Building Inspector" is used in this Ordinance, it shall mean the construction official operating as such in the Borough of Manville enforcing agency under the State Uniform Construction Code.

1201.2 Zoning Officer. The Mayor and Council shall appoint a Zoning Officer annually at its reorganization meeting, or as soon thereafter as may be practicable. Said Zoning Officer shall serve for the remainder of the calendar year in which he shall be appointed.

1201.3 Deputy Zoning Officers. The Mayor and Council may also designate as Deputy Zoning Officers, for the purpose of signing complaints and prosecuting violations of this Ordinance in the Municipal Court, or any other Court, such other officers, including but not by way of limitation, the Chief of Police and members of the Police Department, as said Mayor and Council may deem advisable.

1201.4 The same person may be named by the mayor and Council to serve as both Building Inspector and as Zoning Officer, or the Mayor and Council may appoint separate persons to said positions.

1202. DUTIES OF ZONING OFFICER.

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

1202.1 Where the Zoning Officer, in the course of his duties, determines that any plans, buildings or premises are in violation of the provisions of this Ordinance, he shall order the responsible party in writing to remedy such conditions. Said written order shall specify the nature of the violation found to exist, the remedy ordered and the time permitted for such action, the penalties and remedies which may be invoked by the Borough, and the violator's rights of appeal; all as provided for by this Ordinance and the laws of the State of New Jersey. A copy of the written order shall be transmitted to the Building Inspector who shall thereupon cause the Certificate of Occupancy for the building or premises in question to be held null and void. A new Certificate shall be required for any further use of such building or premises.

1202.2 The Zoning Officer shall issue Zoning Permits or Temporary Use Permits, as appropriate and as provided for elsewhere in this Ordinance. No such permit shall be issued for any plans which would be in violation of the provisions of this Ordinance.

1202.3 The Zoning Officer shall inspect premises after construction and prior to issuance of a Certificate of Occupancy to assure that the building in fact does comply with the plans as approved and this Ordinance. If it does, the Zoning Officer shall issue the Zoning Certificate.

1202.4 The Zoning Officer shall maintain a permanent record of all matters considered and all action taken by him. Such records shall form a part of the records of his office and shall be available for the use of the Mayor and Council and other officials of the Borough, County and State. The records to be maintained shall include at least the following:

a. Application File. An individual permanent file for each application for a permit provided for by this Ordinance shall be established at the time the application is made. Said file shall contain one (1) copy of the application and all supporting documents, maps and plans; notations regarding pertinent dates and fees, and the like; as appropriate, one (1) copy of the resolution of the Board of Adjustment in acting on the application; and the date the permit applied for was issued or denied by the Zoning Officer.

b. Monthly Report. The Zoning Officer shall prepare a monthly report for the Mayor and Council. Said report shall cite all actions taken by the Zoning Officer including all referrals made by him; all permits and certificates issued and denied; and all complaints of violations received and all violations found by him, and the action taken by him consequent thereon.

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

1203. PROCEDURE ON APPLICATIONS.

1203.1 At the time of application for a construction permit (by whatever name) to construct, alter or repair a detached one or two dwelling-unit building, to be used exclusively for residential purposes, in a Residential district, the applicant shall also apply to the Zoning Officer for a Zoning Permit.

1203.1-1 The applicant shall supply the Zoning Officer with the information required by Section 603(d) of the

Land Development Ordinance, as well as all data required by the State Uniform Construction Code.

1203.1-2 If the Zoning Officer shall determine that said application conforms in all respects to the requirements of this Ordinance, he shall issue the Zoning Permit and sign and stamp all plans, and so advise the Building Inspector.

1203.1-3 If the Zoning Officer shall determine that said application does not conform in all respects to the requirements of this Ordinance, he shall note in what respects the application does not conform and shall deny the application. The Zoning Officer shall notify the Building Inspector of such denial, and shall advise the applicant of the applicant's right to apply to the proper board for an appropriate remedy. An applicant may file an application with the Board of Adjustment for action under any of its powers without prior application to the Zoning Officer.

1203.2 Every application for a Zoning Permit, other than an application under Section 1203.1 above, shall require that the applicant shall first have obtained site plan review and approval for from the Planning Board (or, in instances provided for in Chapter 291, P.L. 1975, from the Board of Adjustment). The procedure, regulations and requirements for such site plan review are set forth in the Land Development Ordinance of the Borough. No Zoning permit shall be issued unless and until site plan approval pursuant to said ordinance shall first have been obtained.

1204. CERTIFICATES AND PERMITS.

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

1204.1 Construction Permit. No construction permit (by whatever name the same be called) as required by the Uniform Construction Code, shall be issued unless the Building Inspector shall first receive or issue, as the case may be, a Zoning Permit, showing that the plans and intended use of such building or structure are designed and intended to conform in all respects to the provisions of this Ordinance and all other applicable ordinances, laws and regulations.

1204.2 CERTIFICATE OF OCCUPANCY.

1204.2-1 No Certificate of Occupancy shall be issued unless the Building Inspector shall first receive or issue, as the case may be, a Zoning Permit or Zoning Certificate, as applicable, showing that said land and/or premises and the use thereof comply in all respects to the provisions of this Ordinance and all other applicable ordinances, laws and regulations.

1204.2-2 No land shall be occupied or used and no building shall be occupied or used, in whole or in part for any purpose whatsoever, until a Certificate of Occupancy shall have been issued by the Building Inspector stating that the land or building, and the occupation or use of said land or building, comply with all the provisions of this Ordinance and all other applicable ordinances, laws and regulations.

1204.2-3 No change or extension of use and no alteration of use shall be made in a nonconforming use of any land or building, without a Certificate of Occupancy having first been issued by the Building Inspector indicating that such change, extension or alteration is in conformity with the provisions of this Ordinance and all other applicable ordinances, laws and regulations.

1204.2-4 No change shall be made in the use or occupancy of any land or building without a Certificate of Occupancy having first been issued by the Building Inspector indicating that such change is in conformity with the provisions of this Ordinance, and all other applicable ordinances, laws and regulations. Whenever the ownership or tenancy of a building other than a building used or occupied exclusively as a dwelling, shall change, a Certificate of Occupancy shall

be obtained indicating that the use of occupation is in conformity with the provisions of this Ordinance and all other applicable ordinances, laws and regulations; such Certificate of Occupancy shall be required in any such case whether or not there is no change of such use, and to register the name or names of the party or parties liable for compliance with the terms of this Ordinance and all other applicable ordinances, laws and regulations. In any case where the Certificate of Occupancy is required because of a change in tenancy or ownership, but there is no change in use, the Building Inspector shall issue such certificate without referral of the matter to the Planning Board and no site plan review shall be required.

1204.2-5 In any case where a Building Permit is also required, the Certificate of Occupancy shall be applied for at the same time that the application for a Building Permit is filed and shall be issued within ten (10) days after the erection or alteration of the building shall have been completed in conformity with the provisions of this Ordinance and all other applicable ordinances, laws and regulations. In any case where no Building Permit is required, but a Certificate of Occupancy is required, the Certificate of Occupancy shall be applied for before the land or building is used or occupied for the purpose for which the Certificate of Occupancy is sought or, in a case where the Certificate of Occupancy is required because of a change in the ownership of tenancy of a building other than a building used or occupied exclusively as a dwelling, the Certificate of Occupancy shall be applied for before the land or building is used by the new owner or tenant, as the case may be; such Certificate of Occupancy shall be used within ten (10) days after the application therefor, provided the proposed use or occupation of the land or building shall conform with the provisions of this Ordinance and all other applicable ordinances, laws and regulations.

1204.2-6 A record of all Certificates of Occupancy shall be kept on file in the office of the Building Inspector and copies shall be furnished upon request to any person having a proprietary or leasehold interest in the building or land affected, upon payment of the appropriate fee therefor.

1204.3 Zoning Permit. The Zoning Officer is hereby empowered to issue a Zoning Permit for any plans regarding the construction or alteration of any building or part of any building, or the change in use of any land or building or part thereof, in accordance with the following:

1204.3-1 For a detached one- or two-dwelling unit building to be used exclusively for residential purposes in a Residential District, when he shall determine that such plans are not in violation of the provisions of this Ordinance.

1204.3-2 For any use other than specified in subsection 1204.3-1, above, when he, with the Approving Authority under the procedures set forth in Article 3 of the Land Development Ordinance, shall determine that such plans are in conformity with the provisions of this Ordinance and the Land Development Ordinance and that same do not require a variance or conditional use from the terms of this Ordinance.

1204.3-3 For any use requiring a variance or conditional use permit, upon receipt of the final approval of the Approving Authority for such variance or conditional use, and accompanying site plan approval.

1204.3-4 The reference to "two dwelling unit building" in Sections 1203.1 and 1204.3-1 above, is made to conform to the language in 40:55D-37, and shall not be deemed to be permission for any such use unless specifically permitted in a district in this Ordinance.

1204.3-5 The issuance of a Zoning Permit shall constitute a determination that the requirements of this Ordinance have been met and shall be a prerequisite to the issuance of a construction permit (see S 1204.1).

1204.4 Temporary Use Permit. The Zoning Officer is hereby empowered to issue a Temporary Use Permit when he shall determine that the requirements of this ordinance with respect thereto have been met, and as directed by the Approving Authority as follows:

1204.4-1 In connection with Construction or Development. It is recognized that certain types of construction and development require certain temporary structures and uses incidental thereto; not intended to remain permanently on the property, and not otherwise permitted by this Ordinance.

The Approving Authority in its general supervision and site plan review shall have the power to authorize, for a period not to exceed one (1) year, the following uses customarily incidental to such construction and/or development; storage of building supplies and machinery, the assembly of building materials, temporary trailer or construction dwelling for use of workmen and supervisors on the site, and a real estate office located on the tract offered for sale.

The issuance of such permits shall be conditioned upon written agreement by the owner to remove any structure or structures erected thereunder and to discontinue such uses upon expiration of the Temporary Permit. Such permits may be renewed by the Approving Authority annually, over a period not to exceed three (3) years.

1204.4-2 In connection with other temporary uses. It is recognized that there are certain activities or uses of land and/or buildings which are by their nature conducted only for a limited period of time and which may not otherwise be permitted by the provisions of this Ordinance, but which are of such nature and are so located that they will:

a. in no way exert a detrimental effect upon land and activities normally permitted in the zone; or

b. contribute materially to the welfare of the Borough particularly in a state of emergency, or in connection with civic or charitable functions, under conditions peculiar to the time and place involved; or

c. arise by reason of the requirements of other law with reference to property.

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

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

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

A Temporary Use Permit issued pursuant to this subsection (1204.4-2) shall be effective only for the period set forth in such Permit, but in no case for a period to exceed six (6) months.

In the event of the denial of such a Temporary Use Permit, the applicant shall have the right to appeal such determination to the Board of Adjustment (40:55D-70-b).

ARTICLE 13

VIOLATIONS AND PENALTIES

1301. PENALTIES.

Any person, firm or corporation that shall violate any provision of this Ordinance shall, upon conviction thereof by any Court authorized by law to hear and determine the matter, be fined such sum not exceeding Five Hundred Dollars (\$500.00), as such Court in its discretion may impose, or if the party so convicted be a natural person, such person may be imprisoned for such term not exceeding ninety (90) days as such Court in its discretion may impose, or be fined such sum not exceeding five hundred dollars (\$500.00), as such Court in its discretion may impose, or such natural person may be both imprisoned and fined not exceeding the maximum limits set forth herein, as such Court in its discretion may impose.

Each day that such violation exists shall constitute a separate offense punishable by a like fine or penalty.

1302. PARTIES LIABLE.

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

1303. OTHER REMEDIES.

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

1304. REVOCATION AND RECISSION OF APPROVAL, AND/OR PERMITS.

Whenever it shall come to the attention of either the Planning Board or the Board of Adjustment that action was taken by such Board based upon fraud or misrepresentation by or on behalf of the applicant as to material fact, such Board shall have the right to rescind its previous action and to order revocation of any approval, permit, or certificate theretofore granted upon such fraud or misrepresentation. Such recission and revocation shall remain in effect unless and until such Board shall reinstate such approval following a hearing thereon granted to the applicant within 10 days of any request therefor by the applicant. The rights of recission and revocation set forth in this paragraph shall be in addition to the right to proceed under the other paragraphs of this Section.

ARTICLE 14

VALIDITY

1401. SEVERABILITY.

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

ARTICLE 15

REPEALER

1501. REPEALER.

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

ARTICLE 16

EFFECTIVE DATE

1601. EFFECTIVE DATE

This Ordinance shall take effect immediately after passage and publication in the manner prescribed by law.

BOROUGH OF MANVILLE

Marion B. Dudash, Mayor