

**CODE OF THE  
TOWNSHIP OF LUMBERTON,  
NEW JERSEY, v29**

*Updated 11-15-2007*

**OFFICIALS  
OF THE  
TOWNSHIP OF LUMBERTON**

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**2005**

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## **PREFACE**

The Township of Lumberton has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the township, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the township. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Township Committee ordered the following codification of the township's legislation.

### **Contents of Code**

The various chapters of the Code contain all currently effective legislation (ordinances) of a general and permanent nature enacted by the Township Committee of the Township of Lumberton, including revisions or amendments to existing legislation deemed necessary by the Township Committee in the course of the codification.

### **Division of Code**

The Code is divided into parts. Part I, Administrative Legislation, contains all township legislation of an administrative nature, namely, that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other township legislation of a regulatory nature. Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not. Part III, Board of Health Legislation, contains legislation adopted by the Board of Health.

### **Grouping of Legislation and Arrangement of Chapters**

The various items of legislation are organized into chapters, their order being an alphabetical progression from one subject to another. Wherever there are two or more items of legislation dealing with the same subject, they are combined into a single chapter. Thus, for example, all legislation pertaining to the regulation of streets and sidewalks may be found in Part II, in the

chapter entitled "Streets and Sidewalks." In such chapters, use of Article or Part designations has preserved the identity of the individual items of legislation.

### **Table of Contents**

The Table of Contents details the alphabetical arrangement of material by chapter as a means of identifying specific areas of legislation. Wherever two or more items of legislation have been combined by the editor into a single chapter, titles of the several Articles or Parts are listed beneath the chapter title in order to facilitate location of the individual item of legislation.

### **Reserved Chapters**

Space has been provided in the Code for the convenient insertion, alphabetically, of later enactments. In the Table of Contents such space appears as chapters entitled "(Reserved)." In the body of the Code, reserved space is provided by breaks in the page-numbering sequence between chapters.

### **Pagination**

A unique page-numbering system has been used, in which each chapter forms an autonomous unit. One hundred pages have been allotted to each chapter, and the first page of each is the number of that chapter followed by the numerals "01." Thus, Chapter 6 begins on page 601, Chapter 53 on page 5301, etc. By use of this system, it is possible to add or to change pages in any chapter without affecting the sequence of subsequent pages in other chapters, and to insert new chapters without affecting the existing organization.

### **Numbering of Sections**

A chapter-related section-numbering system is employed, in which each section of every item of legislation is assigned a number which indicates both the number of the chapter in which the legislation is located and the location of the section within that chapter. Thus, the first section of Chapter 6 is § 6-1, while the fourth section of Chapter 53 is § 53-4. New sections can then be added between existing sections using a decimal system. Thus, for example, if two sections were to be added between §§ 53-4 and 53-5, they would be numbered as §§ 53-4.1 and 53-4.2.

### **Scheme**

The Scheme is the list of section titles which precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and

precision of reference, the Scheme titles are repeated as section headings in the text.

### **Histories**

At the end of the Scheme in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and the date of adoption. In the case of chapters containing Parts or Articles derived from more than one item of legislation, the source of each Part or Article is indicated in the History. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

### **Codification Amendments and Revisions**

New chapters adopted during the process of codification are specifically enumerated in chapter Histories with reference either to "Ch. 1, General Provisions," or to "Chapter Ch. 281, General Provisions, Board of Health," where the legislation adopting the Code and making these revisions will appear after final enactment. Sections amended or revised are indicated in the text by means of Editor's Notes referring to the chapters cited above.

### **General References, Editor's Notes**

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

### **Appendix**

Certain forms of local legislation are not of a nature suitable for inclusion in the main body of the Code but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this Code is reserved for such legislation and for any other material that the community may wish to include.

### **Disposition List**

The Disposition List is a chronological listing of legislation adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. The Disposition List will be updated with each supplement to the Code to include the legislation reviewed with said

supplement.

## **Index**

The Index is a guide to information. Since it is likely that this Code will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been indexed. The Index will be supplemented and revised from time to time as new legislation is added to the Code.

## **Instructions for Amending the Code**

All changes to the Code, whether they are amendments, deletions or complete new additions, should be adopted as amending the Code. In doing so, existing material that is not being substantively altered should not be renumbered. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 45-5 and 45-6 should be designated § 45-5.1). New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the table of contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the table of contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 45 and 46 should be designated Chapter 45A). New Articles may be inserted between existing Articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" Articles (e.g., a new Article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 45-30 and Article XVII begins with § 45-31, Article XVIA should contain §§ 45-30.1 through 45-30.6).

## **Supplementation**

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

## Acknowledgment

The assistance of the township officials is gratefully acknowledged by the editor. The codification of the legislation of the Township of Lumberton reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code Publishers Corp. that this Code will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."

# PART I ADMINISTRATIVE LEGISLATION

## Chapter 1, GENERAL PROVISIONS

[HISTORY: Adopted by the Township Committee of the Township of Lumberton: Art. 1, 8-3-1992 as Ord. No. 1992-6; Art. II, 12-17-1973 by Ord. No. 1973-19 as § 1-3 of Ch. 1 of the 1973 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Board of Health general provisions -- See Ch. 281.

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## ARTICLE I, Adoption of Code by Township Committee [Adopted 8-3-1992 as Ord. No. 1992-6]

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### § 1-1. Adoption of Code.

A. Pursuant to N.J.S.A. 40:49-4, and its various amendments and supplements, there is hereby adopted by the Township Committee of the Township of Lumberton a revision and codification of the township's ordinances known as the "Code of the Township of Lumberton, County of Burlington and State of New Jersey," of which not fewer than one copy has been made and is now filed in the office of the Clerk/Administrator of the township, and the same is hereby adopted and incorporated as fully as if set out herein, and from the date this

ordinance shall take effect, the provisions shall be controlling.

- B. The copy of the revision and codification of the ordinances of the Township of Lumberton above referred to as being filed in the office of the Clerk/Administrator of the township shall remain in said office for the use and examination of the public until final action is taken upon this ordinance and thereafter while the same shall be in effect.

**§ 1-2. Provisions considered as continuations of existing ordinances.**

The provisions of this Code, so far as they are the same in substance as those of heretofore existing ordinances, shall be considered continuations of such ordinances and not new enactments.

**§ 1-3. When effective.**

All provisions of the Code of the Township of Lumberton, County of Burlington and State of New Jersey, shall be in full force and effect on and after the effective date of this ordinance.

**§ 1-4. Definitions.** EN(1)

- A. Terms used in this Code, unless otherwise specifically defined, have the meanings prescribed by the Revised Statutes of New Jersey for the same terms.

- B. Terms used in this Code have the following meanings:

COMMITTEE -- The Township Committee of the Township of Lumberton.

COUNTY -- County of Burlington.

ORDINANCES -- The ordinances of the Township of Lumberton and all amendments and supplements thereto.

PERSON -- Any natural individual, firm, trust, partnership, association or corporation. Whenever the word "person" is used in any section of this Code prescribing a penalty or fine, as applied to partnerships or associations the word includes the partners or members thereof, and as applied to corporations includes officers, agents or employees thereof who are responsible for any violations of the section. The singular includes the plural. The masculine gender includes the feminine and neuter genders.

STATE -- State of New Jersey.

TOWNSHIP -- The Township of Lumberton, County of Burlington, New Jersey.

**§ 1-5. Specific repeal of certain inconsistent ordinances.**

Any ordinances in force on the date of the adoption of this Code which are inconsistent with any provisions contained in said Code are hereby repealed as of the effective date of this Code.

**§ 1-6. Ordinances saved from repeal; matters not affected by repeal.**

The adoption of this Code and the repeal of ordinances provided for in § 1-5 of this Article shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued or incurred under any legislative provisions of the Township of Lumberton prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the Township of Lumberton or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision of the Township of Lumberton.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Township Committee.
- E. Any ordinance of the Township of Lumberton providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Township of Lumberton.
- F. Any ordinance or resolution of the Township of Lumberton appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Township of Lumberton or other instruments or evidence of the township's indebtedness.
- G. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.



- H. The levy or imposition of taxes, assessments or charges.
- I. The dedication of property or approval of preliminary or final subdivision plats.

**§ 1-7. Sale of Code book; supplements provided.**

Copies of the Code book containing the Code of the Township of Lumberton, County of Burlington, State of New Jersey, may be purchased from the Clerk/Administrator upon the payment of a fee to be set by resolution of the Township Committee, which may also arrange, by resolution, for procedures for the periodic supplementation thereof.

**§ 1-8. Severability of Code provisions.**

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

**§ 1-9. Severability of ordinance provisions.**

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

**§ 1-10. Captions of sections.**

The captions of the several sections of the Code of the Township of Lumberton, County of Burlington, State of New Jersey, printed in boldface type are intended as mere catch words to indicate the content of the sections and shall not be deemed or taken to be titles of such sections or as any part of such sections, nor shall they be deemed to be such when any of such sections, including the captions, are amended or reenacted, unless expressly so provided in the amendment or reenactment.

**§ 1-11. General penalty provision.**

- A. Wherever, in the revision and codification or in any other ordinance of the township, or rule, regulation or order promulgated by any officer or agency of the township under authority duly vested in him, her or it, any act is prohibited or is made or declared to be unlawful or an

offense or the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provisions of the revision and codification or of any other ordinance of the township or any rule, regulation or order as aforesaid shall subject a person to a fine not exceeding \$ 1,000 or to imprisonment in the county jail for a term not exceeding 90 days or to a period of community service not exceeding 90 days, or to such combination of punishments as the Municipal Judge, in his or her discretion, shall deem appropriate and just; provided, however, that where the penalty for any particular offense is limited by state statute, then such limitations shall be applicable to the provisions of the revision and the codification and other ordinances of the township, or rule, order or regulation as aforesaid, notwithstanding the provisions of this section. Each day any violation of the revision or codification or of any other ordinance of the township or any rule, regulation or order as aforesaid shall continue shall constitute a separate offense.

- B. Whenever any such fine is imposed upon any corporation, such fine and costs and charges incident thereto may be collected in an action of debt or in such other manner as may be provided by law.

**§ 1-12. Altering or tampering with Code, penalties for violation.**

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of this Code or to alter or tamper with the same in any manner whatsoever which will cause the law of the Township of Lumberton, County of Burlington, State of New Jersey, to be misrepresented thereby. Anyone violating this section of this Article shall be subject, upon conviction, to a fine of not more than \$1,000 or imprisonment for not more than 90 days, or both, in the discretion of the Municipal Judge.

**§ 1-13. Effective date of this ordinance.**

This ordinance shall take effect upon final passage and publication in accordance with general law.

**§ 1-14. (Reserved)**

**§ 1-15. (Reserved)**

**§ 1-16. Amendments to Code; responsibility for update; ordinances adopted during**

**codification.**

- A. Any and all additions, amendments or supplements to the Code of the Township of Lumberton, County of Burlington, State of New Jersey, when passed and adopted in such form as to indicate the intention of the Township Committee to be a part thereof shall be deemed to be incorporated into said Code, so that reference to the "Code of the Township of Lumberton, County of Burlington, State of New Jersey," shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code of the Township of Lumberton, County of Burlington, State of New Jersey, shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code, as amendments and supplements thereto.
- B. It shall be the duty of the township's Clerk/Administrator, or any other person authorized and directed by the Township Committee, to keep up-to-date the certified copy of the book containing the Code of the Township of Lumberton, County of Burlington, State of New Jersey, required to be filed in the office of the Clerk/Administrator for the public's use. All changes in said Code and all ordinances adopted by the Township Committee during the preparation of this codification, and any revisions, amendments or supplements adopted prior to the effective date of this ordinance, shall, when finally adopted, be included herein by reference until such changes or new ordinances are printed as supplements to this Code, at which time such supplements shall be inserted herein.
- C. Only general ordinances adopted by the Township of Lumberton and the Board of Health of the Township of Lumberton are meant to be included in the revision and codification, and not ordinances covering bond issues, finances, assessments, franchises, annexations and similarly specific ordinances which are limited in scope and application.

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**ARTICLE II, Construction of Terms [Adopted 12-17-1973 by Ord. No. 1973-19 as § 1-3 of Ch. 1 of the 1973 Code]**

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**§ 1-17. Word usage.** EN(2)

For the purposes of this Code and any other ordinances heretofore or hereafter adopted, except as the context may otherwise require:

- A. The present tense includes the past and future tenses and the future, the present.
- B. The masculine gender includes the feminine and neuter.

- C. The singular number includes the plural and the plural, the singular.
- D. "Shall" is mandatory, and "may" is permissive.
- E. The time within which an act is to be done shall be computed by excluding the first and including the last day, and if the last day is a Sunday, a legal holiday or a day on which the offices of the township are closed, that day shall be excluded.
- F. "Writing" and "written" shall include printing, typewriting, and any other mode of communication using paper or similar material which is in general use, as well as legible handwriting.
- G. Whenever a specific time is used in this Code, it shall mean the prevailing and established time in effect in the State of New Jersey during any day in any year.<sup>EN(3)</sup>
- H. Any reference in this Code to specific sections in the statutes shall be deemed to include any and all amendments and supplements thereto. [Added 8-3-1992 by Ord. No. 1992-6]

## Chapter 3, AGRICULTURAL ADVISORY BOARD

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 1-18-2005 by Ord. No. 2005-2. Amendments noted where applicable.]

### GENERAL REFERENCES

Land Development Board -- See Ch. 29.

Right to farm -- See Ch. 147, Art. I.

### § 3-1. Establishment of Board.

There is hereby established within the Township of Lumberton an Agricultural Advisory Board, which will serve as an ad hoc advisory board to the Township Committee and Land Development Board. Its purpose shall be to keep the Township Committee and Planning Board informed of developments in the farming community; to respond to the Planning Board on any ordinances introduced by the Township Committee that may impact upon the farming community; to assist the Township Committee and Land Development Board by offering it advise with regard to matters such as, e.g., farmland preservation and the enrollment of certain properties in a Farmland Preservation Program; offering input with regard to land use applications relating to farmland and particularly qualified farm assessed properties; to generally consider and make recommendations regarding the economic viability, economic needs and establishment and/or review of programs aimed at minimizing restraints on the agricultural industry and improving its opportunities; and such other duties, responsibilities and matters which the Township Committee

wishes to delegate to said Board.

**§ 3-2. Powers and duties; composition.**

- A. Meetings. The Agricultural Advisory Board shall meet no fewer than four occasions per year to discuss matters of interest to the farming community, as described in § 3-1 above. The Agricultural Advisory Board shall report to the Township Committee and Land Development Board, at least three times per year, on its activities, and provide the Committee and Land Development Board with a summary of the issues it has discussed and the positions it believes should be advanced on behalf of farming community. The Agricultural Advisory Board shall be strictly advisory in its recommendations, decisions, comments or other observations and shall not be binding in any way upon the Township Committee and Land Development Board or any other municipal body, board or agency.
- B. Composition. The Agricultural Advisory Board shall consist of five members who shall be appointed by the Mayor with the consent of the Township Committee in the following fashion: initially, one member shall be appointed for one year, two members shall be appointed for two years, and two members shall be appointed for three years. Terms shall expire on December 31 of the appropriate year. Thereafter each member shall serve a term of three years. A majority of members of the Agricultural Advisory Board must be either actively engaged in farming or own a portion of the land they farm. The members shall choose a Chairman, who shall serve as liaison between the Board and the Township Committee and Land Development Board. The Chairman shall keep notes of the meeting which shall be deemed to be the property of the Township. The Chairman shall serve as the spokesperson for the Board in discussions with the Township Committee and Land Development Board.

**§ 3-3. Limitations of Board.**

- A. It is the intent of this chapter that the Agricultural Advisory Board shall be solely an advisory board consisting of volunteers appointed as aforescribed. The Board shall have no authority to expend any public funds, and no funds shall be required to be appropriated in the annual budget for this Board. Moreover, because the Board serves in an advisory capacity and is not authorized to perform any governmental functions affecting the rights, duties, obligations, privileges, benefits or other legal relations of any person, it is the intent of this chapter that the Board shall not be considered a public body within the meaning and intent of the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq. Accordingly, there shall be no obligation for the Board to provide any advance notice of its meeting, although nothing herein contained shall be precluded from doing so.

- B. Limitation on powers. It is expressly intended that the Agricultural Advisory Board is created as an ad hoc group to assist the Township Committee in addressing issues and problems facing the farming community. Nothing herein contained shall permit, or be intended to permit, the Agricultural Advisory Board to render suggestions, opinions, recommendations or in any other way communicate with any other agency, board or body of the Township of Lumberton except for the Township Committee.

## **Chapter 7, COURT, MUNICIPAL**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-17-1973 by Ord. No. 1973-19 as part of Ch. II of the 1973 Code. Amendments noted where applicable.]

### **§ 7-1. Establishment; powers.**

There shall be a Municipal Court in the township pursuant to the provisions of N.J.S.A. 2A:8-1 et seq., or any amendments or supplements thereto, to be known as the "Municipal Court of the Township of Lumberton." The Municipal Court shall have a seal bearing the impress of the name of the court. The Court shall be held in the township hall or such other place as the Township Committee shall designate from time to time and shall exercise all the functions, powers, duties and jurisdiction conferred upon municipal courts by law.

### **§ 7-2. Municipal Judge.**

- A. There shall be a Municipal Judge of the Municipal Court appointed by the Township Committee. He/she shall serve for a term of three years from the date of appointment and until a successor shall be appointed and qualified.
- B. The Municipal Judge shall have and possess the qualifications and shall have, possess and exercise all the functions, duties, powers and jurisdiction conferred by law or ordinance. He/she shall sit during such hours and at such times as the business of the court may require, subject to the rules applicable to municipal courts.

### **§ 7-3. Municipal Court Administrator. [Amended 6-3-1991 by Ord. No. 1991-8]**

There shall be an Administrator of the Municipal Court who shall be appointed by the Township Committee for a term of three years, to run concurrently with that of the Municipal Judge. The Administrator shall perform the functions and duties prescribed for him/her by law, rules and regulations promulgated by the Administrative Director of the Courts and by the Municipal

Judge. He/she shall be an officer of this township, as that term is defined and used in P.L. 1991, c. 29, known as the "Local Government Ethics Law,"<sup>EN(4)</sup> and his/her duties shall include but not be limited to the following:

- A. Carrying out the rules, regulations, policies and procedures relating to the operation of the Court.
- B. Interviewing and speaking to persons wishing to file criminal complaints or wishing information in that regard, receiving complaints and dispensing information relative to Court matters.
- C. Maintaining the financial records of the Court.
- D. Attending Court; recording pleas, judgments and dispositions; arranging trial calendars; signing court documents; and preparing and issuing warrants and commitments.
- E. Taking and preparing bail bonds, recognizances and security in lieu thereof; making inquiry concerning their sufficiency and equity; and receiving and accounting for fines and costs.
- F. Interviewing persons on informal police court matters to determine if there is a basis for formal action and, if necessary, issuing summonses requiring court appearances; maintaining and classifying records and files.
- G. Maintaining, forwarding, receiving and reporting such records, reports and files as are required by the State Director of Motor Vehicles.
- H. Such other duties as may be required by general law or specifically assigned by the Township Committee.

**§ 7-4. Municipal Court Assistant. [Amended 3-15-1976 by Ord. No. 1976-1; 6-3-1991 by Ord. No. 1991-8<sup>EN(5)</sup>]**

There shall be a Municipal Court Assistant who shall be appointed by the Township Committee for a term of three years, to run concurrently with that of the Municipal Judge. The Municipal Court Assistant shall perform all of the duties and have all of the powers of the Court Administrator during the absence or disability of the latter, except as may be limited or unauthorized by general law. At all other times, he/she shall assist the Court Administrator in the performance of his/her duties and the exercise of such powers as prescribed for him/her by law, rules and regulations and as otherwise designated by the Township Committee.

- A. Compensation. As full compensation for the discharge of his/her duties, the Municipal Court Assistant shall receive such compensation as the Township Committee may fix from time to

time in any salary ordinance of the township.

- B. Appointment optional. Appointment of a Municipal Court Assistant shall be completely discretionary with the Township Committee, which shall decide whether or not to appoint someone to this office or to fill any vacancy existing in such position.
- C. Municipal officer. The Municipal Court Assistant shall be deemed a municipal officer as that term is defined in P.L. 1991, c. 29, the Local Government Ethics Law.<sup>EN(6)</sup>

## Chapter 10, DEFENSE AND INDEMNIFICATION

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 6-17-1991 as part of Ord. No. 1991-5. Amendments noted where applicable.]

### GENERAL REFERENCES

**Officers and employees -- See Ch. 41.**  
**Personnel policies -- See Ch. 46.**

#### § 10-1. Authorization; application.

Pursuant to statutory authority, the township does hereby authorize and provide indemnification of its employees, officials and appointees in accordance with the indemnification provisions applicable to all state employees. Such indemnification shall apply to any act or omission of the employee, official or appointee, whether intentional or not, occurring within the scope of his/her employment.

## Chapter 10A, DISBURSEMENT OF MONEYS; PAYMENT OF CLAIMS

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 10-19-1998 by Ord. No. 1998-31. Amendments noted where applicable.]

#### § 10A-1. Presentation of claim for approval; time for submission; exception.

- A. Any person claiming payment from the township shall present a detailed bill of demand to the Township Treasurer and/or Chief Financial Officer, duly certified, or in the alternative, supported by an affidavit of the claimant. It shall be the duty of the Treasurer to see that the signature of the officer or employee who has been duly assigned by the Township Committee to certify that the materials have been received by or the services have been rendered to the township appears on every claim. The Treasurer shall prepare a voucher list and submit it to



the Township Committee prior to any regular meeting, or to a special meeting so long as the agenda has been amended to reflect same, for formal approval. Claims shall be considered by the Township Committee which shall approve the same, except that the Committee may reject any claims presented to it stating the reason for such rejection. Any disapproved claim shall be referred back to the Township Treasurer with such instructions as the Committee may give at the time of disapproval. The Township Clerk shall record all claims in the official minutes, indicating that the Township Committee has by formal action approved the same with the appropriate record as to any claims disapproved or rejected. The claims shall also be listed on an appropriate voucher list. The voucher list shall be so captioned that the minute records shall clearly indicate that the claim had been considered by the Committee and approval has been given thereto. It shall be the duty of the Clerk, or such other officer designated by resolution of the Township Committee, to indicate on the voucher list that claims have been approved for payment with the date of approval thereof noted on the voucher list. After certifying that the claims have been approved, the Clerk shall turn over the same to the Treasurer or Chief Financial Officer, who shall forthwith prepare the necessary check(s) for the payment thereof. The check shall be signed by two of the following: the Treasurer, the Chief Financial Officer (unless they be one and the same), the Mayor, the Deputy Mayor and/or the Clerk. After preparing checks for the payment of claims, the Treasurer shall record them in proper books of account and, once signed, shall mail or otherwise distribute the checks to the claimants.

B. Professionals and vendors. [Added 6-21-2004 by Ord. No. 2004-19]

- (1) Time for submission of claims/vouchers, professionals and vendors. All professionals and vendors shall submit vouchers for services rendered in such fashion that the last date reflected in the voucher for the rendering of a service or services to the Township shall have been performed within 60 days of the date of submission of the claim. For example, a professional or vendor who performs services on a regular basis shall submit a bill for services rendered for the month of January by no later than April 1 of the same calendar year. Professionals and vendors whose bills are being charged against escrow accounts shall make every effort to submit their bills in an even more timely fashion. Failure to submit bills within 60 days of the date of rendering services, unless otherwise agreed upon by the Township Committee, may result in nonpayment, or substantially delayed payment. [Added 6-21-2004 by Ord. No. 2004-19<sup>EN(7)</sup>]
- (2) Condominium/homeowners' associations reimbursement requests. All condominium and homeowners' associations, and such other qualified private communities as are eligible for reimbursement under the Condominium Reimbursement Act, N.J.S.A. 40:67-23.2 et seq., shall submit their claims for reimbursement within 60 days of the beginning of the calendar year so as to allow the Township Committee to consider said requests as part of its annual budget adoption process. Any such association or qualified private community

which fails to meet the deadline established herein shall risk having to wait until the following calendar year to have said reimbursement claim budgeted. Nothing herein contained shall require the Township Committee to pay any monies to such an association or qualified private community in a calendar year in which said reimbursement claim is not submitted within the timeframes set forth herein.

Conversely, nothing herein contained shall preclude the Township Committee, in its sole and unfettered discretion, from determining to make payment to, or partial payment to, said association or qualified private community, notwithstanding their failure to submit within the timeframe set forth herein, if the Township Committee determines that monies are available and otherwise properly budgeted for said purpose. Failure of the Township Committee to make payment to such an association or qualified private community, in any calendar year, as a result of the failure to meet the deadline set forth herein, shall also exempt the Township from having to pay interest in said sums when they are ultimately disbursed.

- C. Exception. Notwithstanding the foregoing, moneys paid by the Court Administrator out of either the Bail Account or Current Account, and by the Tax Collector out of the Tax Lien Certificate Trust Fund, will not be required to be filed with the Township Committee before authorization. Instead, payment can be made from said accounts as follows: from the Court's Bail and Current Accounts, either by signature of the Court Administrator, and/or in her absence, Deputy Court Administrator and/or the Judge; and from the Tax Sale Certificate Trust Fund, by the Tax Collector, Deputy Tax Collector or the Chief Financial Officer. In addition, the Township Committee shall be free, from time to time, and resolution duly adopted by a majority of the governing body, to identify other accounts which may, at the Committee's discretion, be treated differently so long as same continue to conform to the provisions of the Local Fiscal Affairs Law, N.J.S.A. 40A:5-1 et seq.

**§ 10A-2. Payroll account.**

There shall be an account to be designated "the Township Payroll Account," and from time to time the Township Treasurer, upon receipt of a warrant or an amount due such payroll account, shall deposit the same to the credit of the payroll account, charging the appropriate budgetary accounts therewith. Disbursement from the payroll account may be made by the payroll checks and shall be signed by two of the following: the Treasurer, the Chief Financial Officer (unless they be one and the same), the Mayor, the Deputy Mayor and/or the Township Clerk. Prior to payroll checks being signed, if there is any deviation or variance from normal working hours, and/or if any sick leave, vacation days or other benefits apply which would adjust the normal weekly payroll for that employee, then authorization for same, or other appropriate notations, must be certified to by the several department and office heads responsible for that particular employee. In the case of reimbursement for action and necessary travel expenses, itemized claims

supported by receipts, where available, shall be presented within 10 days after completion of travel in order to obtain reimbursement for expenses incurred by Township officials who are authorized to travel by request of the Township Committee. In case of error or adjustment in the payroll, the Treasurer shall make proper corrections and an appropriate record of such corrections.

## **Chapter 11, (RESERVED)**

Former Chapter 11, Economic Development Advisory Committee, adopted 6-19-1995 by Ord. No. 1995-8, was repealed 7-5-2005 by Ord. No. 2005-19.]

## **Chapter 12, ELECTION DISTRICTS**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-17-1973 by Ord. No. 1973-19 as part of Ch. II of the 1973 Code; amended in its entirety 7-5-1988 by Ord. No. 1988-14. Subsequent amendments noted where applicable.]

### **§ 12-1. Establishment.** EN(8)

Pursuant to the requirements of N.J.S.A. 19:4-13, or any amendments or supplements thereto, allowing for the readjustment of election districts based on increased or decreased population, there are hereby established within the township five election districts, which are designated District 1, District 2, District 3, District 4 and District 5, and which are particularly delineated and described on the Official Voting District Map of the Township of Lumberton, dated March 15, 1991, which is hereby incorporated by reference as though set forth in detail herein. EN(9)

## **Chapter 13, ENVIRONMENTAL PRESERVATION**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 1-20-2004 by Ord. No. 2004-2. (This ordinance also repealed former Ch. 13, Environmental Commission, adopted 6-19-2001 by Ord. No. 2001-2, and former Ch. 43, Open Space Advisory Committee, adopted 3-17-2003 by Ord. No. 2003-3.) Amendments noted where applicable.]

### **§ 13-1. Environmental Preservation Council.**

Pursuant to the New Jersey Laws of 1989, Chapter 157, § 1, specifically N.J.S.A. 40A:63-7(d), there is hereby established within the Township of Lumberton an advisory Open Space and Environmental Preservation Council to assist the Township Committee and Land Development

Board on matters related to the protection of open space and other natural resources within the Township.

**§ 13-2. Membership; appointment. [Amended 2-2-2004 by Ord. No. 2004-6]**

The Open Space and Environmental Preservation Council shall consist of seven members appointed by the Township Committee who shall be residents of the Township. Each shall serve without compensation. No member of the Council may also simultaneously serve as a Class II member of the Land Development Board. The Mayor shall appoint one member of the Council to act as a Chairperson to preside over meetings, and said member shall also serve as a liaison with the Township Committee concerning all activities of the Council. The members first appointed shall hold office for terms as follows: two members for one year; three members for two years; and two members for three years, from the date of appointment until their successors have been duly appointed and qualified. Thereafter, all appointments shall be for a term of three years. Vacancies shall be filled for any unexpired term only in the manner in which the original appointments were made.

**§ 13-3. Powers and duties.**

- A. The Open Space and Environmental Preservation Council is only an advisory board to the Township Committee and the Land Development Board and has no independent or binding decisionmaking authority. The Council shall act at all times under the supervision of the Township Committee, which shall have the right to reverse and/or countermand any decision of the Council.
- B. The Open Space and Environmental Preservation Council shall have the following powers and duties, subject to the Township Committee's review and approval:
  - (1) Advocating the preservation of open space and other natural resources within the Township;
  - (2) The planning, implementing and informing of the general public about local preservation programs;
  - (3) The compilation and maintenance of an index of all open spaces and other natural resources within the Township both publicly and privately owned, including marshlands, swamps and other wetlands;
  - (4) The conducting of appropriate research into the possible use of remaining open space within the Township;

- (5) Recommending to the Land Development Board appropriate plans and programs for inclusion in the Township's Master Plan for general development and use of remaining open spaces and environmentally sensitive areas;
  - (6) The preparation and distribution of advertisements, books, maps, charts and other appropriate materials necessary to the discharge of the Council's duties;
  - (7) Acting as a coordinating agency in the community with respect to conservation matters and as a liaison between local conservation needs and the regional, state and federal agencies responsible for administering those needs;
  - (8) Review and report to the Land Development Board on environmental matters with respect to any site plan or subdivision as requested by the Planning Board or Township Committee; and
  - (9) Commencing of any other such duties as the Township Committee may, from time to time, assign.
- C. The Open Space and Environmental Preservation Council shall operate within the limits of the funds appropriated to it for such purposes by the Township Committee.

**§ 13-4. Recommended property acquisitions.**

The Open Space and Environmental Preservation Council may, from time to time, recommend to the Township Committee acquisition of property, both real and personal, in the name of the Township by gift, purchase, grant, bequest, devise or lease for any conservation purposes including but not limited to living museums, sites for scientific study, areas for teaching of conservation, natural history, places of historic or prehistoric interest, scenic beauty and habitat for rare or endangered plants and animals. Such recommended acquisitions may be accomplished by conveyance of any interest, including fee simple title, development right, easement (including conservation easement), covenant or other contractual right including conveyance on condition or with limitations or reservations as may be necessary to acquire, maintain, improve, protect, limit the future use of, or otherwise conserve and properly utilize open spaces and other land and water areas in the Township. The acquisitions of property shall be by the Township Committee and in accordance with the Local Lands and Buildings Law.

**§ 13-5. Records; annual report.**

The Open Space and Environmental Preservation Council shall keep records of its meetings and activities and shall make a comprehensive annual report of its operations on or before the first day of February to the Township Committee. In addition, a report of the Council's receipts,

disbursements and expenditures for the full year shall be submitted by the Township Administrator and attached to the Council's report.

**§ 13-6. Removal of members.**

The Township Committee may, by a simple majority vote, remove any member from the Council for any reason the Township Committee deems appropriate. Notwithstanding that Council members serve for terms outlined in § 13-2 above, all members serve at the pleasure of the Township Committee and may be removed with or without cause.

## Chapter 14, ETHICS, CODE OF

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 6-17-1991 as part of Ord. No. 1991-5. Amendments noted where applicable.]

### GENERAL REFERENCES

**Defense and indemnification -- See Ch. 10.**

**Officers and employees -- See Ch. 41.**

**Personnel policies -- See Ch. 46.**

**§ 14-1. Title.**

This chapter shall be known and may be cited as the "Lumberton Township Code of Ethics."

**§ 14-2. Legislative findings.**

The governing body of this Township finds and declares that:

- A. Public office and employment are a public trust.
- B. The vitality and stability of representative democracy depend upon the public's confidence in the integrity of its elected and appointed representatives.
- C. Whenever the public perceives a conflict between the private interests and the public duties of a public officer or employee, that confidence is imperiled.
- D. Governments have the duty both to provide their citizens with standards by which they may determine whether public duties are being faithfully performed and to apprise their officers and employees of the behavior which is expected of them while conducting their public

duties.

**§ 14-3. Purpose; authority.**

- A. It is the purpose of this chapter to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for officers and employees of the Township of Lumberton shall be clear, consistent, uniform in their application and enforceable and to provide those officers and employees with advice and information concerning possible conflicts of interests which arise in the conduct of their public duties.
- B. It is the further purpose of this chapter to implement the provisions of the Local Government Ethics Law.<sup>EN(10)</sup>
- C. This chapter is enacted under the authority of the Local Government Ethics Law and under the further authority granted to the Township under the provisions of Titles 40 and 40A of the New Jersey Statutes Annotated, or any amendments or supplements thereto.

**§ 14-4. Definitions.**

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

**ACT** -- The Local Government Ethics Law (P.L. 1991, c. 29),<sup>EN(11)</sup> or any amendments or supplements thereto.

**AGENCY** -- Any agency, board, governing body, including the chief executive officer, office, commission or other instrumentality within the Township, and any independent local authority created by or appointed under the authority of the Township, which performs functions other than of a purely advisory nature.

**BOARD** -- The Lumberton Township Ethical Standards Board, which is created by this chapter pursuant to the provisions of the Act.

**BUSINESS ORGANIZATION** -- Any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, union or other legal entity.

**EMPLOYEE** -- Any person, whether compensated or not, whether part-time or full-time, employed by or serving on an agency who is not a local government officer.

**INTEREST** -- The ownership or control of more than 10% of the profits, assets or stock of a business organization, but shall not include the control of assets in a nonunion profit entity or labor union.

MEMBER OF IMMEDIATE FAMILY -- The spouse or dependent child of an officer or employee residing in the same household.

OFFICER -- Any person, whether compensated or not, whether part-time or full-time, who is one of the following:

- A. Member of the Township Committee.
- B. Township Clerk/Administrator.
- C. Deputy Township Clerk.
- D. Chief Financial Officer.
- E. Tax Assessor.
- F. Tax Collector.
- G. Director of Public Works. [Amended 4-5-2004 by Ord. No. 2004-11]
- H. Chief of Police.
- I. Lieutenant of Police.
- J. Construction Code Official.
- K. Zoning Officer.
- L. Township Solicitor.
- M. Township Engineer.
- N. Township Planning Consultant.
- O. Township Auditor.
- P. Municipal Judge.
- Q. Municipal Court Clerk.
- R. Township Prosecutor.
- S. Township Public Defender.
- T. Member of Township Land Development Board. [Amended 1-20-2004 by Ord. No. 2004-1]
- U. Land Development Board Solicitor. [Amended 1-20-2004 by Ord. No. 2004-1]



- V. Director of Public Assistance.
- W. Member of Ethical Standards Board.
- X. Any other person who is a managerial executive or confidential employee, as defined in the New Jersey Employer-Employee Relations Act (N.J.S.A. 34:13A-3 or any amendments or supplements thereto), of this Township or of any agency created under the authority of or appointed by this Township.

OFFICER or EMPLOYEE -- An officer or employee of the Township of Lumberton or of an agency under the authority of or appointed by this Township.

TOWNSHIP -- The Township of Lumberton, in the County of Burlington and State of New Jersey.

**§ 14-5. Standards.**

Officers and employees of the Township shall comply with the following provisions:

- A. No officer or employee of the Township or member of his/her immediate family shall have an interest in a business organization or engage in any business, transaction or professional activity which is in substantial conflict with the proper discharge of his/her duties in the public interest.
- B. No officer or employee shall use or attempt to use his/her official position to secure unwarranted privileges or advantages for himself/herself or others.
- C. No officer or employee shall act in his/her official capacity in any matter where he/she, a member of his/her immediate family or any business organization in which he/she has an interest has a direct or indirect financial or personal involvement that might reasonably be expected to impair his/her objectivity or independence of judgment.
- D. No officer or employee shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his/her independence of judgment in the exercise of his/her official duties.
- E. No officer or employee, member of his/her immediate family or any business organization in which he/she has an interest shall solicit or accept any gift, favor, political contribution, service, promise of future employment or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise or other thing of value was given or offered for the purpose of influencing him/her, directly or indirectly, in the discharge of his/her official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office if the

officer has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the officer in the discharge of his/her official duties.

- F. No officer or employee shall use or allow to be used his/her public office or employment or any information not generally available to the members of the public which he/she receives or acquires in the course of and by reason of his/her office or employment for the purpose of securing financial gain for himself/herself, any member of his/her immediate family or any business organization with which he/she is associated.
- G. No officer or employee of any business organization in which he/she has an interest shall represent any person or party other than the Township in connection with any cause, proceeding, application or other matter pending before any agency of the Township. This provision shall not be deemed to prohibit an employee from representing another employee where the representation is within the context of official labor union or similar representational responsibility, nor shall this provision be applicable to the Township's Public Defender with respect to representation of defendants in the Municipal Court.
- H. No officer shall be deemed in conflict with these provisions if, by reason of his/her participation in the enactment of any ordinance, resolution or other matter required to be voted upon or which is subject to executive approval or veto, no material or monetary gain accrues to him/her as a member of any business, profession, occupation or group to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group.
- I. No elected officer shall be prohibited from making an inquiry for information on behalf of a constituent if no fee, reward or other thing of value is promised to, given to or accepted by the officer or a member of his/her immediate family, whether directly or indirectly, in return therefor.
- J. Nothing shall prohibit any officer or employee of the Township or members of his/her immediate family from representing himself, herself or themselves in negotiations or proceedings concerning his, her or their own interests.
- K. No officer or employee elected or appointed in the Township shall, without receiving formal written authorization from the appropriate person or body, disclose any confidential information concerning any other officer or employee or any other person or any property or governmental affairs of this Township.
- L. No officer or employee elected or appointed in the Township shall approve or disapprove or in any way recommend the payment of any bill, voucher or indebtedness owed or allegedly owed by the Township in which he/she has a direct or indirect personal, pecuniary or private interest.

M. No officer or employee elected or appointed in the Township shall request, use or permit the use of any public property, vehicle, equipment, labor or service for personal convenience or the private advantage of himself/herself or any other person. This prohibition shall not be deemed to prohibit an officer or employee from requesting, using or permitting the use of such public property, vehicle, equipment, material, labor or service which it is the general practice to make available to the public at large or which is provided as a matter of state or public policy for the use of officials and employees in the conduct of Township business.

**§ 14-6. Financial disclosure statements.**

A. Officers of the Township shall annually file a financial disclosure statement. All financial disclosure statements shall include the following information which shall specify, where applicable, the name and address of each source and the officer's job title:

- (1) Each source of income, earned or unearned, exceeding \$2,000, received by the officer or member of his/her immediate family during the preceding calendar year. Individual client fees, customer receipts or commissions on transactions received through a business organization need not be separately reported as sources of income. If a publicly traded security is the source of income, the security need not be reported unless the officer or member of his/her immediate family has an interest in the business organization.
- (2) Each source of fees from honoraria having an aggregate amount exceeding \$250 from any single source for personal appearances, speeches or writings received by the officer or a member of his/her immediate family during the preceding calendar year.
- (3) Each source of gifts, reimbursements or prepaid expenses having an aggregate value exceeding \$400 from any single source, excluding relatives, received by the officer or a member of his/her immediate family during the preceding calendar year.
- (4) The name and address of all business organizations in which the officer or a member of his/her immediate family had an interest during the preceding calendar year.
- (5) The address and brief description of all real property in the state in which the officer or a member of his/her immediate family held an interest during the preceding calendar year.

B. The Ethical Standards Board shall prescribe a financial disclosure statement form for filing purposes. If a financial disclosure statement form has been promulgated by the New Jersey Local Finance Board, in accordance with the Act, then that form shall be used. The Clerk/Administrator shall make the forms available to the officers and employees required by this chapter and general law to file a financial disclosure statement.

- C. The original statement shall be filed with the Clerk/Administrator within 90 days after the effective date of this chapter or the effective date of the Act, whichever occurs first. All subsequent statements shall be filed on or after April 30 of each year. A copy of the statement shall be filed with the Board.
- D. All financial disclosure statements filed in compliance with this chapter and general law shall be public records.
- E. By accepting employment with the Township of Lumberton, all employees who are required under this section and under the statute<sup>EN(12)</sup> giving rise to this section, to file these financial disclosure statements understand and agree that the filing of said forms is a continuing condition to their employment. Although they may be hired before the forms are filed, they must comply with Subsection C above in order to maintain their employment. Any employee who fails to meet the filing requirements of this section shall be deemed to have violated the provisions of this section, and shall be given one month to cure said violation; if the violation is not cured within that time frame, the violation shall constitute cause for that employee's forfeiture of his or her employment and consequent removal from employment. Filing of the form following notice of forfeiture shall not be a defense to dismissal. [Added 8-16-1999 by Ord. No. 1999-13]
- F. Any official or officer appointed to any board, body, agency or other appointment (professional or otherwise) who is required by the terms of this section to file a financial disclosure statement understands and agrees that his or her appointment to said board, body, commission or employment is conditioned upon his or her continued compliance with the requirements of this section. Failure to file the financial disclosure statements within the time set forth above, or within the one month grace period following said time frame, shall constitute cause for that appointee's forfeiture of his/her position and consequent removal of said individual from his or her employment/appointment. Filing of the forms following notice of forfeiture shall not be a defense to removal. [Added 8-16-1999 by Ord. No. 1999-13]

**§ 14-7. Ethical Standards Board.**

- A. There is hereby established the Lumberton Township Ethical Standards Board, consisting of six members who are residents of the Township, at least two of whom shall be public members. The members of the Board shall be appointed by the Township Committee. The members shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. No more than three members of the Board shall be of the same political party.
- B. The members of the Board shall annually elect a Chairman from among the membership.

- C. The members shall serve for terms of five years; except that of the members initially appointed, two of the public members shall be appointed to serve for terms of five years, one member shall be appointed to serve for a term of four years, and the remaining member shall be appointed to serve for a term of three years. Each member shall serve until his/her successor has been appointed and qualified. Any vacancy occurring in the membership of the Board shall be filled in the same manner as the original appointment for the unexpired term.
- D. Members of the Board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties under this chapter.
- E. All hearings required pursuant to this chapter shall be conducted in conformity with the rules and procedures, insofar as they may be applicable, provided for hearings by a state agency in contested cases under the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq., or any amendments or supplements thereto); provided, however, that pursuant to the Open Public Meetings Act (N.J.S.A. 10:4-12b(8), or any amendments or supplements thereto), said hearings shall be held in closed session unless the officer or employee whose rights could be adversely affected requests, in writing, that said hearing be open to the public.
- F. In the event that a hearing is to be held, the officer or employee charged with violation of this chapter shall be accorded due process of law, including but not limited to the following:
  - (1) The right to counsel.
  - (2) The right to prehearing discovery.
  - (3) The right to take sworn oral and written testimony from any person.
  - (4) Reasonable notice of hearing.
  - (5) The right to subpoena persons and documents.
  - (6) The right to make a stenographic record of the hearing.
  - (7) The right of examination and cross-examination of witnesses.
  - (8) Counsel fees, photocopying and other costs related to prehearing discovery, witness fees and costs of making and transcribing a record of the hearing shall be borne by the officer or employee and not by the Board or the Township.

**§ 14-8. Facilities and staff.**

- A. The Clerk/Administrator shall provide the Board with the facilities needed for the conduct of its business and the preservation of its records and shall supply equipment and supplies as

may be necessary and as may be provided for in the annual municipal budget.

- B. All necessary expenses incurred by the Board and its members shall be paid, upon certification of the Chairman of the Board, by the Township's Chief Financial Officer within the limits of funds appropriated in the annual budget or by emergency appropriations for those purposes.
- C. The Board may request and receive assistance from Township officers and employees, including the Clerk/Administrator and Township Solicitor, and may appoint employees, including independent counsel, and clerical staff as are necessary to carry out the provisions of this chapter within the limits of funds appropriated by the governing body for those purposes in the annual budget.

**§ 14-9. Adoption of Code.**

- A. Within 90 days after the appointment of the Ethical Standards Board, the Board shall promulgate by resolution a Code of Ethics for all officers and employees serving the Township. Officers and employees serving an independent authority of the Township shall be deemed to be serving the Township for purposes of this section. Until such time as the Board shall have adopted a Code of Ethics, the provisions set forth in § 14-5 shall serve as the Code of Ethics.
- B. The Code of Ethics promulgated by the Board shall be either identical to the provisions set forth in § 14-5 or more restrictive, but shall not be less restrictive.
- C. Within 15 days following the promulgation thereof, the Code of Ethics and the notice of the date of the public hearing to be held on the Code of Ethics shall be published in the newspaper designated for the publication of official notices for the Township and shall be distributed to the Clerk/Administrator for circulation among the officers and employees serving the Township.
- D. The Board shall hold a public hearing on the Code of Ethics not less than 30 days following its promulgation, at which time any officer or employee of the Township and any other person wishing to be heard shall be permitted to testify.
- E. As a result of the hearing, the Board may amend or supplement the Code of Ethics as it deems necessary.
- F. If the Code of Ethics is not identical to the provisions set forth in § 14-5, the Board shall, as required by law, submit the Code of Ethics to the New Jersey Local Finance Board (NJLFB) for approval.

- G. If the NJLFB fails to act within 60 days of the submission, the Code of Ethics shall be deemed approved.
- H. A Code of Ethics requiring approval by the NJLFB shall take effect 60 days after approval by that body.
- I. A Code of Ethics identical to the provisions set forth in § 14-5 shall take effect 10 days after the public hearing.
- J. The Board shall forward a copy of the Code of Ethics to the Clerk/ Administrator and shall make copies available to officers and employees serving the Township.

**§ 14-10. Powers of Ethical Standards Board.**

The Board shall have the following powers:

- A. To initiate, receive, hear and review complaints and hold hearings with regard to possible violations of the Township's Code of Ethics or financial disclosure requirements by officers or employees serving the Township.
- B. To issue subpoenas for the production of documents and the attendance of witnesses with respect to its investigation of any complaint or to the holding of a hearing.
- C. To forward to the County Prosecutor or the Attorney General of New Jersey or other governmental body any information concerning violations of the Code of Ethics or financial disclosure requirements by officers or employees serving the Township which may warrant the institution of legal proceedings by the Attorney General.
- D. To render advisory opinions to local officers or employees serving the Township as to whether a given set of facts and circumstances constitutes a violation of any provision of the Code of Ethics or financial disclosure requirement.
- E. To enforce the provisions of the Code of Ethics and financial disclosure requirements with regard to officers and employees serving the Township and to impose penalties for the violation thereof as are authorized by this chapter.
- F. To adopt rules and regulations as may be necessary to implement the purposes of this chapter.

**§ 14-11. Advisory opinions.**

- A. An officer or employee of the Township may request and obtain from the Board an advisory opinion as to whether any proposed activity or conduct would, in its opinion, constitute a

violation of the Code of Ethics or any financial disclosure requirements.

- B. Advisory opinions shall not be made public except when the Board, by the vote of 2/3 of all of its members, directs that the opinion be made public.
- C. Public advisory opinions shall not disclose the name of the officer or employee requesting the same unless the Board specifically determines so in directing that the opinion be made public.

**§ 14-12. Complaint procedure.**

- A. The Board, upon receipt of a signed written complaint by any person alleging that the conduct of any officer or employee of the Township is in conflict with the Code of Ethics or financial disclosure requirements, shall acknowledge receipt of the complaint within 30 days of receipt and initiate an investigation concerning the facts and the circumstances set forth in the complaint.
- B. The Board shall make a determination as to whether the complaint is within its jurisdiction or frivolous or without any reasonable factual basis.
- C. If the Board concludes that the complaint is outside its jurisdiction or that it is frivolous or without factual basis, it shall reduce that conclusion to writing and shall transmit a copy thereof to the complainant and to the officer or employee of the Township against whom the complaint was filed.
- D. If the Board shall conclude that the complaint is within its jurisdiction and has at least a minimal factual basis, the Board shall notify the Township officer or employee against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein.
- E. The officer or employee shall have the opportunity to present to the Board any statement or information concerning the complaint which he/she wishes.
- F. If the Board determines that a reasonable doubt exists as to whether the officer or employee is in conflict with the municipal Code of Ethics or any financial disclosure requirements, the Board shall conduct a hearing in the manner prescribed by § 14-7E concerning the possible violation and any other facts and circumstances which may come to the attention of the Board with respect to the conduct of the officer or employee.
- G. The Board shall render a decision as to whether the conduct of the officer or employee is in conflict with the Code of Ethics or any financial disclosure requirements, and this decision shall be made by no less than 2/3 of all members of the Board.
- H. If the Board determines that the officer or employee is in conflict with the Code of Ethics or



any financial disclosure requirements, it may impose any penalties which it believes appropriate within the limits of this chapter and the Act.

**§ 14-13. Violations and penalties.**

- A. An appointed officer or employee of the Township found guilty by the Ethical Standards Board of the violation of any provision of this chapter or any Code of Ethics in effect pursuant to this chapter shall be fined not less than \$100 nor more than \$500, which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N.J.S.A. 2A:58-1 et seq., or any amendments or supplements thereto). The Board shall report its findings to the office or agency having the power of removal or discipline of the appointed officer or employee and whether it recommends that further disciplinary action be taken.
- B. An elected officer or employee of the Township found guilty by the Board of the violation of any provision of this chapter or of any Code of Ethics in effect pursuant to this chapter shall be fined not less than \$100 nor more than \$500, which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N.J.S.A. 2A:58-1 et seq., or any amendments or supplements thereto).
- C. The finding by the Board that an appointed officer or employee of the Township is guilty of a violation of the provisions of this chapter or any Code of Ethics in effect pursuant to this chapter shall be sufficient cause for his/her removal, suspension or demotion or other disciplinary action by the officer or agency having the power of removal or discipline. When a person is in the career service and is found to have violated the provisions of this chapter or any Code of Ethics in effect pursuant to this chapter, the procedure leading to removal, suspension, demotion or other disciplinary action shall be governed by all applicable procedures of Title 11A of the New Jersey Statutes Annotated and the rules promulgated pursuant thereto.

**§ 14-14. Records of Board.**

All statements, complaints, requests or other written materials filed pursuant to this chapter and any rulings, opinions, judgments, transcripts or other official papers prepared pursuant to said chapter shall be preserved for a period of five years from the date of filing or preparation, as the case may be. Public disclosure of these various documents or materials shall be made only upon application to and approval by the Board, which shall apply the provisions of the Right to Know Act (N.J.S.A. 47:1A-1 et seq., or any amendments or supplements thereto) and Chapter 225, Records, Public Access to, and said documents or materials shall be deemed confidential and not subject to public inspection and/or reproduction if, in the opinion of the Board, disclosure of the

same would subject said officer or employee to unnecessary and inappropriate scrutiny or lead to embarrassment or if the person's right of privacy outweighs the public's right to know.

## **Chapter 22, HEALTH, BOARD OF**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-17-1973 by Ord. No. 1973-19 as part of Ch. II of the 1973 Code. Amendments noted where applicable.]

### **GENERAL REFERENCES**

**Board of Health provisions -- See Part III.**

#### **§ 22-1. Establishment; powers.**

There shall be a Board of Health consisting of the members of the Township Committee and the Tax Assessor with the Township Clerk/Administrator serving as Board Secretary. The Board of Health shall have the power and authority to adopt ordinances relating to the protection of the health of township residents, shall employ necessary personnel and fix their salaries and shall have under its jurisdiction the Bureau of Vital Statistics, the Plumbing Inspector, the Health Officer and such other employees as are necessary to carry out its duties. The Board of Health shall have all the jurisdiction conferred upon boards of health by Title 26 of the New Jersey Statutes Annotated.

## **Chapter 25, INTERMUNICIPAL AND COOPERATIVE AGREEMENTS**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton: Art. I, 12-17-1979 as Ord. No. 1979-17 (part of Ch. II of the 1973 Code). Amendments noted where applicable.]

### **ARTICLE I, Public Health Services [Adopted 12-17-1979 as Ord. No. 1979-17, (part of Ch. II of the 1973 Code)]**

#### **§ 25-1. Purpose.**

This section is enacted pursuant to the Interlocal Services Act, N.J.S.A. 40:8A-1 et seq., or any amendments or supplements thereto, to authorize the County of Burlington to provide public health services of a technical and professional nature, provided by the County Health Department

as agent of our Municipal Board of Health, in compliance with the Local Health Services Act, N.J.S.A. 26:3A2-1 et seq., or any amendments or supplements thereto.

**§ 25-2. Authorization.**

The township shall enter into a contract with the County of Burlington, essentially providing that the County Health Department shall provide public health services which meet the standards of core and elective activities enumerated in Standards of Performance, as promulgated by the Public Health Council of the State of New Jersey. The public health service activities are categorized under Administrative and Supporting Services, Environmental Health, Communicable Disease, Maternal and Child Health and Chronic Illness and are listed in such agreement. The Mayor and Township Clerk/Administrator are hereby authorized and directed to execute the agreement on behalf of this township.

## **Chapter 29, LAND DEVELOPMENT BOARD**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 1-20-2004 by Ord. No. 2004-1. (This ordinance also repealed former Chapter 49, Planning Board, and former Chapter 85, Zoning Board of Adjustment, both adopted 12-20-1976 by Ord. No. 1976-13.) Amendments noted where applicable.]

### **GENERAL REFERENCES**

**Development regulations -- See Ch. 130.**

**§ 29-1. Land Development Board.**

There is hereby established within the Township of Lumberton a Land Development Board, to consist of nine members, whose membership and terms of office shall be in accordance with the provisions of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., specifically 40:55D-23, and 259(c)(1) as amended.

**§ 29-2. Alternate members. [Amended 2-2-2004 by Ord. No. 2004-5]**

There shall be four alternate members of the Land Development Board, who shall be appointed by the Mayor, and who shall meet the qualifications of Class IV members under N.J.S.A. 40:55D-23. They should be designated at the time of their appointment by the Mayor as "Alternate No. 1," "Alternate No. 2," etc. The terms of two of the alternate members shall be for one year and the terms of two of the alternate members shall be for two years, except that the

terms of the alternate members shall be such that the term of not more than two alternate members shall expire in any one year; provided, however, that in no instance shall the terms of the alternate members exceed two years. A vacancy occurring otherwise than by expiration of term shall be filled by the Mayor for the unexpired term only. No alternate member shall be permitted to act on any matter in which he has either directly or indirectly any personal or financial interest, and an alternate member may, after public hearing if he requests one, be removed by the governing body for cause. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

**§ 29-3. Organization of Land Development Board.**

- A. Leadership. The Land Development Board shall elect a Chairman and Vice Chairman from the members of Class IV and shall also select a Secretary, and if it so chooses, an assistant secretary, both of whom may or may not be members of the Board or municipal employees.
- B. Attorneys, engineers, experts and staff. The Board may annually appoint and fix the compensation of an attorney, who shall be other than the municipal attorney, and may also employ or contract for a Board engineer and for such other experts and other staff and services as may be necessary, except that no expenditures under this subsection shall exceed, exclusive of the gifts or grants, the amount appropriated for same by the governing body.
- C. Rules and regulations. The Board shall adopt such rules and regulations necessary to carry out its duties.
- D. Conflicts of interest. All members, professionals and staff of the Board shall be governed by the provisions of the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 et seq. Whenever any member of the Board shall be disqualified, he shall not continue to sit with the Board on the hearing of such matter, nor may he participate in any discussion or decision relating thereto except as a member of the public.

**§ 29-4. Powers and duties.**

The Board shall follow the provisions of the Municipal Land Use Law and shall accordingly exercise its power:

- A. To make, adopt, and amend a Master Plan for the physical development of the municipality pursuant to the provisions of N.J.S.A. 40:55D-28 et seq.;

- B. To establish and administer subdivision control and site plan review through the various subdivision and site plan provisions of this chapter and pursuant to N.J.S.A. 40:55D-37 et seq.;
- C. To act upon zoning ordinance issues including conditional uses pursuant to N.J.S.A. 40:55D-62;
- D. To participate in the preparation and review of programs or plans required by state or federal law or regulation;
- E. To assemble data on a continuing basis as part of a continuous planning process;
- F. To consider and report to the governing body within 35 days after referral of any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D- 26(a), and to pass upon other matters referred to it by the governing body pursuant to the provisions of N.J.S.A. 40:55D-26(b);
- G. To address variances and certain building permits in conjunction with subdivision, site plan and conditional use approval pursuant to N.J.S.A. 40:55D-60 et seq.;
- H. To assume all of the powers otherwise vested in a zoning board of adjustment, pursuant to the provisions of N.J.S.A. 40:55D-70, -70.1, -70.2, -72, -76, and any other sections of the Municipal Land Use Law that may vest authority in a zoning board of adjustment;
- 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;
- J. To review and make recommendations on the location, character, or extent of capital projects in accordance with N.J.S.A. 40:55D-31;
- K. In reviewing applications for approval of subdivision plats, site plans, or conditional uses:
  - (1) Where a "bulk" variance is requested, to be governed by the provisions of N.J.S.A. 40:55D- 70(c)(1) and/or (2);
  - (2) To direct the issuance of a permit for a building or structure either not related to a street (N.J.S.A. 40:55D- 35), or in the bed of a mapped street or public drainageway, flood control basin or public area reserved on the Official Map (N.J.S.A. 40:55D-32);
  - (3) Whenever an application for approval of a subdivision plat, site plat, or conditional use includes a request for a variance of the issuance of a permit, to grant or deny approval of the application within 95 days after submission of a complete application to the administrative officer or within such further time as may be consented to by the applicant. In the event that the developer elects to submit separate consecutive

applications, the aforesaid provisions shall apply to the application for approval of the variance or direction for issuance of a permit. The period for granting or denying subsequent approvals of a subdivision, site plan or conditional uses shall be as otherwise provided in this chapter. Failure of the Board to act within this period shall constitute approval of the application.

- L. In reviewing applications for use variances, pursuant to the provisions of N.J.S.A. 40:55D-70(d), to follow the criteria of said statute, and the case law enacted thereunder, with regard to the issuance or denial of said use variance. Whenever a use variance application is considered by the Board, the Board shall grant or deny approval of that application within 120 days after submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. In the event the developer elects to submit consecutive or simultaneous applications, the one-hundred-and-twenty-day provision shall apply to the application for approval of the entirety of the application. Failure of the Board to act within this period shall constitute approval of the application.

**§ 29-5. Applications.**

Applications to the Board shall conform to the appropriate provisions of this chapter.

**§ 29-6. Referrals.**

The Board may request any agency or individual to review and comment on any matter before the Board.

**§ 29-7. Meetings, minutes and hearings.**

- A. Meetings. Meetings shall be scheduled monthly, or more frequently as the Board may determine. Special meetings may be called by the Chairman or any two members of the Board, provided that there is notice to the members and public in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.
- B. Minutes. Minutes shall be kept in accordance with the provisions of the aforesaid Open Public Meetings Act, shall be available for public inspection during normal business hours at the office of the Township Clerk, and shall be made available to any interested party who has the right to compel production of the minutes and be charged a fee for their reproduction.
- C. Hearings.
  - (1) Rules. The Board may make rules governing the conduct of hearings consistent with

N.J.S.A. 40:55D-1 et seq. and this chapter. The Board may waive the required notices and hearing for minor and exempt subdivisions and minor and exempt site plans except where a variance or conditional use is part of the application.

- (2) Oaths. The presiding officer or such person as he may designate shall have power to administer oaths or issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties. The provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply.
- (3) Testimony. All testimony shall be taken under oath or affirmation by the presiding officer. The right of cross-examination shall be permitted to all interested parties, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
- (4) Evidence. Technical rules of evidence shall not be applicable, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- (5) Records. The Board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his expense. The charge for a copy of the transcript shall not be more than the maximum permitted in N.J.S.A. 2A:11-15, and the transcript shall be certified, in writing, by the transcriber to be accurate.
- (6) Certified court reporter. If an applicant desires a certified court reporter, the cost of taking testimony and transcribing it and providing a copy of the transcript to the Board shall be at the expense of the applicant, who shall also arrange for the reporter's attendance.
- (7) When any hearing shall carry to two or more meetings, a member who was absent for one or more meetings shall be eligible to vote, notwithstanding his absence, provided that such Board member certified, in writing, to the Board that he has read the transcript or listened to the recording of the hearing(s) he missed.

**§ 29-8. Complete application and commencing applicable time periods.**

- A. An application for development shall be complete for purposes of commencing the applicable time period for action when the application is certified complete by the approving authority. In the event that the application is not certified to be complete within 45 days of the date of its submission, the application shall be deemed complete upon the expiration of the

forty-five-day period for purposes of commencing the applicable time period, unless:

- (1) The application lacks information indicated on a checklist adopted by the ordinance and provided to the applicant; and
  - (2) The approving authority has notified the applicant, in writing, of the deficiencies in the application within 45 days of submission of the application.
- B. The applicant may request that one or more of the submission requirements be waived, in which event the Board shall grant or deny the request within 45 days.
- C. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that he is entitled to approval of the application.
- D. The Board may subsequently require the correction of any information found to be in error and submission of additional information not specified in this chapter or any revisions in the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application have been met. The application shall not be deemed incomplete for lack of any such additional information or revisions in the accompanying documents so required by the Board.

### **§ 29-9. Decisions.**

Each decision on any application for development shall be reduced to writing, including findings of fact and conclusions thereon, through:

- A. A resolution adopted at a meeting held within the required time period for action on the application.
- B. A memorializing resolution adopted at a meeting held not later than 45 days after the date of the meeting at which the Board voted to grant or deny approval. Only the members who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution.
- C. An action resulting from the failure of a motion to approve an application shall be memorialized by a resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution.
- D. The vote on any such resolution shall be deemed to be a memorialization of the action of the Board and not to be an action of the Board. However, the date of the adoption of the resolution shall constitute the date of the decision for purposes of mailings, filings and publications. If the Board fails to adopt a resolution or memorializing resolution, any



interested party may apply to the Superior Court in a summary manner for an order compelling the municipal agency to reduce its findings and conclusions to writing within a stated time, and the cost of the application, including attorneys' fees, shall be assessed against the municipality.

## **Chapter 32, LOCAL ASSISTANCE BOARD**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-17-1973 by Ord. No. 1973-19 as part of Ch. II of the 1973 Code. Amendments noted where applicable.]

### **§ 32-1. Establishment and composition; terms, vacancies; powers and duties.**

There shall be a Local Assistance Board of the township composed of three members appointed by the Township Committee. The term of one member of the Local Assistance Board shall be for one year, and such member only may be appointed from among the Committeemen, and the terms of the other members thereof shall be for two years each, one term expiring in each year. The term of each member of the Board shall begin on January 1, and each member shall continue in office until his successor is appointed and qualifies. Vacancies shall be filled for the unexpired terms only. The Board shall have such powers and perform such duties as are prescribed by general law and ordinance, and it shall appoint a Director of Welfare pursuant to state law.

### **§ 32-2. Director of Welfare.**

- A. The Director of Welfare shall be appointed by the Local Assistance Board for a term of five years from the date of his appointment and shall be paid such salary as may be fixed by the Board, subject to approval of the Township Committee. In case of vacancy in the office of Director of Welfare, a Temporary or Acting Director may be appointed to serve for not more than 90 days.
- B. The Director of Welfare shall be the first executive and administrative officer of the Board. He shall:
  - (1) Supervise by periodic investigation every person receiving public assistance, such investigation to be made by visitation at least once a month.
  - (2) Reconsider from month to month the amount and nature of public assistance given and alter, amend or suspend the same when circumstances so require.
  - (3) Devise ways and means for bringing persons unable to maintain themselves to

self-support or to the support of any other person or agency able and willing to do so.

- (4) Keep full and complete records of such investigations, supervision, assistance and rehabilitation and of all certifications of persons for employment or benefits and cancellations thereof.
- (5) Institute appropriate action for commitment to any state or county institution when the best interest of the needy person would be so served.

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## **Chapter 41, OFFICERS AND EMPLOYEES**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

**Defense and indemnification -- See Ch. 10.**  
**Personnel policies -- See Ch. 46.**

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## **ARTICLE I, Clerk, Deputy Clerk and Office Manager [Adopted 8-4-1997 by Ord. No. 1997-16<sup>EN(13)</sup>]**

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### **§ 41-1. Township Clerk.**

- A. Appointment. There shall be an office of the Clerk, the head of which shall be the Township Clerk. The Clerk shall be appointed by the Township Committee and shall, prior to appointment, be qualified by training and experience to perform the duties of this office in accordance with N.J.S.A. 40A:9-133 et seq., and any amendments thereto. The Clerk shall serve for a term of three years in accordance with law.
- B. The powers and duties of the Township Clerk shall be as follows:
  - (1) Act as secretary of the municipal corporation and custodian of the municipal seal and of all minutes, books, deeds, bonds, contracts and archival records of the municipal corporation. The Township Committee may, however, provide by ordinance that any other specific officer shall have custody of any specific other class of record.
  - (2) Act as secretary to the governing body, prepare meeting agendas at the discretion of the governing body, be present at all meetings of the governing body, keep a journal of the proceedings of every meeting, retain the original copies of all ordinances and resolutions

and record the minutes of every meeting.

- (3) Serve as the Chief Administrative Officer at all elections held in the municipality, subject to the requirements of Title 19 of the Revised Statutes.
- (4) Serve as Chief Registrar of voters in the municipality, subject to the requirements of Title 19 of the Revised Statutes.
- (5) Serve as the Administrative Officer responsible for the acceptance of applications for licenses and permits and the issuance of licenses and permits, except where statute or municipal ordinance has delegated that responsibility to some other municipal officer.
- (6) Serve as coordinator and records manager responsible for implementing local archives records retention programs as mandated pursuant to Title 47 of the Revised Statutes.
- (7) Perform such other duties as are now or hereafter imposed by statute, regulation or by municipal ordinance or regulation, or as included in the Township's position description for the office of Township Clerk dated February 1, 1995, and as may be subsequently amended.

**§ 41-2. Power to administer oaths.**

The Township Clerk shall also have the power to administer oaths in all matters concerning Township business.

**§ 41-3. Deputy Clerk.**

There is hereby created within the Township of Lumberton the office of Deputy Municipal Clerk, who shall be appointed by the Township Committee. The Deputy Township Clerk shall assist the Township Clerk in the performance of her duties and perform such other duties as are now or hereafter imposed by statute, regulation or by municipal ordinance or regulation, or by the position description established by the Township of Lumberton for the office of Deputy Clerk. The Deputy Clerk shall be appointed annually and shall serve for a term of one year, and do so at the pleasure of the Township Committee. The Deputy Clerk shall have all the powers and perform all the duties of the Clerk during such times of specific periods as the Clerk shall be absent, on vacation, or on a leave of absence granted by the Township Committee.

**§ 41-4. Office Manager.**

Pursuant to the authority vested in the governing body by N.J.S.A. 40A:63-6(b)(3) and N.J.S.A.

40:48-1, Subsection 3, there is hereby established in the Township of Lumberton the position of Office Manager.

A. Term of office.

- (1) Said person shall be appointed by the Township Committee and shall serve for a three-year term. Vacancies in the position shall be filled for the unexpired term; no tenure shall be acquired in said position. Unless otherwise provided by written agreement entered into by and between the Township Committee and the person serving in said office, which agreement may be entered into if authorized by resolution, the appointee to the position of Office Manager shall serve at the pleasure of the governing body, notwithstanding the provision for a three-year term.
- (2) Moreover, the Township Committee is hereby authorized to initially appoint a person to the position of Office Manager for a period longer than three years, such that the position will be filled for the balance of the calendar year 1997, and then will continue to be filled for the three-year term commencing January 1, 1998 and concluding December 31, 2000. Therefore, all appointments to said position shall be for three years.

B. Compensation. Compensation for the position of Office Manager shall be established by ordinance, which ordinance may be adopted annually, or adopted at the outset of the commencement of the term and continue in effect for the three years of a given term, at the discretion of the governing body.

C. Powers, duties and responsibilities. The Township's Office Manager shall:

- (1) Serve as intermediary or liaison between department heads and the Township Committee, and facilitate communication within the local governmental framework.
- (2) Maintain harmony among workers and attempt to resolve grievances at an informal level; perform or assist subordinates in performing duties; adjust errors and complaints.
- (3) Handle all complaints concerning day-to-day operations of the Township and direct to the appropriate authority those complaints which cannot be solely resolved by the Office Manager.
- (4) Prepare articles of interest and local flyers to be distributed to Township residents, including annual directory and mailing.
- (5) At the direction of the governing body, will be responsible for overseeing matters dealing with the collective bargaining between the Township of Lumberton and the AFSCME Local Council 71.
- (6) Prepare a variety of studies, reports and related information for decision making

purposes.

- (7) In conjunction and cooperation with the Chief Financial Officer, prepare and submit a preliminary annual Township budget; administer the adopted budget of the Township.
- (8) Advise the Township Committee of financial conditions and current and future Township needs.
- (9) Recommend for adoption by the Township Committee such measures as the Office Manager may deem necessary or expedient to the efficient operation of the municipal government.
- (10) Prepare and submit to the Township Committee such reports as may be required by that body, or as the Office Manager may deem advisable to submit.
- (11) Notwithstanding anything herein contained to the contrary, it is expressly understood that the Township Office Manager shall not be responsible for imposing discipline against employees.

**§ 41-5. (Reserved)**

**§ 41-6. (Reserved)**

**§ 41-7. (Reserved)**

**§ 41-8. (Reserved)**

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**ARTICLE II, Chief Financial Officer [Adopted 2-6-1989 by Ord. No. 1989-1]**

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**§ 41-9. Appointment; Financial Administrative Assistant.**

There are hereby created the positions of Chief Financial Officer and Financial Administrative Assistant in Lumberton Township, which positions may be filled by the Township Committee by resolution, in its discretion, subject to law.

**§ 41-10. Duties.**

The Chief Financial Officer and Financial Administrative Assistant shall be responsible for the general financial recordkeeping of the Township, as directed by the Township Committee, in accordance with the requirements of law and the regulations promulgated by the Department of Community Affairs.

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**ARTICLE III, Tax Collector and Tax Clerk [Adopted 6-17-1985 by Ord. No. 1985-10 (part of Ch. II of the 1973 Code)]**

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**§ 41-11. Appointment.**

There are hereby created the positions of Tax Collector and Tax Clerk in Lumberton Township, which positions may be filled by the Township Committee by resolution, in its discretion, subject to law.

**§ 41-12. Duties.**

The Tax Collector and Tax Clerk shall be responsible for the duty of collecting taxes upon real and personal property in the Township in accordance with the requirements of law and the regulations promulgated by the Department of Community Affairs.

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**ARTICLE IV, Township Attorney [Adopted 12-17-1973 by Ord. No. 1973-19 as part of Ch. II of the 1973 Code]**

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**§ 41-13. Appointment; compensation.**

- A. There shall be a Township Attorney who shall be appointed by the Township Committee by a majority vote of its members. He shall be an attorney-at-law of New Jersey but need not be a resident of the Township. In lieu of appointing an individual attorney, the Township Committee may appoint a firm of attorneys, all members of which shall be attorneys-at-law of New Jersey.
- B. The attorney shall not receive a fixed salary but shall be paid reasonable fees and charges for

each item of work performed by him commensurate with the standards for such charges in the community.

**§ 41-14. Powers and duties.**

The Attorney shall have such powers and perform such duties as are provided for the office of municipal attorney by general law or ordinances of the Township. He shall represent the Township in all judicial and administrative proceedings in which the municipality or any of its officers or agencies, except those having their own solicitor, may be a party or have an interest. He shall give all legal counsel and advice where required by the Township Committee or any member thereof and shall in general serve as the legal advisor to the Committee on all matters of Township business. In furtherance of such general powers and duties, but without limitation thereto, the Township Attorney shall:

- A. Draft or approve as to form and sufficiency all legal documents, contracts, deeds, ordinances and resolutions made, executed or adopted by or on behalf of the municipality.
- B. Conduct appeals from orders, decisions or judgments affecting any interest of the Township as he may, in his discretion, determine to be necessary or desirable, or as directed by the Township Committee.
- C. Subject to the approval of the Township Committee, have power to enter into any agreement, compromise or settlement of any litigation in which the Township is involved.
- D. Render opinions, in writing, upon any question of law submitted to him by the Township Committee or any member thereof with respect to their official powers and duties, and perform such duties as may be necessary to provide legal counsel to the Committee in the administration of municipal affairs.
- E. Supervise and direct the work of such additional attorneys and technical and professional assistants as the Township Committee may authorize for special or regular employment in or for the Township.
- F. Attend such regular meetings of the Township Committee and such special meetings as the Committee shall direct.
- G. Advise, assist and render opinions, in writing, to any of the municipal officers in connection with the conduct of their office.

**by Ord. No. 1998-21<sup>EN(14)</sup>**

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**§ 41-15. Township Engineer. [Amended 4-5-2004 by Ord. No. 2004-11]**

- A. Appointment; term; compensation. The Township Engineer shall be appointed by the Township Committee to a term of three years in accordance with the provisions of N.J.S.A. 40A:9-140. The Township Engineer shall be compensated in accordance with the provisions of the Township's Salary Ordinance.
- B. Qualifications. The Township Engineer shall be a licensed professional civil engineer within the State of New Jersey and possess such other qualifications of ability and experience which the Township Committee shall deem necessary to perform the duties of his office. The Township Engineer need not be a resident of the municipality.
- C. Duties. The Township Engineer shall be the engineering advisor to the Township Committee, the Land Development Board, and to all other Township departments except as may be otherwise provided by law, by this article, or as otherwise separately contracted for by said bodies. The Township Engineer shall, in execution of his duties, perform all engineering services required on behalf of the Township and every department therein, unless otherwise provided for by the governing body. In furtherance of these powers, but without limitation thereto, he shall:
- (1) Perform administrative and engineering work in the investigation, design, construction and maintenance of all public works projects, and prepare or cause to be prepared plans, designs and specifications for public works projects and improvements undertaken by the Township.
  - (2) Supervise the preparation of such surveys of either a topographical, property line or construction nature as may be required by the Township of Lumberton and provide and maintain surveys, maps, plans, specifications, and control records with respect to public works and facilities owned or operated by the Township.
  - (3) Prepare or supervise the preparation of such plans, sketches and blueprints as may be required by the Township Committee or the Land Development Board.
  - (4) Supervise the maintenance of water and sewer maps and road maps in accordance with the standards governing same under applicable laws.
  - (5) Perform all duties as may be required of a municipal engineer by state statute.
  - (6) Attend all regular, special and adjourned meetings of the Township Committee and Land Development Board as may be required by said bodies.



- (7) Be responsible for all work in connection with the construction, reconstruction and repair of all Township roads, sewer mains, water mains and other infrastructure improvements.
  - (8) Be responsible for general administration of contracts with third parties performing work for the Township in such instances as may be directed by the Township Committee.
  - (9) Perform such consulting and professional services as may be required by the Lumberton Township Land Development Board as may be designated as the responsibility of the municipal engineer under the Township's land development ordinances and zoning ordinances.
  - (10) Serve as the Township's administrative officer for enforcement and implementation of the resident site improvement standards.
  - (11) Such other duties as may be required from time to time by the Township Committee.
  - (12) In the performance of his duties or while acting as a Township Official, the Township Engineer shall in all ways coordinate his activities with and through the Township Committee and/or the Township Administrator. The Township Administrator shall at all times be responsible for the coordination of the Township Engineer's activities described above with any other department, office, bureau, board or agency so that proper information and action may be taken to ensure compliance with the ordinances of the Township of Lumberton.
- D. Records and papers. All papers, documents, memoranda, reports, and other materials relating to the administration of the Office of the Township Engineer shall be and remain the property of the Township. Upon termination of his services with the Township, the Township Engineer shall forthwith surrender to his successor all such property.

**§ 41-16. Director of Public Works. [Amended 4-5-2004 by Ord. No. 2004-11]**

- A. Appointment; term; compensation. The Director of Public Works shall be appointed by the Township Committee on an annual basis to a term of one year. The Director of Public Works shall be compensated in accordance with the provisions of the Township's Salary Ordinance and resolution.
- B. Duties and responsibilities. Generally, the Director of Public Works shall be responsible for the supervision of the care and maintenance of streets, roads, avenues, public buildings, public places, and motor vehicles of the municipality.
- C. Specifically, the Director of Public Works shall:

- (1) Supervise the Division of Public Works and be responsible to the Township Committee for the operations of said departments.
- (2) Direct the administrative framework of the Division of Public Works, including overall responsibility for the day-to-day operations of same.
- (3) Supervise and direct the activities of labor crews working on assigned projects and inspect work progress to ensure conformance with instructions.
- (4) Maintain records of employee time for work performed and materials and supplies used and recommend to the Township Committee the need for replacement materials, parts, etc.
- (5) Train, supervise, evaluate and work with personnel; schedule work activities weekly within the Division of Public Works; certify personnel work logs and time cards; and under the supervision of the committee liaisons to the Division of Public Works, handle personnel problems and grievances in accordance with the Township of Lumberton Employee Handbook and applicable union collective bargaining agreements.
- (6) Train employees in proper work methods, safety precautions, and proper operation of equipment.
- (7) Transmit and receive radio dispatch communications.
- (8) Assume responsibility for maintenance, painting, upkeep and general repair of Township buildings, structures, and equipment and general maintenance, carpentry and other repairs needed therein.
- (9) Supervise and perform necessary street maintenance and repair; filling of potholes with patch; preparation of road base and resurfacing of portions of street with asphalt; rebuilding of curbs, stormwater inlets, and mixing of concrete; and such other duties as may be required and described by the governing body from time to time.

**§ 41-17. Division of Public Works; General Foreman.**

There shall be within the Township, the Division of Public Works, and within said division there shall be the title of "General Foreman."

- A. Appointment; compensation. The General Foreman of Public Works shall be appointed by the Township Committee, and compensation for this position shall be through the annual Salary Ordinance adopted by the governing body.
- B. Qualifications. The General Foreman of Public Works shall be required to hold a public

works manager certificate pursuant to the provisions of N.J.S.A. 40A:9-154.6a et seq., and shall possess such other qualifications of ability and experience which the Township Committee shall deem necessary to perform the duties of this office.

C. Duties. The General Foreman of Public Works shall:

- (1) Generally speaking, the General Foreman of Public Works shall assume responsibility for the operations of the Division of Public Works in the absence of the Director of Public Works.
- (2) Supervise and direct the activities of labor crews working on assigned projects and inspect work progress to ensure conformance with instructions.
- (3) Maintain records of employee time for work performed and materials and supplies used; and advise Director of Public Works of need for replacement materials, parts, etc.
- (4) Train, supervise, evaluate and work with personnel; schedule work activities weekly within the Division of Public Works; certify personnel work logs and time cards; and under the direction and supervision of the Director of the Department, handle personnel problems and grievances in accordance with the Township of Lumberton Employee Handbook.<sup>EN(15)</sup>
- (5) Drive Township vehicles and operate heavy equipment.
- (6) Train employees in proper work methods, safety precautions and proper operation of equipment.
- (7) Transmit and receive radio dispatch communications.
- (8) Confer with Township Engineers/Director of Public Works regularly regarding proposed or potential work assignments.
- (9) Trim and remove trees and vegetation, and mow grass or supervise mowing of grass along roads and in Township parks and property. Assume responsibility for painting of Township buildings, structures and equipment and general maintenance, carpentry and other repairs needed therein.
- (10) Supervise and perform necessary street maintenance and repair; filling of potholes with patch; preparation of road base and resurfacing of portions of street with asphalt; rebuilding of curbs, stormwater inlets and mixing of concrete; and such other duties as may be described and required by the governing body in the newly adopted Position Description for the position of General Foreman of Public Works.

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**ARTICLE VI, (Reserved)**

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**§ 41-18. (Reserved)**

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**ARTICLE VII, Tax Assessor [Adopted 7-5-1988 by Ord. No. 1988-14]**

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**§ 41-19. Establishment of office.**

The office of Municipal Tax Assessor is hereby established pursuant to N.J.S.A. 40A:9-148, or any amendments or supplements thereto.

**§ 41-20. Term of office.**

The Municipal Tax Assessor shall hold office for a term of four years from the first day of July next following his or her appointment. Vacancies other than due to expiration of term shall be filled by appointment for the unexpired term.

**§ 41-21. Functions; certificates required.**

The Municipal Tax Assessor shall hold a tax assessor's certificate provided for in N.J.S.A. 54:1-35.25 et seq., or any amendments or supplements thereto, and shall have the duty of assessing property for the purpose of general taxation.

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**ARTICLE VIII, Municipal Administrator [Adopted 1-4-1988 by Ord. No. 1988-3]**

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**§ 41-22. Creation of office.**

The office of Municipal Administrator in and for the Township of Lumberton is hereby created pursuant to N.J.S.A. 40A:9-136 et seq., or any amendments or supplements thereto.

**§ 41-23. Appointment; removal; disability.**

- A. Appointment to the office of Municipal Administrator shall be made by the Mayor, with the advice and consent of the governing body.
- B. The Administrator shall serve at the pleasure of the Township Committee but may not be removed except by a 2/3 vote of the governing body. The resolution of removal shall become effective three months after its adoption by the governing body. The governing body may provide that the resolution shall have immediate effect; provided, however, that the governing body shall cause to be paid to the Administrator forthwith any unpaid balance of the Administrator's salary and his or her salary for the next three calendar months following adoption of the resolution.
- C. The Township Committee may designate an Acting Administrator to perform the duties of the office during the absence or disability of the Administrator.

**§ 41-24. Compensation.**

The Administrator shall be paid such compensation as shall be fixed and adopted by the Township Committee in the salary ordinance. In the event that the Administrator holds another position within the Township, he or she shall receive separate compensation for said additional position, which shall remain independent of and separate from the office of Municipal Administrator.

**§ 41-25. Qualifications.**

The Administrator shall be appointed on the basis of executive and administrative qualifications. Previous responsible successful experience in local government and possession of a master's degree in public administration or municipal management is preferred, but not required.<sup>EN(16)</sup>

**§ 41-26. Duties and responsibilities.**

The Administrator shall be the chief administrative officer of the Township. The Township Committee shall delegate to him or her all or a portion of the executive responsibilities of the Township. The Administrator shall:

- A. <sup>EN(17)</sup>Appoint and, when necessary for the good of the service, temporarily suspend or remove department heads and all other employees, subject to approval of the Township

- Committee, except the Township Clerk and personnel appointed by the Committee.
- B. Develop and administer a comprehensive personnel program when approved by the Township Committee or as otherwise provided for by law.
  - C. Attend all meetings of the Township Committee with the right to take part in discussions, but not to vote.
  - D. See that all laws and all acts of the Township Committee subject to enforcement by the Administrator or by officers and employees subject to his or her direction and supervision are faithfully executed.
  - E. Prepare and submit the annual proposed budget and capital program to the Township Committee.
  - F. Submit to the Township Committee and make available to the public a complete report on the finances and administrative activities of the Township at the end of each fiscal year.
  - G. Make such other reports as the Township Committee may require concerning the operation of the Township.
  - H. Keep the Township Committee fully advised as to the current financial condition and further needs of the Township and make such recommendations concerning the affairs of the Township.
  - I. Perform such other duties as may be required by the Committee.

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**ARTICLE IX, Municipal Hearing Officer [Adopted 8-17-1992 by Ord. No. 1992-7]**

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**§ 41-27. Authorization.**

The Township Committee shall authorize, in its sole discretion, either itself or one or more of its members or a special Municipal Hearing Officer to hear cases of employee discipline.

**§ 41-28. Compensation.**

The compensation to be paid to such special Hearing Officer, if appointed, shall be established by a professional services resolution at a rate to be set by the Township Committee.

**§ 41-29. Duties.**

If appointed, the Hearing Officer shall report his findings of fact and recommended disposition of the case, including penalty, if any, as a recommendation only to the Township Committee within the time prescribed by law for each case.

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**ARTICLE X, Public Defender [Adopted 2-22-1994 by Ord. No. 1994-4; amended in its entirety 11-17-1997 by Ord. No. 1997-23]**

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**§ 41-30. Fee established.**

Pursuant to L. 1997, c. 256 (N.J.S.A. 2B:12-28), there is hereby established an application fee of \$200, which fee shall be required to be paid by any person seeking representation by the Municipal Public Defender in matters pending in the Municipal Court of the Township of Lumberton. The Municipal Court Judge may, in his discretion, waive the fee, in whole or in part, if the Judge determines that the application fee represents an unreasonable burden on the person seeking such representation.

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**Chapter 43, OPEN SPACE ENCROACHMENTS MEDIATION COMMITTEE** EN(18)

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton 5-16-2005 by Ord. No. 2005-14. Amendments noted where applicable.]

**GENERAL REFERENCES**

**Environmental preservation -- See Ch. 13.**  
**Land Development Board -- See Ch. 29.**

**§ 43-1. Establishment of Open Space Encroachments Mediation Committee.**

There is hereby established within the Township of Lumberton an "Open Space Encroachments Mediation Committee," the purpose of which is to allow residents and citizens an informal forum within which to discuss their concerns regarding open space encroachments within the municipality. The Open Space Encroachments Mediation Committee shall be purely an advisory board to the Township Committee, and its procedures for conducting a meeting shall be the same

as those as the Open Space and Environmental Preservation Council. The Open Space Encroachments Mediation Committee shall not constitute a public body within the meaning of the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.

**§ 43-2. Composition.**

The Open Space Encroachments Mediation Committee shall consist of five members, including its Chairperson. The members shall be designated by the Township Committee on an annual basis and shall choose from among themselves their Chairperson. Members shall serve from the date of their appointment until December 31 of the calendar year in which they are appointed. Members should be, although will not be required to consist of, Members of the Township's Land Development Board and/or Open Space and Environmental Preservation Council; in no case, however, shall the number of members of either Board exceed three. A quorum must be met in order for a meeting to be held.

**§ 43-3. Duties.**

The duties of the Open Space Encroachments Mediation Committee shall be to receive concerns, complaints or suggestions from residents and citizens of the Township; discuss such concerns, complaints and suggestions; and, when appropriate, to make recommendations to the Township Committee regarding same. All recommendations of the Mediation Committee shall be nonbinding with the final decision resting with the governing body. Accordingly, no member of the governing body shall serve on the Mediation Committee. Notwithstanding anything herein contained to the contrary, the Open Space Encroachments Mediation Committee shall be responsible only to the Township Committee and not to any other board, committee or body. The Chairperson of the Open Space Encroachments Mediation Committee shall communicate with the Code Enforcement Officer on a regular basis to determine the need for the Mediation Committee to meet.

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## **Chapter 46, PERSONNEL POLICIES**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton as indicated in article histories. Amendments noted where applicable.]

**GENERAL REFERENCES**

**Officers and employees -- See Ch. 41.  
Employee Handbook -- See Ch. A302.**



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**ARTICLE I, General Provisions [Adopted 6-17-1991 as part of Ord. No. 1991-5;  
amended in its entirety 8-7-2006 by Ord. No. 2006-15]**

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**§ 46-1. Titles and salary ranges.**

The Township of Lumberton shall, by ordinance, establish titles for public employment by the Township of Lumberton and salary ranges for Township employees.

**§ 46-2. Employee Handbook; policies and procedures.**

- A. The Township of Lumberton has assembled and shall maintain an Employee Handbook which shall set forth the personnel policies and procedures of the Township of Lumberton including rules concerning the hiring and termination of employees, terms and conditions of employment, and regulations required to comply with applicable federal and state employment-related laws.
- B. The Employee Handbook shall, as provided for herein, constitute the official personnel policies and procedures of the Township of Lumberton, shall be applicable to all officials, appointees, employees, prospective employees, volunteers and independent contractors of the Township, and with the exception of applicable state and federal laws and regulations and the provisions of any applicable collective bargaining agreement, shall be the sole source for determining Township policy involving personnel employed by the Township of Lumberton. In the event of a conflict between said personnel practices and any duly adopted and lawful collective bargaining agreement, personnel services contract or federal or state law, the terms and conditions of that contract or law shall prevail.

**§ 46-3. Distribution; amendments; master handbooks.**

- A. A copy of the current Employee Handbook and any subsequent updated versions thereof shall be distributed to all employees. Each employee shall be required to execute a written acknowledgement of his receipt of the Employee Handbook and each subsequent version thereof in a form of acknowledgement established by the Township Administrator.
- B. Revised Employee Handbooks and/or revisions to the Employee Handbooks shall be adopted by resolution of the Township Committee. Revised Employee Handbooks or revisions thereto shall be adopted by resolution, from time to time, whenever any changes in personnel policy or operations necessitate such action. Whenever there is a policy revision or change made

without complete revision, adoption and distribution of a revised version of the Employee Handbook, the Township Administrator shall distribute written notice of the change or revision to all employees of the Township.

- C. The Township Administrator shall maintain a current, master copy of the Employee Handbook in the office of the Township Administrator, which shall be kept up-to-date and include all revisions and amendments made thereto. The Employee Handbook as maintained by the Township Administrator shall serve as the controlling source of the personnel policies and procedures of the Township and shall be made available to any employees who wish to review same.
- D. The Township of Lumberton may include a copy of the Employee Handbook as an appendix to the Code of the Township of Lumberton. In such event, it shall be understood to be for convenience only and that the Employee Handbook as maintained by the Township Administrator shall remain the official and controlling version of the Employee Handbook.

**§ 46-4. (Reserved)**

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**ARTICLE II, (Reserved)** EN(19)

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**§ 46-5. (Reserved)**

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**Chapter 49, (RESERVED)**

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[Former Ch. 49, Planning Board, adopted 12-20-1976 by Ord. No. 1976-13 (part of Ch. II of the 1973 Code), was repealed 1-20-2004 by Ord. No. 2004-1. See Ch. 29, Land Development Board, for current provisions pertaining to the land use board.]

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**Chapter 51, POLICE DEPARTMENT**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton 9-8-1992 by Ord. No. 1992-8. Amendments noted where applicable.]

**GENERAL REFERENCES**  
**Municipal Court -- See Ch. 7.**

**Personnel policies -- See Ch. 46.**

**§ 51-1. Establishment.**

A Police Department shall be and the same is hereby created and established in the Township of Lumberton, County of Burlington and State of New Jersey.

**§ 51-2. Title of Department.**

The official name of said Police Department shall be "Lumberton Township Police Department."

**§ 51-3. Title of chapter.**

This chapter shall be known by the short title of and may be cited as "Township of Lumberton Police Department Ordinance."

**§ 51-4. Word usage.**

The words "he" and "his" shall be taken to also mean and include the words "she" and "hers," and said words shall, for the purposes of this chapter, be interchangeable with each other, and the words "special policeman" shall also be taken to mean and include the words "special policewoman," and said words shall, for the purposes of this chapter, be interchangeable with each other.

**§ 51-5. Organization; supervision.**

- A. The Lumberton Township Police Department shall consist of a Chief of Police, who shall be the head of the Department; a Captain; two Lieutenants of Police; five Sergeants of Police; four Corporals of Police; and a number of Patrol Officers not to exceed 21, to be appointed by the Township Committee. In addition, two Special Officers (Class I) may be appointed on an annual basis in accordance with the provisions of state statute. Notwithstanding the foregoing limitation on the number of Captains within the Department, for the period of time beginning upon the effective date of this ordinance and until August 7, 2004, there is hereby authorized the appointment of two Captains, in recognition of the fact that one of those Captains will be working on a limited basis pursuant to a previously executed employment retirement agreement. [Amended 5-3-2004 by Ord. No. 2004-16]
- B. Supervisor of Police Department. New Jersey Statutes Annotated (N.J.S.A.) 40A:14-118 provides that any ordinance creating and establishing a Police Department shall provide that

the Chief of Police, if such position is established, shall be the head of the police force and he shall be directly responsible to the appropriate authority for the efficiency and routine day-to-day operations thereof. This chapter does establish the position of Chief of Police as set forth in Subsection C below. New Jersey Statutes Annotated (N.J.S.A.) 40A:14-118 further provides that the term "appropriate authority" is permitted to include the governing body or any designated committee or member thereof. The Township Committee of the Township of Lumberton hereby determines that it shall select and appoint one of its members to serve as the "appropriate authority" to supervise the Police Department and as the person to whom the Chief of Police shall be directly responsible for the efficiency and routine day-to-day operations thereof. This person shall be known as the "Police Department Supervisor." The Township Committee shall also select and appoint another one of its members to serve as the "Assistant Police Department Supervisor." Said Supervisor shall recommend rules and regulations for the conduct and operation of the Department, to be adopted by the Township Committee; shall have the authority to recommend that the Chief of Police bring disciplinary charges against individual officers, in such cases where the same is deemed to be warranted by the Supervisor; shall have authority to discipline the Chief of Police (in which case the remaining members of the governing body shall serve or shall appoint someone to serve as the hearing officer on such disciplinary action); and shall, in all other respects, serve as the person with whom the Chief of Police shall communicate and from whom the Chief of Police shall take his orders and directives regarding policy matters. [Amended 4-15-1996 by Ord. No. 1996-6]

- C. Chief of Police. The Chief of Police shall be the head of the Police Department and shall be directly responsible to the Police Department Supervisor for the efficiency and day-to-day operations of the Department. Pursuant to policies established by the Supervisor and/or the Township Committee, the Chief of Police shall:
- (1) Administer and enforce the rules and regulations of the Police Department and any special emergency directive for the disposition and discipline of the Department and its members and officers.
  - (2) Have, exercise and discharge the functions, powers and duties of the Police Department.
  - (3) Prescribe the duties and assignments of all members and officers.
  - (4) Delegate such authority as may be deemed necessary for the efficient operation of the Police Department, to be exercised under the Chief's direction and control.
  - (5) Report at least monthly to the Police Department Supervisor, in such form as shall be prescribed by him or her, on the operation of the force during the preceding month, and make such other reports as may be requested by said Supervisor.

- (6) From time to time, make such measures as he may deem necessary for the preservation of peace and good order and the enforcement of all laws and ordinances within the Township of Lumberton.
- (7) Instruct all members of the Police Department and special police in their duties, and give particular attention to the instruction and training of members of the Department and special policemen.
- (8) Supervise all members of the Department and the performance of their duties.
- (9) Keep and/or supervise the keeping of all reports and records concerning the activities of the Department.
- (10) Confer with the Police Department Supervisor as to the activities of the Police Department during the previous calendar month, and shall in the report required under Subsection C(5) also make such recommendations as he shall deem advisable and appropriate for the betterment and improvement of the Department.
- (11) Act as the hearing officer in matters of minor discipline. [Added 4-15-1996 by Ord. No. 1996-6<sup>EN(20)</sup> ]
- (12) Be directly responsible for the conduct, efficiency and management of the Department, etc.

**§ 51-6. Appointment.**

- A. All members of the Police Department shall be appointed by the Township Committee of the Township of Lumberton and shall, after their appointment and confirmation, subject to the provisions of this chapter, serve a probationary period of one year, during which time their performance shall be evaluated by the Chief of Police who, upon the conclusion of said one-year period, shall make a recommendation to the Police Department Supervisor and the Township Committee regarding permanent status of the particular officer and/or employee. During said probationary period, and until such time as the Township Committee makes a decision regarding the permanent employment of said employee, even if said decision is not made until after the expiration of one year, said employee shall serve at the pleasure of the Township Committee and may be terminated without cause.
- B. Upon appointment to permanent employment by the Township Committee, following the successful completion of the probationary period described above, the officers shall hold their respective offices and continue in their respective employment during good behavior until retirement, death, voluntary resignation or removal for lawful cause as provided by statute.

**§ 51-7. Qualifications.**

Except as otherwise provided by law, no person shall be appointed as a member of the Police Department unless he:

- A. Is a citizen of the United States.
- B. Is sound in body and of good health sufficient to satisfy the Board of Trustees of the Police and Firemen Retirement System of New Jersey as to his eligibility for membership in the retirement system.
- C. Is able to read, write and speak the English language well and intelligently.
- D. Is of good moral character and has not been convicted of any criminal offense involving moral turpitude.
- E. Is a resident of New Jersey, except persons recently discharged from military service as provided for by N.J.S.A. 40A:14-123.1.
- F. Is at least 21 years of age and not over 35 years of age, except for the appointment of a Chief of Police, in which case such age restrictions shall not apply.
- G. Is able to pass such physical and psychological examinations as may be prescribed by the Township Committee.
- H. Is able to pass such written and oral examinations as may be prescribed by the Township Committee.
- I. Is the holder of a valid New Jersey driver's license.
- J. Has been appointed by the Township Committee as a probationary officer and has successfully served a probationary period of one year, during which time he has satisfactorily performed his duties as a probationary officer and finally has successfully passed the Basic Weapons Safety Course at a Police Academy approved by the New Jersey Police Training Commission.

**§ 51-8. Class I and Class II police officers. [Amended 4-7-1997 by Ord. No. 1997-8; 7-10-2007 by Ord. No. 14-2007]**

- A. The Township Committee may, at its annual reorganization meeting and at such other times as deemed necessary, appoint Class I and Class II police officers for terms not exceeding one year and may revoke such appointments at any time without cause or hearing.

- B. Such policemen shall not be members of the Police Department or police force and their powers and duties shall cease at the expiration of the terms for which they were appointed or on revocation of their appointments. They shall, at the expiration or revocation of the terms for which they were appointed, return all uniforms and equipment that may have been issued to them.
- C. Such Class I and Class II police officers shall have the same powers and duties as members of the Police Department, but shall not be members of the Department and shall not carry a revolver or similar weapon when off duty.
- D. Except as otherwise provided by law, no person shall be appointed as a Class I or Class II police officer unless he:
  - (1) Has met the requirement of appointment of Special Law Enforcement Officer as contained in N.J.S.A. 40A:14-146.10 and N.J.S.A. 40A:14-146.11.
  - (2) Is a citizen of the United States.
  - (3) Is able to read, write and speak the English language well and intelligently.
  - (4) Is sound in body and of good health.
  - (5) Is of good moral character and has not been convicted of any offense involving dishonesty of which would make him unfit to perform the duties of this office.
  - (6) Has successfully undergone the same psychological testing that is required of all full-time police officers in the municipality.

**§ 51-9. Oath of allegiance. [Amended 7-10-2007 by Ord. No. 14-2007]**

Every member of the Police Department and every Class I and Class II police officer shall, before entering upon the performance of his duties, take and subscribe to an oath or affirmation to bear true faith and allegiance to the government established in this state under the authority of the people, to support the Constitution of the United States and the Constitution of the State of New Jersey and to faithfully, impartially and justly discharge and perform all the duties of this office, which oath or affirmation shall be filed with the Township Clerk.

**§ 51-10. Duties of Department.**

The Police Department shall:

- A. Preserve the public peace; protect life and property; detect, arrest and prosecute offenders of

the laws of New Jersey and the ordinances of the Township of Lumberton; direct and control traffic, provide attendance and protection during emergencies; provide appearances in court, suppress riots, mobs and insurrections; preserve order at all elections and public meetings and assemblages, cooperate with all other law enforcement agencies; and provide training to the efficiency of its members and officers.

- B. Make and enforce rules and regulations not inconsistent with the ordinances and resolutions of the township for purposes of protecting the safety and facilitating the convenience of motorists and pedestrians and the regulation, direction, control and restriction of the movement of vehicular and pedestrian traffic and the use of streets by vehicles and persons.
- C. Remove or cause to be removed all nuisances in the public streets, parks and other public places of the township; inspect and observe all places of public amusement or assemblage and all places of business requiring any state or municipal license or permit and report thereon to the appropriate department.
- D. Provide proper police attendance and protection at fires.
- E. Lend aid and assistance to distressed, injured and infirm persons.
- F. Have all powers and duties otherwise provided by law.

**§ 51-11. Rules and regulations.**

- A. Establishment of Department rules and regulations. The Police Department Supervisor shall promulgate rules and regulations for the government of the police force and for the discipline of its members and shall recommend the same to the Township Committee. The Township Committee shall, from time to time, adopt, amend or repeal, by resolution, such rules and regulations as are recommended to it by the Police Department Supervisor and/or such other rules and regulations as it deems necessary or proper concerning the powers and duties of the Police Department, the regulation and control of the Police Department and the conduct and decorum of members of the Department of Special Officers.
- B. All such rules and regulations shall be in writing, signed by the Police Department Supervisor, and shall be filed in the office of the Township Clerk and in the office of the Chief of Police, and for and distributed to all members of the Police Department.
- C. Ratification of current rules and regulations. There is currently in effect, within the Township of Lumberton, a document entitled "Lumberton Township Police Department Rules and Regulations" along with certain special orders and general orders annexed thereto. Said rules and regulations are hereby ratified and reestablished and shall continue to be known as the "Lumberton Township Police Department Rules and Regulations." The Township Committee



specifically reserves, however, the right to itself and the Police Department Supervisor, and for the good of the Police Department, to amend and revoke any of the rules, regulations or procedures, to amend the same or to add thereto, as circumstances require.

- D. Revocation of other rules and regulations. All other rules, regulations, procedures and orders, whether special or general, previously issued and contrary to those, in body and context, herein described, are hereby revoked. All other rules, regulations, orders and procedures not in conflict with those contained herein shall remain in full force and effect.
- E. Any neglect by any member of the Police Department to carry out each and every rule and regulation, special order or general order ratified and reestablished herein and/or established in the future shall be sufficient cause for his dismissal from the Department. Moreover, should any member of the Police Department be cited or disciplined for failure to observe the rules and regulations or departmental procedures or orders, ignorance of any provision of the manual or any departmental procedure or order shall not be accepted as an excuse and shall not constitute a defense to said disciplinary charges.

**§ 51-12. Removal and discipline of officers.**

- A. Except as otherwise provided by law, no permanent member of the Police Department shall be removed from his office, employment or position for political reasons or for any other cause other than incapacity, misconduct or disobedience of the rules and regulations established for the government of the Police Department, nor shall such member be suspended, removed, fined or reduced in rank from officer, employment or position therein, except for just cause, and then only upon a written complaint setting forth the charge or charges against such member or officer and upon proceedings in accordance with law in such case made and provided.
- B. Except as otherwise provided by law, any permanent member or officer of such Police Department and force who shall be absent from duty without just cause or a leave of absence, for a continuous period of five days, shall cease to be a member of such Police Department and force.
- C. Hearing officer. All charges against members of the police force shall be prosecuted by the Chief of Police, or his designee, and shall be heard by the Township Committee except for matters of minor discipline. Said hearing shall be conducted not less than 10 nor more than 30 days from the date of service of the disciplinary charges/complaint upon the charged member. [Amended 4-15-1996 by Ord. No. 1996-6]
- D. Minor discipline. The Chief of Police, with the written consent of the charged member, may hear and determine cases involving allegations of minor violations of the rules and

regulations and other infractions. In such cases, the discipline imposed upon a finding of guilt shall not exceed a suspension without pay of three days. The decision of the Chief of Police shall be final and not subject to review or appeal. [Added 4-15-1996 by Ord. No. 1996-6]

**§ 51-13. Compensation.**

Compensation for the members of the Police Department and Chief of Police and special patrolmen shall be as determined by the Township Committee and authorized by ordinance.

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## **Chapter 54, PURCHASING PROCEDURES**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton 5-20-1985 by Ord. No. 1985-8 (part of Ch. II of the 1973 Code). Amendments noted where applicable.]

**§ 54-1. Legislative findings.**

Lumberton Township recognizes that it is in the public interest to develop and adopt a purchasing procedure manual to assist all department heads and employees in the procurement of goods and services on behalf of the Township; and the Township recognizes that a uniform, established purchasing procedure is in the public interest in order to control spending and efficiently manage government expenditures.

**§ 54-2. Manual authorized.**

A purchase procedure manual for Lumberton Township in accordance with all state statutes, rules and regulations is hereby authorized by Lumberton Township. Each municipal department of Lumberton Township must abide by the state-mandated purchasing system in order to control spending and efficiently manage each department's budget, in order to regulate expenditures and to prevent overexpenditure of Township funds.

**§ 54-3. Manual incorporated by reference.**

Said purchasing procedure manual will be prepared by the office of the Township Clerk/Administrator and promulgated by that office. Copies shall be made available for all departments and shall be available for public inspection and review. Said purchasing procedure manual for Lumberton Township, available at the office of the Township Clerk/Administrator, is hereby incorporated by reference in this chapter.

**§ 54-4. Fair and open process for the award of certain contracts established. [Added 12-18-2006 by Ord. No. 2006-19]**

The provisions of § 54-4 through § 54-6 of this chapter shall govern the award of all professional services contracts to which said sections and the provisions of N.J.S.A. § 19:44A-20.4 et seq. apply. In the event of a conflict between these provisions and any other purchasing procedures established by the Township, these provisions shall control.

**§ 54-5. Definitions. [Added 12-18-2006 by Ord. No. 2006-19]**

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

**PROFESSIONAL SERVICES** -- As defined by N.J.S.A. § 40A:11-2(6), services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law, and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. For purposes of this chapter, however, professional services shall not include professional artistic services as defined at N.J.S.A. § 40A:11-2(6). Professional services shall include financial services or insurance services.

**PUBLIC EXIGENCY** -- As determined by the State Treasurer as applied to the award of Title 19 contracts, and as determined by the governing body as applied to professional service contracts with value of \$17,500 or less.

**TITLE 19 CONTRACTS** -- A contract or agreement between the Township of Lumberton and a business entity, as defined within N.J.S.A. 19:44D-20.7, which has an anticipated value in excess of \$17,500 as determined in advance and certified in writing by the Township Purchasing Agent, including, but not limited to, professional services contract, extraordinary unspecifiable contracts, other contracts exempt from bidding (value in excess of \$17,500 but less than the Township's bid threshold), and cooperative purchasing. Contracts awarded by competitive contracting pursuant to N.J.S.A. 40A:11-4.1 et seq., and contracts which must be publicly bid under the Local Public Contracts Law, are not included in the definition of Title 19 contracts for purposes of this chapter.

**§ 54-6. General provisions. [Added 12-18-2006 by Ord. No. 2006-19]**

A. The municipality shall award all Title 19 contracts and all contracts for the provision of

professional services on the basis of qualification-based, competitive negotiation.

- B. Professional service contract and Title 19 contract requests for proposals shall be published by the posting of a public notice at least 10 days prior to the awarding of any Title 19 contract or contract for professional services.
- C. The public notice shall be:
  - (1) Prominently posted in the public place reserved for Sunshine Law notices;
  - (2) Mailed, telephoned, telegraphed, faxed or hand delivered to at least two newspapers designated to receive such notices because they have the greatest likelihood of informing the public within the municipality, one of which shall be the official newspaper of the municipality, or on the Internet Web site maintained by Lumberton Township; and
  - (3) Filed with the clerk of the municipality.
- D. The public notice shall, at minimum, include:
  - (1) A description of the services or goods needed, including, where appropriate, a description of tasks involved.
  - (2) Threshold qualification requirements setting the highest possible minimum standards for qualifying to compete for the particular services, tasks and/or goods involved.
  - (3) Notice that standardized submission requirements and selection criteria are on file and available at a stated location in the Township.
  - (4) Deadline and place for all submissions, and the manner by which the contract shall be publicly opened and announced when awarded.
- E. Standardized submission requirements shall include:
  - (1) Names and roles of the individuals who will perform the task and a description of their experience with projects similar to the matter being advertised.
  - (2) References and record of success.
  - (3) Description of ability to provide the services in a timely fashion (including staffing, familiarity and location of key staff).
  - (4) Cost details, including the hourly rates of each of the individuals who will perform services and time estimates for each individual, all expenses, and, where appropriate, total cost of "not to exceed" amount.
- F. The selection criteria to be used in awarding a Title 19 contract or a contract or agreement for

professional services shall include:

- (1) Full name and business address.
- (2) Qualifications of the individuals who will perform the tasks and the amounts of their respective participation (professional services contracts only).
- (3) Any professional or business licenses held by the applicant in the State of New Jersey or any other state, including a "certificate of good standing," or other documents evidencing that the license is not presently suspended or revoked.
- (4) The number of licensed professionals employed by, or associated with, the applicant.
- (5) A listing of all degrees (college and/or graduate degrees) held by the applicant and any associated professionals in the business entity (professional service contracts only).
- (6) A listing of all public entities for whom the business entity has had a contractual relationship, either currently or previously, including the dates of service and the contracts held.
- (7) A listing of any professional affiliations or membership in any professional societies or organizations, including any offices or honors held (professional services contracts only).
- (8) Experience and references.
- (9) Ability to perform the task in a timely fashion (professional service contracts shall include staffing and familiarity with subject matter).
- (10) Cost consideration, including, but not limited to, historical costs for similar professional services, expertise involved and comparable costs for comparable public entities.

G. All submissions shall be kept on file during the term of the related contract, and shall be public records after the deadline for the submission or proposals and award of the contract.

H. Exceptions:

- (1) If public exigency requires the immediate delivery of goods or performance of emergency services, the Township Council may waive part or all of the requirements by a majority vote of the full Council in the appointing resolution, setting forth with specificity the reasons such waiver is required.
- (2) If requests for proposals have been advertised pursuant to this article and: a) no responses have been received; or b) less responses were received than the number of positions needed; or c) responses received did not meet the minimum specifications or

were otherwise nonresponsive, the governing body may negotiate with any qualified business entity and may award a contract upon adoption of a resolution by a 2/3 affirmative vote of the authorized membership of the governing body. The terms, conditions, restrictions and specifications set forth in the negotiated contract may not be substantially different from those which were the subject of request for proposals.

## **Chapter 60, (RESERVED)**

[Former Ch. 60, Recreation Advisory Committee, adopted 3-1-1993 by Ord. No. 1993-1, as amended, was repealed 2-17-1998 by Ord. No. 1998-9.]

## **Chapter 63, RECREATION ADVISORY COMMITTEE**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 11-17-2003 by Ord. No. 2003-9. Amendments noted where applicable.]

### **GENERAL REFERENCES**

**Parks and recreation areas -- See Ch. 213.**

### **§ 63-1. Establishment of Recreation Advisory Committee.**

There is hereby established within the Township of Lumberton an advisory committee which shall be known as the "Lumberton Township Recreation Advisory Committee."

### **§ 63-2. Powers and duties.**

A. The Recreation Advisory Committee, under the direction of the Recreation Director, shall organize and implement Township recreation events and programs.

### **§ 63-3. Appointment of members and terms of office.**

- A. **Membership.** The Recreation Advisory Committee shall be composed of 14 citizens who shall be residents of the Township of Lumberton, plus the Township's Recreation Director, who need not be a resident of the Township. All members shall serve without compensation.
- B. **Appointment of members; terms of office; vacancy.** All members of the Recreation Advisory Committee shall be appointed by resolution duly adopted by the governing body. The initial Recreation Advisory Committee shall be composed of four individuals who each shall be

appointed for a one-year term ending on December 31, 2004; five individuals who each shall be appointed for a two-year term ending on December 31, 2005; and five individuals who shall each be appointed for a three-year term ending on December 31, 2006. Thereafter, all terms to the Recreation Advisory Committee shall be for a three-year period. In the event a vacancy arises, an appointment to fill the vacancy shall be for the balance of the unexpired term of the member whose position has been vacated. A vacancy shall be deemed to exist either through the death, resignation or inability of any member to serve or by removal by the governing body for cause. Any member of the Recreation Advisory Committee shall be deemed to have submitted his resignation upon his failure to attend three consecutive regularly scheduled meetings or at least 50% of the regularly scheduled meetings in any calendar year.

**§ 63-4. Organization.**

- A. Chairman. The Recreation Advisory Committee shall annually elect a Chairman, such election requiring the affirmative vote of a majority of the Committee. The Chairman shall preside at all meetings of the Committee and timely submit minutes of all meetings to the governing body.
- B. Vice Chairman. The Chairman shall designate a Vice Chairman, subject to approval by a majority of the Recreation Advisory Committee. The Vice Chairman shall, in the absence of the Chairman, carry on the duties of the Chairman until his return or until the appointment of a new Chairman.
- C. Secretary. The Chairman shall designate a Secretary subject to approval by a majority of the Recreation Advisory Committee. The Secretary shall take minutes of all meetings of the Recreation Advisory Committee and provide them to the Chairman for submission to the governing body.
- D. The Committee may adopt necessary rules and bylaws governing the proper administration of its functions and formulate subcommittees for its purposes. Such rules and regulations shall be filed with the governing body.

**§ 63-5. Meetings; quorum.**

- A. The Recreation Advisory Committee shall hold monthly meetings throughout the calendar year. The Committee may hold other such meetings as required. Whenever approval by the Committee is required, a majority of those attending the meeting shall be sufficient to take action. A quorum of eight members, however, shall be required in order to constitute a duly

authorized meeting.

**§ 63-6. Implementation and administration.**

All recreational programs and policies shall be implemented and administered through the Recreation Director.

**Chapter 65, RECREATION COMMISSIONERS, BOARD OF**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 4-28-2006 by Ord. No. 2006-7. Amendments noted where applicable.]

**GENERAL REFERENCES**

**Recreation Advisory Committee -- See Ch. 63.**

**Parks and recreation areas -- See Ch. 213.**

**§ 65-1. Establishment.**

Pursuant to provisions of N.J.S.A. 40:12-1 through 40:12-8, it is hereby created a public body in the Township of Lumberton to be known as the "Board of Recreation Commissioners of the Township of Lumberton."

**§ 65-2. Appointment of members.**

The Board of Recreation Commissions shall consist of three members who shall be citizens and residents of the Township of Lumberton and who may also be members of the Township Committee. The Board of Recreation Commissioners shall be appointed by the Mayor, with the advice and consent of the Township Committee, for the terms specified herein. For each calendar year where a new member of the Board of Commissioners is to be appointed, with the exception of appointments made to fill vacancies created prior to the end of a term, the appointment shall be made subsequent to the reorganization of the Township Committee and selection of a Mayor for that year.

**§ 65-3. Membership term.**

A. Initial members. The Board of Commissioners initially appointed shall serve for the following terms and until their respective successors are appointed and shall qualify:



- (1) One member first appointed shall serve from the date appointed until January 1 of the first calendar year subsequent to the year of appointment.
  - (2) One member first appointed shall serve until January 1 of the second calendar year subsequent to the year of appointment.
  - (3) One member first appointed shall serve until January 1 of the third calendar year subsequent to the year of appointment.
- B. Subsequent members. All appointments made after the appointment of the Commissioners first appointed as above provided for, except those members appointed to serve a vacancy for an unexpired term, shall serve for a term of three years and until their respective successors are appointed and shall qualify.
- C. Vacancies. Vacancies on the Board of Commissioners shall be filled by appointment by the Mayor, with the advice and consent of the Township Committee, and shall serve for the unexpired term of the member of the Board of Recreation Commissioners whose position has become vacant.
- D. Removal. Members of the Board of Commissioners may be removed with or without cause by a four fifths vote of the full membership of the Township Committee. Removal of a member of the Board of Commissioners prior to the expiration of such member's term shall create a vacancy to be filled as such in accordance with the provisions of Subsection C hereof.

**§ 65-4. Compensation.**

The members of the Board of Recreation Commissioners shall receive no compensation for their services as members of the Board of Recreation Commissioners.

**§ 65-5. Powers, duties and organization.**

- A. Statutory powers and duties. Consistent herewith and applicable of law, the Board of Recreation Commissioners shall have all of the powers, authority and duties provided for by N.J.S.A. 40:12-1 to N.J.S.A. 40:12-8 as now existing or hereinafter amended.
- B. Rules and procedures. The Board of Recreation Commissioners shall have the power to adopt rules, regulations and procedures as the Board deems necessary and proper to perform the functions of the Board of Recreation Commissioners, including, but not limited to, such rules and procedures relating to the holding of meetings and/or selection of a Chairperson; provided, however, that the Board of Recreation Commissioners shall hold regular meetings

in accordance with the provisions of the Open Public Meetings Act.<sup>EN(21)</sup>

- C. Control over recreation places. The Board of Recreation Commissioners shall have full control over all land, playgrounds and recreation places ("recreation places") acquired or leased pursuant to the provisions of this chapter and N.J.S.A. 40:12-1 et seq., and may adopt a Board seal and/or suitable rules, regulations and bylaws for the use of recreation areas and the conduct of all persons while on or using the same. Any person who shall violate any of such rules, regulations and/or bylaws shall be deemed and/or adjudged to be a disorderly person pursuant to the laws of this state and the ordinances of the Township of Lumberton.
- D. Acquisition of property; costs to be estimated and determined. Subject to and consistent with applicable law and provisions of N.J.S.A. 40:12-1 to 40:12-8, and subject further to proper authorization and appropriations of funds by the government body of the Township of Lumberton as provided for herein, the Board of Recreation Commissioners may acquire lands for public playgrounds and recreation places, by gift or purchase, and the Board shall from time to time select lands for public playgrounds and recreation places and, when deemed necessary or advisable by such Board, select lands for an approach or approaches by way of ingress thereto and egress therefrom of such size and dimensions as it shall think suitable, regard being had to the population of the neighborhood. The Board shall also cause surveys and maps to be made thereof, together with a careful estimate, as nearly accurate as may be, of the probable cost of acquiring such lands, and a statement of the annual rental and duration of term, if it is proposed to lease the same, together with an estimate of the cost of preparing such lands and suitably equipping the same by the erection of buildings, stands, seats and other structures and apparatus for such playgrounds and recreation places. Such surveys, maps and estimates shall be submitted to the Township Committee with a request that an appropriation be made for the purpose of acquiring or leasing such lands, as the case may be, and suitably preparing and equipping the same.
- E. Acquisition of property; authorizations of condemnation. If the Township Committee authorizes the acquisition of any such lands and appropriates a sum of moneys for the purchase and equipment thereof, or authorizes the leasing thereof and appropriates a sum of moneys for the equipment thereof, the Board of Recreation Commissioners shall proceed to acquire the same in accordance with applicable law by purchase, condemnation or lease, as the case may be, and suitably prepare and equip the same for playground and recreation place, or approach thereto. The Board may cause any lands so acquired to be laid out and improved as a public playground, recreation place or an approach thereto. The titles of all lands acquired or taken under the provisions of this chapter and N.J.S.A. 40:12-1 et seq. shall vest in the Township of Lumberton, and all leases of land for such purpose shall be in the name of the Township of Lumberton.
- F. Service charges for certain activities and facilities. In order to provide the funds, in whole or

in part, necessary to improve, maintain and police the playgrounds or recreation places under its control, the Board of Recreation Commissioners may arrange and provide for the giving of exhibitions, plays, concerts, games and contests and/or any other fund-raising activities for the purpose of giving exhibitions, plays, concerts, games and contests. The Board of Recreation Commissioners may charge and collect a reasonable service charge and/or admission fees in accordance with the provisions of N.J.S.A. 40:12-5 as now existing and/or hereinafter amended.

- G. Employees. The Board of Recreation Commissioners may appoint a Secretary or Clerk to the Board and such number of custodians, supervisors and assistants for the several playgrounds and recreation places under its control as it shall think necessary and fix and determine the salaries of these individuals, so long as sufficient funds are available for such compensation.
- H. Annual appropriations. The Township Committee of the Township of Lumberton shall annually fix, determine and appropriate a sum sufficient for the care, custody, policing and maintenance of the playgrounds and recreation places within the Township of Lumberton, and for the expenses of the Board of Recreation Commissioners, which sum shall be raised by taxation in the same manner as other taxes. The Township Committee shall provide for suitable space to be used by the Board of Recreation Commissioners.
- I. Costs, taxation and bonds and special fund. The money necessary to pay for land purchased or condemned for such playgrounds and/or recreation places, where applicable, and for providing and equipping the same, from time to time, may be raised and provided by the Township Committee by general taxation, as other taxes are raised and levied, or by the issuance of temporary loan bonds, or by the issuance of permanent bonds pursuant to provisions of N.J.S.A. 40A:2-1 et seq. All moneys received by the Board of Recreation Commissioners shall be paid over to the Chief Municipal Finance Officer of the Township of Lumberton and be maintained in a special fund which will be under control of the Board of Recreation Commissioners and used only for the purpose of defraying the expenses of improving, maintaining and/or policing the playgrounds and recreational places and for all other expenses of the Board in regard to the providing of recreation within the Township of Lumberton.

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## **Chapter 85, (RESERVED)**

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[Former Ch. 85, Zoning Board of Adjustment, adopted 12-20-1976 by Ord. No. 1976-13 (part of Ch. II of the 1973 Code), was repealed 1-20-2004 by Ord. No. 2004-1. See Ch. 29, Land Development Board, for current provisions pertaining to the land use board.]

## PART II GENERAL LEGISLATION

### Chapter 89, ADULT USES

[HISTORY: Adopted by the Township Committee of the Township of Lumberton: Art. I, 4-17-1978 as Ord. No. 1978-2 (part of Ch. V of the 1973 Code). Amendments noted where applicable.]

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#### **ARTICLE I, Bookstores [Adopted 4-17-1978 as Ord. No. 1978-2 (part of Ch. V of the 1973 Code)]**

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##### **§ 89-1. Definitions.**

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

**ADULT BOOKSTORE** -- A store specializing in or holding itself out as specializing in the sale, rental or on-premises viewing, or all of them, of books, films or pictures, any or all of them dealing with sex.

##### **§ 89-2. License required.**

No person shall conduct an adult bookstore without first being licensed to do so, as provided in this Article.

##### **§ 89-3. Application for license.**

Application for such license shall be made, in writing, to the Township Committee and shall set forth:

- A. The name and address of the applicant.
- B. The address where the business is to be conducted.
- C. Such other pertinent information as the Township Committee shall require in such

application form as shall be established by resolution.

**§ 89-4. Location restrictions.**

No adult bookstore shall be licensed that is within 200 feet of a church or school.

**§ 89-5. License fee; expiration.**

The fee for each such license shall be \$100, and the license shall expire on December 31 of the year of issue.

**§ 89-6. Movie projector fee. [Amended 8-20-1979 by Ord. No. 1979-12]**

In addition to the fee set forth in § 89-5, each movie projector which is maintained in or on the premises shall be licensed at the rate of \$36 for each such machine.

**§ 89-7. Display restrictions.**

No books or other materials sold in such store shall be displayed in such fashion as to be visible from the street, and no signs, pictures or other devices shall be displayed visible from the street with the exception of the store name and the words "Adult Bookstore."

**§ 89-8. Minors prohibited.**

No minor shall be admitted to any such bookstore or permitted or suffered to remain on the premises.

**§ 89-9. Revocation of license.**

Any conviction for the sale or showing of pornographic material, in violation of the Statutes of the State of New Jersey, on the premises shall be cause of revocation of the license.

**§ 89-10. Violations and penalties.** EN(22)

A. Maximum penalty. For violation of any provisions of this Article, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a

term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.

- B. Separate violations. Each and every day in which a violation of any provision of this Article exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

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## Chapter 90, AFFORDABLE HOUSING

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Development regulations -- See Ch. 130.

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## ARTICLE I, Fair Share Obligation [Adopted 12-2-1996 by Ord. No. 1996-15]

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### § 90-1. Legislative authority.

This article of the Township of Lumberton Code sets forth regulations regarding low- and moderate-income housing units in the Township of Lumberton that are consistent with the provisions of N.J.A.C. 5:93 et seq., as effective on June 6, 1994. These rules are pursuant to the Fair Housing Act of 1985<sup>EN(23)</sup> and the Township of Lumberton's constitutional obligation to provide for its fair share of low- and moderate-income housing.

### § 90-2. Low- and moderate-income split.

The Township of Lumberton's new construction component will be divided equally between low- and moderate-income households as per N.J.A.C. 5:93-2.20.

- A. At least 1/2 of all units within each development will be affordable to low-income households.
- B. At least 1/2 of all rental units will be affordable to low-income households.
- C. At least 1/3 of all units in each bedroom distribution pursuant to N.J.A.C 5:93-7.3 will be affordable to low-income households.

**§ 90-3. Bedroom mix.**

Developments that are not restricted to senior citizens and handicapped persons will be structured in conjunction with realistic market demands so that:

- A. The combination of efficiency and one-bedroom units is at least 10% and no greater than 20% of the total low- and moderate-income units.
- B. At least 30% of all low- and moderate-income units are two-bedroom units.
- C. At least 20% of all low- and moderate-income units are three-bedroom units.
- D. Low- and moderate-income units restricted to senior citizens and handicapped persons may utilize a modified bedroom distribution. At a minimum the number of bedrooms will equal the number of senior citizen low- and moderate-income units within the development.

**§ 90-4. Rents and sales prices.**

In conjunction with realistic market information, the following criteria will be used in determining maximum rents and sales prices:

- A. Efficiency units will be affordable to one-person households;
- B. One-bedroom units will be affordable to one-and-five-tenths-person households.
- C. Two-bedroom units will be affordable to three-person households.
- D. Three-bedroom units will be affordable to four-and-five-tenths-person households.
- E. Median income by household size will be established by a regional weighted average of the uncapped Section 8 income limits published by HUD as per N.J.A.C. 5:93-7.4(b).
- F. Low-income units will be reserved for households with a gross household income less than or equal to 50% of the median income approved by the Council on Affordable Housing (COAH); moderate-income units will be reserved for households with a gross household

income less than 80% but greater than 50% of the median income approved by the COAH as per N.J.A.C. 5:93-9.16.

- G. Moderate-income sales units will be available for at least three different prices, and low-income sales units will be available for at least two different prices.
- H. The maximum average rent and price of low- and moderate-income units within each development will be affordable to households earning 57.5% of the median income of the COAH region in which the township is located.
- I. The regulations outlined in N.J.A.C. 5:93-9.15 and 5:93-9.16 will be applicable for purchased and rental units.

**§ 90-5. Rental units; tenant-paid utilities.**

- A. One rent shall be established for a low-income unit, and one shall be established for a moderate-income unit for each bedroom distribution.
- B. Gross rents, including an allowance for tenant-paid utilities, will be established so as not to exceed 30% of the gross monthly income of the appropriate household size as per N.J.A.C. 5:93-7.4(a). The tenant-paid utility allowance will be consistent with the utility allowance approved by HUD for use in New Jersey.

**§ 90-6. Sale units.**

- A. The initial price of a low- and moderate-income, owner-occupied, single-family housing unit will be established so that after a down payment of 5%, the monthly principal, interest, homeowner and private mortgage insurances, property taxes (based on the restricted value of the low- and moderate-income unit) and condominium or homeowner fee do not exceed 28% of the eligible gross monthly income.
- B. The Township of Lumberton will follow the general provisions concerning uniform deed restriction liens and enforcement through certificates of occupancy or reoccupancy on sale units as per N.J.A.C. 5:93-9.3.
- C. The Township of Lumberton will require a certificate of reoccupancy for any occupancy of a low- or moderate-income sales unit resulting from a resale as per N.J.A.C. 5:93-9.3(c).
- D. Municipal state, nonprofit and seller options regarding sale units will be consistent with N.J.A.C. 5:93-9.5 through 5:93-9.8. Municipal rejection of repayment options for sale units will be consistent with N.J.A.C. 5:93-9.9.



- E. The continued application of options to create, rehabilitate or maintain low- and moderate-income sale units will be consistent with N.J.A.C. 5:93-9.10.
- F. Eligible capital improvements prior to the expiration of controls on sale units will be consistent with N.J.A.C. 5:93-9.11.
- G. The regulations detailed in N.J.A.C. 5:93-9.12 through 5:93-9.14 will be applicable to low- and moderate-income units that are for sale units.

**§ 90-7. Mandatory development fees.**

A. Purpose. The purpose of this section is to establish standards for the collection, maintenance and expenditure of development fees pursuant to rules promulgated by the New Jersey Council on Affordable Housing (COAH). Fees collected pursuant to this provision shall be used for the sole purpose of providing low- and moderate-income housing. This article shall be interpreted within the framework of COAH's rules on development fees.

B. Residential development fees. [Amended 11-14-2005 by Ord. No. 2005-30]

- (1) In accordance with N.J.A.C. 5:94-6.6(a) and (b) of COAH's substantive rules, all new development of residential dwelling units within the Township of Lumberton, not exempt from the collection of development fees in accordance with the provisions specified in § 90-7D, shall pay to Lumberton Township 1% of the equalized assessed value of each housing unit, provided no increased density is permitted.
- (2) In the event that an increase in residential density is permitted pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance), the fee shall increase to 6% of the equalized assessed value for each additional unit that is realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

C. Nonresidential development fees. [Amended 11-14-2005 by Ord. No. 2005-30]

- (1) In accordance with N.J.A.C. 5:94-6.7(a) and (b) of COAH's substantive rules, all new development of nonresidential buildings and structures, not exempt from the collection of development fees in accordance with § 90-7D, shall pay a fee to Lumberton Township of 2% of the equalized assessed value for nonresidential development.
- (2) In the event that an increase in floor area is permitted pursuant to N.J.S.A. 40:55D-70d(4) (known as a "d" variance), the fee shall increase to 6% on the additional

floor area realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base floor area for the purposes of calculating the bonus development fee shall be the highest floor area permitted by right during the two-year period preceding the filing of the variance application.

D. Exemptions, eligible exactions and ineligible exactions.

- (1) Developments which include low- and moderate-income housing units shall be exempt from paying development fees.
- (2) Developers that expand an existing structure, other than a single-family dwelling, shall pay a development fee. The development fee shall be calculated based on the increase in the equalized assessed value of the improved structure, and shall be 1/2 of 1% of the value of that increase.
- (3) Developments that have received preliminary or final approval prior to the effective date of this article shall be exempt from paying a development fee unless the developer seeks a substantial change in the approval. A change in an approval which requires a revised preliminary approval shall be considered to be a substantial change for the purposes of this section.

E. Collection of fees.

- (1) Developers shall pay 50% of the calculated development fee to the Township of Lumberton at the issuance of a building permit. The development fee shall be estimated by the Tax Assessor prior to the issuance of a building permit.
- (2) Developers shall pay the remaining fee to the Township of Lumberton at the issuance of a certificate of occupancy. At the issuance of a certificate of occupancy, the Tax Assessor shall calculate the equalized assessed value and the appropriate development fee. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the certificate of occupancy and the amount paid at the time of issuance of the building permit.

F. Housing Trust Fund.

- (1) There is hereby created an interest-bearing Housing Trust Fund for the purpose of receiving development fees from residential and nonresidential developers. All development fees paid by developers pursuant to this article shall be deposited in this Fund. No moneys shall be expended from the Housing Trust Fund unless the expenditure conforms to a spending plan approved by COAH.
- (2) If COAH determines that the Township of Lumberton is not in conformance with

COAH's rules on development fees, COAH is authorized to direct the manner in which all development fees collected pursuant to this article shall be expended. Such authorization is pursuant to this article; COAH's rules on development fees and the written authorization from the Township Committee to the bank in which the Housing Trust Fund is located.

G. Use of funds.

- (1) Money deposited in a Housing Trust Fund may be used for any activity approved by COAH for addressing the township's low- and moderate-income housing obligation. Such activities may include, but are not necessarily limited to, housing rehabilitation; new construction; regional contribution agreements; the purchase of land for low- and moderate-income housing; extensions and/or improvements of roads and infrastructure to low- and moderate-income housing sites; assistance designed to render units to be more affordable to low- and moderate-income people; and administrative costs necessary to implement the Township of Lumberton's housing element. The expenditure of all moneys shall conform to a spending plan approved by COAH.
- (2) Unless specifically waived by COAH, at least 30% of the revenues collected shall be devoted to render units more affordable. Examples of such activities include, but are not limited to, down payment assistance, low interest loans and rental assistance.
- (3) No more than 20% of the revenues shall be expended on administrative costs necessary to develop, revise or implement the housing element. Examples of eligible administrative activities are personnel, consultant services, space cost, consumable supplies and rental or purchase of equipment.
- (4) Development fee revenues shall not be expended to reimburse the township for housing activities, that preceded substantive certification by COAH.

H. Expiration of fee section of article. This component of this article shall expire if:

- (1) The COAH dismisses or denies the township's petition for substantive certification;
- (2) The COAH revokes substantive certification or its certification of this article; or
- (3) Substantive certification expires prior to the township filing an adopted housing element with COAH petitioning for substantive certification or receiving COAH's approval of this article.

**§ 90-8. Affordability controls.**

- A. To provide assurances that low- and moderate-income units are created with controls on

affordability over time and that low- and moderate-income households occupy these units, the Township of Lumberton will designate the Lumberton Independent Living Campus (LILC) with the responsibility of ensuring the affordability of its rental units over time. There are no other rental or sales units in the affordable housing program at this time, but to the extent additional rental and sales have affordability controls, they will be administered through the Affordable Housing Management Service (AHMS). The LILC and AHMS will be responsible for those activities detailed in N.J.A.C. 5:93-9.1(a).

- B. The LILC and AHMS will be responsible for filing the verification and certification procedures outlined in N.J.A.C. 5:93-9.1(b) in placing households in low- and moderate-income units.
- C. New construction.
  - (1) Newly constructed low- and moderate-income sales units will remain affordable to low- and moderate-income households for at least 30 years. The AHMS will require all conveyances or newly constructed units to contain the deed restriction and mortgage lien adopted by COAH and referred to as Technical Appendix E, as found in N.J.A.C. 5:93.
  - (2) Housing units created through the conversion of a nonresidential structure will be considered a new housing unit and will be subject to thirty-year controls on affordability. The AEMS will require the COAH's appropriate deed restriction and mortgage lien.
- D. Rehabilitated units. The rehabilitation of housing units shall be undertaken through the Burlington County Community Action Program (BCCAP), which shall be responsible for assuring that all units proposed for rehabilitation meet the criteria set forth in N.J.A.C. 5:93 and that appropriate records are maintained to assure accurate reporting to COAH of eligible housing rehabilitation activities.
  - (1) Rehabilitated owner-occupied, single-family housing units that are improved to code standard will be subject to affordability controls for at least six years.
  - (2) Rehabilitated renter-occupied housing units that are improved to code standard will be subject to affordability controls for at least 10 years.
- E. Rental units.
  - (1) Newly constructed low- and moderate-income units will remain affordable to low- and moderate-income households for at least 30 years. A deed restriction and lien and deed of easement will be required, referred to as Technical Appendix H, as found in N.J.A.C. 5:93.
  - (2) Affordability controls in accessory apartments will be for a period of at least 10 years, except if the apartment is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.13,

then the controls on affordability will extend for 30 years.

- (3) Alternative living arrangements will be controlled in a manner suitable to COAH, which provides assurances that such a facility will house low- and moderate-income households for at least 10 years, except if the alternative living arrangement is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.13, then the controls on affordability will extend for 30 years.

### **§ 90-9. Eliminating unnecessary land development cost.**

Section 14b of the Fair Housing Act, N.J.S.A. 52:27D-301 et seq.,<sup>EN(24)</sup> incorporates the need to eliminate unnecessary cost generating features from the Township of Lumberton's land use ordinances. Accordingly, to the extent needed to foster the development of affordable housing, the Township of Lumberton will eliminate development standards that are not essential to protect the public welfare and to expedite or fast track municipal approvals/denials on development applications. The Township of Lumberton will adhere to the components of N.J.A.C. 5:93-10.1 through 5:93-10.3.

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## **ARTICLE II, Affirmative Marketing [Adopted 12-2-1996 by Ord. No. 1996-14]**

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### **§ 90-10. Legislative authority.**

- A. The Township of Lumberton has a fair share obligation for the period 1987-1999 of 189 units which consists of a rehabilitation component of 38 units and a new construction component of 151 units. This ordinance will apply to any developments which contain low- and moderate-income housing including the proposed development known as the "Lumberton Independent Living Campus (LILC)."
- B. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of sex, age or number of children, to housing units which are being marketed by a developer/sponsor, municipality and/or designated administrative agency of affordable housing. The plan will address the requirements of N.J.A.C. 5:93-11. In addition, the plan prohibits discrimination in the sale, rental, financing or other services related to housing on the basis of race, color, sex, religion, handicap, age, familial status/size or national origin. The Township of Lumberton is in the housing region consisting of Burlington, Camden and Gloucester Counties. The affirmative marketing program is a continuing program and will meet the requirements set forth in this

article.

**§ 90-11. Newspaper advertisements.**

- A. All newspaper articles, announcement and requests for applications for low- and moderate-income units will appear in the following daily regional newspapers/publications: Burlington County Times and the Courier Post. The primary marketing will take the form of at least one press release sent to the above publications and a paid display advertisement in each of the above newspapers. Additional advertising and publicity will be on an as-needed basis.
- B. The advertisement will include a description of the:
  - (1) Street address of units.
  - (2) Direction to housing units.
  - (3) Number of bedrooms per unit.
  - (4) Range of prices/rents.
  - (5) Size of units.
  - (6) Income information.
  - (7) Location of applications, including business hours and where/how applications may be obtained.
- C. All newspaper articles, announcements and requests for applications for low- and moderate-income housing will appear in the following neighborhood-oriented weekly newspapers, religious publications and organizational newsletters within the region: Mount Holly Gazette and Burlington County Times.

**§ 90-12. Radio and cable television advertisements. [Amended 3-12-1997 by Ord. No. 1997-5]**

The following regional radio and/or cable television stations will be used:

- A. Burlington County College.
- B. WJZ.
- C. Garden State Cable.

D. KYW 1060.

**§ 90-13. Location of applications.**

The following are the locations of applications, brochures, signs and posters used as part of the affirmative marketing program, including specific employment centers within the region:

- A. Lumberton Township Municipal Building.
- B. Lumberton Independent Living Campus office on Route 38.
- C. CVS Warehouse. [Added 3-12-1997 by Ord. No. 1997-5]
- D. Superfresh. [Added 3-12-1997 by Ord. No. 1997-5]
- E. Edward Food Store. [Added 3-12-1997 by Ord. No. 1997-5]
- F. Lumberton Post Office. [Added 3-12-1997 by Ord. No. 1997-5]

**§ 90-14. Community outreach.**

- A. The following is a list of community contact persons and organizations in Burlington, Camden and Gloucester Counties that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region: United Way and American Red Cross. [Amended 3-12-1997 by Ord. No. 1997-5]
- B. Quarterly flyers and applications will be sent to each of the following agencies for publication in their journals and for circulation among their members: Board of Realtors in Burlington, Camden and Gloucester Counties.
- C. Applications will be mailed to prospective applicants upon request.
- D. Additionally, quarterly international circulars and applications will be sent to the chief administrative employees of each of the following agencies in the Counties of Burlington, Camden and Gloucester:
  - (1) Welfare of Social Service Board.
  - (2) Rental Assistance Office (local office of DCA).
  - (3) Office or Department of Aging.

- (4) Housing Authority.
- (5) Library.

**§ 90-15. Selection of occupants.**

- A. The Lumberton Independent Living Campus' office shall be open to take applications at specified times during the week as advertised. The Administrator of LILC shall interview all prospective applicants to explain the regulations and policies associated with each development and the township's low- and moderate-income housing program in general.
- B. After receiving a completed application, Lumberton Independent Living Campus shall make a preliminary determination for eligibility based on annual income, the number of family members, special needs (handicapped, etc.) and age. Age shall be an eligibility standard only for age restricted units. If eligibility is tentatively established the applicant's income shall be verified. If information received shows a record of bad credit or exposes erroneous information on the application, the applicant shall be given an opportunity to explain. If the Administration believes the explanation refutes the derogatory information, the application shall continue to be processed.
- C. All eligible applications shall be placed in one of two pools. The first pool shall be reserved for those applicants presently living or working in Burlington, Camden or Gloucester Counties. Pool two shall be composed of applicants living outside the housing region who will have an equal opportunity for units after pool one applicants have been initially serviced. Random selection of residents from pool one shall occur until the number of applicants in the pool is exhausted. Random selection from pool two shall continue until all remaining units are committed. The Township of Lumberton intends to comply with N.J.A.C. 5:93-11.7.
- D. Applicants shall receive written notice of a determination of ineligibility within 10 days of such determination. The written notice shall contain the reason for ineligibility and an explanation of the appeal process.
- E. The applicant who has been declared ineligible shall have the right to appeal to the Affordable Housing Management Service (AHMS). Such appeal shall be filed in writing with the Lumberton Independent Living Campus Administrator within 15 days of receipt of the notice of ineligibility. The AHMS shall make a determination of eligibility within 10 days of receipt of the appeal, and such determination shall be in the form of a written notice to the applicant. The determination of AHMS shall be deemed to be final.

**§ 90-16. Administrative agency. [Amended 3-12-1997 by Ord. No. 1997-5]**



The Lumberton Independent Living Campus (LILC) and the Affordable Housing Management Service (AHMS) are the agencies responsible to administer the affirmative market program. The LILC, at its own project site on Route 38, has the responsibility to income-qualify low moderate income households; to place income-eligible households in low- and moderate-income units upon initial occupancy; to provide for the initial occupancy of low- and moderate-income units with income-qualified households; to continue to qualify households for reoccupancy of units as they become vacant during the period of affordability controls; to assist with advertising and outreach to low- and moderate-income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C. 5:93-9.1. The AHMS, which would be placed under contract with the Township of Lumberton in the event that another inclusionary development is located in the township, would have the same scope of responsibility as that outlined herein for LILC. The Township Tax Assessor within the Township of Lumberton is the designated housing officer to act as liaison to the LILC and AHMS. The LILC and AHMS, in their respective areas of jurisdiction, will provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law. The following service providers have agreed to perform the above services.

#### **§ 90-17. Timing.**

The marketing program will commence at least 120 days before the issuance of either temporary or permanent certificates of occupancy. The marketing program will continue until low- and moderate-income housing units are initially occupied and for as long as affordable units are deed restricted and occupancy or reoccupancy of units continues to be necessary.

#### **§ 90-18. Monitoring and reporting requirements.**

The LILC and AHMS will comply with monitoring and reporting requirements as per N.J.A.C. 5:93-11.6 and 5:93-12.1.

## **Chapter 92, ALARM SYSTEMS**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 9-2-1980 as Ord. No. 1980-6 (Ch. VA of the 1973 Code). Amendments noted where applicable.]

#### **GENERAL REFERENCES**

**Fire prevention -- See Ch. 152.**  
**Smoke detectors -- See Ch. 242.**

**§ 92-1. Purpose.**

The purpose of this chapter is to provide standards and regulations for various types of intrusion, burglar, fire and other emergency alarm devices, whether by direct line, radio, telephone or other means, actuating a device at the township police station and/or at the Burlington County Central Dispatch Center and requiring a response thereto by the Police Department, the Fire Department or other township agency.

**§ 92-2. Scope; applicability.**

The provisions of this chapter shall apply to any person who operates, maintains or owns any location requiring a response to any type of alarm signal. The terms of this chapter shall in no way prohibit alarm companies from providing service by private source to other offices within or without the township, so long as such activity is not connected to the alarm console and/or does not require a police response, except that any person having premises protected by an alarm device shall be responsible for the registration thereof, in accordance with the provisions herein provided.

**§ 92-3. Definitions.**

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

**ALARM CONSOLE** -- The console or control panel of devices giving a visual or audio response, or both, and located within the confines of the police headquarters of the township and/or the Burlington County Central Dispatch Center and/or any other official location recognized by all parties herein.

**ALARM DEVICE** -- Any type of alarm system actuating equipment in the alarm console or Police Department telephone system providing warning of intrusions, fire, smoke, flood or other peril.

**ALARM DIALER** -- That type of automatic telephone dialing device using the telephone system to transmit an alarm to the Police Department.

**ALARM INSTALLATION** -- Any alarm device or combination of devices installed for one or more buildings at a location other than the alarm console.

**ALARMS, HARD WIRE** -- An alarm system that is wired directly to the alarm console which will be maintained at the Burlington County Central Dispatch Center or another location

officially recognized by all parties herein.

**ALARM SYSTEM** -- The activity of maintaining, servicing, repairing, altering, replacing, moving or installing or causing to be maintained, serviced, repaired, altered, replaced, moved or installed in or on any building, place or premises any device designed or used for the detection of unauthorized entry or for alerting others of the commission of an unlawful act, or both, and the detection of fire or smoke or any hazards affecting the safety of citizens and/or their property.

**FALSE ALARM** -- Any alarm actuated by inadvertence, negligence or an unintentional or intentional act of someone other than an intruder. This shall include alarms caused by the malfunctioning of the alarm device or other relevant equipment, but shall not include alarms created by a malfunction of the alarm console.

**LOCAL ALARM** -- Any alarm or device which, when actuated, produces a signal not connected to the alarm console, such as burglar alarms actuating bell or siren devices.

**PERMITTEE** -- Any person owning an alarm device or a local alarm within the scope of this chapter.<sup>EN(25)</sup>

#### **§ 92-4. Registration and permits.**

**A. Registration required.**

- (1) Any person, firm or corporation that owns or operates an alarm device or a local alarm shall make application for the installation, operation and continuance thereof, in writing, to the Chief of Police on the form provided by the Police Department.
- (2) All registration information provided by an applicant shall be confidential and not disclosed to the public in order to ensure the protection of the public interest.

**B. Permit for connection to police switchboard.** No person shall use or cause or permit to be used any telephone device or telephone attachment that automatically selects a telephone trunk line of the Police Department of the Township of Lumberton or Central Communications and then reproduces any prerecorded message to report any robbery, burglary or other emergency or relays by human agency a like message without first having obtained a written permit from the Chief of Police. No person shall install, maintain, use or permit to be used any robbery, burglary or emergency alarm system which automatically or semiautomatically terminates in any private establishment or telephone answering service and which is relayed by the recipient of the alarm by a telephone call to the Police Department, without having first obtained a written permit from the Chief of Police.

**C. Application; conditions for issuance of permit.** Application forms and tie-in instructions shall

be in a form prescribed by the Chief of Police and shall be available in the office of the Police Department. The application shall contain the following information:

- (1) The type of device.
  - (2) The location of the device.
  - (3) The names of the installers of the device.
  - (4) A list of persons to be contacted in the event of an alarm.
  - (5) Provisions relating to false alarms and testing procedures.
  - (6) Any other information which may be required by the Chief of Police.
- D. Investigation. The Police Chief shall cause an investigation to be made and shall issue the permit if it is found that the system in the police switchboard or in the Police Department will not jam the switchboard, constitute a nuisance or otherwise interfere with or hinder the proper operation of the police work of the township.
- E. Term of permit; renewal. All permits issued under this chapter shall expire on December 31 of the year in which the permit is granted. Thereafter, the Police Chief may issue a renewal permit, provided that on or before December 31 a request is made, in writing, for such renewal.
- F. Suspension or revocation of permit. Any permit issued under the provisions of this chapter may be suspended or revoked by the Chief of Police, upon 10 days' written notice by the Chief of Police to the permittee, under the following conditions:
- (1) The permittee, his agents or employees willfully failed or did not comply with a request by a member of the Police Department to proceed immediately to the location of the permittee's alarm and render necessary service.
  - (2) The permittee, his agents or employees knowingly installed or maintained a faulty alarm device. An inordinate number of false alarms shall be prima facie evidence that such alarm device is knowingly a faulty device.
  - (3) The permittee has breached the terms and conditions of the permit or has failed to comply with departmental rules or the other provisions of this Code or the privilege so granted has been abused to the detriment of the public.
- G. Appeals. Any person aggrieved by the action of the Chief of Police in denying a permit or in the suspension or revocation of any permit as provided for by this chapter may appeal to the Township Committee by serving written notice of such appeal upon the Chief of Police and

the Township Clerk/Administrator.

H. Unregistered alarms.

- (1) In the event that any person has a dial alarm device in existence at the time of the passage of this chapter, he shall have 30 days in which to register the device with the Chief of Police. Any person not so complying shall be liable to a penalty payable to the township, as provided for in § 92-11B.
- (2) Any unregistered console-wired alarm may be discontinued by the Chief of Police or his designated representative with the knowledge of the Director of Public Safety for noncompliance with this chapter. Any person installing or maintaining unauthorized equipment shall be prosecuted for violation of this chapter. Each and every day such equipment is in operation shall be considered a separate violation.
- (3) Upon discovery of the installation of an unregistered alarm device, the Chief of Police shall serve the owner with written notification requiring compliance with the provisions of this chapter. If the owner fails to do so within 30 days of receipt of such notice, he shall then be subject to penalties as provided in § 92-11B.

I. Conditions of issuance. Upon application, permits shall be granted subject to the following terms and conditions:

- (1) The applicant shall furnish, when required, complete information and specifications relating to the system to be provided. The information shall include specific data relating to the service of false alarms and testing procedures.<sup>EN(26)</sup>
- (2) No person other than the applicant, his designated agents and employees shall exercise any privilege granted herein.
- (3) The applicant shall maintain his equipment in good condition and repair and maintain an adequate work force and equipment to repair, maintain and service such system.
- (4) No permit shall be transferred or assigned in any manner.
- (5) An excessive number of false alarms shall be penalized, as provided herein, and shall subject the subscriber to disconnection.
- (6) No subscriber shall fail or refuse to respond to a police summons to deactivate an alarm, whether or not the same is legitimately or falsely activated and regardless of the type of alarm.
- (7) A permittee, by acceptance of the permit, shall be deemed to have consented to the inspection of the premises on which the alarm devices are installed at reasonable hours

by the Chief of Police or his designated representative.

- J. Fees and charges. For alarm devices, the registrant shall pay whatever charges are required by any alarm company making such installation, and false alarm charges. The township shall not be responsible for any related fees charged the applicant for installation, maintenance or signal transmission.

**§ 92-5. Dial alarms.**

- A. Dial alarms shall only be coded to dial a special separate number to be obtained from the Chief of Police. No dial alarm shall be coded to dial the number of the general police switchboard.
- B. The message shall conform to an approved format on the application.
- C. The total length of a message shall not exceed 15 seconds.
- D. A message may be received by police headquarters twice, but not more than three times.
- E. All components of the equipment shall be maintained by the owner in good repair. When evidence exists that there has been failure to comply with the operational requirements of this chapter, the Chief of Police shall demand that such device be disconnected until such time as compliance with current requirements is reestablished.<sup>EN(27)</sup>

**§ 92-6. Time limit for audible alarms.**

All audible alarms shall be equipped with a time relay or battery to limit the sounding of an alarm to a maximum of 15 minutes or less.

**§ 92-7. Repair service required.**

Any permittee utilizing any alarm system shall provide for a repairman to be on call at all times. Such service shall be provided within eight hours of notification to the permittee by the Police Department of any malfunction of any equipment.

**§ 92-8. False alarms.**

- A. In the case of a false alarm, any person having knowledge thereof shall immediately notify the Police Department in a manner to be prescribed by rules and regulations, in accordance with § 92-9. In addition, in the case of false alarms, the Chief of Police shall cause an

investigation to be made and shall keep a record of such alarms on file and shall provide the Township Clerk/Administrator with a copy of each such investigation.

- B. Where the investigation of the Police Department discloses continued abuse of the privilege of connection to the alarm console and a disregard by the permittee for taking remedial steps to avoid false alarms, the Chief of Police shall have the right to require disconnection from the telephone system or alarm console for a limited or permanent time, conditioned on 10 days written notice by the Chief of Police to the permittee, provided that no such permit shall be revoked or suspended without giving the permittee an opportunity to show cause before the Township Committee as to why any such action should not be taken.<sup>EN(28)</sup>
- C. The Chief of Police shall have the right to refuse service on any and all habitual false alarm offenders and to disconnect any malfunctioning equipment from the alarm console until such time as the malfunction has been corrected, as well as to refuse response to such habitual false alarm offenders, and shall regularly report such actions to the Township Committee, at least monthly.<sup>EN(29)</sup>
- D. Owners of alarm dialer devices shall be governed by the false alarm procedures herein and penalties set forth in § 92-11.

**§ 92-9. Promulgation of rules and regulations.** <sup>EN(30)</sup>

The Chief of Police may promulgate, from time to time, written rules and regulations in order to provide for recordkeeping and efficient operation and management of the system.

**§ 92-10. Liability.**

- A. Nonliability of township for maintenance or operation of equipment. Notwithstanding the payment of any charge and/or the receiving or issuance of any permit as herein provided, the Police Department and the Township of Lumberton shall be under no obligation whatsoever concerning the adequacy, the operation or maintenance of the device or devices so installed, and the township and its authorized agents hereby assume no liability whatsoever for any failure of any such equipment, failure to respond to any such alarms or for any act of omission or commission as a result of any such alarm, device or system.
- B. Assumption of liability by permittee. The applicant or permittee, upon the acceptance of a permit, hereby agrees to hold and save harmless the Township of Lumberton, its agents and employees from any liability whatsoever in connection with any alarm system or the operation of the same.
- C. Release and indemnification of township. Any applicant who shall register an alarm device or

a local alarm shall be deemed to have released the Township of Lumberton and any of its employees from any liability or damages arising from or on account of the use and maintenance of the alarm console and related activities, and the applicant shall indemnify and hold the Township of Lumberton harmless from and on account of any and all damages arising therefrom.

**§ 92-11. Violations and penalties.**

A. False alarms. False alarms shall subject the owner to the following penalties:

- (1) For the first and second false alarm in any twelve-month period, a warning shall be issued.
- (2) For the third false alarm in any twelve-month period, a fine of \$25 shall be paid to the township.
- (3) For the fourth or any subsequent false alarms in such twelve-month period, a fine of \$50 shall be paid to the township.<sup>EN(31)</sup>

B. <sup>EN(32)</sup>Other violations.

- (1) Maximum penalty. For violation of any other provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- (2) Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- (3) Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- (4) Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

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**Chapter 94, ALCOHOLIC BEVERAGES**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-7-1973 by



Ord. No. 1973-19 as Ch. VI of the 1973 Code. Amendments noted where applicable.]

#### GENERAL REFERENCES

Park and recreation areas -- See Ch. 213.

#### **§ 94-1. Purpose. [Amended 7-7-1980 by Ord. No. 1980-4]**

This chapter is enacted to regulate the sale and transportation of alcoholic beverages in the Township of Lumberton in accordance with the provisions of an act of the Legislature of the State of New Jersey entitled "An Act Concerning Alcoholic Beverages," comprising Chapter 436 of the Laws of 1933, its supplements and amendments, and also comprising N.J.S.A. 33:1-1 et seq., and any amendments or supplements thereto, and in accordance with the rules and regulations of the State Director of Alcoholic Beverage Control, and to further provide rules and regulations prohibiting the consumption of alcoholic beverages in public places.

#### **§ 94-2. Definitions.**

For the purpose of this chapter, words and phrases herein shall have the same meanings as in N.J.S.A. 33:1-1 et seq., and any amendments or supplements thereto, and the rules and regulations of the Director of the Division of Alcoholic Beverage Control.

#### **§ 94-3. Licensing; fees; maximum number.**

- A. Laws applicable. All applications for licenses, all licenses issued and all proceedings under this chapter shall be in accordance with the Act, rules and regulations referred to in § 94-1, and all other applicable laws of the State of New Jersey or the United States.
- B. Issuing authority. All licenses required by this chapter shall be issued by the Township Committee, which shall also administer the provisions of this chapter. The Township Committee shall have the authority to authorize the issuance of and cause the issuance of any such licenses in any mode or manner permitted by N.J.S.A. 33:1 et seq. [Amended 8-7-2006 by Ord. No. 2006-11]
- C. License required. No person shall sell or distribute alcoholic beverages within the Township without having obtained a license in accordance with the Act referred to in § 94-1 and the provisions of this chapter.
- D. License fee; maximum number. The annual license fees and maximum type and number of licenses for the sale and distribution of alcoholic beverages in the Township shall be as follows: [Amended 4-5-1976 by Ord. No. 1976-2; 5-2-1977 by Ord. No. 1977-3; 8-20-1979

by Ord. No. 1979-11; 5-18-1981 by Ord. No. 1981-4, 2-21-1984 by Ord. No. 1984-1; 8-3-1992 by Ord. No. 1992-6; 2-6-2006 by Ord. No. 2006-2; 8-7-2006 by Ord. No. 2006-11; 5-1-2007 by Ord. No. 2007-8]

- (1) The annual fee for a plenary retail consumption license shall be \$2,500. The number of licenses issued per year shall be no more than the maximum allowed by law.
- (2) The annual fee for a plenary retail distribution license shall be \$2,500. The number of licenses issued per year shall be no more than the maximum allowed by law.
- (3) The annual fee for a club license shall be \$188.. The number of licenses issued per year shall be no more than the maximum allowed by law.

**§ 94-4. Hours of sale; sale to certain persons prohibited.**

A. Hours of sale. [Amended 2-22-1977 by Ord. No. 1977-1; 5-18-1981 by Ord. No. 1981-4; 7-6-1981 by Ord. No. 1981-7]

- (1) Any retail distribution licensee hereunder may sell, serve and deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverages in the Township during such hours as may be authorized or permitted by the State of New Jersey, Bureau of Alcoholic Beverage Control, pursuant to N.J.S.A. 33:1-1 et seq., or any amendments or supplements thereto, and the rules and regulations promulgated thereunder, N.J.A.C. 13:2-1.1 et seq., or any amendments or supplements thereto. Any future restriction or other modification concerning the retail distribution hours of sale of alcoholic beverages by the State of New Jersey shall constitute a parallel restriction or modification of the permissible hours of retail distribution sale within the Township.
- (2) Any retail consumption licensee hereunder may sell, serve and deliver or allow, permit and suffer the sale, service or delivery of any alcoholic beverages in the Township between the hours of 6:00 a.m. and 3:00 a.m. of the following day on any day except Sunday; and on any Sunday may sell, serve and deliver or allow, permit or suffer the sale of any alcoholic beverages in the Township between 10:00 a.m. to 3:00 a.m. Monday.

B. Sales to certain persons. No licensee or employee of a licensee shall sell, serve or deliver, directly or indirectly, any alcoholic beverages to any habitual drunkard, intoxicated person or any person under the legal age for purchasing alcoholic beverages, nor permit the consumption of alcoholic beverages on any licensed premises by any of the above-named classes of persons, or permit any such persons to congregate in or about the licensed premises.

**§ 94-5. Minors. [Amended 5-18-1981 by Ord. No. 1981-4]**

- A. Presence. No person under the legal age for purchasing alcoholic beverages shall be allowed in any premises where alcoholic beverages are sold or served for consumption on the premises, except bona fide restaurants, unless accompanied by his parent or guardian.  
[Amended 5-20-1974 by Ord. No. 1974-5]
- B. Purchase of alcoholic beverages by a person under the legal age for purchasing alcoholic beverages. No person under the legal age for purchasing alcoholic beverage shall consume, purchase, attempt to purchase or have another purchase for him any alcoholic beverage on any premises licensed for the sale of alcoholic beverages.
- C. Purchase of alcoholic beverages for a person under the legal age of purchasing alcoholic beverages. No person shall purchase or attempt to purchase alcoholic beverages for a person under the legal age for purchasing alcoholic beverages. No person shall induce or attempt to induce any licensee or any employee of a licensee to sell, serve or deliver alcoholic beverages to a person under the legal age for purchasing alcoholic beverages.
- D. Misstating age. No person shall misrepresent his age or the age of another person for the purpose of inducing any licensee or his employee to sell, serve or deliver any alcoholic beverage to a person under the legal age for purchasing alcoholic beverages or to permit a person under the legal age for purchasing alcoholic beverages to remain on any premises in violation of Subsection A.
- E. Presumption. Any parent or guardian of a person under the legal age for purchasing alcoholic beverages who accompanies such person into a premises in which alcoholic beverages are served and who permits the person to possess or consume alcoholic beverages shall be presumed to have misrepresented the age of the person under the legal age for purchasing alcoholic beverages.
- F. Possession. No person under the legal age for purchasing alcoholic beverages shall possess, serve, sell or consume any alcoholic beverage in any public place within the Township.

**§ 94-6. Suspension or revocation of license.**

- A. Any license issued under this chapter may be suspended or revoked for violation of any of the provisions of this chapter or any provisions of any applicable statute or any of the rules or regulations of the State Director of Alcoholic Beverage Control.
- B. Proceedings for suspension or revocation shall be in accordance with the provisions of N.J.S.A. 33:1-31, or any amendments or supplements thereto, by service of a five-day notice

of charges preferred against the licensee and affording a reasonable opportunity for hearing.

- C. Suspension or revocation of a license shall be in addition to any other penalty which may be imposed for a violation of this chapter.

**§ 94-7. Consumption in public; exceptions. [Amended 6-2-1980 by Ord. No. 1980-3; 7-7-1980 by Ord. No. 1980-4]**

- A. Consumption and discarding of containers in certain places prohibited. Any person who consumes alcoholic beverages while in or on a public street, lane, sidewalk, public parking lot, public or quasi-public place or in any public conveyance or in a private motor vehicle while such vehicle is in motion or parked in any public street, lane or public parking lot or while upon any private property not his own without the express permission of the owner or other person having authority to grant such permission or who discards alcoholic beverage containers upon any public street, lane, sidewalk, public parking lot, public or quasi-public place or upon any private property not his own without the express permission of the owner shall be a disorderly person.
- B. Presumption of consumption. There shall be a rebuttable presumption of consumption against each person charged with the offense of consumption of an alcoholic beverage as set forth in Subsection A above if that person is knowingly in possession of an open container which contains or recently contained an alcoholic beverage.
- C. Exceptions. The Township Committee, in connection with public celebrations or similar special events, may, by written permit, specifically authorize the consumption of alcoholic beverages in a public park, square, parking lot or other public place or area or portion thereof, as specified in such permit and on the date and the hours therein specified, subject to conditions as set forth in the approved permit.

**§ 94-8. Sunday sales. [Added 7-15-1974 by Ord. No. 1974-8; 8-3-1992 by Ord. No. 1992-6]**

- A. The holder of a plenary retail distribution license may sell malt alcoholic beverages and wine in original bottle or can containers for consumption off the premises on Sunday between the hours of 1:00 p.m. and 6:00 p.m., in addition to such weekday hours as authorized by law.
- B. The holder of a retail consumption license may sell malt alcoholic beverages and wine in original bottle or can containers for consumption off the premises on the same days and during the same hours as the sale of alcoholic beverages for consumption on the premises as permitted and authorized by law.

**§ 94-9. Violations and penalties. [Amended 8-3-1992 by Ord. No. 1992-6]**

Except as may be provided in N.J.S.A. 33:1-1 et seq., or any amendments or supplements thereto, any person who shall violate any provisions of this chapter shall be punished as follows:

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

## **Chapter 96, AMUSEMENT PARLORS AND AMUSEMENT DEVICES**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 1-18-1982 as Ord. No. 1982-1 (part of Ch. V of the 1973 Code). Amendments noted where applicable.]

### **GENERAL REFERENCES**

**Bingo and raffles -- See Ch. 100.**

**Noise -- See Ch. 201.**

**Parks and recreation areas -- See Ch. 213.**

**Poolrooms and billiard rooms -- See Ch. 219.**

**§ 96-1. Purpose.**

This chapter is enacted for the purposes of raising revenue and for the regulation and control of amusement parlors and to regulate and control the use of amusement machines and devices in the township.

**§ 96-2. Definitions.**

As used in this chapter, words and phrases shall have the following meanings:

**AMUSEMENT PARLOR** -- Any place or premises wherein five or more coin-operated amusement machines or devices are maintained for use and operation by the public.

**COIN-OPERATED AMUSEMENT MACHINE OR DEVICE** -- Any machine or contrivance operated by coin, token or device of any nature whatsoever, used and operated by persons for amusement purposes. This shall include but not be limited to all machines commonly known and designated as "bagatelle," "baseball," "pinball" or any other game or skill or table game, and shall also include all automatic or semiautomatic photographic machines, voice or music recording machines or such machines which reproduce photographs or motion pictures and any machine or electric device which is used as a test of strength; this shall also include machines which deliver to the player any card or cards of printed material or photograph of any nature whatsoever and also all music boxes or other machines or devices coin-operated or of an automatic or semi-automatic nature which reproduces music.

**§ 96-3. License required.**

No person shall operate an amusement parlor or install, operate, maintain, use or have in his possession or display or permit to be displayed in any public or quasi-public place or in any building, store or any other place wherein the public is invited or may enter within the township any coin-operated amusement machine or device without a license first obtained as hereinafter provided.

**§ 96-4. Application for license; fee.**

A. Applications for licenses for amusement parlors shall be filed with the Township Clerk/Administrator on forms to be furnished by the Clerk/ Administrator. The application shall provide the following information:

- (1) The name of the applicant.
- (2) The present residence of the applicant and how long he has resided at the present residence.
- (3) The date and place of birth of the applicant.
- (4) The location of the premises to be licensed and also a description of the premises to be

licensed.

- (5) The number of machines to be licensed. If the applicant is not the owner of the amusement machines or devices, then the name and address of that owner or any person who has a security interest or any interest whatsoever in the devices shall be provided.
  - (6) Whether or not the applicant owns the premises where the business is to be operated and, if not, the name and address of the owner.
  - (7) If the applicant is a corporation, the names and addresses of the officers and stockholders owning more than 10% of the corporate stock and the name and address of the registered agent.
  - (8) Whether or not the person making application or any of his employees or, where the applicant is a corporation, whether or not any of the officers or stockholders have ever been convicted for a crime or a violation of any municipal ordinance or regulation and the nature thereof. No license shall be granted hereunder for any premises where the applicant or any officer or stockholder of an applicant corporation has been convicted of a crime, a disorderly person's offense or a violation of a township ordinance involving gambling; provided that the Township Committee may, in its discretion, grant the license when such conviction has preceded the date of the application by five years or more or, upon application by the applicant for the removal of the disqualification, the Township Committee may, in its discretion, grant a license hereunder.
  - (9) The names of any persons who shall have a financial interest in the business.
  - (10) The names of the persons to be employed in the business.
  - (11) The name and address or an individual who shall serve as an agent for service of process or any other notice on the licensee.
- B. An application fee of \$500 shall accompany the application. The application fee shall be applied toward the annual fee if the application is granted. If the application is denied or withdrawn, the application fee will be returned less administrative costs of \$50 for processing.<sup>EN(33)</sup>

**§ 96-5. Annual license fees.**

A. Annual license fees shall be as follows:

- (1) To operate an amusement parlor: \$1,500.
- (2) Each coin-operated amusement machine or device in use in that parlor or any store,

restaurant or commercial establishment: \$75.<sup>EN(34)</sup>

(3) Each machine for the production of music, jukebox or music vending machine:  
\$50.<sup>EN(35)</sup>

(4) Each coin-operated weighing machine: \$10.<sup>EN(36)</sup>

B. No license shall be issued unless the prescribed license fees have been paid. No license fee shall be prorated or transferred.

**§ 96-6. Issuance of license.**

All licenses for the operation of an amusement parlor and for individual amusement machines and devices shall be granted by the Township Committee and issued by the Township Clerk/Administrator.

**§ 96-7. Term of license.**

The annual license fee for the operation of an amusement parlor and the fees for licenses issued for the other items set forth in § 96-4 shall expire December 31 of the year in which issued, unless suspended or revoked. The license shall be renewed and reissued annually by the Township Clerk/Administrator effective January 1 of each year after payment of the required fees to the Clerk/Administrator.

**§ 96-8. Display of license.**

The license, when issued, shall be posted and conspicuously displayed in the place of business of the applicant.

**§ 96-9. Transfer of license.**

The license to operate an amusement parlor shall not be transferable from place to place or to another person and the ownership of the amusement parlor may not be changed or modified in any manner until proper application shall be made as heretofore provided for an original issuance, and shall be granted only on the written consent of the Township Committee.

**§ 96-10. Structural diagram required.** <sup>EN(37)</sup>



All applications shall provide a schematic diagram of the structure housing the devices or machines and the specific area containing the devices or machines, indicating the location of the devices or machines, the access, egress and aisles to the area containing the devices or machines and any obstruction to pedestrian access and movement in and about the structure. Said diagram must conform to the requirements of the State Uniform Fire Code.

**§ 96-11. Hours of operation.**

No place of business for which a license is granted under this chapter shall open before 9:00 a.m. Each place of business shall be closed at 10:00 p.m.

**§ 96-12. Gambling prohibited.**

Such amusement machines and devices shall be licensed for amusement purposes only, and no such machine or device shall be used in connection with gaming, lottery, the unlawful awarding of prizes, whether cash, merchandise or tokens, or any other unlawful activity.

**§ 96-13. Loitering; noise.**

The owner and/or operator shall not allow loitering in or about his premises, nor shall he allow the amplification of music so as to disturb adjacent property owners or the public.

**§ 96-14. Structural separation from other uses.**

Where the amusement parlor is or has an attendant use, such as a restaurant or other commercial establishment, the amusement parlor must be structurally segregated from that other use so as to allow for the enforcement of the loitering, hours and other provisions of this chapter.

**§ 96-15. Amusement machines not located in regulated premises.**

- A. Any store, restaurant or commercial establishment wherein the public is invited which is not subject to the terms and conditions of this chapter because it is not an "amusement parlor," as herein defined, but which maintains on its premises four or fewer amusement machines or devices, as herein defined, shall also obtain a license therefor. In addition to the amusement machines or devices, such establishment may maintain one jukebox or music machine.
- B. No amusement machine or device shall be installed by any store, restaurant or commercial

establishment pursuant to this chapter within five feet of the door of any designated exitway.

- C. License fees for such machines shall be as set forth in § 96-5. No license fee whatsoever shall be required for coin-operated riding amusements designated for use by young children of the age of 12 and under, including but not limited to the children's ride machines commonly found at or near food markets and general shopping areas.

**§ 96-16. Revocation of license; hearing.**

The Township Committee shall have the power to revoke any license when the licensee is found guilty of a crime involving gambling or of violating any municipal ordinance or regulation involving gambling or when the licensee violates any other law or regulation pertaining to the operation of the premises or the provisions of this chapter or any other ordinance of the township. If the Township Committee has reason to believe that there are grounds upon which to revoke any such license, it shall cause a notice to be served, in writing, upon the licensee, the person in charge of the licensed amusement parlor or the agent designated in § 96-11, requiring an appearance before the Township Committee at such time and place as it shall designate, to show cause why the license should not be revoked. Such notice shall be served at least 10 days prior to the date set for a hearing, and the licensee shall be afforded a hearing before the Township Committee prior to the final revocation of his license. Violations of any provisions of this section are also subject to the jurisdiction of the Lumberton Township Municipal Court.

**§ 96-17. Violations and penalties.** EN(38)

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

## Chapter 100, BINGO AND RAFFLES

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 4-1-1991 by Ord. No. 1991-3. Amendments noted where applicable.]

### GENERAL REFERENCES

Amusement parlors and amusement devices -- See Ch. 96.

Parks and recreation areas -- See Ch. 213.

#### § 100-1. License required. [Amended 10-6-1997 by Ord. No. 1997-21]

No person, firm, organization, group, joint venture or corporation shall operate or conduct within the Township of Lumberton, in the County of Burlington and State of New Jersey, any game of chance, as the same is defined in the Bingo Licensing Law (N.J.S.A. 5:8-24 to 5:8-49.11), the Raffles Licensing Law (N.J.S.A. 5:8-50 to 5:8-77), and the Amusement Games Licensing Law, N.J.S.A. 5:8-100 et seq., as the same may be hereinafter amended and supplemented, without first obtaining a license therefore issued by the Township of Lumberton. Said license shall be issued pursuant and subject to the provisions of the aforementioned statutes and the rules and regulations promulgated pursuant thereto or issued thereunder by the Legalized Games of Chance Control Commission or its successor. With regard to the Amusement Games Licensing Law, the Township of Lumberton hereby declares that this municipality contains a place where an agricultural fair and exhibition is held by an association organized for the purpose of holding agricultural fairs and exhibitions and which is approved by the State Department of Agriculture. This statement is made pursuant to provisions of N.J.S.A. 5:8-101 and N.J.A.C. 13:3-1.5(a)(1).

#### § 100-2. Application for license.

Each applicant for either a bingo or raffles license or any game of chance covered by the aforesaid statutes shall file with the Township Clerk/ Administrator a written application for the same as prescribed by the statutes referred to in the previous section and the rules and regulations promulgated or issued by the Legalized Games of Chance Control Commission.

#### § 100-3. Fees.

Fees payable by law are as follows:

- A. Bingo: \$10 for each occasion on which any game or games of bingo are to be conducted under the license. Five dollars of the fee for each occasion shall be remitted to the

municipality in which the application is filed, and the remaining \$5 of the fee for each occasion shall be remitted to the Treasurer of the State of New Jersey.

- B. On-premises draw raffle: \$5 for each day on which the same is to be conducted under the license.
- C. Non-draw raffle: \$5 for all raffles concurrently held on any one day or any series of consecutive days not exceeding six in any one week at one location.
- D. Off-premises draw raffle:
  - (1) Municipality: \$5 for each \$1,000 of retail value of the prizes or part thereof.
  - (2) State of New Jersey: \$5 for each \$1,000 of retail value of the prizes above the original value of \$1,000 of the prizes or part thereof.
- E. Special door-prize raffle for a value of merchandise under \$50 and for which no license is required: no fee is payable.
- F. For games of chance governed by the provisions of the Amusement Games Licensing Law, N.J.S.A. 5:8-100 et seq., each prospective licensee shall pay an annual fee, which shall not be prorated, of \$25 per year, except that in the case of the Burlington County Farm Fair or such similar agricultural fair and exhibition the fee shall be \$5 per license. Pursuant to the provisions of N.J.A.C. 13:3-1.8, a separate license shall be issued for each specific kind of game authorized to be held, operated and conducted on the licensed premises by the licensee except as otherwise provided by N.J.A.C. 13:3-7.9(a)(2). [Added 10-6-1997 by Ord. No. 1997-21]

**§ 100-4. Hours of operation.**

No licensee authorized by law shall hold, operate or conduct any game of chance at the place where the game of chance is being conducted under any license granted hereunder except between the hours of 1:00 p.m. and 11:00 p.m. the same day, all at prevailing time. No license shall be issued for the holding, operating or conducting of said game of chance on the first day of the week, commonly known as "Sunday," nor shall any license be issued for the holding, operating or conducting of said game of chance at any time during which a general, municipal, primary, special or board of education election is being held, while the polls are open for voting at such election.

**§ 100-5. Violations and penalties.**

- A. Violations and penalties shall be as follows: [Amended 8-3-1992 by Ord. No. 1992-6]
- (1) Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
  - (2) Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
  - (3) Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
  - (4) Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.
- B. Except for the aforesaid jail term, any firm, organization, group, partnership or corporation not coming under the classification of "person" shall also, upon conviction thereof, be subject to a fine not exceeding \$1,000.
- C. Any person, firm, organization, group, partnership or corporation who violates the terms of the statutes referred to in § 100-1 herein or the rules and regulations promulgated or issued pursuant to said statutes shall also be subject to the penalty provision stated in said statutes, rules and regulations.
- D. Nothing herein contained shall limit or otherwise preclude the seeking of other criminal or civil penalties authorized by N.J.S.A. 5:8-111 or any other statute governing said conduct, but instead, such penalty shall be in addition to and shall supplement those set forth above. In addition, nothing herein contained shall be considered to preclude or supersede the ability of the municipality to institute disciplinary proceedings against any licensee in accordance with any rules and regulations promulgated by the Legalized Games of Chance Control Commission, and such disciplinary proceeding shall be in addition to and shall supplement any of the fines, violations and penalties described herein. [Added 10-6-1997 by Ord. No. 1997-21]

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## **Chapter 103, BRUSH, GRASS AND TRASH**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-17-1973 by Ord. No. 1973-19 as part of Ch. IV of the 1973 Code. Amendments noted where applicable.]

**GENERAL REFERENCES**

**Garbage, rubbish and refuse -- See Ch. 162.**

**Littering -- See Ch. 188.**

**§ 103-1. Prohibited acts.**

It shall be unlawful for any owner, occupant or tenant of any lot or tract of land situated within the township to permit or maintain on the lot or tract of land any brush, weeds, dead or dying trees, stumps, roots, obnoxious growth, filth, garbage, trash or debris injurious to the public health, safety and general welfare or which shall tend to create a fire hazard.

**§ 103-2. Procedure upon failure to remove.** EN(39)

Upon the failure of any owner, occupant or tenant to cut and remove or otherwise destroy such brush, weeds, dead or dying trees, stumps, roots, obnoxious growth, filth, garbage, trash or debris within 10 days after notice to remove the same has been received from the township, which notice may be effected by personal service or by certified mail, the township shall cause the same to be removed under the direction of the township's Zoning Officer. The Zoning Officer shall certify the cost thereof to the Township Committee which shall examine the certificate and, if found correct, shall cause the cost as shown thereon to be charged against the land and premises, to be added to and become and form part of the taxes next assessed and levied upon such land, the same to bear interest at the same rate as taxes and to be collected and enforced in the same manner as taxes on real estate within the municipality.

**§ 103-3. Fine not to bar lien.**

The imposition and collection of any fine imposed by § 103-4 shall not constitute any bar to the right of the township to collect the cost as certified for the removal of such debris in the manner authorized in § 103-2.

**§ 103-4. Violations and penalties.** EN(40)

A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.

- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

## **Chapter 106, BUILDINGS, NUMBERING OF**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 6-18-1990 as Ord. No. 1990-10. Amendments noted where applicable.]

### **§ 106-1. Definitions.**

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

**BUILDING** -- Includes all houses, dwellings, stores, business places and other buildings which front on any street in the township or which exist on any tax lot in the township.

### **§ 106-2. Assignment of numbers.**

The Municipal Engineer shall plot on the Tax Map of the township all of the properties which now or hereafter front on or have ingress and egress from any street and shall designate and assign a number therefor.

### **§ 106-3. Visibility from public road; size and placement of numbers.**

- A. The owner in possession of any building for which an official number is designated shall be required at his or her own expense to place the official number in a conspicuous place so that it is clearly visible from the public street or road upon which the building fronts or from which ingress and egress may be gained. The number shall be placed in such a location as to make it clearly evident which driveway provides ingress and egress to the building so numbered. Numbers placed on mailboxes for mail delivery purposes shall not satisfy the requirements of this chapter unless the location of said mailbox is immediately adjacent to and on the same side as the driveway providing ingress and egress.

- B. The house number numerals shall be a minimum of three inches in height. [Amended 9-4-1990 by Ord. No. 1990-16<sup>EN(41)</sup>]
- C. The number may be placed on the building, provided that it can be seen and read from the public road; otherwise, it must be placed near the intersection of the driveway with the public road. In the case of a commercial unit within a shopping center, the number must be readily visible from the main traffic circulation aisle of the center. The color of the numeral shall be in sharp contrast to the color of its background, and it shall be of bright or reflective material so as to be readily visible at night when a light is cast upon it.

**§ 106-4. New number assignments.**

Upon any subdivision of land in the township resulting in lots other than those already delineated on the Tax Map, the Municipal Engineer shall assign a number to each lot resulting in the subdivision which shall be in proper numerical sequence in relation to the numbers already assigned other lots fronting on or having access to the same street, and the Engineer shall record the new numbers on the Tax Map within 10 days of the filing of the approval given for such subdivision of land.

**§ 106-5. Violations and penalties.** <sup>EN(42)</sup>

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.



[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-17-1973 by Ord. No. 1973-19 as part of Ch. XII of the 1973 Code. Amendments noted where applicable.]

#### **GENERAL REFERENCES**

**Uniform construction codes -- See Ch. 121.  
Garbage, rubbish and refuse -- See Ch. 162.**

#### **§ 109-1. Definitions.**

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

**BUILDING** -- Any building or structure or part thereof, whether used for human habitation or otherwise, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. [Added 6-16-1997 by Ord. No. 1997-12<sup>EN(43)</sup>]

**OWNER** -- The holder of the title in fee simple.

**PARTIES-IN-INTEREST** -- All persons who have interests of record in a dwelling and any who are in possession thereof.

**PUBLIC AUTHORITY** -- Any housing authority or any officer who is in charge of any department or branch of the government of the township, county or state relating to health, fire, building regulations or to other activities concerning dwellings in the municipality.

#### **§ 109-2. Enforcing officer. [Amended 8-21-1989 by Ord. No. 1989-11]**

The Burlington County Health Department is designated and appointed to exercise the powers prescribed by this chapter and is hereinafter referred to as the "public officer."

#### **§ 109-3. Declaration of unfitness. [Amended 6-16-1997 by Ord. No. 1997-12]**

Any building in the township is hereby declared to be unfit for human habitation or occupancy or use if conditions exist which render such building or buildings or part thereof unsafe or unsanitary or dangerous or detrimental to the health or safety or otherwise inimical to the welfare of the occupants of the building, occupants of neighboring buildings and/or other residents of the township, including without limitation the generability of the foregoing, defects increasing the hazards of fire, accidents or other calamities, lack of adequate ventilation, light or sanitary facilities, dilapidation, disrepair or structural defects or other conditions rendering such building or buildings or part thereof unsafe or unsanitary or dangerous or detrimental to the health or

safety or otherwise inimical to the welfare of the residents of the township.

**§ 109-4. Petition; complaint; notice. [Amended 8-3-1992 by Ord. No. 1992-6; 6-16-1997 by Ord. No. 1997-12]**

Whenever a petition is filed with the public officer by a public authority or by not less than five residents of the township charging that any building within the township is unfit for human habitation or occupancy or use, the public officer shall make a preliminary investigation of the charges. If the preliminary investigation of the charges discloses a basis therefor or if any investigation of his own furnishes such a basis, he shall issue and cause to be served upon the owner of and parties in interest in such building a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer at a place therein fixed not less than seven days nor more than 30 days after serving of the complaint.

**§ 109-5. Right to answer and appear.**

The owner and parties-in-interest shall have the right to file an answer to the complaint and to appear in person or by attorney and give testimony at the place and time fixed for a hearing in the notice.

**§ 109-6. Hearing.**

- A. At the time and place stated in the notice or at such time and place to which the hearing may be adjourned from time to time, the public officer shall hold a hearing at which complainants, if any, the owner and parties-in-interest and witnesses shall be heard and at which the public officer shall publicly state the results of his investigation.
- B. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

**§ 109-7. Order to abate. [Amended 6-16-1997 by Ord. No. 1997-12]**

If after such notice and hearing the public officer determines that the building under consideration is unfit for human habitation, occupancy or use, he shall state, in writing, his determination and his findings of fact in support thereof and shall issue an order to be served upon the owner of and parties in interest in the building. The order shall require that:

- A. If the repair, alteration or improvement of the building can be made at a reasonable cost in relation to the value of the building (the Township Committee may, by ordinance, affix a

certain percentage of such cost as being reasonable to such purpose), the owner, to the extent and within the terms specified in the order, shall repair, alter or improve the building to render it fit for human habitation or occupancy or use.

- B. If the repair, alteration or improvement of the building cannot be made at a reasonable cost in relation to the value of the building (the Township Committee may, by ordinance, affix a certain percentage of such cost as being reasonable for such purpose), the owner, within the time specified in the order, shall remove or demolish the building.

**§ 109-8. Failure to comply. [Amended 6-16-1997 by Ord. No. 1997-12]**

- A. If the owner fails to comply with an order issued by the public officer under § 109-7A, the public officer may close the building to be repaired, altered or improved or to be vacated and closed. The public officer may also cause to be posted on the main entrance of any building used for human habitation so closed a packet with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."
- B. If the owner fails to comply with an order to remove or demolish the building, the officer may cause the building to be removed or demolished.

**§ 109-9. Cost established as lien.**

- A. The following costs shall be a municipal lien against the real property for which such cost was incurred: [Amended 2-2-1998 by Ord. No. 1998-6]
  - (1) The cost of the filing of legal papers, expert witnesses' fees, search fees and advertising charges, incurred in the course of any proceeding taken under this chapter of the Code of the Township of Lumberton determined in favor of the township.
  - (2) Such costs of repairs, alterations or improvements, vacating and closing or removal or demolition.
- B. If the building is removed or demolished by the public officer, he shall sell the materials of the building and shall credit the proceeds of any such sale against the cost of removal or demolition. Any balance remaining shall be deposited in the Chancery Division of the Superior Court by the public officer, secured in such manner as may be directed by the Court and disbursed by the Court to the persons found to be entitled thereto by final order or decree of the Court. [Amended 6-16-1997 by Ord. No. 1997-12]

**§ 109-10. Additional powers of public officer.**

In addition to the powers in this chapter granted to the public officer, he shall have the power to:

- A. Investigate the building conditions in the township in order to determine which buildings are unfit for human habitation or occupancy or use. [Amended 6-16-1997 by Ord. No. 1997-12]
- B. Administer oaths, affirmations, examine witnesses and receive evidence.
- C. Enter upon premises for the purpose of making examinations, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.
- D. Appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter.

**§ 109-11. Noncompliance to constitute violation.**

The failure, neglect or refusal of any person to comply with any order made by the public officer pursuant to the provisions of this chapter or the hindrance by any person of the public officer in making any investigation under this chapter shall constitute a violation of this chapter.

**§ 109-12. Construal.**

Nothing in this chapter shall be construed to impair or limit in any way the power of the township to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

**§ 109-13. Violations and penalties. [Added 8-3-1992 by Ord. No. 1992-6]**

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an

appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.

- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

**§ 109-14. Injunctive relief. [Added 8-3-1992 by Ord. No. 1992-6]**

In addition to the penalties imposed by § 109-13, the township may institute and maintain a civil action for injunctive relief.

## **Chapter 111, BURNING, OUTDOOR**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 7-5-1988 as Ord. No. 1988-14 (part of Ch. IV of the 1973 Code). Amendments noted where applicable.]

### **GENERAL REFERENCES**

**Garbage, rubbish and refuse -- See Ch. 162.**

**§ 111-1. Definitions.**

As used in this chapter, words and phrases shall have the meanings ascribed to them in Chapter II of the New Jersey Air Pollution Control Code.

**§ 111-2. Restrictions.**

- A. No person shall cause, allow or permit the open burning of garbage, rubbish, plant life or trade wastes, except as follows:

- (1) For the limited purpose of outdoor cooking where done with equipment or fireplaces designed for such purpose and in a manner so as not to become offensive or a nuisance to persons in the vicinity.
- (2) Fires ignited solely for the purposes of training or research in fire protection or prevention.
- (3) Flares or other signal devices for the prevention of accidents or warning of safety hazards.

- (4) Variances granted by the Department of Environmental Protection.
- B. Special permits authorizing open air burning for special events conducted by, for and under supervision of public, charitable, religious or non-profit civic or community organizations must be approved by the Fire Official upon application showing the purpose, time, place, date and manner of supervision and control, provided that the activities are not prohibited by the New Jersey Air Pollution Control Code, that no undue or unnecessary air pollution shall be caused and that supervision and control is adequate to protect the public safety, health and welfare.

**§ 111-3. Violations and penalties.** EN(44)

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

## **Chapter 117, CHRISTMAS TREE SALES**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-17-1990 by Ord. No. 1990-19. Amendments noted where applicable.]

**§ 117-1. Permitted locations.**

Christmas tree sales are limited to the following locations in the township:

- A. Qualified farm properties involving the sale of trees grown on site.
- B. Tax exempt properties owned by religious or non-profit organizations, provided that the

property is in active use as a religious or non-profit facility.

- C. Commercial uses in the B-1 or B-2 Zoning districts, provided that the site can accommodate such sales based either on prior site plan approval which designated the location used for this purpose or based on the submission of satisfactory proof that the area to be used for the sale of Christmas trees is not needed to satisfy any of the requirements of the Zoning Ordinance<sup>EN(45)</sup> with respect to parking and loading or other uses on the site. In evaluating this provision, the Clerk/Administrator may take into consideration whether the principal commercial use of the property is seasonal in nature and has reduced parking demands related to the principal use during the season of Christmas tree sales.

**§ 117-2. License required.**

No person shall sell Christmas trees in the township without first obtaining a license from the township's Clerk/Administrator and paying therefor the required fee.

**§ 117-3. Application for license.**

Application for such license shall be made, in writing, to the Clerk/ Administrator and shall set forth:

- A. The name and address of the applicant.
- B. The address where the Christmas trees are to be sold.
- C. A detailed plan showing the layout of the activity, traffic patterns and flow and provisions for parking on site.
- D. Such other pertinent information as the Clerk/Administrator may require to adequately review and act upon said application.

**§ 117-4. Review of application.**

The Clerk/Administrator and the Township Committee, on appeal, shall review the application to determine if the sale of Christmas trees as described by the applicant will in any way be detrimental to the health, safety and general welfare of the public, and in making such review, the Clerk/Administrator and Township Committee may be guided by the standards and prohibitions set forth in Chapter 265, Vehicles and Traffic, Chapter 152, Fire Prevention, and Chapter 130, Development Regulations, herein but need not be limited entirely to those chapters and may evaluate any application under general terms to protect the health, safety and general welfare of

the public.

**§ 117-5. License fee; term.**

A fee of \$25 shall be assessed for each license, regardless of when it is issued, and said license shall expire on the 15th day of January each year.

**§ 117-6. Appeal.**

In the event of a denial of a license by the Clerk/Administrator, the applicant may appeal to the governing body; provided, however, that notice of said appeal must be filed not later than 10 days following notification of denial of said license. The matter will then be reviewed by the Township Committee at its next regularly scheduled meeting following receipt of the applicant's notice of appeal, and a decision thereon shall be made as expeditiously as possible but not later than 30 days from the date the matter was presented to the governing body.

**§ 117-7. Violations and penalties.** EN(46)

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

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**Chapter 119, CLOTHING BINS**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 8-21-2006 by



Ord. No. 2006-13. Amendments noted where applicable.]

**GENERAL REFERENCES**

**Property maintenance -- See Ch. 221.**

**Streets and sidewalks -- See Ch. 250.**

**§ 119-1. Purpose.**

The purpose of this chapter is to provide a uniform set of procedures for administering the placement and maintenance of clothing bins within the Township of Lumberton, as well as providing for a uniform set of procedures for administering the issuance and revocation of all permits issued by the Zoning Officer of the Township of Lumberton for the placement of clothing bins.

**§ 119-2. Permit required.**

It shall be unlawful for any person, firm, corporation, club or charitable organization, institution or association to place and/or maintain any bin, dumpster or other depository to collect clothing for the needy or for any other group of people on any public or private property, including any public sidewalk street or alley or any private parking lot or walkway or at any other location in the Township without first submitting an application and obtaining a permit from the Zoning Officer.

**§ 119-3. Application form; fee.**

A. Application for a permit to place and/or maintain a clothing bin, dumpster or depository shall be made in writing to the Zoning Officer prior to placing the clothing bin, dumpster or depository. The application shall contain the following information:

- (1) Name and address of person, firm, corporation, club or charitable organization, institution or association placing and/or maintaining such clothing bin, dumpster or depository.
- (2) Name and address of the owner of the premises on which the clothing bin, dumpster or depository is to be located and the written consent of the owner if applicant is other than the owner.
- (3) A sketch plat showing the exact location which the clothing bin, dumpster or depository will be located.

- (4) A description including dimensions of the proposed clothing bin, dumpster or depository.
- B. There shall be a two-hundred-fifty-dollar fee for each permit.
- C. Any permit issued pursuant to the section shall remain in full force and effect until it is revoked by the Zoning Officer.

**§ 119-4. Permit displayed.**

The permit authorized hereunder shall be prominently displayed upon the clothing bin, depository or dumpster at all times.

**§ 119-5. Regulations.**

- A. The location of the bin, depository or dumpster shall be subject to the approval of the Zoning Officer.
- B. Each clothing bin, dumpster or depository shall be accessory to an existing nonresidential use.
- C. No clothing bins, dumpster or depository shall be placed so as to create a danger or hazard to any pedestrian or vehicular traffic.
- D. Each clothing bin, dumpster, depository shall be appropriately located so as to not interfere with sight triangles, on-site circulation, required setbacks, landscaping and parking.
- E. Each clothing bin, dumpster, depository and the surrounding area shall be maintained in a neat, clean and orderly condition, and shall be regularly emptied by the licensee. Failure to maintain the clothing bin, dumpster or depository and surrounding area in neat, clean and orderly condition shall be cause for revocation of the license granted hereunder.
- F. Each property is permitted to have a maximum of four clothing bins, dumpsters or depositories, or any combination thereof so long as the total aggregate number of bins, dumpsters or depositories located on any one property does not at any time exceed four in number.

**§ 119-6. Enforcement by Zoning Officer.**

This chapter shall be enforced by the Zoning Officer. All licensed clothing bins, dumpsters and depositories shall be subject to inspection by the Zoning Officer or any other duly authorized

representative of the Township of Lumberton.

**§ 119-7. Violations and penalties.**

Any person, firm, corporation, charitable organization, institution or association violating or failing to comply with any of the provisions of this chapter shall, upon conviction, be liable for a fine not to exceed \$1,200 and the inability to obtain license. Each day that a clothing bin, dumpster or depository remains at a location in the Township of Lumberton without a permit shall be considered a separate offense.

## **Chapter 121, CONSTRUCTION CODES, UNIFORM**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 4-4-1977 by Ord. No. 1977-2 (part of Ch. XII of the 1973 Code). Amendments noted where applicable.]

### **GENERAL REFERENCES**

**Unfit buildings -- See Ch. 109.**  
**Development regulations -- See Ch. 130.**  
**Soil removal and erosion control -- See Ch. 246.**

**§ 121-1. Enforcing agency established; composition.**

There is hereby established in the Township a State Uniform Construction Code Enforcing Agency to be known as "Lumberton Code Enforcement Agency," consisting of a Construction Official, Building Subcode Official, Plumbing Subcode Official, Electrical Subcode Official, Fire Protection Subcode Official and such other subcode officials for such additional subcodes as the Commissioner of the Department of Community Affairs, State of New Jersey, shall hereafter adopt as part of the State Uniform Construction Code. The Construction Official shall be the chief administrator of the enforcing agency. The Fire Protection Subcode Official shall be appointed by the Township Committee from those persons recommended by the Fire Chief; all others shall be appointed by the Township Committee.

**§ 121-2. Official positions.**

Each official position created in § 121-1 hereof shall be filled by the person qualified for such position pursuant to N.J.S.A. 52:27D-119 et seq., or any amendments or supplements thereto, and N.J.A.C. 5:23, provided that, in lieu of any particular subcode official, an on-site inspection agency may be retained by contract pursuant to N.J.A.C. 5:23. More than one such official

position may be held by the same person, provided that such person is qualified pursuant to N.J.S.A. 52:27D-119 et seq., or any amendments or supplements thereto, and N.J.A.C. 5:23 to hold each such position.

**§ 121-3. Location.**

The public shall have the right to do business with the enforcing agency at one official location, except for emergencies and unforeseen or unavoidable circumstances.

**§ 121-4. Fees. [Amended 5-18-1981 by Ord. No. 1981-3; 12-16-1985 by Ord. No. 1985-16; 3-16-1987 by Ord. No. 1987-4; 12-18-1989 by Ord. No. 1989-17; 2-5-1990 by Ord. No. 1990-2; 12-17-1990 by Ord. No. 1990-21]**

A. The basis for fees shall be as follows:

(1) General.

- (a) The fee to be charged for a construction permit will be the sum of the basic construction fee computed in accordance with Subsection A(3) below, plus any applicable special fees, such as elevator or sign fees, and this fee shall be paid before a permit is issued.
- (b) The fee to be charged for a certificate of occupancy shall be paid before a certificate is issued, and this fee shall be in addition to the construction permit fee.
- (c) The fee to be charged for an annual construction permit shall be charged annually, and this fee shall be administered in accordance with N.J.A.C. 5:23-4.18(a)4 and 5.

(2) Plan review fee.

- (a) The fee for plan review shall be paid at the time the permit is issued. A plan review fee is not refundable.
- (b) A plan review fee is computed on the basis of a percentage of the amount to be charged for a construction permit.

(3) Basic construction fee.

- (a) The basic construction fee is computed on the basis of the volume of the building, in accordance with N.J.A.C. 5:23-2.28 or, in the case of alterations, on the estimated construction cost and the number and type of plumbing, electrical and fire protection fixtures or devices as herein provided.

- (b) Volume or cost. Fees for new construction or alterations shall be as follows:
- [1] Fees for renovations, alterations, reroofing and repairs and for the installation and foundation systems of premanufactured construction and the external utility connections for premanufactured construction shall be based upon the estimated cost of the work, with the fee being computed as a unit rate per \$1,000 of estimated cost.
  - [2] Fees for renovations, alterations and repairs are based upon the estimated cost of the work, with the fee being computed as a unit rate per \$1,000 of estimated cost.
  - [3] Fees for additions are computed on the same basis as for new construction for the added portion.
  - [4] Fees for combination renovations and additions shall be computed as the sum of the fees for the addition and alteration computed separately in accordance with Subsection A(3)(b)[2] and [3] above.
  - [5] The unit rates vary for different occupancy groups.
  - [6] Temporary structures and all structures for which volume cannot be computed, such as swimming pools and open structural towers, are charged a flat rate.
  - [7] Fees for minor construction work are based upon the estimated cost of the work, with the fee being computed as a unit rate per \$1,000 of estimated cost or fraction thereof.
- (c) Plumbing fixtures and appurtenances. Fees are based upon the number of plumbing fixtures, devices, plumbing stacks and utility service connections to be installed. Utility service connections include sewer, water and gas service connections, and the fee is a unit rate per device, stack and utility service connection. The unit rate varies for different types of fixtures and utility service connections.
- (d) Electrical fixtures and devices. Fees are based upon the number of electrical fixtures and devices to be installed, with the fee being a unit rate per fixture and device.
- (e) Fire fees are based upon the number of sprinkler heads, standpipes and detectors (smoke and heat). Fees are also charged for the inspection of premanufactured fire suppression systems, for gas- and oil-fired appliances not connected to the plumbing system, for kitchen exhaust systems and for incinerators and crematoria.
- (4) Demolition permit fees.

- (a) Fees for the demolition or the removal of a building or structure shall be established as a flat fee.
  - (b) Such fee varies according to the type of structure and whether there has been a condemnation.
- (5) Sign permit fees. For a permit to construct a sign, the fee shall be based on the size of the sign. [Amended 10-21-1991 by Ord. No. 1991-13]
- (6) Certificate of occupancy fees.
- (a) The fee for a certificate of occupancy for new construction is a flat fee and a percentage fee depending on the use group. [Amended 6-1-1992 by Ord. No. 1992-4]
  - (b) The fees for certificates of occupancy, certificates of continued occupancy, certificates of occupancy granted pursuant to a change of use and for multiple certificates of occupancy are based on a flat fee.<sup>EN(47)</sup>
- (7) Elevator inspection and test fees. [Amended 6-1-1992 by Ord. No. 1992-4; 5-3-1993 by Ord. No. 1993-8]
- (a) The fees for witnessing acceptance tests and performing inspections shall be as follows:
    - [1] The basic fees for elevator devices in structures not in Use Group R-3 or R-4 shall be as follows:

<b>Type</b>	<b>Fee</b>
Traction and winding drum elevators:	
1 to 10 floors	\$225.00
Over 10 floors	\$375.00
Hydraulic elevators	\$200.00
Roped hydraulic elevators	\$225.00
Escalators, moving walks	\$200.00
Dumbwaiters	\$50.00

<b>Type</b>	<b>Fee</b>
Stairway chairlifts, inclined and vertical wheelchair lifts and manlifts	\$50.00

[2] Additional charges for devices equipped with the following features shall be as follows:

<b>Feature</b>	<b>Fee</b>
Oil buffers (charge per oil buffer)	\$ 40.00
Counterweight governor and safeties	\$100.00
Auxiliary power generator	\$75.00

[3] The fee for elevator devices in structures in Use Group R-3 or R-4 shall be \$150.

[4] The fee for witnessing acceptance tests of, and performing inspections of, alterations shall be \$50.

(b) The fees for routine and periodic tests and inspections for elevator devices in structures not in Use Group R-3 or R-4 shall be as follows:

[1] The fee for six-month routine inspection of elevator devices shall be as follows:

<b>Type</b>	<b>Fee</b>
Traction and winding drum elevators:	
1 to 10 floors	\$140.00
Over 10 floors	\$180.00
Hydraulic elevators	\$100.00

<b>Type</b>	<b>Fee</b>
Roped hydraulic elevators	\$140.00
Escalators, moving walks	\$140.00

[2] The fees for the one-year periodic inspection and witnessing of tests of elevator devices, which shall include a six-month routine inspection, shall be:

<b>Type</b>	<b>Fee</b>
Traction and winding drum elevators:	
1 to 10 floors	\$200.00
Over 10 floors	\$240.00
Hydraulic elevators	\$150.00
Roped hydraulic elevators	\$200.00
Escalators, moving walks	\$320.00
Dumbwaiters	\$80.00
Manlifts, stairway chairlifts, in- clined and vertical wheelchair lifts	\$120.00

[3] Additional yearly periodic inspection charges for elevator devices shall be as follows:

<b>Device</b>	<b>Fee</b>
Oil buffers (charge per oil buffer)	\$40.00



<b>Device</b>	<b>Fee</b>
Counterweight governor and safeties	\$80.00
Auxiliary power generator	\$50.00

[4] The fee for the three-year and five-year inspection of elevator devices shall be as follows:

<b>Type</b>	<b>Fee</b>
Traction and winding drum elevators:	
1 to 10 floors (five-year)	\$340.00
Over 10 floors (five-year)	\$380.00
Hydraulic and roped hydraulic elevators:	
Three-year inspection	\$250.00
Five-year inspection	\$150.00

(8) Whenever a permit is received based on an approved prototype plan, the permit fee shall be reduced by the amount of the plan review fee.

(9) (Reserved) EN(48)

(10) All computed fees which would normally contain cents shall be rounded to the next highest even dollar amount.

**B. Enforcing agency fees shall be as follows:**

(1) Plan review fee. Such fees shall be 5% of the amount to be charged for a new construction permit.

(a) Courtesy plan review. An applicant may request the Lumberton Township Construction Official to perform a courtesy plan review of any proposed construction

project. The cost for this courtesy plan review shall be 20% of the fee to be charged for the construction permit. The fee for a courtesy plan review shall be paid at the time of submission for the review. [Added 3-20-2006 by Ord. No. 2006-6]

- (2) The minimum fee for a basic construction permit update covering any or all of the building, plumbing, electrical or fire protection work shall be \$20. [Amended 6-19-1995 by Ord. No. 1995-7; 6-17-1996 by Ord. No. 1996-9]
- (3) The fee for new building construction and additions is \$0.025 per cubic foot of volume for buildings and structures of all use groups and types of construction as classified and defined in the New Jersey State Building Code, except that the fee shall be \$0.019 per cubic foot of volume for Use Groups A-1, A-2, A-3, A-4, F-1, F-2, S-1 and S-2, and the fee shall be \$0.008 per cubic foot for structures on farms, including commercial farm buildings under N.J.A.C. 5:23-3.2(d) used exclusively for the storage of food or grain or the sheltering of livestock, with the maximum fee for such structures on farms not to exceed \$1,145. [Amended 6-19-1995 by Ord. No. 1995-7; 6-17-1996 by Ord. No. 1996-9; 3-20-2006 by Ord. No. 2006-6]
- (4) The fees for building reconstruction, renovations, alterations and repairs, except as set forth below, shall be based on the estimated cost of the work. For the purpose of determining the estimated cost, an applicant shall submit to the Construction Official an estimate of the cost of the construction by a New Jersey licensed architect, engineer or recognized estimating firm or by the contractor. The Lumberton Township Construction Official shall make the final decision regarding estimate cost. [Amended 6-19-1995 by Ord. No. 1995-7; 6-17-1996 by Ord. No. 1996-9; 3-20-2006 by Ord. No. 2006-6]

<b>Estimated Cost</b>	<b>Fee (per \$1,000)</b>
For the first \$50,000	\$23
\$50,001 to \$100,000	\$20
\$100,001 and greater	\$15

- (a) Notwithstanding the foregoing, the fee for a prefabricated shed shall be \$15.
- (b) Notwithstanding the foregoing, the fee for a residential roof or siding shall be \$65.

- (c) The fee for inspection of a one-story deck shall be \$65.
- (d) The fee for inspection of a two-story deck shall be \$85.
- (5) Fees for plumbing work shall be as follows:
  - (a) Nine dollars per fixture/item connected to the plumbing system. [Amended 10-21-1991 by Ord. No. 1991-13; 6-17-1996 by Ord. No. 1996-9; 5-15-2001 by Ord. No. 2001-3; 3-20-2006 by Ord. No. 2006-6]
  - (b) Fifty-five dollars per special device for the following: grease traps, oil separators, water-cooled condensing units, refrigeration units, utility service connections, backflow preventers, steam boilers, hot-water boilers (excluding those used for domestic water heating), gas piping, gas service entrances, active solar systems, sewer pumps, ejectors, interceptors and fuel oil piping. [Amended 5-15-2001 by Ord. No. 2001-3; 3-20-2006 by Ord. No. 2006-6]
  - (c) A flat fee of \$50 to inspect the building drain and field connections in a modular structure.
  - (d) A flat fee of \$50 to inspect revisions and/or connections of a building drain from a septic system to a sewer. [Amended 3-20-2006 by Ord. No. 2006-6]
  - (e) A flat fee of \$25 to inspect lawn sprinklers and backflow preventors. [Added 6-19-1995 by Ord. No. 1995-7; amended 6-17-1996 by Ord. No. 1996-9; 9-20-1999 by Ord. No. 1999-16]
- (6) Fee for electrical work shall be as follows:
  - (a) From one to 50 receptacles, lighting fixtures, detectors, devices (and motors or devices of less than one horsepower or one kilowatt): \$30, with each additional 25 items or fewer having a fee of \$3. [Amended 5-3-1993 by Ord. No. 1993-8]
  - (b) For each motor or electrical device greater than one horsepower and less than or equal to 10 horsepower and for transformers and generators greater than one kilowatt and less than or equal to 10 kilowatts: \$7 each. [Amended 5-3-1993 by Ord. No. 1993-8]
  - (c) For each motor or electrical device greater than 10 horsepower and less than or equal to 50 horsepower, for each service panel, service entrance or subpanel less than or equal to 200 amperes, and for all transformers and generators greater than 10 kilowatts and less than or equal to forty-five kilowatts: \$33 each. [Amended 5-3-1993 by Ord. No. 1993-8]

- (d) For each motor or electrical device greater than 50 horsepower and less than or equal to 100 horsepower, for each service panel, service entrance or subpanel greater than 200 amperes and less than or equal to 1,000 amperes and for transformers and generators greater than 45 kilowatts and less than or equal to 112.5 kilowatts: \$70 each.
  - (e) For each motor or electrical device greater than 100 horsepower, for each service panel, service entrance or subpanel greater than 1,000 amperes and for each transformer or generator greater than 112.5 kilowatts: \$300 each.
  - (f) For the purpose of computing these fees, all motors except those in plug-in appliances shall be counted (including control equipment, generators, transformers and all heating, cooking or other devices consuming or generating electrical energy).<sup>EN(49)</sup>
  - (g) For each situation involving inspection of electrical bonding for in-ground or aboveground pools, the fee shall be \$35, which shall include any pool switches, outlets or lights necessary for the pool installation. [Added 6-19-1995 by Ord. No. 1995-7; amended 6-17-1996 by Ord. No. 1996-9; 9-2-1997 by Ord. No. 1997-18]
  - (h) The fee for the inspection of any residential burglar alarm shall be \$10. [Added 6-19-1995 by Ord. No. 1995-7; amended 6-17-1996 by Ord. No. 1996-9]
  - (i) The installation of load management devices by the public utility company shall be a flat fee of \$12 per device installed. [Added 9-2-1997 by Ord. No. 1997-18]
  - (j) Annual electrical certificate of compliance fee for public pools is \$45, which covers the inspection and administrative costs. [Added 9-20-1999 by Ord. No. 1999-16]
- (7) Fee for fire permits shall be as follows: [Amended 5-3-1993 by Ord. No. 1993-8; 6-19-1995 by Ord. No. 1995-7; 6-17-1996 by Ord. No. 1996-9; 2-2-1998 by Ord. No. 1998-7]
- (a) The fee for 20 or fewer heads shall be \$65; for 21 to and including one hundred heads, the fee shall be \$120; for 101 to and including 200 heads the fee shall be \$229; for 201 to and including 400 heads, the fee shall be \$594; for 401 to and including 1,000 heads, the fee shall be \$822; for over 1,000 heads, the fee shall be \$1,050.
  - (b) The fee for each standpipe shall be \$229.
  - (c) The fee for each independent pre-engineered system shall be \$92.
  - (d) The fee for each gas- or oil-fired appliance which is not connected to a plumbing

system shall be \$46.

- (e) The fee for each commercial kitchen exhaust system shall be \$46.
  - (f) The fee for each incinerator shall be \$365.
  - (g) The fee for each crematorium shall be \$365.
  - (h) The fee to inspect a fireplace or woodburning stove chimney is \$40, which fee is for the fire subcode only.
  - (i) The fee for the installation of tanks for the storage of flammable and/or combustible liquids and gases, including residential LPG fuel, shall be \$60 for the first 1,000 gallons' capacity and \$35 for each additional 500 gallons' capacity or fraction thereof.
  - (j) The fee for any conversion from oil to gas head shall be \$15 for the fire inspection and \$15 for the plumbing inspection fee.
  - (k) The fee for one to twelve alarm devices shall be \$25; for each 25 alarm devices in addition to this, the fee shall be in the amount of \$10. [Amended 5-15-2001 by Ord. No. 2001-3]
- (8) Sign fees shall be as follows:
- (a) The fee to construct a sign shall be \$1 per square foot. [Amended 10-21-1991 by Ord. No. 1991-13]
  - (b) This fee is in addition to any fees associated with a required electrical inspection.
- (9) Swimming pools. In addition to any fees associated with a required electrical inspection, fees for construction of a swimming pool shall be as follows: [Amended 5-3-1993 by Ord. No. 1993-8; 3-20-2006 by Ord. No. 2006-6]
- (a) Aboveground pool: \$65.
  - (b) In-ground pool: \$175.
- (10) (Reserved)<sup>EN(50)</sup>
- (11) Tower and antenna fees shall be as follows:
- (a) The fee to construct an open structural tower shall be \$100 for each such structure erected for commercial use and \$30 for each such structure erected for use by one duly licensed as an amateur radio operator or CB operator by the Federal Communications Commission.

- (b) The fee to construct a roof-mounted antenna structure more than 12 feet above the roof shall be \$100 for each such structure erected for commercial use and \$30 for each such structure erected for use by one duly licensed as an amateur radio operator or CB operator by the Federal Communications Commission.
  - (c) (Reserved)<sup>EN(51)</sup>
  - (d) (Reserved)<sup>EN(52)</sup>
  - (e) The fee for a demolition or removal permit shall be \$60 per structure or part of a structure of less than 5,000 square feet in area and less than 30 feet in height, for one- or two-family residences (Use Group R-3 of the building subcode) and structures on farms, including commercial farm buildings under N.J.A.C. 5:23-3.2(d) used exclusively for storage of food or grain or sheltering of livestock, and \$120 for all other use groups (per structure). The fee for abandonment, removal or closure of an underground fuel storage tank is \$60 per tank. [Amended 10-21-1991 by Ord. No. 1991-13; 5-3-1993 by Ord. No. 1993-8]
- (12) Retaining walls. [Added 3-20-2006 by Ord. No. 2006-6]
- (a) The fee for the construction of a retaining wall with a surface area greater than 550 square feet that is associated with a Class 3 residential structure shall be \$150.
  - (b) The fee for the construction of a retaining wall with a surface area of 550 square feet or less that is associated with a Class 3 residential structure shall be \$75.
  - (c) The fee for a newly constructed retaining wall of any size at other than a Class 3 residential structure shall be based on the cost of the construction.

C. Fee scales.

- (1) Certificates of occupancy.
  - (a) Certificate of occupancy by use group. [Amended 6-1-1992 by Ord. No. 1992-4]
    - [1] Fees shall be in the amount of 10% of the new construction permit fee. The minimum fee shall be \$100.
    - [2] Exceptions. For one- and two-family residences less than 5,000 square feet in area and less than 30 feet in height, farm structures and commercial farm buildings, the fee shall be \$65. [Amended 3-20-2006 by Ord. No. 2006-6]
  - (b) The fee for a certificate of occupancy granted pursuant to a change of use group shall be \$80. [Amended 10-21-1991 by Ord. No. 1991-13; 5-3-1993 by Ord. No. 1993-8]

- (c) The fee for a certificate of continued occupancy shall be \$80. [Amended 5-3-1993 by Ord. No. 1993-8]
  - (d) The fee for the renewal of a temporary certificate of occupancy shall be \$25.. [Amended 3-20-2006 by Ord. No. 2006-6]
  - (e) (Reserved)EN(53)
  - (f) The fee for plan review of a building for compliance under the alternate systems and nondepletable energy source provisions of the energy subcode shall be \$200 for one- and two-family homes and for light commercial structures having the indoor temperature controlled from a single point, and \$1,000 for all other structures.
  - (g) The fee for an application for a variation in accordance with N.J.A.C. 5:23-2.10 shall be \$400 for Class I structures and \$100 for Class II and Class III structures. The fee for resubmission of an application for a variation shall be \$200 for Class I structures and \$40 for Class II and Class III structures.
  - (h) The fee to install a vapor recovery system is \$100 per tank.
- (2) Periodic inspections. Fees for the periodic reinspection of equipment and facilities granted a certificate of approval for a specified duration in accordance with N.J.A.C. 5:23-2.23 shall be as follows:
- (a) For cross-connections and backflow preventers that are subject to testing, requiring reinspection every 12 months, the fee shall be \$85 for each device when they are tested (one time annually). [Amended 9-20-1999 by Ord. No. 1999-16]
- (3) The fee to be charged for an annual construction permit shall be charged annually, and this fee shall be a flat fee based upon the number of maintenance workers who are employed by the facility who are primarily engaged in work that is governed by a subcode. Managers, engineers and clerical workers shall not be considered maintenance workers for the purpose of establishing the annual construction permit fee.
- (a) Annual permits may be issued for building/fire-protection, electrical and plumbing inspections.
  - (b) Such fees shall be as follows:
    - [1] One to 25 workers (including foremen): \$500 per worker, and for each additional worker over 25, \$200 per worker.
    - [2] Prior to the issuance of the annual permit, a training registration fee of \$100 per subcode shall be submitted by the applicant to the Department of Community

Affairs, Construction Code Enforcement, Training Section, along with a copy of the construction permit (Form F-170), with checks being made payable to Treasurer, State of New Jersey.

- (4) Administrative fees shall be as follows:
- (a) For each construction permit issued for an asbestos hazard abatement, the fee shall be \$70. [Amended 9-20-1999 by Ord. No. 1999-16]
  - (b) For each certificate of occupancy issued following the successful completion of an asbestos abatement project, the fee shall be \$14. [Amended 9-20-1999 by Ord. No. 1999-16]
  - (c) For each construction permit issued for lead abatement work, the fee shall be \$140. [Added 10-16-1995 by Ord. No. 1995-24]
  - (d) For each lead abatement clearance certificate issued following the successful completion of a lead abatement project, the fee shall be \$28. [Added 10-16-1995 by Ord. No. 1995-24]
  - (e) The Construction Office will charge a fee of \$25 for the reissuance of any lapsed permit. [Added 5-4-1998 by Ord. No. 1998-18]
  - (f) An administrative fee of 15% shall be charged for the processing of any subcode technical application for a third-party agency. [Added 7-20-1998 by Ord. No. 1998-23]
- (5) Exemptions.
- (a) All buildings owned by or leased to the Township of Lumberton and projects being performed by said Township are exempted from all fees.
  - (b) All buildings owned by or leased to the Township's First Aid Squad(s) and Fire Department(s) are exempt from all fees.
  - (c) All elevator inspections shall be performed under the supervision of the Construction Official, and inspections by any other party or agency shall not be acceptable.

**§ 121-5. Fee schedule report. [Amended 9-20-1999 by Ord. No. 1999-16]**

The Construction Official shall, with the advice of the subcode officials, prepare and submit to the Township Committee an annual report recommending a fee schedule based on the operating expenses of the agency and any other expenses of the municipality fairly attributable to the



enforcement of the State Uniform Construction Code Act.<sup>EN(54)</sup>

**§ 121-6. New construction surcharge. [Amended 8-3-1992 by Ord. No. 1992-6; 5-3-1993 by Ord. No. 1993-8; 9-16-2002 by Ord. No. 2002-11]**

In order to provide for the training, certification and technical support programs required by the Uniform Construction Code Act<sup>EN(55)</sup> and regulations, the enforcing agency shall collect, in addition to the fees specified above, a surcharge fee of \$0.0019 per cubic foot on new buildings and additions and all other construction is \$0.96 per \$1,000 of value of construction. Such surcharge fee shall be remitted to the Bureau of Housing Inspection, Department of Community Affairs, on a quarterly basis for the fiscal quarters ending September 30, December 31, March 31 and June 30 and not later than one month next succeeding the end of the quarter for which it is due. In the fiscal year in which the regulations first become effective, such fee shall be collected and remitted for the third and fourth quarters only.

**§ 121-7. Annual report to Bureau of Housing Inspection.**

The enforcing agency shall report annually at the end of each fiscal year to the Bureau of Housing Inspector, and not later than July 31, the total amount of the surcharge fee collected in the fiscal year. In the fiscal year in which the regulations first become effective, such report shall be for the third and fourth quarters only.<sup>EN(56)</sup>

## **Chapter 122, CONSTRUCTION CONTRACTORS**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 6-11-2002 by Ord. No. 2002-6. Amendments noted where applicable.]

### **GENERAL REFERENCES**

**Uniform construction codes -- See Ch. 121.**

**§ 122-1. Registration required for issuance of permit.**

All persons performing work under the provisions of this chapter that does not come within any exceptions set forth herein shall be required to register prior to the issuance of any permit for such work.

**§ 122-2. Registration information.**

Registrations shall be made with the Construction Official on forms furnished by the Construction Official. The signatures shall be notarized. The registration shall be signed by the applicant and all agents. The registrant shall supply the following information:

- A. The name and address of the registrant.
- B. A statement giving the name or corporate or firm name of the contractor and, in the case of a firm, corporation or partnership, the name and address of the principal officer or principal member of the firm, corporation or partnership.
- C. If the registrant is a partnership, the names and addresses of all its partners. If the registrant is a corporation, the names and addresses of its officers, directors and principal stockholders holding in excess of 10% of the outstanding shares of common stock.
- D. The number of years the person has been in business or in existence at the current location or any prior location, including the addresses of such prior locations, if any.
- E. The type or types of work customarily performed by the registrant.
- F. A statement as to whether the registrant has ever been convicted of violating a building code and, if so, the date and place of conviction, the nature of the violation and the punishment imposed therefor.
- G. Appropriate information as to the registrant's skill, experience and business responsibility, including the names and addresses of at least two persons who are familiar with the same.
- H. A certificate showing that the applicant carries public liability and worker's compensation insurance for all work of the type to be done under a building permit.
- I. Two letters of reference or two copies of licenses from other municipalities.
- J. A certificate of liability insurance in an amount not less than \$100,000 for bodily injury and \$25,000 for property injury. The certificate shall name the Township as an additional insured.
- K. Verification for workmen's compensation cases as to history.
- L. Such other data as the Construction Official may require.

**§ 122-3. Registration fee; expiration. [Amended 12-16-2002 by Ord. No. 2002-17]**

The fee for registration shall be \$50. The registration period shall begin on January 1 of each

calendar year and expire on December 31 of each calendar year. The fee for the renewal of the registration/license shall be \$10 and shall be applied for no later than November 1.

**§ 122-4. Renewal or reinstatement of license; fee; insurance.**

- A. No person shall be registered or have registration renewed under this chapter or shall be reinstated after suspension of registration under § 122-7 unless and until there is paid to the Construction Office a contractor's registration license fee as set forth herein.
- B. No person shall be registered or have registration renewed under this section or shall be reinstated after suspension of registration until there is filed with the Construction Office certified proof of the existence of a general liability insurance policy in the amount of not less than \$100,000 providing coverage for all acts for which the contract may be held liable in the conduct of his business. Such policy shall remain in effect at all times that such contractor is registered, and failure to maintain the required policy in effect at all times shall be grounds for suspension or revocation of the registration.
- C. Upon failure to renew any registration on or before January 31 of any calendar year, any subsequent registration shall be and constitute a new or original registration subject to the payment of the fee for new registrations specified in this chapter and the completion of a new application. The Construction Official may waive the requirement of a new application.

**§ 122-5. Work requiring permit.**

All work done under the provisions of this chapter for which a construction permit is required is to be performed by a registered contractor, his/her agents or employees. This chapter shall not apply to work performed by any owner on a single-family dwelling occupied by himself/herself that does not entail the employment of others.

**§ 122-6. Registration requirements; fees; penalty.**

- A. No person, firm or corporation shall engage in the business of construction, erecting, altering, repairing, restoring, moving or demolishing the whole or any part of any building or structure, or contracting to perform any of the foregoing, or complete any work for which a building permit is required, without first registering with the Construction Official pursuant to this section, on forms to be supplied by him.
- B. All applicants for said contractor's registration license shall furnish proof, to the satisfaction of the Construction Official, of at least four years' training or experience in building

construction, and each such application shall be endorsed by at least two responsible personal references stating that applicant is, in their opinion, sufficiently qualified to receive a contractor's registration license. Only one contractor's registration license need be secured by a corporation or partnership.

- C. No contractor's registration license shall be required of any owner of real property in the Township who shall personally perform activities otherwise requiring a contractor's registration license on a dwelling place or an appurtenant structure intended for occupancy or use by the property owner or his immediate family, except that all such work must otherwise comply with other provisions of the Uniform Construction Code<sup>EN(57)</sup> and all other applicable township, county or state ordinances and regulations.
- D. Any contractor required to be licensed by the State of New Jersey shall be exempt from obtaining a contractor's registration license, except that any contractor licensed by the State of New Jersey shall only be exempt from registration for work performed under the license granted by the State of New Jersey.
- E. Every contractor's registration license shall be issued and renewed on an annual basis, effective January 1 of each year, upon payment of an annual fee or fees.
- F. Penalties.
  - (1) Maximum penalty.
    - (a) For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not to exceed 90 days or such combination of punishments as the Municipal Court may, in its discretion, deem appropriate and just.
    - (b) Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
    - (c) The maximum penalty stated in this section does not intend to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case of violation except in those instances where state law mandates a minimum penalty to be imposed.
  - (2) Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount as established by the Municipal Court Judge.
- G. No person shall be permitted to register until all fines and fees due and owing to the Construction Office have been paid or properly appealed.

**§ 122-7. Suspension and revocation.**

- A. If any person registered under the provisions of this chapter shall fail to comply with the rules and regulations of the Township applicable to the construction, erection, repair, restoration, reroofing, residing, moving or demolition of any building, structure, swimming pool, sign, billboard or part thereof, in the execution of any work for which a permit is required by this chapter, the Uniform Construction Code,<sup>EN(58)</sup> any other ordinance of the Township or any other New Jersey law, the Construction Office shall cause a notice of violation to be served upon the person or the principal member or officer of the firm or corporation in accordance with established procedures as set forth in the Uniform Construction Code and the regulations pertaining thereto.
- B. If the violation is not corrected within the period of time stated in the notice of violation, the Township Committee, upon recommendation from the Construction Official and upon notice to the registrant and after public hearing, may suspend the contractor's registration license, and the person shall not be permitted to renew or reinstate his registration until certification by the Construction Office to the Township Committee that the violation has been corrected as required by the Construction Office.
- C. If any person shall have had his registration suspended at least three times as provided in this chapter, then, in addition, the Township Committee, upon recommendation of the Construction Official, may, upon notice to the registrant, conduct a public hearing to determine whether or not such person shall be permanently revoked and barred from engaging in the activities that are the subject of this chapter within the Township.
- D. The Construction Official may suspend a registration in any case where the registrant has been guilty of at least three violations of the State Uniform Construction Code or this chapter, has failed to complete work or perform under a contract or has deviated from work specifications made a part of a contract. The person whose registration is suspended may appeal and be afforded an opportunity to be heard before the Township Committee. Upon receipt of written notice of appeal in both the Municipal Clerk's office and the Construction Office, the contractor's registration license shall be reinstated pending the appeal. Any contractor's registration license suspended under Subsection H shall not be reinstated prior to a hearing by the Township Committee. The Township Committee shall hear the appeal at the next regularly scheduled meeting and may affirm the suspension, reverse the suspension or take any other action permitted under this section.
- E. Any person whose registration is revoked shall not be reregistered.
- F. Suspension or revocation of a registration shall be in addition to any other penalty that may

be imposed for a violation of this chapter.

- G. The Township Committee may, upon recommendation of the Construction Official, after notice and a hearing, suspend or revoke any contractor's registration license for violation of law or the building code or related ordinances of the Township of Lumberton or for other good cause which is shown to be prejudicial to the public health, safety or welfare.
- H. When the Construction Official has reasonable cause to believe that an emergency affecting the public health, safety or welfare so requires, the Construction Official may temporarily suspend any contractor's registration license for a period not to exceed 20 days, until the next regularly scheduled meeting of the Township Committee.
- I. Any contractor who requests a hearing before the Township Committee and asks for an adjournment of that hearing shall have the contractor's registration license suspended until such a hearing shall be held.

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## **Chapter 130, DEVELOPMENT REGULATIONS**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-17-1984 by Ord. No. 1984-18 (Ch. XVIII of the 1973 Code). Amendments noted where applicable.]

### **GENERAL REFERENCES**

- Land Development Board -- See Ch. 29.**
- Adult uses -- See Ch. 89.**
- Uniform construction codes -- See Ch. 121.**
- Drainage -- See Ch. 139.**
- Flood damage prevention -- See Ch. 157.**
- Housing standards -- See Ch. 168.**
- Junkyards -- See Ch. 174.**
- Sewers and septic systems -- See Ch. 238.**
- Soil removal and erosion control -- See Ch. 246.**
- Streets and sidewalks -- See Ch. 250.**
- Swimming pools -- See Ch. 253.**
- Individual sewage disposal systems -- See Ch. 297.**

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## **ARTICLE I, Title; Purpose**

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### **§ 130-1. Title.**

This chapter may be known as the "Township of Lumberton Development Regulations

Ordinance."

**§ 130-2. Purpose.**

The purposes of this chapter are to establish a pattern for the use of land and buildings based on the land use element of the Master Plan and to guide appropriate and orderly development which will promote the public health, safety, morals and general welfare. This chapter adopts by reference the purposes set forth in the Municipal Land Use Law.<sup>EN(59)</sup>

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**ARTICLE II, Definitions**

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**§ 130-3. Word usage and definitions.**

A. Any word or term not defined herein or in the Municipal Land Use Law shall be used with a meaning of standard usage for the context in which the word is used.

B. As used in this chapter, the following terms shall have the meanings indicated:

**ACCESSORY BUILDING, STRUCTURE OR USE** -- A subordinate building, structure or use incidental to the principal use or building located on the same lot.

**ADMINISTRATIVE OFFICER** -- For the purposes of the receipt of applications for development and all other requests for action called for by the Land Development Board, the Administrative Officer shall be the Township Clerk; and in issues relating to completeness of applications under N.J.S.A. 40:55D-10.3, the Township Clerk shall make the determination of completeness in conjunction with the Technical Advisory Committee ("TAC") authorized under § 130-11 of this Code. [Amended 8-18-1997 by Ord. No. 1997-17; 1-20-2004 by Ord. No. 2004-1]

**ADVERSE EFFECT** -- Designs, situations or existing features creating or leading to unsafe, unsatisfactory or noncomplying conditions, such as a layout inconsistent with the zoning regulations;<sup>EN(60)</sup> insufficient street width; unsuitable street grade; unsuitable street location; inconvenient street system; inadequate utilities such as water, drainage, shade trees and sewerage; unsuitable size, shape and location of any area reserved for public use or land for open space in a planned development; infringement upon land subject to flooding; and the creation of conditions leading to soil erosion by wind or water from excavation or grading; all as set forth in N.J.S.A. 40:55D-38, or any amendments or supplements thereto, and measured against the design and performance standards of this chapter.

**AGE-RESTRICTED DEVELOPMENT** -- A residential development, including accessory buildings and required or permitted social, cultural, medical and recreational facilities, limited to certain age groups conforming to 24 CFR Part 100, Subpart E, Housing for Older Persons, of the federal Fair Housing Amendments Act of 1988, as it may be amended or superseded. [Added 4-17-2006 by Ord. No. 2006-8]

**AGRICULTURAL USE/PURPOSE** -- Land devoted to agriculture. For purposes of this chapter, "agricultural use" does not include a dwelling. See definition of "farm."

**AGRICULTURE** -- Land devoted to the production of plants and animals useful to man, including but not limited to forages and sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds; vegetables; nursery, floral, ornamental and greenhouse products; and other similar uses and activities.

**ALTERNATIVE TOWER STRUCTURE** -- Mounting structures that camouflage or conceal the presence of antennas or towers. [Added 6-21-1999 by Ord. No. 1999-11]

**ANCHOR STORE** -- A department store, warehouse club or a home improvement store and the like containing at least 100,000 square feet of gross leasable area. [Added 2-1-1999 by Ord. No. 1999-4]

**ANTENNA** -- Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, satellite dishes and omni-directional antennas. [Added 6-21-1999 by Ord. No. 1999-11]

**APPROVING AUTHORITY** -- The Land Development Board of the Township of Lumberton unless a different agency is designated by ordinance when acting pursuant to the authority of N.J.S.A. 40:55D-1 et seq. [Added 9-5-1995 by Ord. No. 1995-17; amended 1-20-2004 by Ord. No. 2004-1]

**AUTOMOBILE SERVICE STATION** -- Land and building providing for the sale of fuel, lubricants and automotive accessories and for maintenance and minor repairs for motor vehicles, excluding body repairs and the storage of inoperable and wrecked vehicles.

**BACKHAUL NETWORK** -- The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices and/or long distance providers or the public switched telephone network. [Added 6-21-1999 by Ord. No. 1999-11]

**BILLBOARD** -- An off-site lettered or pictorial advertising sign.

**BODY SHOP** -- A use providing for the repair, repainting or restoration of the bodies and



frames of motor vehicles.

**BUILDING COVERAGE** -- The area of a lot covered by buildings measured around the periphery of the foundation(s).

**BUILDING HEIGHT** -- The vertical distance measured from the finished grade of the front elevation of a building to its highest point. [Amended 4-5-2004 by Ord. No. 2004-12]

**BULK REGULATIONS** -- Standards and controls that establish the maximum and/or minimum size of buildings and structures on a lot, the buildable areas within which a building or structure may be located and including area, coverage, floor area ratio, height setback, and yard of other requirements that affect the physical placement of building and structures on a parcel of land. [Added 12-18-2006 by Ord. No. 2006-20]

**CATEGORY-SPECIFIC STORE** -- A retail store that has a narrow merchandising focus with a large selection of products in specific merchandising lines, such as consumer electronics, off-price apparel, sporting goods, books, computer hardware and software, bulk foods, records and tapes or building materials and home improvement products. [Added 2-1-1999 by Ord. No. 1999-4]

**CHILD-CARE CENTER** -- An establishment providing for the care, supervision, and protection of children licensed by the Department of Community Affairs as a provider of services. By definition, a child-care center shall not be considered an educational facility, or an educational use or uses under the Zoning Code. [Added 8-21-2006 by Ord. No. 2006-12]

**CLUSTER DEVELOPMENT** -- Form of development that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision plan or increase in the overall density of development and the remaining land area is devoted to open space, active recreation, preservation of environmentally sensitive areas, or agriculture. The technique is available for use only in those zoning districts in which it is approved for use and then only after a conventional subdivision plan has been submitted and approved by the Land Development Board to establish the maximum number of units that can be built on the site. [Amended 7-6-2004 by Ord. No. 2004-24]

**COLLOCATION** -- Use of a common wireless telecommunications tower or a common site by two or more wireless license holders or by one wireless license holder for more than one type of communications technology and/or placement of a wireless telecommunications tower on a structure owned or operated by a utility or other public entity. [Added 6-21-1999 by Ord. No. 1999-11]

**COMMERCIAL WIRELESS TELECOMMUNICATIONS SERVICES** -- Licensed commercial wireless telecommunication services, including cellular, personal communications services, specialized mobilized radio, enhanced specialized mobilized radio, paging and similar services

that are marketed to the general public. [Added 6-21-1999 by Ord. No. 1999-11]

**COMMON PROPERTY** -- Land or water, or a combination, together with improvements within or related to a development, designed and intended for the use or enjoyment of all residents of the development. Common property includes common open space and may contain such complementary structures and improvements as are necessary and appropriate for its use or enjoyment.

**COMMUNITY/POWER RETAIL CENTER ESTABLISHMENT** -- A large retail center that contains at least 250,000 square feet of gross leasable area (GLA) and includes at least one anchor store containing at least 100,000 square feet of GLA. It typically includes at least four smaller, category-specific tenants each having 20,000 square feet to 25,000 square feet of GLA. The community/power retail center is usually managed as a unified shopping center. However, recognizing the need for flexibility in this retail industry, the community/power retail center may contain no more than two stores, such as an anchor store or movie theater, owned on a fee simple basis. These separate fee simple retail entities, which should contain at least 100,000 square feet of GLA, may be provided as a separate pad site or integrated with the primary community/power retail center establishment. [Added 2-1-1999 by Ord. No. 1999-4]

**DAY-CARE CENTER/DAY NURSERY** -- See "child-care center." [Added 8-21-2006 by Ord. No. 2006-12]

**DAY-CARE CENTER/ADULT** -- A facility providing care for the elderly and/or functionally impaired adults in a protective setting for part of a twenty-four-hour day. [Added 8-21-2006 by Ord. No. 2006-12]

**DEVELOPMENT POTENTIAL** -- The maximum number of dwelling units or square feet of nonresidential floor area that could be constructed on a specific lot or in a specified zone under the Master Plan and land use regulations in effect on the date of the adoption of this chapter and in accordance with recognized environmental constraints. [Added 9-5-1995 by Ord. No. 1995-17]

**DEVELOPMENT TRANSFER** -- The conveyance of development potential or the permission for development from one or more lots to one or more other lots by deed, easement or other means as authorized by this chapter. [Added 9-5-1995 by Ord. No. 1995-17]

**DWELLING, DUPLEX** -- See "dwelling, semidetached single-family." [Added 4-17-2006 by Ord. No. 2006-8]

**DWELLING, MULTIFAMILY (APARTMENT)** -- One or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building comprising three or more such units. [Added 4-17-2006 by Ord. No. 2006-8]

**DWELLING, SEMIDETACHED SINGLE-FAMILY** -- A building containing two dwelling units side by side on adjoining lots and having a common or party wall and having separate individual sewerage and water facilities and connections. [Added 4-17-2006 by Ord. No. 2006-8]

**DWELLING, SINGLE-FAMILY** -- A detached building containing one dwelling unit.

**DWELLING, SINGLE-FAMILY DETACHED** -- A building physically separated from other buildings or portions of buildings which is occupied or intended to be occupied for residential purposes by one family. [Added 4-17-2006 by Ord. No. 2006-8]

**DWELLING, TOWNHOUSE** -- A building containing three or more attached dwelling units erected in a row on adjoining lots, each unit being separate from the adjoining unit, but attached by a common or party wall, and each unit having separate individual outside access and individual public water and sewerage facilities and connections. [Added 4-17-2006 by Ord. No. 2006-8]

**DWELLING UNIT** -- A room or series of connected rooms containing living, cooking, sleeping and sanitary facilities for one family.

**EDUCATIONAL INSTITUTION** -- A college or university authorized by the State Department of Education to award degrees. [Added 8-21-2006 by Ord. No. 2006-12]

**ELEEMOSYNARY OR PHILANTHROPIC INSTITUTION** -- A private or public organization that is organized and operated for the purpose of providing a service or carrying on a trade or business without profit and for charitable purposes. The term shall not mean a child-care center or day-care center/day nursery. [Added 8-21-2006 by Ord. No. 2006-12]

**ENVIRONMENTALLY SENSITIVE AREAS** -- Areas which include, but are not limited to, stream corridors and floodplains, streams, bodies of water, freshwater wetlands (as defined by the New Jersey Department of Environmental Protection), slopes greater than 15%, shallow depth to seasonally high water table (two feet or less), highly acidic or erodible soils (as defined by the Soil Conservation Service), mature stands of trees, aquifer recharge areas, aquifer discharge areas, unique natural features and wildlife habitats or such areas as may be designated by federal or state agencies of jurisdiction. [Added 9-5-1995 by Ord. No. 1995-17]

**FAA** -- Federal Aviation Administration. [Added 6-21-1999 by Ord. No. 1999-11]

**FAMILY** -- One or more persons occupying a dwelling unit as a single, nonprofit housekeeping unit, who are living together as a stable and permanent living unit, being a traditional family unit or the functional equivalent thereof. [Amended 11-21-1994 by Ord. No. 1994-20]

**FAMILY DAY-CARE HOME** -- A family day-care home means the private residence of a family day-care provider which is registered as a family day-care home pursuant to the Family Day Care Provider Registration Act (N.J.S.A. 30:5B-16 et seq.). Pursuant to N.J.S.A.

40:55-66.5b, family day-care homes shall be a permitted use in all residential districts of the community. [Added 8-21-2006 by Ord. No. 2006-12]

FARM [Amended 11-21-1994 by Ord. No. 1994-20]

- (1) **PRINCIPAL FARM USES** -- A lot of at least six acres, with the first acre devoted to the dwelling (if applicable) and at least five additional acres devoted to agricultural use, including the growing and harvesting of crops and the raising and breeding of farm animals, except that commercial piggeries are prohibited. Truck farms, fruit farms, nurseries, greenhouses, dairies and livestock produce are permitted.
- (2) **ACCESSORY FARM USES** -- Buildings incidental to farms such as greenhouses, buildings for the housing of seasonal workers for the farm's own use, barns and packing, grading and storage buildings limited to produce raised on the premises. Processing operations, buildings for the keeping of poultry, garages for the storage of farm equipment and farm stands are "accessory farm uses."

FCC -- Federal Communications Commission. [Added 6-21-1999 by Ord. No. 1999-11]

FLAG LOT -- A lot with sufficient width for an access drive with the enlarged buildable portion of the lot located at the end of the access drive.

FRONT ELEVATION -- The face of a building that contains the front or main entrance. [Added 4-5-2004 by Ord. No. 2004-12]

GARAGE -- In residential districts, the term refers to a structure that is accessory to a single- or two-family dwelling, is used for the parking and storage of items owned by the residents thereof, and is not a separate commercial enterprise available to the general public. A garage is to contain more than 200 square feet; structures containing less than 200 square feet shall be considered and regulated as a storage shed regardless of the items placed within it. [Added 7-6-2004 by Ord. No. 2004-24]

GOLF COURSE -- An area of 75 or more acres containing a full-sized golf course of at least nine holes, together with usual accessory uses such as but not limited to a clubhouse, dining room, refreshment stand, swimming pool and tennis courts, provided that the accessory uses are incidental to the operation of the golf course.

GROSS FLOOR AREA -- The total area measured around the outside of the building at each story. If sharing a common wall, the area shall be measured from the center of interior walls and the outside of exterior walls. In residential uses, the gross floor area shall exclude the areas of the garage, attic, open porch or patio, cellar, unfinished basement, utility areas, heating and cooling rooms. In nonresidential structures, the gross floor area shall exclude areas used for utility, heating, cooling and other mechanical equipment but shall include all other areas, including

cellars, warehousing and storage areas.

**HEIGHT** -- When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad of any antenna. [Added 6-21-1999 by Ord. No. 1999-11]

**HOME OCCUPATION** -- An occupation being conducted wholly or in part from a residence or the residential lot as an accessory use.

**HOMEOWNERS' ASSOCIATION** -- A nonprofit corporation operating under a recorded land agreement through which:

- (1) Each lot or dwelling unit owner shall be a member.
- (2) The owner of each lot or dwelling unit is subject to a charge for a proportionate share of the organization's expenses for activities and maintenance, including maintenance costs levied against the association by the Township.
- (3) Each owner and tenant has a right to use the common property.

**INDUSTRIAL OR OFFICE PARK** -- A tract comprehensively planned for industrial or office use, whether the buildings are erected in one development stage or over a period of time, but where the streets, utilities and lots and/or tenants' parcels are set forth on a plan for the entire tract prior to construction of any portion of the tract. As development takes place, changes may be made in the plans for the undeveloped section(s), provided that the modifications conform to logical extensions of installed segments of streets, drainage, utilities and other facilities. Parks with no subdivided lots shall have buildings spaced so the mortgage and/or lease lines conform to the requirements for lot lines to establish conformance with this chapter for such matters as building setbacks, buffers, driveway locations and distances between buildings.

**LOADING SPACE** -- An off-street berth on the same lot as the building being served for the temporary parking of a vehicle while loading or unloading.

**LOT AREA** -- The area contained within the lot lines but not including any portion of a street. The minimum lot area of a lot fronting on a street proposed to be widened in the adopted Master Plan shall be the minimum area required, plus the additional area needed to anticipate the widening of the street. [Amended 8-3-1992 by Ord. No. 1992-6]

**LOT, CORNER** -- A lot at the junction of two or more intersecting streets where the interior angle of intersection does not exceed 135°. All yards on a corner lot which do not meet the definition of a front yard shall be considered to be side yards. [Amended 8-3-1992 by Ord. No. 1992-6]

**LOT COVERAGE** -- The area of a lot covered by buildings and other impervious

surfaces.<sup>EN(61)</sup>

**LOT FRONTAGE** -- The distance between the side lot lines measured along the street line. The minimum "lot frontage" shall be the same as the lot width except that on curved streets with an outside radius of less than 500 feet, the lot frontage may be reduced to not less than 50% of the required minimum lot width. On corner lots, the lot frontage requirements shall be met for each street frontage and the measurement shall be made from side lot line to front lot line or from front lot line to front lot line, as the case may be. [Amended 8-3-1992 by Ord. No. 1992-6]

**LOT LINE** -- Any line, including the street line, forming a portion of the boundary of a lot.

**LOT WIDTH** -- The distance between side lot lines measured parallel to the street line at the minimum required building setback from the street right-of-way. On flag lots, the "lot width" shall be measured at the building location.<sup>EN(62)</sup>

**OFFICE** -- A place for the transaction of business where reports are prepared and records kept but where no retail sales or goods are offered and where no manufacturing, assembling or fabricating takes place.

**MONOPOLE** -- A single, freestanding pole-type structure, tapering from base to top, and supporting one or more antenna for wireless transmission. [Added 6-21-1999 by Ord. No. 1999-11]

**PARKING BAY** -- A regularly repeated distance defined by a given number of parking spaces. A parking bay may include one or two rows of parking spaces with the associated landscape islands. [Added 2-1-1999 by Ord. No. 1999-4]

**PEDESTRIAN/BICYCLE PATH, SEPARATE** -- A path constructed of permanent materials, as set forth in this chapter, which does not share or occupy the same cartway or driving surface used by motor vehicles and is used solely for pedestrian and bicycle traffic. [Added 9-5-1995 by Ord. No. 1995-17]

**PERMITTED USE** -- Any use of land or buildings permitted by this chapter.

**PERSONAL SALES AND SERVICES** -- Establishments primarily engaged in providing limited sales and services involving the care of a person or his or her personal goods and apparel, including, but not limited to, laundry, dry cleaning, barbershops, beauty salon, tanning salon, candy and flower shops, home movie rental and take-out food establishments. [Added 4-17-2006 by Ord. No. 2006-8]

**PETROLEUM DISTRIBUTION TERMINAL** -- A place of business, the primary purpose of which is the sale of petroleum products delivered to the customer by truck. Storage facilities shall be permitted on the site but only to the extent needed to support the distribution facility. A

"petroleum distribution terminal" shall not include long-term bulk storage facilities of the type commonly known as a "tank farm." [Added 4-18-1988 by Ord. No. 1988-7]

**PLAT, FINAL** -- The plat of all or a section of a development submitted for final approval.

**PLAT, PRELIMINARY** -- The plat submitted as a part of the application for preliminary approval. [Amended 8-3-1992 by Ord. No. 1992-6]

**PREEXISTING TOWERS AND ANTENNAS** -- Any tower or antenna for which a building permit has been properly issued prior to the effective date of this chapter, including permitted towers or antennas that have not yet been constructed, so long as such approval is current, and not expired. [Added 6-21-1999 by Ord. No. 1999-11]

**PRINCIPAL USE** -- The main purpose for which any lot and/or building is used.

**PRIVATE SCHOOL** -- An institution of education whose general course work is comparable to the public school system and whose curriculum is approved by the New Jersey Department of Education or the New Jersey Department of Higher Education.

**PUBLIC PURPOSE** -- The use of land and/or building(s) by a municipal, county, state or federal agency or authority.

**RECEIVING AREA or RECEIVING ZONE** -- An area designated in the Master Plan and this chapter within which development is to be increased and which is consistent with the provisions of N.J.S.A. 40:55D-118. [Added 9-5-1995 by Ord. No. 1995-17; amended 3-21-1996 by Ord. No. 1996-3]

**RECREATION, ACTIVE** -- Leisure time activities, usually of a more formal nature and, in general, performed with other participants, often requiring equipment and taking place at prescribed places, sites or fields. [Added 9-5-1995 by Ord. No. 1995-17]

**RECREATION, PASSIVE** -- Any leisure time activity not considered active. [Added 9-5-1995 by Ord. No. 1995-17]

**RIGHT-OF-WAY** -- The total width and length of the course of a street, watercourse, utility alignment or other way and within, under or over which all improvements and rights of access are confined.

**SCHOOL** -- Any building or parts thereof that is designed, constructed, or used for education or institution in any branch of knowledge which is licensed by the State Department of Education. [Added 8-21-2006 by Ord. No. 2006-12]

**SCHOOL, ELEMENTARY** -- Any school that meets state requirements for elementary education. [Added 8-21-2006 by Ord. No. 2006-12]

**SCHOOL, PAROCHIAL** -- A school supported, controlled, and operated by a religious organization. See "school, private." [Added 8-21-2006 by Ord. No. 2006-12]

**SCHOOL, PRIVATE** -- Any building or group of buildings, the use of which meets State Department of Education requirements for elementary, secondary, or higher education and which does not secure the major part of its funding from any governmental agency. [Added 8-21-2006 by Ord. No. 2006-12]

**SCHOOL, SECONDARY** -- Any school that is licensed by the State Department of Education and authorized to award diplomas for secondary education. [Added 8-21-2006 by Ord. No. 2006-12]

**SCHOOL, VOCATIONAL** -- See "vocational school." [Added 8-21-2006 by Ord. No. 2006-12]

**SENDING AREA or SENDING ZONE** -- An area designated in the Master Plan and this chapter within which development is to be prohibited or restricted and which is otherwise consistent with the provisions of N.J.S.A. 40:55D-118. [Added 9-5-1995 by Ord. No. 1995-17; amended 3-21-1996 by Ord. No. 1996-3]

**SETBACK LINE** -- A line parallel to a street line or lot line beyond which a building is not permitted to project under the terms of this chapter. The minimum yard requirements shall be the minimum required setbacks. All setbacks from public streets shall be measured from the proposed right-of-way width as shown on the adopted Master Plan. [Amended 8-3-1992 by Ord. No. 1992-6]

**SHOPPING CENTER** -- A group of commercial establishments, the majority of which are retail stores, built on a site which is planned, developed, owned and managed as an operating unit and which provides on-site parking in definite relationship to the types and total size of the commercial establishments.

**SIGHT TRIANGLE** -- An area where unobstructed visibility is maintained outside the right-of-way, as regulated in this chapter.

**SIGN** -- Any announcement, display or illustration used to advertise or promote the interest of any person or product when the same is placed in a position to be seen by the general public from any street or public way.

**SILTATION BASIN** -- A facility through which stormwater is directed and which is designed to collect silt and eroded soil from a designated area.

**SITE PLAN, EXEMPT** -- The following shall be exempt from site plan review: [Amended 8-3-1992 by Ord. No. 1992-6; 1-20-1998 by Ord. No. 1998-4]

- (1) Single-family dwellings and their accessory buildings, structures and uses, except for



home occupations, which shall require site plan review.

- (2) Two-family dwellings and their accessory buildings, structures and uses.
- (3) Fences, on single-family and two-family lots.
- (4) Building alterations which do not involve exterior changes, which do not involve increased floor area, where there is no change in use and where there is no increase in impervious surfaces.
- (5) Changes in tenancy which do not involve exterior building alterations, where there is no change in the actual use of the building (i.e., a clothing store becomes a clothing store, or a restaurant becomes a different restaurant) and where there is no increase in impervious surfaces. A change in use from a permitted use to another permitted use, where the proposed actual use is different from the existing actual use (i.e., changing a restaurant to a clothing store) would require site plan review, even though both uses might be permitted in that particular zone. However, said review shall be limited to the consideration of those items delineated and described at § 130-16B and C of this chapter. [Amended 12-21-1998 by Ord. No. 1998-35]

**SITE PLAN, MINOR** -- A site plan for a development or building alterations requiring fewer than 10 parking spaces, containing less than 2,500 square feet of new floor area and adding no more than 10% to lot coverage.

**SITE PLAN, MAJOR** -- All site plans not defined as minor or exempt.

**STREAMERS** -- Linear displays of fringed material no more than 12 inches in height and of any length, made of weather-resistant material and strung essentially parallel to the ground. Streamers shall be considered signs for the purposes of this chapter, but they shall not be counted as freestanding signs, and the area of the streamers shall not be counted toward the sign area limitations of this chapter. [Added 5-9-1988 by Ord. No. 1988-9]

**STREET LINE** -- The edge of the existing or future street right-of-way, whichever would result in the widest right-of-way, as shown on the adopted Master Plan or Official Map or as required by this chapter, forming the dividing line between the street and property line. For the purposes of relating the street line to the setback requirements of this chapter, this definition shall control.

**SUBDIVISION, MAJOR** -- Any subdivision not classified as minor or exempt.

**SUBDIVISION, MINOR** -- A subdivision of land that does not adversely affect the development of the remainder of the tract or any adjoining property and does not involve the creation of more than three lots fronting on an existing improved street (including the remainder of the original lot); planned development; any new street; or extension of any off-tract improvement, the cost of which is to be prorated pursuant in accordance with the terms of this chapter. Approval of a

minor subdivision shall be deemed final approval and as such shall be prepared in accordance with the final plat requirements.

**SWIMMING POOL** -- Facilities constructed or assembled above or below ground having a depth of more than two feet and/or water surface of 100 square feet or more, and designed and maintained for swimming purposes. Swimming pools shall include all buildings, structures, equipment and appurtenances thereto.

**TDR BANK** -- A municipally established development transfer bank created to work in conjunction with the Burlington County Transfer of Development Rights Bank in order to encourage the transfer of development credits within the private market, provide for the acquisition of development credits in hardship circumstances and secure agricultural loans using TDR credits as collateral in conforming with the provisions of N.J.S.A. 40:55D-125. [Added 9-5-1995 by Ord. No. 1995-17]

**TDR DEVELOPMENT** -- A development located within the receiving zone which utilizes, to achieve a portion of its density, units obtained from credits or rights transferred from parcels of land located in the sending zone. [Added 9-5-1995 by Ord. No. 1995-17]

**TDR EASEMENT** -- A deed-like document recorded against the title of a parcel of land to create transferable development rights of credits. The document shall restrict the use of the parcel of land against which it is recorded in the fashion required by TDR easement form.<sup>EN(63)</sup> [Added 9-5-1995 by Ord. No. 1995-17]

**TOWER** -- Any ground or roof mounted pole, spire, structure or combination thereof that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communications purposes, including supporting lines, cables, wires, braces and masts. The term includes radio and television transmission towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. [Added 6-21-1999 by Ord. No. 1999-11]

**TOWER, MULTI-USER** -- A tower to which is attached the antennas of more than one commercial wireless telecommunications service provider or governmental entity. [Added 6-21-1999 by Ord. No. 1999-11]

**TOWER, SINGLE-USER** -- A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required by this chapter. [Added 6-21-1999 by Ord. No. 1999-11]

**TOWNHOUSE** -- One dwelling unit in a line of three or more attached dwelling units, with each dwelling unit extending from the ground to the roof and having individual outside entrances. No interior rooms or hallways shall be shared with another dwelling unit. [Amended 8-3-1992 by

Ord. No. 1992-6]

**TRANSFER OF DEVELOPMENT RIGHTS** -- A measure of the development potential of a parcel stated in unit terms. One development right equals the right to build one single-family detached dwelling or an equivalency. The term is synonymous with "TDR," "development right," "TDR credit" or "credit." [Added 9-5-1995 by Ord. No. 1995-17]

**UTILITY** -- Services such as, but not limited to, sewage treatment, water supply, gas, electric, telephone, and cable TV.

**VOCATIONAL SCHOOL** -- A secondary or higher education facility primarily teaching usable skills that prepares students for jobs in a trade, and meeting the state requirements as a vocational facility licensed by the Department of Education. [Added 8-21-2006 by Ord. No. 2006-12]

**WATER'S EDGE** -- The edge of running or standing water at the time of year when the depth to seasonal high water is at its shallowest (least) depth. [Added 9-5-1995 by Ord. No. 1995-17]

**YARD** -- Space unoccupied, except as permitted in this chapter, extending between any building and a lot line or street line. All "yard" dimensions shall be measured parallel to the horizon and at right angles to either a straight street line, lot line or building facade or perpendicular to the point of tangency of curved lines and facades. [Amended 8-3-1992 by Ord. No. 1992-6]

**YARD, FRONT** -- The area extending across the full width of a lot between the street line and the nearest point of the building to the street line, extending to the side lot lines from such point in lines parallel or concentric to the street line. On lots with multiple lot frontages, such as corner lots, the "front yard" standards shall apply to all lot frontages. [Amended 8-3-1992 by Ord. No. 1992-6]

**YARD, REAR** -- The area extending across the full width of a lot between the rear lot line and nearest point of the building to the rear lot line, extending to the side lot lines from such point in lines parallel or concentric to the street line. [Amended 8-3-1992 by Ord. No. 1992-6]

**YARD, SIDE** -- The area extending from the front yard to the rear yard and lying between each side lot line and the nearest point of the building to a side lot line. On corner lots, all yards not meeting the definition of a front yard shall be considered to be "side yards," and the "side yard" shall be measured from each side lot line to the nearest point of the building to a side lot line. [Amended 8-3-1992 by Ord. No. 1992-6]

**ZONING OFFICER** -- The officer designated by the Township Committee to administer the zoning ordinance<sup>EN(64)</sup> and issue zoning permits. [Amended 8-3-1992 by Ord. No. 1992-6]

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## ARTICLE III, General Provisions

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### § 130-4. Conditional uses.

- A. Application for a conditional use shall be made to the Land Development Board, which shall grant or deny the application after public hearing within 95 days of accepting a complete application or within such further time as may be consented to by the applicant. Notice of the hearing shall include reference to all matters being heard, including site plan and/or subdivision approvals. The Land Development Board shall act on the subdivision or site plan simultaneously with the conditional use application. Failure of the Land Development Board to act within the required time shall constitute approval. In reviewing the application, the Land Development Board shall review the number of employees or users of the property and the requirements set forth in this chapter and shall give consideration to all reasonable elements which would affect the public health, safety, comfort and convenience, such as but not limited to the proposed use(s), the character of the area, vehicular travel patterns and access, pedestrianways, landscaping, lighting, signs, drainage, sewage treatment, potable water supply, utilities and structural location(s) and orientation(s). All conditional uses require site plan approval. [Amended 1-20-2004 by Ord. No. 2004-1]
- B. The following standards shall apply to the conditional uses which are specifically permitted in Article VI of this chapter.
- (1) Historic architectural. The conditional uses cited in the H/A District are subject only to the parking requirements as a special condition, as noted in Article VI.
  - (2) Home occupation. See the standards set forth in § 130-36.
  - (3) Hospitals, philanthropic or charitable uses. These uses shall be permitted only on collector or arterial roads as defined in the Master Plan. They shall be situated on lots no less than five acres in size. The traffic patterns shall not involve the use of minor streets for direct access or egress. The use shall be effectively buffered from adjoining residences.
  - (4) Medical buildings and professional offices. The minimum lot size shall be 40,000 square feet. The use shall be permitted only on those lots which have frontage on and access limited to collector roads, as shown on the Township Master Plan, and the use shall be effectively buffered from adjoining residences. [Amended 4-17-1989 by Ord. No. 1989-6]

- (5) Quasi-public buildings and recreation areas. Included in this category are houses of worship, social organizations, service clubs and similarly community-oriented uses of a nonprofit nature. "Recreation areas" includes those which are similar in use to public recreation facilities, thereby excluding from this category commercial recreation areas. The minimum lot size shall be three acres; consideration shall be given to the effect of lighting or activity centers on nearby residences; and quasi-public buildings not associated with recreation areas shall be located on collector or arterial roads, unless designed as part of a comprehensive development where the location is clearly noted and properly related to residential uses, both existing and proposed; and the use shall be effectively buffered from adjoining residences.
- (6) Service stations. The minimum lot size shall be 20,000 square feet, and the use shall conform to the standards established in § 130-51 of this chapter.
- (7) Utility structures and facilities. When located in a residential zoning district, as noted in Article VI of this chapter, utility structures and facilities are restricted to those needed to provide direct service. Adequate fencing and screening of facilities not located in a building shall be required, but no structure or facility shall be provided to avoid uncontrolled access. No minimum lot size shall be required, but no structure or facility shall be located closer than 50 feet to a property line unless the structure is designed to look like a residence, in which case it shall conform as nearly as possible to the standards of the district in which it is located. All interior areas designed for potentially noisy activities shall be sufficiently sound-insulated or separated from adjacent residential structures to avoid any noise nuisance. In residential and commercial districts, all major facilities and storage shall be enclosed in a structure, where feasible.

**§ 130-5. Enforcement officers. [Amended 8-3-1992 by Ord. No. 1992-6]**

- A. The Zoning Officer shall administer and enforce the zoning provisions of this chapter and shall be responsible for issuing zoning permits. No zoning permit shall be issued unless the proposal complies with this chapter, including the floodplain regulations. A zoning permit shall be issued prior to the issuance of a construction permit by the Construction Official.
- B. No certificate of occupancy for a new use of an existing structure shall be issued unless there is an approved zoning permit. All changes in occupancy of an existing structure which do not involve residential uses shall require a zoning permit which shall certify that the use complies with the zoning laws of the Township. Prior to the issuance of a zoning permit for a change in occupancy, the Construction Official, shall issue a certificate of continued occupancy which certifies that the building, structure and premises conform with the Uniform Construction Code of the State of New Jersey.

- C. It shall be the duty of the Zoning Officer, with the advice of the Township Engineer, to enforce the provisions of subdivision and site plan approvals.
- D. A zoning permit shall be issued or denied within 10 working days of the date of a complete submission, and the work shall be commenced within 90 days after the issuance of the permit; otherwise, the permit shall be void. [Added 4-18-1994 by Ord. No. 1994-7; amended 7-6-2004 by Ord. No. 2004-24]

**§ 130-6. Fees. [Amended 5-4-1987 by Ord. No. 1987-9; 7-5-1988 by Ord. No. 1988-14; 4-17-1989 by Ord. No. 1989-6; 8-3-1992 by Ord. No. 1992-6]**

- A. Obligation to pay application fees and professional and consulting fees incurred during the course of review. Applicants submitting the applications set forth herein shall pay such application and escrow fees as are due and all reasonable costs for professional services, including engineering, legal, planning and other, incurred by the Township in connection with the review and approval by the Land Development Board, including review by any advisory Township committee or commission, such as the Historic Preservation Commission, of the applications set forth herein or by the Township Committee of any aspect thereof, including an appeal or a concept plan by such board and review to assure that the conditions of approval have been satisfied. Such professional and consulting services may be rendered by Township employees or consultants retained by the Township on a general basis or retained specially for an application by the board having jurisdiction or the Township. In conjunction with payment of such professional and consulting fees, the applicant shall make an escrow deposit in the amount and manner set forth herein and shall execute an agreement in a form provided by the Township obligating itself to pay such fees. The application fee is a flat fee to cover direct administrative expenses and is nonrefundable. In addition, any person proposing to submit an application, who first consults with the Township's Technical Advisory Committee (TAC), shall be required to pay for the services of the Township's administrative and professional staff, in an amount determined in accordance with the provisions of § 130-11 of this chapter. [Amended 11-21-1994 by Ord. No. 1994-20; 1-20-2004 by Ord. No. 2004-1]
- B. Amount of fees and escrow deposits due. Each applicant shall, prior to its application being deemed complete, submit to the Chief Financial Officer in cash or by certified check or money order the following sums as application fees and escrow deposits, together with a fully executed escrow agreement in the form provided by the Township. Where one application for development includes more than one approval request, the sum of the individual required fees shall be paid.
  - (1) Residential site plan and subdivision fees shall be as follows:

- (a) Informal/sketch plat/concept plan:
  - [1] Application fee: \$250.
  - [2] Escrow fee:
    - [a] Zero to 20 lots/units: \$100 per lot or unit.
    - [b] Twenty-one or more lots/units: \$2,000, plus \$50 per lot/unit in excess of 20 units.
- (b) Minor subdivision:
  - [1] Application fee: \$250.
  - [2] Escrow fee: \$300, plus \$200 per lot.
- (c) Preliminary site plan or major subdivision, up to 20 lots/units:
  - [1] Application fee: \$250.
  - [2] Escrow fee: \$1,000, plus \$100 per lot/unit.
- (d) Preliminary site plan or major subdivision, 21 to 50 lots/units:
  - [1] Application fee: \$375.
  - [2] Escrow fee: \$3,000, plus \$75 per lot/unit.
- (e) Preliminary site plan or major subdivision, 51 or more lots/units:
  - [1] Application fee: \$500.
  - [2] Escrow fee: \$5,250, plus \$50 per lot/unit.
- (f) Final site plan or major subdivision, up to 20 lots/ units:
  - [1] Application fee: \$150.
  - [2] Escrow fee: \$200, plus \$75 per lot/unit.
- (g) Final site plan or major subdivision, 21 to 50 lots/units:
  - [1] Application fee: \$150.
  - [2] Escrow fee: \$1,700, plus \$50 per lot/unit.
- (h) Final site plan or major subdivision, 51 or more lots/units:

- [1] Application fee: \$150.
  - [2] Escrow fee: \$3,200, plus \$25 per lot/unit.
- (2) Fees for nonresidential development application not involving new buildings shall be as follows:
- (a) Up to three lots:
    - [1] Application fee: \$250.
    - [2] Escrow fee: \$1,000.
  - (b) Four or more lots:
    - [1] Application fee: \$250.
    - [2] Escrow fee: \$1,000, plus \$250 per lot.
- (3) Fees for nonresidential development application involving additions or new buildings shall be as follows:
- (a) Preliminary site plan for less than 2,000 square feet:
    - [1] Application fee: \$250.
    - [2] Escrow fee: \$2,500.
  - (b) Preliminary site plan for 2,000 to 19,999 square feet:
    - [1] Application fee: \$250.
    - [2] Escrow fee: \$2,500, plus \$150 per 1,000 square feet of gross floor area in excess of 2,000 square feet.
  - (c) Preliminary site plan for 20,000 square feet or more:
    - [1] Application fee: \$250.
    - [2] Escrow fee: \$5,200, plus \$50 per 1,000 square feet of gross floor area in excess of 20,000 square feet.
  - (d) Final site plan for less than 2,000 square feet:
    - [1] Application fee: \$150.
    - [2] Escrow fee: \$1,500.



- (e) Final site plan for 2,000 to 19,999 square feet:
  - [1] Application fee: \$150.
  - [2] Escrow fee: \$1,500, plus \$100 per 1,000 square feet of gross floor area in excess of 2,000 square feet.
- (f) Final site plan for 20,000 square feet or more:
  - [1] Application fee: \$150.
  - [2] Escrow fee: \$3,300, plus \$25 per 1,000 square feet of gross floor area in excess of 20,000 square feet.
- (4) Fees for other submissions shall be as follows:
  - (a) Conditional use approval:
    - [1] Application fee: \$250.
    - [2] Escrow fee: \$750.
  - (b) Appeals of alleged error under N.J.S.A. 40:55D-70a, or any amendments or supplements thereto:
    - [1] Application fee: \$250.
    - [2] Escrow fee: \$250.
  - (c) Interpretations under N.J.S.A. 40:55D-70b, or any amendments or supplements thereto:
    - [1] Application fee: \$250.
    - [2] Escrow fee: \$250.
  - (d) Hardship and related variances under N.J.S.A. 40:55D-70c, or any amendments or supplements thereto:
    - [1] Application fee: \$150.
    - [2] Escrow fee: \$250.
  - (e) Use variances under N.J.S.A. 40:55D-70d, or any amendments or supplements thereto:
    - [1] Application fee: \$250.

- [2] Escrow fee: \$1,000.
- (f) Zoning permits for signs not submitted with site plans:
  - [1] Application fee: \$50.
  - [2] Escrow fee: \$150.
- (g) Zoning permits in conjunction with certificates of occupancy and all other zoning permits: [Amended 4-18-1994 by Ord. No. 1994-7]
  - [1] Application fee: \$25.
  - [2] Escrow fee: none.
- (h) Modifications of previously approved development applications without changes to lot coverage or gross floor area:
  - [1] Application fee: \$250.
  - [2] Escrow fee: \$500.
- (i) Modifications of previously approved development applications with changes to lot coverage or gross floor area:
  - [1] Application fee: \$250.
  - [2] Escrow fee: \$1,000.
- (j) List of persons within 200 feet:
  - [1] Application fee: \$10 or \$0.25 per name, whichever is greater.
  - [2] Escrow fee: none.
- (5) Fee schedule for Transfer Development Rights Ordinance (see § 130-62.1) shall be as follows: [Added 9-5-1995 by Ord. No. 1995-17]
  - (a) Application fees for all applications under the TDR Ordinance: \$125 per credit affected, plus \$250.
  - (b) Escrow fees:
    - [1] Engineer's fees: \$25 per credit affected.
    - [2] Attorney's fees: \$15 per credit affected.

[3] Planner's fees: \$15 per credit affected.

(c) All fees are cumulative.

C. Inspection fees shall be as follows: [Amended 11-21-1994 by Ord. No. 1994-20]

- (1) The applicant shall reimburse the Township for all reasonable inspection fees paid to the Municipal Engineer for the inspection of improvements; and the applicant shall deposit, for the inspection fees, a sum not to exceed, except for extraordinary circumstances, the greater of \$500 or 5% of the cost of improvements, which cost shall be based upon the performance bond calculation prepared by the Engineer in accordance with § 130-7B of this chapter.
- (2) For those developments for which the reasonably anticipated fees are less than \$10,000, the fees may, at the option of the applicant/developer, be paid in two installments. The initial amount deposited by the developer shall be 50% of the reasonably anticipated fees. When the balance on deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Municipal Engineer for inspection, the developer shall deposit the remaining 50% of the anticipated inspection fees.
- (3) For those developments for which the reasonably anticipated fees are \$10,000 or greater, these may, at the option of the developer, be paid in four installments. The initial amount deposited by a developer shall be 25% of the reasonably anticipated fees. When the balance on deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Municipal Engineer for inspection, the developer shall make additional deposits of 25% of the reasonably anticipated fees.
- (4) The Municipal Engineer shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit.

D. Miscellaneous.

- (1) If final total square footage is unknown, fees and escrows shall be based upon the maximum floor area permitted under Township zoning ordinances.
- (2) For site plans involving expansion, additions and modifications of existing buildings, fees and escrow deposits shall be calculated on the area of the expansion, addition or modification only.
- (3) Development review fees for either subdivision or site plan applications may be proportioned to stages of submittals as approved by the Land Development Board.

[Amended 1-20-2004 by Ord. No. 2004-1]

- (4) Unexpended escrow deposits for sketch plats and concept plans shall be credited against escrow deposits due upon the filing of an application for development.

E. Escrow deposits.

- (1) Within 45 days after the filing of an application for development, the appropriate board's designated official shall review the application to determine whether the escrow amounts set forth are adequate, including whether escrow fees should be charged for applications for which the escrow deposit is listed as "None Required." In conducting such review, the following criteria shall be considered:
  - (a) The presence or absence of public water or sewer servicing the site.
  - (b) Environmental considerations, including but not limited to geological, hydrological and ecological factors.
  - (c) The traffic impact of the proposed development.
  - (d) The impact of the proposed development on the existing aquifer or water quality.
  - (e) The impact on improvements which might require off-tract or off-site contributions agreements.
  - (f) The impact on open space, landscaping, woodlands and the like.
- (2) If additional sums are deemed necessary, the applicant shall be notified of the required additional amount and shall add such sum to the escrow within 10 days of receipt of such notice for additional sums. Each applicant shall, prior to the application being deemed complete, submit to the Chief Financial Officer in cash or by certified check or money order the amount of additional escrow deposit determined by the appropriate Board's designated official to be due in accordance with this subsection and shall complete all forms as required by the appropriate Board's designated official. The Board having jurisdiction may make the continued current payment of all escrow fees due and to be due from the applicant under this chapter a condition of the approval of any application.
- (3) Where the amount of the escrow deposit exceeds \$5,000, the money, until repaid or applied to the purposes for which it is deposited, including the applicant's portion of the interest earned thereon, except as otherwise provided herein, shall continue to be the property of the applicant and should be held in trust by the Township. Money deposited shall be held in escrow. The Township shall deposit said moneys in an approved lending or banking institution, in an account bearing interest at the minimum rate currently paid

by the institution or depository on time or savings deposits. The Township shall notify the applicant, in writing, of the name and address of the institution or depository in which the deposit is made and the amount of the deposit. The Township shall not be required to refund an amount of interest paid on a deposit which does not exceed \$100 for the year. If the amount of interest exceeds \$100, that entire amount shall belong to the applicant and shall be refunded to him by the Township annually or at the time the deposit is repaid or applied to the purposes for which it was deposited, as the case may be; except that the Township may retain for administrative expenses a sum equivalent to no more than thirty-three and one-third percent (33 1/3%) of that entire amount, which shall be in lieu of all other administrative and custodial expenses. In addition, all payments charged to the deposit shall be pursuant to vouchers from the Township's professionals stating the hours spent, the hourly rate and the expenses incurred. The municipality shall render a final accounting to the developer on the uses to which the deposit was put. Thereafter the municipality shall, upon written request, provide copies of the vouchers to the developer. The charge to the deposit shall be at the same rate as all other work of the same nature by the professional for the municipality. [Added 11-21-1994 by Ord. No. 1994-20]

- F. Payment of additional fees incurred during the course of review for which escrow deposit is insufficient. Upon the funds in the escrow account being reduced to 30% of the amount initially deposited, the appropriate Board's designated official shall, after notification by the Chief Financial Officer, forthwith bill the applicant for any charges for professional services, it being the intent of this subsection that such 30% be retained in the escrow account until any refunds are due. The appropriate Board's designated official shall also bill the applicant forthwith for any professional services covered by this section, whether or not funds have been refunded pursuant to this chapter. Payment is due within 15 days of receipt of such bill.
- G. Failure to pay amount due.
  - (1) If the applicant has failed to pay any amounts due under this chapter, the Township may:
    - (a) Stop construction until such amounts and penalties equal to an interest payment on unpaid bills of 1 1/2% per month, plus Township legal fees and collections charges necessary to collect any unpaid bills, are paid.
    - (b) Deny the issuance of any construction permits or certificates of occupancy if such amounts are due and payable.
    - (c) Deem any approval conditioned by the Board having jurisdiction on the applicant's payment of any amounts under this chapter to be null and void as though the Board having jurisdiction had denied such application on the date of conditional approval.

- (d) Through the Board having jurisdiction, deny the application.
- (2) In addition, all escrow charges which are due and owing shall become a lien on the premises with respect to which said charges are required and shall remain so until paid. Said overdue charges shall accrue the same interest from time to time as taxes upon real estate in the Township. The Township shall have the same remedies for the collection thereof with interest, costs and penalties as it has by law for the collection of taxes upon real estate. The applicant shall be responsible for all costs of collection of unpaid escrow fees, including attorneys fees at standard rates, and all costs.
- (3) The Board having jurisdiction may deny the application if the applicant has failed to pay any amounts due under this chapter.
- (4) In addition, no plat or site plan shall be signed nor shall any zoning permits, building permits, certificates of occupancy or any other types of permits be issued with respect to any approved application for development until all bills for reimbursable services, whether same be for escrows or inspection fees, have been received by the Township from professional personnel rendering services in connection with such application and payment has been approved by the governing body, unless the applicant shall have deposited with the Municipal Clerk an amount, agreed upon by the applicant and the municipal agency, likely to be sufficient to cover all reimbursable items; and upon posting said deposit with the Municipal Clerk, the appropriate maps or permits may be signed and released or issued to the developer. If the amount of the deposit exceeds the actual cost as approved for payment by the governing body, the developer shall be entitled to a return of the excess deposit, together with such interest as allowed by N.J.S.A. 40:55D-53.1; but if the charges submitted and approved by the governing body exceed the amount of the deposit, the developer shall be liable for payment of such deficiency, and, again, no zoning or building permits, certificates of occupancy or other permits shall be issued until said deficiency is satisfied. [Added 11-21-1994 by Ord. No. 1994-20]
- H. Unexpended escrow funds. All unexpended escrow funds shall be refunded to the applicant within a reasonable time after the last construction permit is issued or such earlier time as the Chief Financial Officer certifies that all professional services to be paid by escrow funds have been completed and billed. The refunding process will be in accordance with the guidelines and procedures established by the Division of Local Government in effect at that time. In no event, however, shall the application fees required pursuant to this section be refunded.
- I. Fee for inspection of constructive improvements. Each applicant shall pay all reasonable costs (including overtime charged by any professional) for the municipal inspection of the constructed site and off-site improvements for improvements not otherwise inspected pursuant to the Uniform Construction Code,<sup>EN(65)</sup> which inspection fee shall be calculated in

accordance with Subsection E(3), as to professional fees, and § 130-11 as to municipal administrative fees; and the applicant shall execute an agreement in a form provided by the Township obligating itself to make said payments. An escrow fund will be established with the Township before construction begins, and such fund shall be used to pay the fee and costs of professional and administrative services employed by the Township to inspect the construction. [Amended 11-21-1994 by Ord. No. 1994-20<sup>EN(66)</sup>]

- J. Deposit of escrow funds. The Chief Financial Officer shall deposit all escrow funds in accordance with N.J.S.A. 40:55D-53.1, or any amendments or supplements thereto, and shall charge the administration fee permitted thereunder to defray the cost of administering said account.

**§ 130-7. Guaranties and inspections.**

- A. No final plat shall be approved by the approving authority until all items determined to be in the public interest have either been installed or bonded. Those which have been installed shall have been inspected, certified and approved by the Township Engineer and accepted by the Township Committee and a maintenance guaranty filed and accepted by the Township Committee. Those items required to be bonded shall have been provided for by a performance guaranty accepted and approved by the Township Committee. No maintenance bond shall be accepted on any partially completed facility or for any item which has further 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 the standards of this chapter or other regulations shall be added to the performance guaranty.
- B. The applicant shall submit the performance guaranty or guaranties to the Township Engineer, Township Attorney and Township Committee for review and approval by resolution. Final plat submission shall not be made until the performance guaranties have been accepted and approved by the Township Committee. In the event that final approval is by stages or sections, the provisions of this section shall be applied by stage or section. [Amended 11-21-1994 by Ord. No. 1994-20]
  - (1) The performance guaranty shall consist of the following minimum components:
    - (a) Ten percent of said guaranty shall be by way of cash, except that the developer may, at his option, submit more than 10% of the performance guaranty in cash.
    - (b) In the event that the developer has chosen not to bond the entire amount of the guaranty by way of cash, then a minimum of 25% shall be by way of an irrevocable letter of credit issued in favor of the municipality, upon a form acceptable to the

Township Attorney. The letter of credit shall constitute an unconditional payment obligation of the issuer running solely to the municipality for an express initial period of time in the amount determined pursuant to the performance guaranty calculations made by the Township Engineer; shall be issued by a savings or banking institution authorized to do and doing business in the State of New Jersey; shall be for a period of time of at least one year; and shall permit the Township to draw upon the letter of credit if the obligor fails to furnish another letter of credit which complies with the provisions of the Municipal Land Use Law<sup>EN(67)</sup> 30 days or more in advance of the expiration date of said letter of credit, or such longer period in advance thereof as is stated in the letter of credit.

- (c) To the extent that any portion of the bonded improvements are not posted by way of cash or a letter of credit, the balance shall be posted by way of performance bond in which a developer shall be the principal and the surety shall be an acceptable surety company licensed to do business in the State of New Jersey and acceptable to the Township Committee. Any performance bond issued by a surety company shall be issued in the name of and executed by a representative of the developer on its behalf. In addition, at least one corporate officer, partner, member of a joint venture or other similar entity shall also sign the bond in his individual capacity. If the improvements have not been completed in accordance with the standards or within the stipulated time, but no longer than two years, unless otherwise extended by the Township Committee by resolution, the obligor and surety shall be liable thereon for the reasonable cost of completing the improvements. As a condition or as part of any such extension by the governing body the amount of any performance guaranty shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation, which cost shall be determined by the Municipal Engineer according to the method of calculation set forth at N.J.S.A. 40:55D-53.4 as of the time of the passage of the resolution.
- (2) If the required improvements are not completed or corrected in accordance with the performance guaranty or guaranties, the obligor and surety, if any, shall be liable thereon to the municipality for the reasonable cost of the improvements not completed or corrected, and the municipality may, either prior to or after the receipt of the proceeds thereof, complete such improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.
- (3) Any performance guaranty issued pursuant to this section shall be equal to an amount not to exceed 120% of the cost of installation, which cost shall be determined by the Municipal Engineer according to the method of calculation set forth at N.J.S.A. 40:55D-53.4 for improvements which the approving authority may deem necessary or



appropriate, including streets, grading, pavement, gutters, curbs, sidewalks, streetlighting, shade trees, surveyor's monuments, as shown on the final map and required by the Map Filing Law, N.J.S.A. 46:23-9.9 et seq., water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, erosion control and sedimentation control devices, public improvements of open space and, in the case of site plans only, other on-site improvements and landscaping. The Municipal Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guaranty, which itemized cost estimate shall be appended to each performance guaranty posted by the obligor.

- (4) The Township Engineer shall certify to the governing body that the principal has either satisfactorily installed the improvements in accordance with Subsections G and H of this section or that the developer has defaulted, which certification shall be the basis for the Township Committee's action in either accepting or rejecting the improvements, withholding approval or extending the time allowed for installation of the improvements.

C. Prior to construction, the developer shall arrange a preconstruction conference among the developer, contractor and Township Engineer. The Township Engineer shall be notified by registered mail by the developer at least 72 hours in advance of the start of construction. The cost of inspection shall be the responsibility of the developer, who shall make payment to the Township for said inspection fees in accordance with § 130-6C and I of this chapter and N.J.S.A. 40:55D-53h, and who shall further reimburse the Township for all the reasonable inspection fees by submitting a certified check or bank money order to the Township Clerk/Administrator. This fee shall be in addition to the amount of the performance guaranty and all application and other escrow fees as outlined in this chapter and shall be deposited initially in accordance with the schedule set forth in § 130-6C. Upon completion of the development and all inspections and at the request of the developer, the developer shall receive an accounting of the expended funds, and any unspent funds shall be returned to the developer, unless there is a deficiency in other moneys owed to the Township under this chapter, in which case said moneys shall be retained by the Township to satisfy said deficiencies. Moreover, should the initial deposit be insufficient to cover the inspection costs, the developer shall deposit additional sums, upon notice from the Township Clerk/Administrator, in the amounts and pursuant to the procedure set forth in § 130-6C. [Amended 11-21-1994 by Ord. No. 1994-20]

D. No work shall be done without permission from and inspection by the Township Engineer. No underground installation shall be covered until inspected and approved. The Township Engineer's office shall be notified after each of the following phases of the work has been completed so that he may inspect the work: road subgrade; curb and gutter forms; curbs and gutters; road paving (after each coat in the case of priming and sealing); drainage pipes and

other drainage structures before backfilling; shade trees and planting strips; street name signs; and monuments.

- E. All utility installations installed by utility companies shall not be subject to the inspection requirements or bonding.
- F. Occupancy permits will be issued only when required fire alarms, curbs, aprons, utilities, functioning water supply and sewage treatment facilities, gutters and other necessary storm drainage to ensure proper drainage of the lot and surrounding land, fine grading of lots, clearing of sight triangles, soil stabilization, including topsoil and seeding base coats for the street and driveway, and sidewalks are installed to serve the lot and structures for which the permit is requested. Streets shall not receive surface course paving until all heavy construction is completed. Shade trees shall not be planted until all grading and earthmoving is completed. A record plan of the as-constructed lot grading shall be provided to the Township Engineer by the applicant, showing the finished lot elevations at all building and property corners, significant low or high points on the lot and the direction of surface water flow. Such plan shall be prepared, signed and sealed by a licensed land surveyor. [Amended 12-18-1989 by Ord. No. 1989-16; 4-20-1998 by Ord. No. 1998-17]
- G. Request by obligor. [Amended 12-18-1989 by Ord. No. 1989-16; 11-21-1994 by Ord. No. 1994-20]
  - (1) Upon substantial completion of all required street improvements (except for the top course) and any appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the Township Committee, in writing, by certified mail addressed in care of the Township Clerk, that the Township Engineer prepare, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guaranty issued pursuant to Subsection B of this section, a list of all uncompleted or all unsatisfactorily completed improvements. If such a request is made, the obligor shall send a copy of the request to the Municipal Engineer. The request shall indicate which improvements have been completed and which improvements remain uncompleted in the judgment of the obligor. Thereupon the Municipal Engineer shall inspect all improvements covered by the obligor's request and shall file a detailed list and report, in writing, with the Township Committee, and shall simultaneously send a copy thereof to the obligor not later than 45 days after receipt of the obligor's request.
  - (2) The list prepared by the Township Engineer shall state, in detail, with respect to each improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of and remedy for the unsatisfactory state of each completed improvement determined to be unsatisfactory. The report prepared by the Municipal Engineer shall identify each

improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guaranty relating to the completed and satisfactory improvement, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guaranty pursuant to Subsection B of this section.

- (3) In case of any development street which is to be dedicated to the Township, the obligor shall employ the services of a testing laboratory to obtain cores of the street pavement, to test said cores for thickness, composition and density for each pavement material present and to provide a certified report of the results to the Township Engineer. The testing laboratory employed and the number and location of the cores shall be approved by the Township Engineer. [Added 9-16-1996 by Ord. No. 1996-12; amended 7-20-1998 by Ord. No. 1998-24]
- (4) In the case of a development storm sewer pipe system which is to be dedicated to the Township, the obligor shall: [Added 7-20-1998 by Ord. No. 1998-24]
  - (a) Employ a video inspection service to obtain closed-circuit color television examination of the interior of each and every pipe system and provide a color videotape record of the examination to the Township Engineer. The video inspection service provided and the format of the tape shall be approved by the Township Engineer.
  - (b) Prepare as-constructed plans and submit two sets to the administrative officer and send a copy to the Township Engineer.

H. Review by Township Committee. [Amended 11-21-1994 by Ord. No. 1994-20]

- (1) The Township Committee, by resolution, shall either approve the improvements determined to be complete and satisfactory by the Township Engineer or reject any or all of these improvements, upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guaranty relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guaranty pursuant to Subsection B of this section. Reductions shall first be made from the performance bond, letter of credit and cash components of the guaranty in the same proportions as they bear to the full amount of the guaranty. This resolution shall be adopted not later than 45 days after receipt of the list and report prepared by the Township Engineer. Upon adoption of the resolution by the Township Committee, the obligor shall be released from all liability, pursuant to its performance guaranty, with respect to those approved improvements except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved, provided that

30% of the amount of the performance guaranty posted may be retained to ensure completion and acceptability of all improvements.

- (2) If the Municipal Engineer fails to send or provide the list and report, as requested by the obligor pursuant to Subsection G of this section, within 45 days from receipt of the request, the obligor may apply to a court of competent jurisdiction, in a summary manner, for an order compelling the Township Engineer to provide the list and report within a stated time; and the cost of applying to the court, including reasonable attorneys fees, may be awarded to the prevailing party. If the governing body fails to approve or reject the improvements determined by the Municipal Engineer to be complete and satisfactory or reduce the performance guaranty for the complete and satisfactory improvements within 45 days from the receipt of the Township Engineer's list and report, the obligor may apply to a court of competent jurisdiction in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guaranty for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guaranty pursuant to Subsection B of this section; and the cost of applying to the court, including reasonable attorneys fees, may be awarded to the prevailing party.
  - (3) In the event that the obligor fails to complete the improvements within the time required under the guaranty or the approvals, or within any extensions thereof granted by the governing body, and the governing body is required to demand payment under the letter of credit and/or performance bond, the 10% cash shall be first applied to the bidding, engineering and legal costs associated with completing the improvements, and the remaining 90%, whether same be by way of cash, letter of credit or surety bond, shall thereafter be resorted to, if necessary, for the completion of the improvements and any additional bidding, engineering and legal costs associated therewith. In the event that the performance guaranty is insufficient to cover all of said costs, the developer/applicant shall remain liable for any deficiencies.
- I. If any portion of the required improvements is rejected, the approving authority may require the obligor to complete or correct such improvements; and, upon completion or correction, the same procedure of notification as set forth in this section shall be followed. [Amended 11-21-1994 by Ord. No. 1994-20<sup>EN(68)</sup>]
  - J. Maintenance guaranty. [Added 8-21-1995 by Ord. No. 1995-14]
    - (1) The maintenance guaranty required under Subsection A of this section shall be posted with the governing body for a period not to exceed two years after final acceptance of the improvements, in an amount not to exceed 15% of the cost of the improvements, which cost shall be determined by the Township Engineer according to the method of

calculation set forth at N.J.S.A. 40:55D-53.4, as supplemented and amended. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a maintenance guaranty to another governmental agency, no maintenance guaranty shall be required for such utilities or improvements. The right of any developer or applicant to appeal the Engineer's estimate for purposes of calculating the maintenance guaranty shall be governed by the provisions of N.J.S.A. 40:55D-53.4, as amended and/or supplemented.

- (2) Any maintenance guaranty posted hereunder shall consist of a minimum of 10% of the guaranty being posted in cash with the municipality and the balance by way of irrevocable letter of credit pursuant to the provisions of N.J.S.A. 40:55D-53.5, as amended, and/or a maintenance bond in a form acceptable to the Township Solicitor.
- (3) Whenever the Township is requested to accept dedication of properties to be maintained for detention or retention basin purposes which shall result in the Township having to expend funds in the future maintenance of such properties, the Township shall, unless otherwise determined by the Township Committee, require that the property owner dedicating such property post with the Township funds which will defray the estimated costs of maintenance for a ten-year period. [Added 7-10-2007 by Ord. No. 2007-11]
- (4) The Township Engineer shall calculate the maintenance cost. [Added 7-10-2007 by Ord. No. 2007-11]
- (5) The estimated maintenance cost contribution for the ten-year period shall be deposited with the Township Clerk at the time other maintenance guarantees are posted for the project or acceptance of the lot by the municipality, whichever shall occur first. [Added 7-10-2007 by Ord. No. 2007-11]

**§ 130-8. Permits.**

- A. See the provisions of § 130-5, "Enforcement officers."
- B. Building permit and certificate of occupancy fees shall be in accordance with the Uniform Construction Code.<sup>EN(69)</sup> [Amended 8-3-1992 by Ord. No. 1992-6]
- C. No zoning permit, building permit or certificate of occupancy shall be issued or approval granted by the approving authority if taxes or assessments for local improvements are due or delinquent on the property for which application is made.
- D. No footing or foundation construction shall be allowed to begin until an access road has been constructed (and approved by the Township Engineer) from the nearest existing improved public street to the site of the proposed footing or foundation. The access road shall be

passable for emergency vehicles in all weather conditions and shall be constructed of bituminous materials approved by the Township Engineer. [Added 4-17-1989 by Ord. No. 1989-6; amended 10-2-1995 by Ord. No. 1995-21]

- E. No zoning permits, building permits or certificates of occupancy shall be issued for more than 60% of the units to be constructed in a development, until essential improvements required of the developer shall have first been completed and approved by the governing body. "Essential improvements" shall mean and include the following: streets (except for final top course in sections where units remain to be constructed), grading, pavement, gutters, curbs, sidewalks, streetlighting, shade trees, berms, buffers, landscaping, surveyor's monuments, water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, erosion control and sedimentation control devices and public improvements of open space. In the case of site plans, site improvements shall be included in this list of "essential improvements." Nothing herein contained shall relieve the developer of the obligations to complete street work, access roads and water mains pursuant to § 130-8D of this chapter. [Added 11-21-1994 by Ord. No. 1994-20; amended 7-6-2004 by Ord. No. 2004-24]

#### **§ 130-9. Public hearings.**

The approving authority shall hold a public hearing on each application for development, except that minor and exempt subdivisions and site plans shall not require a hearing unless a variance or conditional use is part of the application. All public hearings shall follow the requirements of the Municipal Land Use Law.<sup>EN(70)</sup>

#### **§ 130-10. Violations and penalties.**

- A. In case of any violation of this chapter, the Township or any interested party may institute appropriate action to prevent such violation; to restrain, correct or abate such violation; to prevent the occupancy of said structure or land; and to prevent any illegal act, conduct, business or use in or about such premises. Any person convicted of such violation(s) before a court of competent jurisdiction shall be subject to a penalty not to exceed imprisonment in the county jail, or in any place provided by the municipality for the detention of prisoners, for a term not to exceed 90 days or by a fine not to exceed \$1,000 or by a period of community service not exceeding 90 days. Each day in which a violation occurs shall be deemed to constitute a separate and distinct violation for purposes of this chapter. [Amended 11-21-1994 by Ord. No. 1994-20]
- B. If before final subdivision approval any person as owner or agent transfers or sells or agrees to transfer or sell any land which forms a part of a subdivision for which municipal approval

is required, except pursuant to an agreement expressly conditioned on final subdivision approval, such persons shall be subject to a penalty not to exceed \$1,000, and each lot disposition so made shall be a separate violation.

C. In addition, the Township may institute and maintain a civil action:

- (1) For injunctive relief.
- (2) To set aside and invalidate any conveyance made pursuant to such a contract of sale if a certificate of compliance has not been issued in accordance with N.J.S.A. 40:55D-56, or any amendments or supplements thereto.
- (3) In the event that the Township institutes and maintains any such civil action as authorized in this section, it shall be entitled to reimbursement for all reasonable attorneys fees and costs incurred in the institution and prosecution of said civil action. In order to avail itself of this remedy, the Township must, except in cases of emergency, first give notice to the alleged violator of the Township's intention to institute suit at least 15 days prior to the filing of suit. Said notice shall be by regular and certified mail to the address last shown on the tax records and any other records that might be available to the Township to identify the proper address of the person charged with the violation. Said fifteen-day period shall be utilized to afford the person so charged with the opportunity to eliminate, correct or abate the violation. [Added 11-21-1994 by Ord. No. 1994-20]

D. 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 two years after the date of the recording of the instrument of transfer, sale or conveyance of said land or within six years, if unrecorded.

E. See §§ 130-8, "Permits," and 130-5, "Enforcement officers."

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## **ARTICLE IV, Development Review Procedures and Plat Details**

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**§ 130-11. Referral to Technical Advisory Committee. [Amended 8-3-1992 by Ord. No. 1992-6; 11-21-1994 by Ord. No. 1994-20]**

A. In all matters requiring development application review, the Land Development Board shall

be required to refer any class of applications to the Technical Advisory Committee (TAC) for review and for the preparation of reports and recommendations to the Board. The TAC shall determine whether or not the application is complete, and shall do so in coordination with the Township Clerk, TAC shall meet directly with applicants. Reports and recommendations of the TAC shall be considered by the Board, but they shall not be binding on said Board. [Amended 8-18-1997 by Ord. No. 1997-17; 1-20-2004 by Ord. No. 2004-1]

- B. The Township shall charge a reasonable fee for the services of the members of the Technical Advisory Committee (TAC). In the event that the members of the TAC are Township professionals, said fees shall be charged in accordance with the provisions of § 130-6E of this chapter. In the event that the members of the TAC are paid employees or officials of the Township (exclusive of members of the governing body), then the Township shall be reimbursed by the applicant/developer for the services and time of those paid employees and officials in the following fashion: the hourly rate of each employee and/or official engaged in the review of development applications before the Technical Advisory Committee shall be calculated exclusive of health and other benefits, PERS and/or PFRS benefits, etc., but inclusive of any overtime incurred as a result of the review of said application for development by said TAC members. Before any application is submitted to the TAC for review, the Township Clerk/Administrator shall calculate an estimate of the amount of time anticipated to be expended in said review, and the prospective applicant shall submit to the Township a sum of money equal to said calculation to serve as an escrow for the time expended by said TAC members. In the event that the actual fees and costs for time incurred is less than the escrow, said money shall be reimbursed to the developer; in the event that said fees or costs exceed the amount of the estimate, the deficiency shall be paid by the developer before any formal applications for development are considered by the Township.

**§ 130-12. Conditional approval.**

The applicant shall comply with reasonable conditions imposed by the approving authority for design, dedication, improvements and the use of the land to conform to the physical and economical development of the municipality and to the safety and general welfare of the future residents/owners in the development and the community at large. Where review or approval by any other public body 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 from the public body or approval due to its failure to submit a report within a statutory time period. If the report is timely and is negative or attaches mandatory conditions, the original action by the municipal approving authority shall be void and the application shall be denied, and a new resolution shall be adopted which considers the public body's report.



**§ 130-13. Exceptions from requirements.**

The approving authority, when acting upon applications, shall have the power to grant such exceptions from the subdivision and site plan requirements as may be reasonable and within the general purpose and intent of the provisions of subdivision/site plan review and approval if the literal enforcement of one or more provisions of this chapter is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

**§ 130-14. Exemption from regulations.**

Divisions of land not considered a "subdivision," as defined in the Municipal Land Use Law,<sup>EN(71)</sup> shall be exempt from compliance with the requirements of this chapter.

**§ 130-15. Simultaneous review.**

The approving authority shall have the power to act upon subdivisions, conditional uses, variances and/or site plans simultaneously without the developer making further application or the approving authority holding further hearings. The longest applicable time period for action by the approving authority shall apply. Whenever approval of a conditional use or variance is requested in conjunction with a site plan or subdivision, notice of the hearing shall include reference to the request for the conditional use or variance. See § 130-4, entitled "Conditional uses."

**§ 130-16. Site plan approval required. [Amended 1-20-1998 by Ord. No. 1998-4; 12-21-1998 by Ord. No. 1998-35]**

- A. Site plan approval is required for all development which does not meet the definition of "site plan, exempt" set forth in § 130-3. "Development" as described herein shall mean the division of a parcel of land into two or more parcels, the construction, reconstruction, renovation, conversion, structural alteration, relocation or enlargement of any building or other structure or of any mining excavation or landfill, or any use or change in the use of any building or other structure, or land or extension of use of land.
- B. Notwithstanding the foregoing, where a nonresidential property experiences a change in use as described in § 130-3, definition of "site plan, exempt," Subsection (5), said site plan review shall include only those requirements set forth at § 130-21A and B(1) through (6), as well as the following items:

- (1) A landscaping plan showing proposed buffer areas, ground cover, fencing, signs, street furniture, recreation areas, shrubbery, trees and other landscaping features, including the location, number, species and caliper of plant materials and trees to be located on the property and a description of the shrubbery, lawn area, ground cover, rock formations, existing foliage and planting of coniferous or deciduous trees 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 on the site.
  - (2) A description of sidewalks and curbing to be constructed, or if existing sidewalks and curbing are in need of repair, then a plan for repair of same.
  - (3) The size, height, location, arrangement and use of all proposed buildings, structures and signs, whether existing or proposed to be renovated, altered or modified, as well as both existing rooflines and any changes to be made regarding same.
- C. Any and all site plan approvals provided under this section shall be conditioned upon continued compliance by the applicant with the Township's Commercial Property Maintenance Code<sup>EN(72)</sup> and other applicable local ordinances.
- D. Notwithstanding the foregoing, where a property has been subjected to site plan review under § 130-21 A, B, C, and/or D or pursuant to Subsection B above within a three-year period, said property shall be eligible for exemption by the Township Committee (with input from the Township Engineer, or Consulting Engineer where appropriate) from the provisions of this section unless the Township's Zoning Officer or Code Enforcement Officer finds violations of the Township's Commercial Property Maintenance Code and/or the original and/or subsequent site plan approvals, in which case the Township's Zoning Officer and/or Code Enforcement Officer will have authority to deny permits for reuse of the property and direct the property owner to the Land Development Board for review under this chapter. The discretion of the Zoning Officer and Code Enforcement Officer shall be limited to consideration of compliance with the aforementioned criteria. [Amended 1-20-2004 by Ord. No. 2004-1]

**§ 130-17. Submission of informal plat for minor and major developments. [Amended 1-20-2004 by Ord. No. 2004-1]**

An informal review of a concept plan is optional at the request of the developer. The purpose will be to review concepts to assist the applicant in the preparation of subsequent plans. No decision will be made, no hearings held and no formal action taken. Neither the developer nor the Land Development Board shall be bound by this informal review.

**§ 130-18. Submission of preliminary plat for major developments.**

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

A. The filing procedure shall be as follows:

- (1) The developer shall submit to the administrative officer at least 10 calendar days prior to the public meeting of the approving authority 15 copies of the preliminary plat at the required scale, plus 15 copies of a representative layout of the development reduced to a page size of either 8 1/2 inches by 11 inches, 8 1/2 inches by 14 inches or 11 inches by 17 inches; five completed copies of the application form and preliminary plat check list; two completed copies of the County Planning Board application form and evidence of submission to the county; three copies of any existing or proposed protective covenants, deed restrictions and easements or a statement that none exist or are proposed; three copies of the drainage calculations and soil erosion and sediment control data as required in Article V; the applicable fees, including inspection fees if improvements are to be installed prior to final approval; and certification by the Tax Collector that all taxes are paid to date.
- (2) A corporation or partnership applying to subdivide a parcel of land into six or more lots or for a variance to construct a multiple dwelling of 25 or more family units or for a site to be used for commercial purposes shall list the names and addresses of all stockholders or individual partners owning at least 10% of its stock of any class or at least 10% of the interest in the partnership, as the case may be. If a corporation or partnership owns 10% or more of the stock of a corporation or 10% or greater interest in a partnership, subject to the above disclosure, that corporation or partnership shall list the names and addresses of its stockholders holding 10% or more of its stock or 10% or greater interest in the partnership, as the case may be, and this requirement shall be followed by every corporate stockholder or partner in a partnership until the names and addresses of the noncorporate stockholders and individual partners exceeding the ten-percent ownership criteria established in the Municipal Land Use Law<sup>EN(73)</sup> have been listed. No application for development shall be approved which does not comply with this requirement. The penalty for concealment shall be as outlined in the Municipal Land Use Law.
- (3) The application shall include a complete environmental impact report or a written request for a waiver of any or all of its requirements. If such a waiver is requested, the approving agency shall either approve, approve in part or disapprove the request.

B. Action by the approving authority.

- (1) The administrative officer shall be authorized to reject an application as incomplete. The approving authority shall determine whether the submission is a complete application upon recommendation from the administrative officer and in consideration of reports from professionals retained by the approving authority. If rejected, the applicant shall be notified, in writing, of the deficiencies within 45 days of submission. (See definition of "complete application.")
- (2) If the application is not rejected as incomplete by the administrative officer, a public hearing date shall be set and notice given.
- (3) The administrative officer shall submit one copy of the plat and supporting data to the Township Engineer and any other agency or person as directed by the approving authority. If any agency or person fails to report to the approving authority within 30 days, the plat shall be deemed to have been approved by them. In the event of disapproval, such report shall state the reasons therefor.
- (4) Subdivisions shall be approved or denied within the time limits and under the conditions set forth in the Municipal Land Use Law. Further time may be consented to by the developer. [Amended 8-3-1992 by Ord. No. 1992-6]
- (5) Site plans shall be approved or denied within the time limits and under the conditions set forth in the Municipal Land Use Law. Further time may be consented to by the developer. [Amended 8-3-1992 by Ord. No. 1992-6]
- (6) If substantial amendments in the layout of improvements are required and the plan has been the subject of a hearing, an amended application shall be submitted and proceeded upon as in the case of the original application.
- (7) The approving authority may approve, disapprove or approve with conditions the application. The decision shall be in writing and shall be sent to the applicant and the newspaper as required by the Municipal Land Use Law. If granted preliminary approval, the Chairman and Secretary (or the Vice Chairman or Assistant Secretary in their absence, respectively) and Township Engineer shall sign each page of the plat indicating the approval. If conditionally approved, the plat shall not be signed until all conditions are corrected on the plat. If all corrections are not completed within 90 days of the conditional approval, the conditional approval shall lapse.
- (8) Preliminary approval shall, except as provided in Subsection B(8)(d) below, infer upon the applicant the following rights for a three-year period from the date on which the resolution of preliminary approval is adopted. [Amended 11-21-1994 by Ord. No. 1994-20]
  - (a) The general terms and conditions on which preliminary approval was granted shall

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

- (b) 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.
- (c) The applicant may apply for and the approving authority may grant extensions on such preliminary approval for additional periods of at least one year but not to exceed a total extension of two years, provided that if the design standards have been revised by ordinance, such revised standards may govern.
- (d) In a development of 50 acres or more, the approving authority may grant the rights and obligations referred to in Subsection B(8)(a), (b) and (c) above for a period longer than three years as determined to be reasonable taking into consideration:
  - [1] The number of dwelling units and nonresidential floor area permissible under preliminary approval.
  - [2] The potential number of dwelling units and nonresidential floor area of the section(s) awaiting final approval.
  - [3] Economic conditions.
  - [4] The comprehensiveness of the development.
- (e) Whenever the Land Development Board grants an extension of preliminary approval pursuant to the foregoing sections, and preliminary approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date. [Amended 1-20-2004 by Ord. No. 2004-1]
- (f) The Land Development Board shall grant an extension of preliminary approval for a period determined by the Board but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the required approvals. A developer shall apply for the extension before what would otherwise be the expiration date of

preliminary approval or the 91st day after the developer receives the last legally required approval from other governmental entities, whichever occurs later. An extension granted pursuant to this subsection shall not preclude the Land Development Board from granting an extension pursuant to Subsections C and D of this section. [Amended 1-20-2004 by Ord. No. 2004-1]

- (9) Expiration of preliminary approval; extensions. [Added 2-17-2004 by Ord. No. 2004-4]
- (a) Failure of an applicant or developer to submit an application for final approval within three years of the date on which the resolution of preliminary approval was adopted, plus any extensions granted beyond that initial period, shall result in the expiration and invalidation of the preliminary approval. If the rights referred to in § 130-18B(8)(d) are granted for a period of time longer than three years, such approval shall expire as set forth in the resolution of approval unless extensions are granted beyond that initial period. No application for final approval of a subdivision or site plan shall be considered unless it has been submitted prior to the expiration date of the preliminary approval as set forth herein.
  - (b) The applicant may apply for and the Board may grant extension on such preliminary approval for additional periods of at least one year, but not to exceed a total extension of two years as set forth in N.J.S.A. 40:55D-49(c), provided that if the design standards have been revised by ordinance, such revised standards may govern.

**§ 130-19. Submission of final plat for minor and major developments.**

A. The filing procedure for major developments shall be as follows:

- (1) Prior to expiration of the preliminary approval, the developer shall file with the administrative officer, at least 10 calendar days prior to the meeting of the approving authority, one Mylar, two cloth and 10 paper prints of the plat, plus 15 copies of the plat reduced to a page size of either 8 1/2 inches by 11 inches, 8 1/2 inches by 14 inches or 11 inches by 17 inches, and four completed copies of the application form for final approval with supporting exhibits and final plat checklist, the performance guaranty approved by the governing body, including off-tract improvements, if any, any maintenance guaranties, the applicable fees, certification by the Tax Collector that all taxes are paid to date, and certification by the Soil Conservation District pursuant to the Soil Erosion and Sediment Control Act, Chapter 251 of the Laws of 1975,<sup>EN(74)</sup> as amended.
- (2) Staging plan. For any area to be developed in stages, the developer shall submit a total development plan in such detail as required by the approving authority with a staging

plan showing the following:

- (a) The anticipated date for commencing construction of each stage. The staging shall be such that if development of the site were discontinued after the completion of any stage, the developed portion would comply with all requirements of this chapter and be provided with adequate drainage and utility systems.
  - (b) The improvements to be completed in each stage prior to application for certificates of occupancy shall be shown. The plan should demonstrate that subsequent stages will have minimum adverse effects upon occupied buildings on the site and adjoining properties.
  - (c) Written descriptions of the construction program shall indicate the manner in which noise, soil erosion, glare, air pollution, fire hazards, safety hazards and the routes to be traveled by heavy construction equipment to and from, as well as within, the site in order to minimize damage to roads.
- (3) Where utility services are to be extended to the site, the final plat shall be accompanied by letters signed by a responsible officer of the utility which provides gas, telephone and electricity that has jurisdiction in the area, approving the utility installation and stating who will construct the facility.
- (4) The final plan shall be accompanied by a statement by the Municipal Engineer that all utilities and other improvements (both in the development and off tract) are in their exact location and elevation and that the drainage, erosion, stormwater control and excavation plans have been inspected and the interests of the Township and of nearby properties are fully protected. Those portions of improvements already installed shall be identified and the Engineer shall state that the developer has either:
- (a) Installed all improvements in accordance with the requirements of this chapter and the preliminary plat approval, with a maintenance guaranty accompanying the final plat; or
  - (b) Posted a performance guaranty that has been approved by the Township Committee.
- B. Filing procedure for minor developments. The developer shall file with the administrative officer, at least 10 calendar days prior to the meeting of the approving authority, 15 paper prints of the plat, four completed copies of the application form, two completed copies of the County Planning Board application form and evidence of submission to the county, the applicable fees, certification by the Tax Collector that all taxes are paid to date and certification by the Soil Conservation District pursuant to the Soil Erosion and Sediment Control Act, Chapter 251 of the Laws of 1975.<sup>EN(75)</sup>

C. Action by the approving authority.

- (1) The administrative officer shall be authorized to reject an application as incomplete. The approving authority shall determine whether the submission is a complete application upon recommendation from the administrative officer and in consideration of reports from professionals retained by the approving authority. The approving authority shall grant final approval to a complete application meeting the standards of the Map Filing Law, N.J.S.A. 46:23-9.9 et seq., or any amendments or supplements thereto, the standards of this chapter and, in the case of major developments, the terms of preliminary plat approval. In the case of a major development, minimal deviations from the conditions of preliminary plat approval necessitated by a change of conditions beyond the control of the developer may be permitted without submission of another application for preliminary approval.
- (2) If the application is found to be incomplete, the administrative officer shall notify the applicant, in writing, of the deficiencies within 45 days of submission. If accepted as complete, the administrative officer shall send the applicant a certificate of completeness indicating the effective date of the submission of a complete application. Final approval shall be granted or denied within 45 days of such effective date or within such further time as consented to by the applicant. An approved final plat shall be signed by the Chairman and Secretary of the approving authority (or the Vice Chairman or Assistant Secretary in their absence, respectively). Failure to act within the period prescribed shall constitute final approval, and a certificate to that effect shall be issued on request of the applicant.
- (3) Whenever County Planning Board action is required by N.J.S.A. 40:27-6.3 or 40:27-6.6, or any amendments or supplements thereto, the approving authority shall condition any approval upon timely receipt of a favorable report from the County Planning Board or upon its failure to act within the required time period.
- (4) Except as provided in Subsection C(4)(a) below, approval of a minor subdivision shall expire 190 days from the date on which the resolution of municipal approval is adopted unless within such period a plat in conformity with such approval and the provisions of the Map Filing Law (N.J.S.A. 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 Municipal Engineer and the Municipal Tax Assessor. Any such plat or deed accepted for such filing shall have been signed by the Chairman and Secretary of the Land Development Board. In reviewing the application for development for a proposed minor subdivision, the Land Development Board may be permitted by ordinance to accept a plat not in conformity with the Map Filing Law, provided that if a 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. [Amended 11-21-1994 by Ord. No. 1994-20; 1-20-2004 by Ord. No. 2004-1]

- (a) The Land Development Board may extend the one-hundred-ninety-day period for filing a minor subdivision plat or deed pursuant to this subsection, if the developer proves to the reasonable satisfaction of the Land Development Board that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Land Development Board. The developer may apply for the extension either before or after what would otherwise be the expiration date.
  - (b) The Land Development Board shall grant an extension of minor subdivision approval for a period determined by the Board, but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The developer shall apply for the extension before what would otherwise be the expiration date of minor subdivision approval or the 91st day after the developer receives the last legally required approval from other governmental entities, whichever occurs later.
- (5) Final approval of a major subdivision shall expire 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 190 days from the date of the signing of the plat. The Land Development Board may extend the ninety-five-day or the one-hundred-ninety-day period if the developer proves to the reasonable satisfaction of the Land Development Board that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and that the developer did apply promptly for and diligently pursue the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Land Development Board. The developer may apply for an extension either before or after the original expiration date. No subdivision plat shall be accepted for filing by the County Recording Officer until it has been approved by the Land Development Board as indicated on the instrument by the signature of the Chairman and Secretary of the Land Development Board or a certificate

has been issued as to the failure of the approving authority to act within the required time. The signatures of the Chairman and Secretary shall not be affixed until the developer has posted the required guaranties. If the County Recording Officer records any plat without such approval, the recording shall be deemed null and void, and upon request of the municipality, the plat shall be expunged from the official records. It shall be the duty of the County Recording Officer to notify the Land Development Board, in writing, within seven days of the filing of any plat, identifying such instrument by its title, date of filing and official number. [Amended 11-21-1994 by Ord. No. 1994-20; 1-20-2004 by Ord. No. 2004-1]

- (6) Granting of final approval. [Amended 11-21-1994 by Ord. No. 1994-20; 1-20-2004 by Ord. No. 2004-1]
  - (a) The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer pursuant to N.J.S.A. 40:55D-49, whether conditionally or otherwise, shall not be changed for a period of two years after the date on which the resolution of final approval is adopted; except that in the case of a major subdivision the rights conferred by this subsection shall expire if the plat has not been duly recorded within the time period provided in N.J.S.A. 40:55D-54. If the developer has followed the standards prescribed for final approval, and in the case of a subdivision has duly recorded the plat as required, the Land Development Board may extend such period of protection for extensions of one year but not to exceed three extensions. Notwithstanding any of the provisions of the Municipal Land Use Law<sup>EN(76)</sup> or this chapter, the granting of final approval terminates the period of preliminary approval, pursuant to § 130-18(8)(c) and (d) of this chapter and N.J.S.A. 40:55D-49, for the section granted final approval.
  - (b) Whenever the Land Development Board grants an extension of final approval pursuant to either the foregoing section or § 130-19C(7) below and final approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.
  - (c) The Land Development Board shall grant an extension of final approval for a period determined by the Board, but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently approved these approvals. A developer shall apply for the extension before what would otherwise be the expiration date of final approval or the

91st day after the developer receives the last legally required approval from other governmental entities, whichever occurs later. An extension granted pursuant to this subsection shall not preclude the Land Development Board from granting an extension pursuant to Subsection A or § 130-19C(7) of this chapter.

- (7) In a planned development of 50 acres or more, a conventional subdivision or a site plan of 150 acres or more, the approving authority may grant the rights referred to in Subsection C(6) above for a period of time longer than two years as determined to be reasonable and may grant an extension of final approval for such additional period of time as determined to be reasonable, both periods of time taking into consideration:
  - (a) The number of dwelling units and nonresidential floor area permissible under final approval.
  - (b) The number of dwelling units and nonresidential floor area remaining to be developed.
  - (c) Economic conditions.
  - (d) The comprehensiveness of the development.
- (8) The developer shall supply sufficient copies of the approved final plat so that the administrative officer can distribute one copy to each of the following: the applicant, the Township Clerk/Administrator, the Tax Assessor, the Land Development Board and any other agency or person directed by the approving authority; and, in the case of a major development, shall supply one translucent, cloth or Mylar copy to the Township Engineer.
- (9) Nothing herein contained shall prohibit the approving authority from imposing, as a condition to approval, a time limit within which construction of improvements contained on the final plat or plan must be completed. In no event, however, shall the period of time imposed by the approving authority exceed the statutory periods of protection from zoning changes set forth in §§ 130-18 and 130-19 of this chapter and N.J.S.A. 40:55D-46.1, 40:55D-47, 40:55D-49, 40:55D-50 or 40:55D-52. [Added 11-21-1994 by Ord. No. 1994-20]
- (10) Expiration of final approval; extensions. [Added 2-17-2004 by Ord. No. 2004-4]
  - (a) All final major subdivision and final major site plan approvals shall expire two years from the date on which the resolution of approval is adopted, plus any extensions. Failure of an applicant or developer to obtain building permits for final major site plans or to file the final major subdivision plat for which such final approval was granted within two years of the date on which the resolution of final approval was

adopted, plus any extensions granted beyond that initial period, shall result in the expiration and invalidation of the final approval. If the rights referred to in § 130-19C(6) or C(7) are granted for a period of time longer than two years, such approval shall expire as set forth in the resolution of approval unless extensions are granted beyond that initial period. Notwithstanding the provisions of this section, a subdivision approval shall expire as provided in § 130-19C(4) or C(5), as the case may be, should the applicant fail to comply with the provisions of the approval and the Map Filing Law (N.J.S.A. 46: 23-9.9 et seq.) as set forth in those sections.

- (b) The applicant may apply for and the Board may grant extension on such final approval for additional periods of at least one year, but not to exceed a total extension of three years, as set forth in N.J.S.A. 40:55D-52, provided that, if the design standards have been revised by ordinance, such revised standards may govern.

**§ 130-20. Plat design standards for subdivisions.**

- A. Plat conformity. All applications shall be submitted in plat form conforming to the submission requirements. All plats shall be drawn by a land surveyor, and all drawings of improvements shall be prepared by a professional engineer, each bearing the signature, embossed seal, license number and address of the preparer. In addition, if the drawings are prepared with Computer Aided Drafting (CAD) software, the applicant shall supply a digital file of each plan on a 3.5-inch floppy diskette of the proposed project in Digital Exchange Format (DXF) or AutoCad (DWG) format, except that applications submitted for informal discussions under provisions of this chapter applicable to the same are exempt from this requirement. [Amended 1-19-1999 by Ord. No. 1999-3]
- B. Minor subdivision plat for final approval.
  - (1) The plat shall be clearly and legibly drawn and based on an actual survey certified by a land surveyor licensed in New Jersey.
  - (2) The plat shall be drawn on a graphic scale not less than one inch equals 100 feet.
  - (3) The plat shall show the existing and proposed lots with dimensions shown to one-tenth (0.1) foot and the area of each lot to the nearest square foot.
  - (4) The plat shall show the area of the original tract.
  - (5) The plat shall show the existing lot lines to be eliminated.
  - (6) The plat shall show the sight triangles as required by this chapter.
  - (7) Contours at two-foot intervals shall be shown for all lots less than five acres in size after

subdivision.

- (8) The plat shall show the approximate location of existing structures and uses.
- (9) The plat shall show all streams, lakes and drainage rights-of-way; the location of drainage structures; the approximate location of the one-hundred-year flood hazard areas; the location of wooded areas; and, for lots which will be less than five acres after subdivision, the location of isolated trees with a diameter of six inches or more measured five feet above ground level.
- (10) When on-lot water supply or sewage disposal systems are proposed, percolation tests and soil logs shall be submitted for each lot in the approximate location of the proposed septic tank. The plat shall show the proposed water supply and septic tank locations for each proposed lot.
- (11) The plat shall show the Tax Map sheet, block and lot numbers for the tract and all adjacent lots; a title including the words "Minor Subdivision Plat for Final Approval"; North arrow; space for the application number; and the date of the original drawing and each revision.
- (12) The plat shall contain a key map with North arrow, showing the subdivision and its relation to surrounding areas, at a scale of not less than one inch equals 2,000 feet.
- (13) The plat shall show the zoning district(s).
- (14) The plat shall show the name, address, signature and phone number of the owner, applicant and person preparing the plat.

C. Preliminary subdivision plat.

- (1) The plat shall be clearly and legibly drawn and based on an actual survey certified by a land surveyor licensed in New Jersey.
- (2) The plat shall be drawn on a graphic scale not less than one inch equal 50 feet.
- (3) The sheet sizes shall be no larger than 30 inches by 42 inches. If more than one sheet is required to show the entire subdivision, a composite map no larger than 30 inches by 42 inches shall show the entire subdivision and identify the sheet on which each section is shown.
- (4) The plat shall contain a key map with North arrow, showing the entire subdivision in relation to surrounding areas, including the names of principal roads and at a scale of not less than one inch equals 2,000 feet.
- (5) The plat shall show the title block with the name of the subdivision; the name of the

municipality; the Tax Map sheet, block and lot number; the date of preparation and most recent revision; North arrow; the names, addresses, phone numbers and signatures of the owner, applicant and person(s) who prepared the plat(s), including the seal of the latter; and space for the application number.

- (6) The plat shall indicate the names of all property owners within 200 feet of the development.
- (7) The plat shall show tract acreage to nearest one-hundredth of an acre; the number of new lots; each lot line dimension to the nearest foot; and each lot area to the nearest square foot.
- (8) The plat shall show the existing and proposed contours at two-foot intervals. All elevations shall be related to a bench mark noted on the plan and, wherever possible, based on United States Geological Survey mean sea level datum.
- (9) The plat shall show the location of existing natural features, including soil types, slopes exceeding 10%, wooded areas and the location of individual trees outside wooded areas having a diameter of six inches or more measured five feet above ground level. Soil types shall be based on United States Soil Conservation Service data.
- (10) The plat shall show the existing and proposed streams, lakes, ponds and marsh areas, accompanied by the following maps and drawings:
  - (a) When altering or filling a stream, approval of the New Jersey Division of Water Resources.
  - (b) Watercourses.
    - [1] Cross sections and profiles of watercourses showing the one-hundred-year floodplain, top of bank, normal water level and bottom elevations at the following locations:
      - [a] At one-hundred-foot intervals, but at no less than two locations.
      - [b] At fifty-foot intervals for 300 feet upstream and downstream of any existing or proposed culvert or bridge.
    - [2] When watercourses are to be altered, erosion control during construction and typical ditch sections and profiles shall be shown.
  - (c) The total upstream acreage in the drainage basin of any watercourse running through or adjacent to a development, including a watershed map developed from United States Geological Survey sheets.

- (d) All one-hundred-year floodplains.
- (e) All existing or proposed drainage and conservation easements.
- (f) The location, extent and water level of all ponds within the development and no further than 200 feet from the development.
- (g) Plans and computations for storm drainage systems, including the following:
  - [1] The existing or proposed storm sewer system showing size, profile and slope of the lines, direction of flow and the location of each catch basin, inlet, manhole, culvert and headwall.
  - [2] The location and extent of any proposed dry wells, groundwater recharge basin, detention basin, flood control devices, sedimentation basins or other water conservation devices.
- (11) The plat shall show plans, cross sections, center-line profiles, tentative grades and details of proposed and existing utilities and street rights-of-way, including the type and width of street pavement, curbs, sidewalks, bike routes, shade trees and all utilities. At intersections, the sight triangles, radii of curblines, crosswalks, curb ramps and street sign locations shall be shown. Final street naming may be deferred.
- (12) The plat shall show the names, locations, widths and purpose(s) of existing and proposed easements and other rights-of-way in the development and within 200 feet. The text of any deed restriction in the development shall be included.<sup>EN(77)</sup>
- (13) The plat shall show all lot lines that will remain, those proposed and those to be eliminated and all setback lines with dimensions. Any lot(s) to be dedicated to public use shall be identified. Each block and lot shall be numbered as assigned by the Tax Assessor.
- (14) All existing structures to remain shall be shown with their proposed use and front, rear and side yard setbacks, and structures of historic significance shall be identified.
- (15) Utility plans shall be included, showing feasible connections to existing utility systems. If private utilities are proposed, they shall comply with all Township, county and state regulations. If service will 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. When on-lot water or sewage disposal is proposed, the proposed locations of the wells and septic systems for each lot, with results of percolation tests, shall be submitted. The plat shall show the results of acceptable and failed percolation tests with soil logs on each proposed lot at a site appropriate for the location of a septic filter field. If the percolation test is doubtful, the approving authority

may require additional percolation test(s). The plat shall show the following data: the date of the test(s), location of each test, slope of the land, cross section of the soil to a depth of at least 10 feet below the bed of the septic field, groundwater level, rate of percolation and weather conditions prevailing at the time of each test and for the preceding 48 hours. The test(s) shall be performed at the applicant's expense by a licensed professional engineer.

(16) The plat shall show zoning district(s).

(17) The plat shall include provisions for the handling of solid waste and recyclable materials.  
[Amended 8-3-1992 by Ord. No. 1992-6]

D. Final subdivision plat.

(1) The plat shall be clearly and legibly drawn, based on an actual survey certified by a land surveyor licensed in New Jersey and prepared in compliance with the Map Filing Law, N.J.S.A. 46:23-9.9 et seq., or any amendments or supplements thereto.

(2) The plat shall be drawn on a graphic scale not less than one inch equals 50 feet.

(3) The sheet sizes shall be no larger than 30 inches by 42 inches. If more than one sheet is required to show the entire subdivision, a composite map no larger than 30 inches by 42 inches shall show the entire subdivision and identify the sheet on which each section is shown.

(4) The following data shall be included, except the plat to be filed with the County Recording Officer need only contain the data required for filing with the county. All other data may be submitted on separate sheets.

(a) Signature blocks for the approving authority, Township Engineer and other endorsements required by law.

(b) The Township boundary line if within 200 feet of the tract being subdivided; street names; all lot and easement lines and the location of all monuments with accurate dimensions, bearing or deflection angles and radii, arcs and chord bearings, with the lengths of all curves, all based on an actual survey by a land surveyor licensed to practice in the State of New Jersey; minimum building setback lines; and the areas of each lot to the nearest square foot. All dimensions, both linear and angular, of the exterior tract boundaries shall be based on and calculated from surveyed traversing which shall have an apparent error of field closure of 1:10,000 or better and shall be corrected by accepted balancing methods to final errorless closure.

(c) Block and lot numbers, as approved by the Tax Assessor, and all street numbers as



specified by the approving authority.

- (d) The title of plat, the name of the Township, the date of the survey, the date(s) of the original plat and all revisions and the application number.
  - (e) The location and description of existing and proposed monuments. [Added 8-3-1992 by Ord. No. 1992-6]
- (5) The final plat shall be accompanied by the following:
- (a) A copy of the preliminary plat revised to show all conditions and changes required at the time of preliminary approval.
  - (b) A statement that the applicant is agent or owner of the land, or that the owner has been given consent to the development.
  - (c) Appropriate local, county and state approvals.

**§ 130-21. Plat design standards for site plans.**

- A. Plat conformity and waivers. All applications shall be submitted in plat form drawn by a licensed engineer or registered architect authorized to practice in the State of New Jersey, bearing the signature, seal, license or registration number and address of the professional preparing the plat, except that plats submitted under the informal discussion provisions and plats of minor site plans are exempt from this requirement. In addition, if the drawings are prepared with Computer Aided Drafting (CAD) software, the applicant shall supply a digital file of each plan on a 3.5-inch floppy diskette of the proposed project in Digital Exchange Format (DXF) or AutoCad (DWG) format, except that applications submitted for informal discussions, provisions and minor site plans are exempt from this requirement. [Amended 1-19-1999 by Ord. No. 1999-3]
- B. Minor site plan for final approval.
- (1) The plan shall be clearly and legibly drawn at a scale no smaller than one inch equals 50 feet.
  - (2) The plan shall show the lot area and lot dimensions.
  - (3) The plan shall show the approximate location of existing buildings, paved areas and setbacks of existing buildings from front, side and rear lot lines.
  - (4) The plan shall show the North arrow, key map at a scale of one inch equals 2,000 feet and the zoning district(s) in which the lot is located.

- (5) The plan shall show the proposed buildings, building additions and facade changes.
- (6) The plan shall show the existing and proposed parking areas, showing parking spaces and access drives; loading areas; on-site vehicular circulation; sight triangles; fire lanes; approximate on-site or on-tract stormwater facilities; and water and sewer service.

C. Preliminary site plan plat.

- (1) The plat shall be clearly and legibly drawn at a scale no smaller than one inch equals 50 feet.
- (2) The plat shall show lot lines certified by a New Jersey licensed land surveyor.
- (3) The sheet size shall be no larger than 30 inches by 42 inches. If one sheet is not sufficient to show the entire plan, a composite shall show the entire development with reference to each sheet.
- (4) The plat shall show the North arrow.
- (5) The plat shall show the zone district(s).
- (6) The plat shall show the date of the original drawing and each amendment.
- (7) The plat shall show the existing and proposed streets and street names.
- (8) The plat shall show the existing and proposed contours at two-foot intervals within the tract and extending 100 feet beyond any building, paved area or graded area under review.
- (9) The plat shall show the title of the plan.
- (10) The plat shall show streams.
- (11) The plat shall show the total lot area, lot coverage, building coverage and gross floor area to the nearest square foot and as a percent of the site and existing and proposed setbacks from the street line and all other property lines.
- (12) The plat shall show the total parking spaces provided, the total parking spaces required under the terms of this chapter, the location of parking spaces and access drives, the total loading spaces provided, the total loading spaces required under the terms of this chapter and the location of loading spaces and access drives.
- (13) The plat shall contain a key map giving the general location of the site within the Township; and a separate map showing the site in relation to the remaining lands of the owner.

(14) The plat shall contain provisions for the handling of solid waste and recyclable materials.  
[Added 8-3-1992 by Ord. No. 1992-6]

D. Site plan information for preliminary and final approval. In addition to the information called for in Subsection C above, each site plan shall be designed to comply with Articles IV, V and VI and be accompanied by an environmental impact report unless waived in whole or in part by the approving authority. In addition, any application for a proposed development that will generate substantial vehicular traffic, including developments involving 100 or more dwelling units or more than 300 parking spaces, shall require the submission of a Traffic Impact Statement report unless waived in whole or in part by the approving authority.  
[Amended 2-1-1999 by Ord. No. 1999-4]

(1) Building and use plan.

(a) The plan shall show the size, height, location, arrangement and use of all proposed buildings, structures and signs, including architect's scaled elevations of the front, side and rear of any structure and sign.

(b) Existing structures shall be identified either to remain or to be removed.

(c) A written description of the proposed use(s) of nonresidential buildings shall be provided, including the number of employees, the proposed number of shifts to be worked and the maximum number of employees on each shift.

(d) Anticipated expansion plans incorporated in the building design shall be shown. Floor plans shall be submitted. In apartment and townhouse projects, the number of dwelling units, by type, shall be shown.

(2) Circulation plan. This plan shall show access streets by name, acceleration/deceleration lanes, curbs, access points to public streets, sight triangles, traffic channelization, easements, fire lanes, driveways, parking and loading spaces, pedestrian walks, bikeways and related facilities for the movement and storage of goods, vehicles and persons. Sidewalks shall be shown along expected paths of pedestrian travel between major points of interest. Any expansion plans shall show feasible parking and loading expansion. Anticipated truck and tractor-trailer traffic shall be described.

(3) Natural resources and landscaping plans. This plan shall show existing and proposed wooded areas, buffer areas including the intended screening devices, berms, seeded and/or sodded areas, ground cover, retaining walls, fencing, signs, street furniture, recreation areas, shrubbery, trees and other landscaping features. It shall show the location and type of man-made improvements and the location, number, species and caliper of plant material and trees to be located on the tract. All areas not covered by buildings or paved surfaces shall be landscaped utilizing combinations such as

landscaped fencing, shrubbery, lawn area, ground cover, rock formations, contours, existing foliage and the planting of coniferous and or deciduous trees as in the shade tree list set forth in the buffer section of this chapter<sup>EN(78)</sup> 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 as well as to assure that the capacity of the drainage system is sufficient to handle water from the site and contributing upstream areas.

- (4) Facilities plan. This plan shall show the existing and proposed locations of all drainage and stormwater runoff facilities; open space; common property; fire, gas, electric, telephone, sewerage and water line locations; lighting; and solid waste collection and disposal methods. Proposed grades, sizes, capacities and materials to be used for facilities installed by the developer shall be shown for the appropriate facilities. Installations by utility companies need only show their locations on the plat. All easements shall be shown and copies of legal documentation that support the granting of an easement by the owner of an off-tract lot shall be included. All proposed lighting shall include the direction, angle and height of each source of light. All utilities shall be installed underground. All required state and federal approvals for environmental considerations shall be submitted prior to preliminary approval or be a condition of approval. The method of sewage treatment shall be shown and percolation tests from sufficient locations on the site to allow a determination of adequacy shall be included where on-site treatment is proposed. Such plans shall be reviewed by the Board of Health and/or Township Engineer as directed by the approving authority with recommendations to the approving authority. All public services shall be connected to an approved public utilities system where one exists.

- E. Final site plan plat. The final plat shall follow preliminary site plan requirements but include all changes required as a condition of preliminary approval.

**§ 130-21.1. As-built requirements. [Added 8-1-2005 by Ord. No. 2005-20]**

The submission of as-built drawings is required for all developments where storm drainage improvements are proposed. The drawings shall be in the form established by the Township Engineer consistent with accepted engineering practices. The cost of such drawings shall be included in performance guarantee estimates and performance guarantees and shall be considered part of the cost of installation of such improvements. The as-built drawings shall be provided to the Township, reviewed and approved by the Township Engineer prior to final release of any

performance guarantee, consistent with the provisions of N.J.S.A. 40:55D-53.

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## **ARTICLE V, Design and Performance Standards**

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### **§ 130-22. Conformance to standards; land character.**

- A. All developments shall conform to design standards encouraging sound development patterns within the Township. Where an Official Map or Master Plan have been adopted, the development shall conform to them.
- B. Character of the land. Land identified in the Master Plan and/or natural resources inventory as environmentally critical and unsuitable for and intended development due to flooding, improper drainage, shallow depth to water table, steep slopes, utility easements or similar features shall not be designed for development unless adequate and acceptable methods are formulated to eliminate the problem.
- C. Any lot or dwelling unit lawfully existing as a result of a preliminary or final subdivision approval or certificate of occupancy approved as of August 1, 2002, shall continue to be governed by the zoning regulations in effect at the time of said approval, as set forth in Subsections C, E, F, G and H of § 130-71. [Added 8-19-2002 by Ord. No. 2002-8]

### **§ 130-23. Accessory buildings and structures. [Amended 8-3-1992 by Ord. No. 1992-6; 10-4-1993 by Ord. No. 1993-12; 4-18-1994 by Ord. No. 1994-3; 10-19-1998 by Ord. No. 1998-28; 10-16-2000 by Ord. No. 2000-20; 7-6-2004 by Ord. No. 2004-24; 10-17-2005 by Ord. No. 2005-26; 12-18-2006 by Ord. No. 2006-21]**

Prior to the construction or placement of an accessory building or structure, a zoning permit shall be issued by the Zoning Officer.

- A. Setback. Any accessory building attached to a principal building is part of the principal building and shall adhere to the yard requirements for the principal building. Accessory structures located on corner lots shall be required to be set back a minimum of 30 feet from the street other than the street upon which the principal building is facing; except that for zoning districts where the front yard setback is greater than 60 feet the accessory structure setback shall be no less than 50% of the front yard setback distance.
- B. Height and area. The number of accessory buildings and structures shall not exceed two per lot in Residential and Rural Agricultural Districts, they shall not exceed 18 feet in height and

in the aggregate they shall occupancy no more than the equivalent of 25% of a required rear yard or 900 square feet, whichever is smaller, except that swimming pools and agricultural and horticultural buildings on farms shall not be bound by these requirements.

- C. Location. An accessory building or structure or use shall be placed in the side or rear yard only. On a corner lot, it shall be set back from all streets to comply with the actual setback of the principal building.<sup>EN(79)</sup>
  
- D. Fuel storage tanks. Aboveground fuel storage tanks on single-family detached residential properties shall be permitted in the side or rear yard only, and they shall conform with the setback requirements for accessory buildings as set forth in the Schedule of Limitations,<sup>EN(80)</sup> except that they may be located within 15 feet of the principal building. Aboveground fuel storage tanks shall be screened from view from the street, and they shall conform in all respects to the provisions of the State Fire Prevention Code, the Uniform Construction Code of New Jersey and any other applicable codes. Aboveground fuel storage tanks located on nonresidential or multifamily residential sites shall be considered as a part of site plan review, and to the extent feasible, they shall be adequately screened and placed in the side or rear yard areas of the site. Fuel storage tanks installed in the ground on single-family detached lots shall not be restricted as to location. Fuel storage tanks installed in the ground on all other residential properties and on nonresidential sites shall be required to obtain site plan approval for the location of the tanks.
  
- E. Keeping of farm animals. Accessory structures for the keeping of farm animals shall be permitted only on farms or on single-family residential lots of six acres or more in the Rural Agricultural District. Where such parcels adjoin single-family residential lots of less than six acres, such accessory structures for farm animals shall be set back from the adjoining single-family residential lot a minimum of 100 feet.
  
- F. Outdoor displays: tents or tent-like structures.
  - (1) Tents or tent-like structures associated with temporary, unusual or promotional commercial events, such as grand openings, fire sales, going-out-of-business sales, etc., shall be permitted in the B-2 Zoning District subject to the following terms and conditions:
    - (a) The tent or tent-like structure must be located on the premises of the business operating said tent, such that the utilization of the tent is accessory to the principal operation of the business.
    - (b) No tent shall be erected for longer than 14 days, and no property shall be permitted to erect such a tent on more than two occasions in a calendar year with a minimum of six months between the erection of such tents.

- (c) No such tents shall be placed in a location which will obstruct traffic flow, impede traffic sight lines, interfere with vehicular or pedestrian traffic or cause a reduction of greater than 10% in the number of parking spaces associated with and related to the premises of the business sponsoring, operating and/or conducting said tent activities and/or tent sale, nor shall any tent or tent-like structure be placed in any fire lane or no parking zone.
- (d) No tent shall be erected without the owner or operator of the same having first secured a permit from the Township Zoning Officer.
- (e) Applications for permits for temporary tents as permitted under this subsection shall be in writing and include the following information:
  - [1] The name, address and telephone number of the applicant.
  - [2] If the owner of the premises is not identical to the applicant, then the name, telephone number and address of the owner along with proof of the owner's consent to the erection of said tent or tent-like structure.
  - [3] A drawing, photograph, diagram or other visual description of the tent or tent-like structure for which permission is sought.
  - [4] A detailed drawing showing the proposed location of said tent or tent-like structure, in conjunction with and in relation to the outbounds of any buildings, sidewalks, driveways, curbs, parking lots or other structure within 100 feet of said proposed tent location.
  - [5] A detailed description of the nature of the activities to be conducted in said tent or tent-like structure and the hours of operation for the same.
  - [6] The description of the nature of the materials of which said tent or tent-like structure is to be constructed.
  - [7] A general description of the methods and means of constructing and removing said structure.
- (f) Each permit application shall be accompanied by a fee in the amount of \$25.
- (g) No such tent or tent-like structure shall be larger than 40 feet in width, 80 feet in length and 20 feet in height, and no such structure shall exceed 45,000 cubic feet in total interior dimension.
- (h) Zoning Officer review. Each application for a permit for said tent or tent-like structure shall be reviewed by the Zoning Officer. In making the determination as to

whether to issue said permit, the Zoning Officer shall consult with the local Fire Official, from whom a separate permit must also be secured under the Uniform Fire Code, and the Traffic Safety Officer and shall consider, among other things, the location of the proposed tent or tent-like structure in conjunction with surrounding buildings, structures, sidewalks, curbs and parking areas; the impact of the structure upon adjacent parking areas; the impact of the same upon traffic flow, sight triangles and vehicular and pedestrian traffic; hours of operation; aesthetics; the nature of the materials to be used to construct said tent or tent-like structure, said consideration to be in the context of health, safety and welfare concerns only; and such other considerations as the Zoning Officer deems appropriate in order to allow him to formulate a reasoned determination based upon public health, safety and welfare considerations.

- (2) Performance bond. Each applicant shall post with the Township Administrator a cash performance guaranty to insure compliance with the provisions of this subsection and to insure that upon the conclusion of the time frame for which the permit is issued the sign and/or tent or tent-like structure shall be removed. As to tents and tent-like structures, the performance guaranty shall be in the amount of \$500. As to signs, the guaranty shall be, on a per-event basis, \$100 for each sign. Said moneys shall be held by the municipality until the end of the time period for which permission is granted. In the event that the applicant fails to remove the signs within 12 hours of the end of the last calendar day of the time frame for which the permit was issued, all performance guaranties shall be forfeited.
- (3) Fines and penalties. In addition to the forfeiture provisions of Subsection G(2) above, any person, partnership, corporation or other legal entity found to have violated the provisions of this Subsection G, or any article, section or paragraph hereof, shall be liable, at the discretion of the Municipal Magistrate, for a fine not to exceed \$1,000 per occurrence or 90 days of community service or 90 days' incarceration, or some combination thereof.

G. A tennis court area may be located in the rear yard areas only and shall be surrounded by a fence a maximum of 10 feet in height. The tennis court area is to be set back from any side or rear lot line a distance of at least 50 feet. The incorporation of an appropriate landscape buffer, per § 130-26, surrounding the tennis court area and approved by the Township Landscape Architect is required. Lighting associated with the tennis court area is prohibited unless the applicant directs the lighting directly onto the tennis court playing surface and substantial spillover is avoided. Light spillage of more than 0.2 footcandles onto adjacent properties shall be prohibited. The objective of these lighting specifications is to minimize undesirable off-premises effects. The lighting standards per § 130-38 must be met.



- H. Garages and carports for not more than three vehicles may be constructed on a single lot. The garaging, storing or parking of commercial vehicles over three-fourth ton on any properties, private roads or public streets in all residential districts is prohibited; provided, however, that nothing herein shall prohibit the parking of a commercial vehicle for such reasonable time as may be required in the normal course of pickup and delivery service. Owners, lessees, occupants and other persons responsible for or knowingly permitting violation of this subsection shall be guilty of such violation as will the owner or user of any vehicle so parked, garaged or stored. Vehicles designed and used for agricultural purposes are exempted from these requirements. Not more than one commercial registered trailer, mobile home or vehicle owned or used by the resident shall be permitted in a residential zone, provided that the vehicle is located in the rear yard and adequate buffering § 130-26 is provided. This provision shall not be deemed to limit the number of commercial cars or trucks used in conjunction with a permitted agricultural use. A garage shall not be used for commercial purposes in residential districts. Regardless of capacity, only one private garage, architecturally compatible, whether attached or unattached, shall be permitted per residential dwelling.

**§ 130-24. Apartments, townhouses and other multifamily designs.**

Site plan approval and public or private central water supply and a central sanitary sewer system are required.

- A. Each overall development shall have a compatible architectural and landscaping theme with variations in design to provide attractiveness to the development. Each project shall specify how each of the following considerations has been incorporated in the overall plans: landscaping techniques; building orientation to the site and to other structures; topography; natural features such as wooded areas, drainage courses, soil conditions and topographic relief; and building design features such as varying unit widths, staggering unit setbacks, providing different exterior materials, changing rooflines and roof designs, altering building heights and changing types of windows, shutters, doors, porches, colors and vertical or horizontal orientation of the facades, singly or in combination. In the case of housing built to satisfy the needs of low- or moderate-income households, specific cost-saving features shall be described in the submission, and there shall be no requirement imposed for architectural variation unless it can be accomplished without added cost to the household.
- B. Structure alignment. [Amended 9-5-1995 by Ord. No. 1995-19]
- (1) Structures may be in any alignment meeting the yard requirements and the following maximum lengths:
- (a) One hundred fifty feet on one plane;

- (b) The lesser of 50 feet or the width of two dwelling units along a building facade without a structural break or an offset of at least three feet, and rooflines shall be varied; and
  - (c) Two hundred fifty feet along the center line, provided that the building can fit within a square which is no greater than 150 feet per side.
- (2) Townhouses shall have not fewer than three nor more than six units in one overall structure. Garden apartments shall have no more than eight units in one overall structure. See § 130-40 for low- and moderate-income housing.
- C. At least one story of each dwelling unit shall be higher than the finished grade along the front of the structure. [Amended 9-5-1995 by Ord. No. 1995-19]
- D. Density. That portion of a tract developed with garden apartments shall not exceed a net density of 12 units per acre and, for townhouses and other multifamily types, six units per acre. [Amended 1-21-1997 by Ord. No. 1997-1]
- E. At least 20% of the total land area of the development shall be dedicated to open space and recreation area. The Land Development Board shall establish a schedule of improvement of the open space and recreation areas, as appropriate, and said schedule shall call for the bonding of all such improvements prior to the issuance of any building permits and for the completion of all such improvements prior to the issuance of building permits for more than 25% of all the dwelling units in the development. Where the development consists of multiple stages or sections within one overall general development plan or preliminary approval, no more than 10% of the dwelling units shall have permits issued prior to bonding of all such improvements; and until such improvements are completed, building permits may be issued for only 35% of all the dwelling units in the development. All required open space and recreation areas shall be improved for the purposes intended as shown on the plan. [Amended 9-5-1995 by Ord. No. 1995-19; 1-20-2004 by Ord. No. 2004-1]

**§ 130-25. Bicycle paths. [Amended 9-5-1995 by Ord. No. 1995-19; 12-6-1999 by Ord. No. 1999-24]**

Pursuant to the Township's Master Plan amendments for bicycle and pedestrian circulation adopted by the Planning Board in 1999, bicycle paths shall be required as a form of linkage between adjoining residential developments, between schools and residential neighborhoods and between shopping areas and surrounding streets to expand the circulation opportunities for both pedestrians and bicyclists. Bicycle paths shall be constructed in accordance with the provisions of the Master Plan, and shall generally follow the Bicycle Circulation Map attached hereto and made a part hereof as Exhibit A. Lanes shall either be separated from motorized vehicular traffic

or shall be part of a share the road circulation plan, as outlined below. Unless otherwise provided herein, bikeways shall be a minimum of six feet wide and shall have a minimum four inches of crushed stone and a two-inch FABC course. Where bike paths intersect a street, the curbing shall be ramped for access to street grade. Bicycle paths shall be delineated and defined as follows:

A. Pedestrian/bicycle shared system (bike lanes).

- (1) "Pedestrian/bicycle shared lanes" are facilities that are separated from the motorized vehicular traffic and may be located in a highway right-of-way or an independent right-of-way. Benefits of providing these transportation facilities include:
  - (a) Provision of inviting places to travel.
  - (b) Freedom from conflict with automobiles.
  - (c) Provision of additional circulation options.
  - (d) Creating a meaningful recreational and aesthetic experience.
- (2) The circulation plan for a shared system is created for linking adjacent residential developments, recreational areas and for areas where on-the-road travel is considered dangerous. The paved width recommended for a two directional bicycle path is 10 feet. A minimum of two feet width graded area should be maintained adjacent to both sides of the pavement. The vertical clearance obstructions shall be a minimum of eight feet.

B. Share the road. The following proposed levels of travel occur within the existing or proposed motor vehicle travel way. Pavement widths represent a minimum design treatment for accommodating bicycle traffic. The widths as provided for in this section shall be based upon providing sufficient pavement for shared use of a roadway for motor vehicle and bicycles.

- (1) Roadway shoulder designation. The shoulder designation is desirable when the roadway meets the required width and a separate delineated area for use by bikes is preferred by the approving authority. Shoulders delineated for bicycle use can increase a bicyclist's confidence in the avoidance of conflict with passing motor vehicles. The delineated shoulders shall always be one-way facilities and carry bicycle traffic in the same direction as adjacent motor vehicle traffic. All shoulders shall be appropriately marked with striping and well signed in accordance with state standards.
- (2) Shared lane. A shared lane is the standard width travel lane that is used by both motor vehicles and bicyclists. Considerations in the selection of pavement width include traffic volume, speed, site distance, number of trucks and larger vehicles and grade. The roadways identified on Exhibit A attached hereto are roadways that are most conducive to accommodating a shared lane, based upon existing physical limitations on the roadway and the application and analysis of the aforementioned criteria. Shared bicycle

lanes shall be required along main collector roads within the transfer of development rights receiving zones. These lanes shall be provided especially for those roads which traverse interior sections of the communities and provide links between Crispin Road and Creek Road and adjacent communities outside of the TDR receiving area.

- (3) In the event that it is determined, in the Board's discretion, that the installation of a bikeway is inappropriate for a particular development ("development" being defined as set forth in N.J.S.A. 40:55D-2), the developer will be required to contribute to a Bikeway Fund in the Township of Lumberton. The Bikeway Fund shall be created for the installation and maintenance of bike paths elsewhere throughout the Township. It shall be comprised of contributions to be made by developers and based on an amount equal to the approximate cost of said bikeways, to be determined by the Township Engineer.

**§ 130-26. Buffers. [Amended 8-3-1992 by Ord. No. 1992-6]**

Buffer areas are required between residential and nonresidential development; and, for the purposes of this provision, agricultural uses shall be considered to be nonresidential. They are also required between multifamily or townhouse development and areas zoned, developed or proposed for single-family dwellings. Off-street parking and loading areas for six or more vehicles which lie in a front yard shall also provide a buffer area. Buffer areas shall be established in accordance with the following standards:

- A. Where a buffer is required along a side or rear property line, a strip of land at least 20 feet wide shall be designated as a buffer area. Buffer areas shall adjoin residential property lines and be of uniform width. In no case shall the width of the buffer be required to exceed 20% of the lot width or depth. If the resulting buffer width based on a percentage of the lot width or depth is less than 20 feet, the applicant may be required to erect and landscape a six-foot-high visual barrier of plantings or a landscaped earthen berm parallel to the lot line and set back a distance appropriate for the landscaping treatment. Buffer areas between parking/loading areas and streets shall be at least 15 feet wide.
- B. Buffer areas shall be maintained and kept clean of all debris, rubbish, weeds and tall grass by the owner. Any screen planting shall be maintained permanently, and any plant material which does not live shall be replaced within one year or one growing season.
- C. No structure, activity, storage of materials or parking of vehicles shall be permitted in a buffer area except access drives from public streets and sidewalks.
- D. Plantings. [Amended 2-1-1999 by Ord. No. 1999-4]
  - (1) A buffer area shall be planted and maintained by the owner to conceal parking and

loading areas, to eliminate the glare of vehicle lights throughout the year and to screen the building from the adjoining residential areas. The screen shall consist of a variety of evergreen trees and shrubs, such as white spruce, Norway spruce, white pine, Douglas fir or other species acceptable to the Township Planner/Landscape Architect or Engineer. Trees shall be planted in a staggered double row, with spacing in each row not to exceed 10 feet. Evergreen trees shall be a minimum of five feet high when planted, they shall be balled and burlapped, and the lowest branches shall be not more than one foot above the ground. In areas where established vegetation is to be incorporated in the buffer area, supplemental plantings may be required to achieve the desired screening results. If the approving authority finds these supplemental plantings may not grow satisfactorily, stockade fence(s) six feet high shall be erected in the buffer area.

- (2) All buffer areas shall be planted and maintained meeting the following requirements:
  - (a) The preservation of natural wooded tracts shall be an integral part of all site plans and subdivisions and may be calculated as part of the required buffer area, provided that the growth is of a density acceptable to the Township Planner/Landscape Architect or Engineer.
  - (b) Shrubs and hedges used in buffer planting shall be at least three feet in height when planted and shall be of such density as will obscure, through all seasons, the glare of automobile headlights emitted from the premises.
  - (c) All plant material not surviving for at least two years shall be replaced.
  - (d) Buffer plantings shall be interrupted only at points of vehicular and pedestrian access and provide for a clear sight triangle.
- E. The approving authority shall have the power to waive any of the buffer requirements if it determines that an adequate buffer can be provided in less than 20 feet while maintaining the purposes of this section. In considering any waiver request, the approving authority shall review the proposed plat and the standards and purposes for buffers considering the location and setback of buildings and parking areas; outdoor illumination; topographic features of the area; existing features such as trees and streams; the efficiency, adequacy and safety of the proposed layout of driveways, streets, sidewalks and paths; the adequacy and location of existing buffer areas; the proposed uses; and similar features.
- F. A landscape buffer shall be provided along the rear and side lot lines for all community/power retail center establishments. [Added 2-1-1999 by Ord. No. 1999-4]
- G. A buffer planting within the required front yard shall be provided for all community/power retail center establishments. No structure or activity shall be permitted within the required front yard setback except for access drives. The required landscaping within this area shall

conform to the standards as set forth within this section. [Added 2-1-1999 by Ord. No. 1999-4]

H. Buffers required under the section shall be installed as follows: [Added 1-18-2000 by Ord. No. 2000-1; amended 6-11-2002 by Ord. No. 2002-7]

- (1) Buffers at the perimeter of each phase of the development and along existing rights-of-way shall be installed by the time the first certificate of occupancy is issued. Notwithstanding said requirement, these buffers may begin construction within 15 days after the commencement of the first growing season if recommended by the Township Engineer. If the developer requests a certificate of occupancy and the buffers are not completed, the Township may grant a certificate of occupancy, provided only if there is a cash deposit in the amount recommended by the Township Planner, said amount to be the number of lots divided into the remaining cost of the buffer for the per-lot cost for the number of certificates of occupancy remaining and abutting the buffer. The landscape plan submitted to the appropriate Board shall include a schedule for the various buffers. The balance of the required buffers shall be completed as approved on said schedule. Notwithstanding the above, building permits and certificates of occupancy may be obtained for model homes.

**§ 130-26.1. Community/power retail center building appearance and site design. [Added 2-1-1999 by Ord. No. 1999-4]**

- A. Facades greater than 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the facade and extending at least 20% of the length of the facade. No uninterrupted length of any facade shall exceed 100 horizontal feet.
- B. All facades that face public streets and/or adjoining residential zoning districts and/or dwellings shall have arcades, display windows, entry areas, awnings or other such architectural features along no less than 60% of their horizontal length.
- C. Where principal buildings contain additional retail establishments which occupy less than 25,000 square feet of gross floor area, with separate, exterior customer entrances, the following shall apply:
  - (1) Windows and window displays of such stores should be used to contribute to the visual interest of exterior facades. The street level facade of such stores shall be transparent between the height of three feet and eight feet above the walkway grade for no less than 60% of the horizontal length of the building facade of each additional retail establishment.

- (2) Windows shall be recessed and should include visually prominent sills, shutters or other such forms of framing.
- D. Building facades shall include a repeating pattern that shall include no less than three of the elements listed below. At least one of these elements shall repeat horizontally. All elements shall repeat at intervals of no more than 30 feet, either horizontally or vertically.
- (1) Color change.
  - (2) Texture change.
  - (3) Material module change.
- E. Variations in rooflines should be used to reduce the massive scale of the larger buildings. Roofs shall incorporate at least two of the following elements:
- (1) Parapets concealing flat roofs and rooftop equipment such as HVAC units from public view. The average height of such parapets shall not exceed 15% of the height of the supporting wall and such parapets shall not at any point exceed 1/3 of the height of the supporting wall. Such parapets shall feature three dimensional cornice treatment.
  - (2) Overhanging eaves, extending no less than three feet past the supporting walls.
  - (3) Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to one foot of vertical rise for every three feet of horizontal run and less than or equal to one foot of vertical rise for every one foot of horizontal run.
  - (4) Three or more roof slope planes.
- F. Exterior building materials and colors shall be of high quality and include the following:
- (1) Brick.
  - (2) Wood.
  - (3) Sandstone.
  - (4) Other native stone.
  - (5) Tinted, textured, concrete masonry units.
- G. Facade colors shall be subtle, portraying neutral or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is discouraged.
- H. Building trim and accent areas may feature brighter colors, including primary colors. Neon

tubing may be an acceptable feature for building trim or accent areas only with specific approval from the Board.

I. Entryways.

(1) Entryway design elements and variations should give orientation and aesthetically pleasing character to the building. Each principal building on a site shall have clearly defined, highly visible customer entrances featuring no less than three of the following:

(a) Canopies or porticos.

(b) Overhangs.

(c) Recesses/projections.

(d) Arcades.

(e) Raised cornice parapets over the door.

(f) Peaked roof forms.

(g) Arches.

(h) Outdoor patios.

(i) Display windows.

(j) Architectural details such as tile work and moldings which are integrated into the building structure and design.

(k) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.

(2) Where additional stores will be located in the principal building, each such store shall have at least one exterior customer entrance, which shall conform to the above requirements.

J. All sides of a principal building that directly face an abutting public street shall feature at least one customer entrance. Where a principal building directly faces more than two abutting public streets, this requirement shall apply only to two sides of the building.

K. Pedestrian accessibility, safety, shelter and convenience within the center grounds and the connection to adjacent neighborhoods should be provided to reduce traffic impacts and project a pleasing pedestrian oriented image. The following standards shall apply:

(1) Sidewalks at least eight feet in width shall be provided along all sides of the parcel that



abut a public street.

- (2) Continuous internal pedestrian walkways, no less than eight feet in width, shall be provided from the public sidewalk to the principal customer entrance of all principal buildings on the site.

At a minimum, walkways shall connect focal points of pedestrian activity, such as, but not limited to, transit stops, street crossings and building and store entry points, and shall feature adjoining landscaped areas and other site amenities such as benches for no less than 50% of the length of walkway.

- (3) Sidewalks shall be provided along the full length of the building along any facade featuring customer entrance, and along any facade abutting a public parking area or public open space. Such sidewalks shall be located at least six feet from the facade of the building to provide planting beds, except where features such as arcades or entryways are part of the facade. Shade trees adjacent to all public sidewalks shall be provided at thirty-foot intervals except to avoid competition with significant architectural features such as arcades, entryways or focal points.
- (4) Internal pedestrian walkways shall provide weather protection features such as awnings or arcades within 30 feet of all customer entrances.
- (5) All internal pedestrian walkways that cross drive aisles or public roadways shall be distinguished from the driving surface through the use of durable surface materials such as pavers, bricks or scored concrete.
- (6) Direct pedestrian routes should be provided through parking areas and across the site to other destinations where necessary.

L. Community and public spaces.

- (1) The community/power retail center establishment shall contribute to the enhancement of community and public spaces by providing at least two of the following on site:
  - (a) Patio/seating area.
  - (b) Pedestrian plaza with benches.
  - (c) Outdoor playground area.

(d) Water feature.

(e) Other focal feature or amenity that, in the judgment of the Board, adequately enhances the pedestrian experience and aesthetics on the site.

(2) All such areas shall have direct access to the public sidewalk network.

M. Signs. Conformance with § 130-55 et seq. of this chapter shall be required except where a conflict is evident. The standards within this section shall control the sign standards for a commercial/power retail center establishment. Signs should be integrated into the building facade and/or landscape design. One wall-mounted sign is permitted for each facade fronting a public road for the principal use and each individual tenant, but not to exceed a maximum of two attached signs per retail establishment. Their aggregate area shall not exceed the equivalent of 10% of the area of the facade in which the sign is attached, including window and door areas. In addition, one freestanding sign per lot frontage advertising the name of the community/power retail center or the anchor retail establishment shall be permitted. The sign shall be located on the same lot as the retail center, but no closer to the intersection of two street lines than 50 feet, not exceeding six feet in height and no closer to the right-of-way than 10 feet. The sign area shall not exceed 60 square feet. Temporary promotional advertising signs shall be prohibited from attachment to any portion of the buildings.

**§ 130-27. Cluster development.**

A. The purpose of this section is to provide flexibility in residential design, to encourage energy conservation through flexibility in building orientation, to reduce residential development costs and to provide a method of preserving land for agriculture, open space, common property, conservation, schools, recreation, parks and land for other public purposes by permitting a reduction in residential lot size without increasing the number of lots or permitted number of dwelling units. Cluster development shall be permitted only in those zoning districts for which a cluster lot size is indicated for detached dwellings in the Schedule of Limitations.<sup>EN(81)</sup> [Amended 9-5-1995 by Ord. No. 1995-19]

B. Cluster developments may be approved, provided that:

(1) The tract size is at least 10 acres. [Amended 9-5-1995 by Ord. No. 1995-19]

(2) All dwelling units are connected to approved and functioning central water and sanitary sewer systems.

(3) The number of dwelling units does not exceed that which is permitted in the zoning provisions of Article VI.

- (4) Land equal in area to a minimum of 20% of the tract's total land area is set aside for agriculture, open space, common property, conservation, schools, recreation, parks and land for other public purposes, singly or in combination, except that land utilized for streets, parking, drives and required yards shall not be included as part of the 20%. Lands to be set aside shall be either dedicated to the Township, owned in common by an association as outlined below or retained in private ownership with appropriate deed restrictions or conservation easements assuring their continued use for the above-stated purposes.
- (5) Of the land provided under the standards set forth in Subsection B(4) above, a minimum of one acre for each 25 dwelling units shall be set aside for recreation and park purposes, which means that it shall be accessible, readily adaptable for its intended tot-lot, playground or playfield use and environmentally suited for such use. The extent of improvements shall be determined by the Land Development Board, and, in the case of lands to be dedicated to the Township, governing body concurrence shall be required. If, under the provisions of this section, it is determined that land should be set aside for school purposes as a part of the cluster development, then the standard of one acre per 25 dwelling units shall not apply since recreation facilities would be provided as a part of the development of a school site. All sites identified for future recreation, open space or public use within a development shall have a sign posted on the site prior to the sale of any building lot within 300 feet of the nearest property line. [Added 9-5-1995 by Ord. No. 1995-19; amended 1-20-2004 by Ord. No. 2004-1]

C. Lands offered to the Township or homeowners' association shall meet the following requirements:

- (1) The minimum size shall be two acres if offered to the Township.
- (2) Lands for recreation purposes shall be improved by the developer, including equipment, walkways and landscaping, and shall have sufficient size for the intended purposes.
- (3) Such lands shall be an integral part of the development and designed, improved and located to best suit the purpose(s) for which it is intended.
- (4) Every parcel accepted by the Township shall be conveyed by deed at the time final plat approval is granted.

D. Concurrence of governing body procedure. A copy of any proposed dedication of land to the Township shall be transmitted to the governing body and be subject to the approval of the approving authority and the governing body. Both shall be guided by the Master Plan, the ability to assemble and relate such lands to an overall plan and the accessibility and potential utility of such lands to serve the intended purpose and such existing features as topography,

soils, wetlands and tree cover as these features may enhance or detract from the intended use of the land.

**§ 130-28. Curbs and gutters.**

- A. Unless waived by the approving authority, concrete curb shall be installed along all streets and along all edges of pavement within a site. The standard curb section shall be 10 feet in length with preformed bituminous cellular-type expansion joint material on not more than twenty-foot centers and shall be set in accordance with approved lines and grades, and radial curbs shall be formed in a smooth curve. The finish shall be a smooth float finish with corners rounded. Concrete curbs shall be six inches by eight inches by 18 inches (six inches exposed face), having a twenty-eight-day compressive strength of 4,000 pounds per square inch, and shall be air-entrained.
- B. Barrier-free curb ramps shall be constructed in accordance with the Design Standards for Curb Ramps for the Physically Handicapped of the New Jersey Department of Transportation.
- C. Where curbs are waived or where alternate curbs are allowed, such as granite block or rolled concrete curb, an appropriate method of stabilizing the edge of paving, controlling erosion and managing stormwater shall be incorporated in the design.
- D. Combination curb and gutter will be allowed in all areas and shall be required whenever the street profile or gutter gradient is less than 1%. [Amended 10-2-1995 by Ord. No. 1995-21]

**§ 130-29. Drainage. [Amended 10-2-1995 by Ord. No. 1995-21]**

All streets shall be provided with storm drainage facilities where the same may be necessary for proper surface drainage. The requirements of this section shall not be satisfied by the construction of dry wells. The system shall be adequate to carry off or store the stormwater and natural drainage water which originates within the subdivision boundaries and that which originates beyond the subdivision boundaries and passes through the subdivision calculated on the basis of maximum potential development as permitted under the provisions of this chapter. No stormwater runoff or natural drainage water shall be so diverted as to overload existing drainage on other lands without proper and approved provisions being made for taking care of these conditions.

- A. The time of concentration used in computing stormwater runoff shall be the equivalent of the time required for water falling at the most remote point of the drainage area to reach the point in the drainage system under construction.

B. Computation of flow rate.

- (1) Computations of the rate of flow at any given location shall be based on the Rational Formula,  $Q = CIA$ , where:

Q = Flow in cubic feet per second  
C = Runoff factor  
I = Intensity of rainfall in inches per hour  
A = Watershed area in acres

- (2) In setting the value of the runoff coefficient (C), consideration will be given to the physical features of the drainage basin and the best available data on the future density of development of the drainage basin. In no case shall C be less than (0.40) after development.
- (3) The Intensity (I) should be based on the following:
- (a) Ten-year-storm criteria for low points with a relief swale.
  - (b) Twenty-five-year-storm criteria for flow carried in pipes.
  - (c) Twenty-five-year-storm criteria for all culvert designs.
- (4) The Rainfall Intensity-Duration-Frequency Curves for either Philadelphia, Pennsylvania, or Trenton, New Jersey, by the United States Department of Commerce, Weather Bureau, shall be used in the above computation.

- C. Storm drainage pipe and culverts shall be reinforced concrete. Reinforced concrete pipe shall conform to the American Society for Testing and Materials standard specifications for Reinforced Concrete Culvert, Storm Drain and Sewer Pipe; Reinforced Concrete Arch Culvert, Storm Drain and Sewer Pipe; and Reinforced Concrete Elliptical/Culvert, Storm Drain and Sewer Pipe.

D. Storm sewer pipelines.

- (1) Storm sewer pipelines shall be sized based on the Manning equation and shall utilize the following friction factor:

$$n = 0.015 \text{ Concrete pipe}$$

- (2) The minimum allowable pipe size is 15 inches Reinforced Concrete Class III, Wall B, which shall be used in pavement areas and wherever there is vehicular traffic. Where the cover on the pipe will be less than two feet, reinforced concrete pipe of Class IV, Wall B, shall be used. No pipe shall have less than one foot of cover.
- E. The pipe size determined to be adequate for the runoff computed shall be increased by at least one standard pipe size for the type of pipe being used in order to provide adequate allowance for the normal accumulation of sediment and debris in the storm drainage system.
- F. Standard headwalls or flared end sections shall be used at locations where stormwater enters or exits piping. In cases where the pipe size is 24 inches or greater, trash bars shall be installed.
- G. When pipe sizes change at a point of juncture, such as an inlet or manhole, the inside top elevations (overts) of the pipes shall be matched.
- H. The minimum slope of any pipe shall be such that a minimum velocity of 2.5 feet per second shall be maintained when the pipe is flowing 1/4 full. Submerged pipes shall not be permitted.
- I. All culverts shall be limited to a single opening. Multiple pipes shall be discouraged due to the increased probability of accumulating debris.
- J. Inlets shall be located at curb radius tangent points of all intersections so as to intercept surface water prior to flowing across the intersection. When surface water is collected from two directions at one street corner, inlets should be placed at the tangent points of both ends of the radius. The use of one inlet in the radius is not permitted. Inlets in streets shall be located on both sides, at intervals not exceeding 400 feet.
- K. Inlets.
- (1) Inlets shall be equal to the New Jersey Department of Transportation Type B inlets, with maximum collecting capacities as follows:

<b>Street Grade (percent)</b>	<b>Inlet Capacity (CFS)</b>
0.75	5.0
2.00	4.8
3.00	4.6
4.00	4.4
5.00	4.2
6.00	4.0

- (2) Sufficient inlets shall be located and constructed so that the length of surface runoff will not contribute a runoff to the inlet exceeding the preceding collecting capacities.
- (3) All grates on stormwater inlets shall be of the bicycle type.
- L. The gutter grade of all inlets shall be set not less than two inches nor more than four inches below the gutter grade. The surface of the paving adjacent to the inlets shall be constructed to blend into the lowered gutter grade at the inlet in such a manner that a sudden dropoff or dip at the inlet will not be created. At such locations where drainage entirely depends on inlets, the collecting capacities of the inlets shall be designed for 1 1/2 times the preceding specified capacities.
- M. Access manholes shall be spaced at a maximum of four-hundred-foot intervals where there are no inlets.
- N. Dished gutters on Township streets shall be permitted only at intersections involving minor streets. Dished gutters shall not be permitted on arterial, primary or secondary streets.
- O. All development and site plans shall incorporate on-site, stormwater detention or retention facilities, unless specifically exempted by the Land Development Board upon recommendation of the Township Engineer. [Amended 1-20-2004 by Ord. No. 2004-1]
- P. Basins shall be designed to limit the stormwater runoff to a controlled rate of flow equal to or less than the stormwater runoff prior to development. The required storage in the basin should be for a twenty-five-year storm (developed site), with the outflow from the basins

limited to a ten-year storm (undeveloped site). Complete calculations for the basin should be supplied at the time the preliminary plans are submitted. These calculations should include runoff prior to development, runoff after development and complete calculations for design.

- Q. The design calculations should be based on time intervals of five to 10 minutes and indicate inflow, average inflow by time interval, outflow, average outflow by time interval, incremental change in storage and height of water in the basin.
- R. All basins shall be designed to completely empty after a rainstorm occurs and will have standing water for only a short period during or immediately following the storm. The basins shall have provisions for emergency overflow, while maintaining a freeboard of at least one foot. The emergency spillway shall have suitable means of erosion protection, such as concrete or grouted stone.
- S. Detention basin designs shall include calculations showing sizing of the outfall piping. Where retention basins are being proposed, the design must be accompanied by soil logs, percolation rates and computations of time to empty the basin by percolation. Soil logs shall extend at least 10 feet below the proposed basin bottom and shall include the elevation of seasonal high water table.
- T. In all cases where a permanent pool pond (either existing or proposed) is included in the development, the pond shall be designed with a minimum depth of six feet and shall be so designed as to prevent the growth of aquatic materials, to prevent wet and swampy conditions around or near the edges of such pond and to provide adequate freeboard to function as a normal retention pond.
- U. Impoundment retention basins along any stream that maintains a steady flow of water throughout the year may be constructed, provided that such facilities shall be designed to meet the standards and have the approval of the New Jersey Department of Environmental Protection and Energy and shall have the proper amount of sustained water flow downstream, the proper water depth to control vegetation and the proper design to prevent water stagnation in any part of the pond.
- V. Fencing around detention ponds shall be required at the Board's discretion depending on the probable volume and depth of water detained, the proximity of the pond to populated areas and the general nature of the installation. Where required, fencing shall be at least four feet high and located as approved by the Land Development Board. [Amended 1-20-2004 by Ord. No. 2004-1]
- W. All detention basins shall have concrete low - flow channels connecting all basin inlet pipes into the basin outlet control structure.



**§ 130-30. Easements.**

- A. Drainage and utility easements shall be along side and/or rear property lines where possible, shall not be less than 20 feet wide, shall be dimensioned on the plat, shall provide for maintenance access, shall prohibit plantings or construction and shall be identified as follows: "Drainage/Utility easement granted to the Township of Lumberton as provided for in the Development Regulations Ordinance."
- B. The removal of trees and ground cover shall be prohibited in a conservation easement or floodplain except for the following purposes: the removal of dead or diseased trees; the limited thinning of trees and growth to encourage the most desirable growth; 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; and to provide pathways, recreation areas or similar open space improvements as approved on the plat by the approving authority. Within a conservation easement, unless otherwise permitted by the approving authority, no buildings or structures shall be permitted, including but not limited to fences, walls, paved surfaces, signs, sheds, swimming pools, garages and recreation equipment. [Amended 8-3-1992 by Ord. No. 1992-6]
- C. Sight triangle easements shall be as per § 130-54.

**§ 130-31. Environmental impact report.**

- A. Prior to submitting a preliminary plat, the applicant may present an overview of the natural limitations of the site to guide the layout of the proposed development. Maps may be submitted showing soil types, topography, slopes, surface water, aquifers, depth to water table, flood plains, vegetation, foundation limitations, erosion potential and septic suitability. Little or no text need accompany this data at this stage. Through this procedure, major areas of concern can be identified and agreed upon by use of this generalized data at an early stage in order to avoid development designs that will encroach upon the major environmental problem areas. Where environmentally sensitive areas identified by this general data must be encroached upon, the environmental impact report submitted at the preliminary plat stage can analyze the problem in more detail based on on-site evaluations, but limiting the analysis to the smaller areas of concern.
- B. The preliminary plat shall be accompanied by an environmental impact report complying with the following, unless as a result of data submitted prior to the preliminary plat, the approving authority shall have waived or modified certain portions of these requirements.
  - (1) A description of the development specifying what is to be done during construction and

- operation to minimize environmental impacts.
- (2) An inventory of the following on-site conditions and an assessment of the probable impact of the development upon them:
    - (a) Water supply.
    - (b) Water quality.
    - (c) Floodplain protection.
    - (d) Soil erosion.
    - (e) Sewage disposal.
    - (f) Vegetation protection.
    - (g) Air quality.
    - (h) Historic landmarks.
    - (i) Site aesthetics, e.g., views, terrain, wooded areas, etc.
    - (j) Slopes in excess of 15%.
    - (k) Air and water quality shall be described with reference to standards of the Department of Environmental Protection and Energy. Soils shall be described with reference to Soil Conservation Service categories and characteristics as they relate to such things as erosion, sewage capability, floodplains and high-water table.
  - (3) A list and the status of any approvals needed from federal, state or county agencies.
  - (4) An evaluation of any adverse environmental impacts which cannot be avoided, including air and water pollution, noise, sedimentation and siltation, increase in Township services or capital needs and consequences to the Township tax structure.
  - (5) A description of steps to be taken to avoid or to minimize adverse environmental impacts during construction and operation, including maps, schedules and other explanatory data.
  - (6) Notwithstanding the foregoing, the approving authority may waive all or part of an environmental impact report if sufficient evidence is submitted to support a conclusion that the development will have a slight or negligible environment impact or that the complete report need not be prepared to evaluate the environmental impact of the development.

**§ 130-31.1. Community impact statement. [Added 6-19-2007 by Ord. No. 2007-6]**

All applications for preliminary major subdivision approval that are proposed and all applications for preliminary major site plan approval shall be accompanied by a community impact statement analyzing the proposed development and its expected impact upon the existing facilities and services. The information furnished within the community impact statement shall serve to influence the design of the proposed development so that the provision of necessary municipal facilities can be anticipated and coordinated with the construction of the proposed development. The community impact statement shall include, where applicable, the following:

- A. Population impact: an analysis of the number of people expected to be added to the municipal population as a result of the proposed development, according to the following age groups: preschool-aged children, school-aged children, parents of family-bearing age, middle-aged adults and retired people.
- B. School impact: an analysis of the anticipated number of pupils who will be added to the student population in the municipality and a statement by the relevant school authorities as to the ability of the existing public school facilities to absorb the expected student population during a ten-year time period and the expected cost of any required building additions and/or increased teaching staff.
- C. Facilities impact: statements by the relevant authorities as to the adequacy of the existing facilities, including the adequacy of existing public water facilities and library facilities. Should such facilities be determined to be inadequate to serve the proposed development, the applicant shall indicate remedies, either expected from other sources or proposed by the applicant, or any combination thereof, along with the estimated costs for any additional facilities proposed by the applicant.
- D. Service impact: statements by relevant authorities as to the adequacy of the existing services proposed by the Township to serve the proposed development and the impact of the development upon the services, including police protection, fire protection, first aid, emergency management, solid waste disposal and recycling and street maintenance services.
- E. Traffic impact: an analysis of the existing road network available to serve the proposed development, as well the proposed road network within the development itself and the surrounding road network which will be affected by the proposed development, including the capacity of the existing and proposed development as well as the increase in traffic volumes expected from other developments within the area; and any problem spots on the overall road network, including unsafe intersections, turns or grades.
- F. Financial impact: an analysis of the revenues expected to be generated .

- G. Affordable housing impact: an analysis of the anticipated number of affordable housing that will be generated from said projects, as per the Council on Affordable Housing Third Round Substantive Rules (N.J.A.C. 5:94) and Procedural Rules (N.J.A.C. 5:95).

**§ 130-32. Fences and walls. [Amended 8-3-1992 by Ord. No. 1992-6]**

Prior to the construction of a fence or wall, a zoning permit shall be issued by the Zoning Officer.

- A. Fences and walls shall be located within the property lines and shall not be located in any required sight triangle, nor shall they be located within any public right-of-way or drainage, utility or conservation easement.
- B. Fences and walls located between the street line and the required front yard setback line in Residential and Rural Agricultural Districts shall not exceed four feet in height. This regulation applies to all street frontages on corner lots. Fences and walls located in the required front yard setback area shall have open space in the fencing for light and air representing at least 50% of the fence area, except for reverse frontage lots, which shall be permitted to place fencing no closer than 30 feet to the street line on which there is reverse frontage in order to conform with the added lot depth and buffer requirements of this chapter, as set forth in § 130-58B, and such fencing along the buffer plantings shall be limited to a height of six feet.
- C. Fences and walls located between the street line and the nearest point of the building in the Historic/Architectural District shall not exceed four feet in height. This regulation applies to all street frontages on corner lots. Fences and walls located within this front yard setback area shall have open space in the fencing for light and air representing at least 50% of the fence area.
- D. Fences and walls shall not exceed six feet in height when located more than the setbacks set forth in Subsections B and C above in a Residential, Historic/Architectural or Rural Agricultural Zone.
- E. Fences and walls located around agricultural uses and utility uses shall have no height limitation. Fences and walls located around commercial and nonresidential uses in nonresidential zoning districts shall have no height limitation. Fences and walls located around nonresidential uses other than agricultural and utility uses in Residential, Historic/Architectural or Rural Agricultural Zoning Districts shall conform to the height and setback requirements set forth in Subsections B and C hereunder.
- F. If barbed wire or a similar fencing device is used, it shall be considered a part of the fence for purposes of determining the fence height.

- G. Fences and walls constructed as a part of a townhouse development may have zoning permits issued directly to the property owner, provided that the fence or wall is shown on an approved site plan for the entire townhouse development.

**§ 130-33. Fire protection. [Amended 8-3-1992 by Ord. No. 1992-6]**

- A. Wherever a central water supply system serves a development, provision shall be made for fire hydrants along streets and/or on the walls of nonresidential structures as approved by the Fire Official.
- B. Where there are streams or ponds, facilities shall be provided to draft water for fire-fighting purposes. This shall include access to an approved street suitable for use by fire-fighting equipment and construction of or improvements to ponds, dams or similar on-site development, where feasible. Such facilities shall be constructed to the satisfaction of the Fire Official and Municipal Engineer.

**§ 130-34. Floodplain regulations.**

Development in floodplains shall be regulated as set forth in Chapter 157, Flood Damage Prevention, of this Code.

**§ 130-34.1. Soil removal regulations. [Added 10-16-2000 by Ord. No. 2000-22]**

- A. No topsoil shall be removed from areas intended for lawn and open space. Topsoil moved during the course of construction shall be redistributed on the lot so as to provide for the average depth of topsoil in existence prior to disturbance or a minimum of at least six inches of cover to all areas, whichever is greater, provided that all berms shall have a minimum depth of topsoil of 12 inches.
  - (1) All areas intended for lawn and open space shall be stabilized by seeding, planting or sodding; and when the disturbed area exceeds 5,000 square feet, it shall be in accordance with a soil erosion and sediment control plan approved by the Soil Conservation District.
  - (2) In the event that the site does not contain sufficient amounts of topsoil to provide the required topsoil to all areas intended for lawn and open space, the developer shall supply sufficient amounts of additional topsoil to the site in order to meet this requirement.
- B. As a supplement to the soil provisions of the Code of the Township of Lumberton,<sup>EN(82)</sup> this section requires that no soil shall be removed from or be imported to any site within the Township of Lumberton in excess of 500 cubic yards without prior approval of the Land

Development Board, except and in accordance with the following: [Amended 1-20-2004 by Ord. No. 2004-1]

- (1) As part of the review and approval process of a major subdivision or major site plan application by the Land Development Board, the Board may recommend to the Township Committee the issuance of a soil removal permit for the removal or import of more than 500 cubic yards of soil upon the request of the applicant and the Board's review of the data and information provided by the applicant. In this regard, prior to the removal or importation of such soil:
    - (a) The applicant shall provide the Board with an estimate of the total amount of soil to be excavated from the site and the total amount of soil to be imported to the site.
    - (b) The applicant shall conduct soil boring sufficient in degree to measure the average depth of topsoil present on the site of disturbance.
    - (c) The Land Development Board shall review the data and information as part of its review of the application for development.
    - (d) The data and information provided by the applicant shall include an assessment of how the soil is to be distributed and stabilized, including grades and contours.
    - (e) Moreover, the applicant shall describe to the satisfaction of the Township Engineer the method and frequency of the testing of the imported soil in order to ensure its quality.
    - (f) Finally, the applicant shall describe the size and number of vehicles that are anticipated to haul the removed or imported soil or rock, together with proposed truck routes.
  - (2) Soil may be removed on any individual lot for the purpose of constructing permitted and approved accessory structures (e.g., septic systems, swimming pools, etc.).
  - (3) Soil may be removed on any individual lot which contains an approved soil removal business.
- C. No topsoil in excess of 500 cubic yards shall be removed from the Township of Lumberton except as provided in Subsection B(2) and (3) above unless the Township Committee determines that there is no other site or land within the Township of Lumberton where it can be placed within a reasonable time.
- D. Prior to the issuance of any certificate of occupancy for any improvement on a site which required major subdivision and/or major site plan approval and thus is subject to the approvals required by this section, the applicant shall conduct such soil boring tests as are

deemed necessary to verify that the final amount of topsoil meets the standards required by this section.

**§ 130-35. Historic/Architectural District and historic sites. [Amended 9-5-1995 by Ord. No. 1995-19; 2-17-2004 by Ord. No. 2004-8]**

- A. No building or structure shall hereafter be erected, reconstructed, altered, restored or demolished within an Historic/Architectural District or on an historic site as identified in the adopted Historic Preservation Plan Element of the Master Plan unless and until an application for a building permit shall have been approved as to exterior or architectural features which are subject to public view from a public street, way or place. Evidence of such approval shall be a certificate of approval issued by the Land Development Board. The Historic/Architectural District and the historic sites shown on Plate 45 in the Historic Preservation Plan Element of the Master Plan, and otherwise referred to in the text of that plan element, are hereby designated as an historic district and historic sites in accordance with the requirements of the Municipal Land Use Law.<sup>EN(83)</sup>
- B. The Township Committee hereby provides for an Historic Preservation Commission to be appointed in accordance with the requirements of N.J.S.A. 40:55D-107. It shall consist of five members, one of whom shall be from Class A, one of whom shall be from Class B and three of whom shall be from Class C. The requirements for each class of membership shall be as follows:
- (1) Class A shall be a person who is knowledgeable in building design and construction or architectural history and who may reside outside the Township.
  - (2) Class B shall be a person who is knowledgeable or with a demonstrated interest in local history and who may reside outside the Township.
  - (3) Class C members shall be citizens of the Township of Lumberton who shall hold no other municipal office, position, or employment, but may, in the discretion of the Township Committee, be a member of the Land Development Board. Notwithstanding the ability of the Township Committee to include a member of the Land Development Board on the HARC, it is expressly provided that membership on the HARC shall not give rise to a status of "Township Official" for purposes of designation of an HARC member as a Class II member of the Land Development Board.
- C. Members of the Historic Preservation Commission shall be appointed by the Mayor. The terms of all members of the Commission shall be four years. Those first appointed under this provision shall have terms which expire in four years or less in order to assure that no more than two Commission members' terms shall expire in any one year. Initial appointments shall

be as follows: Class A, four years; Class B, three years; Class C, one each of three years, two years and one year.

- D. The Commission shall be available for consultation with the Land Development Board to aid in deliberation on applications in the Historic/Architectural District or on other matters involving designated historic sites in the Township. Copies of the application(s) for building permits requiring substantial exterior changes or application(s) for development approval involving properties in the Historic/Architectural District or historic sites shall be submitted to the Commission for review and advice. In all respects, the Commission shall be advisory to the Land Development Board.
- E. It shall be the duty of the Building Inspector in consultation with the Township Engineer to review all plans for construction, alteration, repair, moving or demolition of structures in an Historic/Architectural District and to submit only those applications to the Land Development Board which involved substantial changes in existing exterior architectural features. It is the intent that all building permits which are for routine and necessary maintenance involving replacement in-kind work will not require Land Development Board or Historic Preservation Commissioner review and approval. The Land Development Board on those applications sent to it shall then make its recommendations to the Building Inspector as to approval or disapproval of the plans under this section within 45 days, except where mutual agreement has been reached for an extension of the time limit or where interested parties have offered an objection. Failure of the Board to act within the specified time shall constitute approval of the application. If the Board disapproves the plan under this section, the Building Inspector shall deny the application for a building permit.
- F. The following standards and regulations shall apply in the Historic/Architectural District and shall be in addition to the schedule of limitations for such areas.
  - (1) In reviewing the plan, the Land Development Board shall give consideration to:
    - (a) The historic or architectural value and significance of the structure and its relationship to the historic value of the surrounding area.
    - (b) The general compatibility of exterior design, arrangement and materials proposed to be used.
    - (c) Any other factor, including aesthetic, which it deems pertinent.
    - (d) The description of the details of design for the period of architecture involved in the particular structure and surrounding neighborhood.
  - (2) The Land Development Board shall pass only on exterior features of the structure and not consider interior arrangements, nor shall it disapprove applications except in regard



to considerations as set forth in the within subsections.

- (3) It is the intent of this Subsection F that the Land Development Board shall be strict in its judgment of plans for alterations, repairs or demolition of existing structures deemed valuable according to studies, approved by the Land Development Board, by qualified persons using as the criteria of evaluation those developed by the National Trust for Historic Preservation.
- (4) It is the intent of this Subsection F that the Land Development Board shall encourage the alterations or repairs to structures built before 1875 to be made in the spirit of their architectural style and that any additions will be made in such a manner as not to detract from the building's original appearance.
- (5) It is intended that demolition of structures built before 1875 should be discouraged as their loss will be a common loss to the Township and the neighborhood. Moving of such a structure should be encouraged as an alternative to demolition, if there is no other way to save the structure.
- (6) It is also the intent of this Subsection F that the Land Development Board shall be lenient in its judgment of plans for new construction or for alterations, repair or demolition of structures of little historic or architectural value which are within an Historic/Architectural District, except where such construction, alteration, repair or demolition would seriously impair the historic value and character of surrounding structures or the surrounding area.
- (7) Demolition or removal may be forbidden or postponed for a period of six months, after public hearing granted to the applicant if desired, and the Land Development Board shall then consult civic groups and public agencies to ascertain how the Township may preserve the building or the premises. The Land Development Board is empowered to work out with the owner feasible plans for preservation of the structure where moving or demolition thereof would be a great loss to the public and to the Township.
- (8) The Land Development Board, in passing on the appropriateness of exterior architectural features, in any case shall keep in mind the purposes set forth in this Subsection F and shall consider, among other things, the general design, arrangement and material of the building or structure in question and the relationship of such factors to similar features of historic structures in the immediate surroundings and the position of such structures in relationship to the street or public way.
- (9) The Land Development Board shall not consider features not subject to public view.
- (10) The Land Development Board shall not make any recommendations or requirements except for the purpose of preventing developments obviously incongruous to the historic

aspects of the Historic/Architectural District.

- (11) When it is necessary to move an historic building to another site within the Township to preserve it, upon approval of the relocation plans by the Land Development Board, the building may be relocated, provided that it fulfills the area regulations of the zone as to lot size, setback and yard area.
- G. The Land Development Board shall have the power to engage experts to aid in its deliberations. The Land Development Board shall have the power to issue a certificate of approval if it approves of the plans submitted to it for its review. A building permit shall not be issued until such certificate of approval has been issued.
- H. Upon approval of the plans, the Land Development Board shall cause a certificate of approval dated and signed by the Chairman to be issued to the applicant or affixed to the plans.
- I. In the case of disapproval, the Land Development Board shall state its reasons therefor, in writing, and it may make recommendations to the applicant with respect to appropriateness of design, arrangement, material and the like of the structure involved.
- J. Nothing in this chapter shall prohibit repairing or rebuilding any structure in the Historic/Architectural District so as to maintain or return the structure to its original condition prior to deterioration or destruction, provided that the structure was built prior to 1875.
- K. On appeals to the Land Development Board following the denial of a building permit by the Building Department, the Land Development Board shall be controlled by the standards set forth in this section in considering the merits of the application.
- L. The procedure for appeal to the Land Development Board shall be as required by statute and this chapter and pursuant to the existing rules and regulations of the Land Development Board.

**§ 130-36. Home occupations. [Amended 3-20-2006 by Ord. No. 2006-5]**

Home occupations shall be conducted solely by resident occupants of the lot, except that no more than one person not a resident of the building may be employed on the premises at any one time (the term one person is noncumulative and only a single individual is allowed to work at the home occupation other than resident occupants, whether working part-time or full-time at the site), and provided also that no more than 500 square feet or the equivalent of 40% of the first floor area of the building, whichever is smaller, shall be used for such purposes; the home occupation remains subordinate and incidental to the principal residential use; no display of

products shall be visible from the street; the residential character of the neighborhood and building shall not be changed; the occupation shall be conducted entirely within either the dwelling or accessory building, but not both; no occupational sound shall be audible outside the building; no article shall be offered for sale from the premises; no machinery or equipment shall be used which will cause interference with radio and television reception in the neighboring residences; adequate parking is provided; and the use does not reduce the parking or yard requirements of the principal residential use.

**§ 130-37. Homeowners' associations.**

Where open space is generated and the Township will not take title to such land, a homeowners' association shall be established incorporating the following provisions which shall be approved prior to final plat approval:

- A. Membership by all owners of property or interests in the project shall be mandatory. The responsibilities shall be in writing between the organization and each member in the form of a covenant with each agreeing to liability for his pro rata share of the organization's costs.
- B. The organization shall be responsible for liability insurance (with the municipality carried as a named insured), taxes, maintenance and any other obligations assumed by the organization and shall hold the municipality harmless from any liability. The organization shall not be dissolved and shall not dispose of any common open space or common property by sale or otherwise, except to an organization to own and maintain such open space or property for the benefit of such development. Thereafter such organization shall not be dissolved or dispose of any of its open space or property without first offering to dedicate the same to the municipality(s) wherein the land is located.
- C. The organization shall be allowed to adjust the assessment to meet changing needs.
- D. The organization shall clearly describe in its bylaws all the rights and obligations of each tenant and owner, including a copy of its covenants, model deeds and articles of incorporation. The master deed shall state that every tenant and property owner shall have the right to use all common properties. The document given to the owners and tenants shall have a foreword with a concise summary of the major principles embodied in the full document.
- E. The articles of incorporation, covenants, bylaws, model deeds and other legal instruments shall ensure that control of the organization shall be transferred to the members based on a percentage of the dwelling units sold and/or occupied and shall clearly indicate that in the event such organization shall fail to maintain the common open space or common property in reasonable order and condition, the Township may serve written notice upon such organization or upon the owners of the development setting forth the manner in which the

organization has failed to maintain the common open space or common property in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within 35 days thereof and shall state the date and place of a hearing thereon which shall be held within 15 days of the notice. At such hearing, the designated Township official or officer, as the case may be, may modify the terms of the original notice as to deficiencies and may give a reasonable extension of time to exceed 65 days within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within said 35 days or any permitted extension thereof, the Township, in order to preserve the common open space and common property and maintain the same for a period of one year, may enter upon and maintain such land. Said entry and maintenance shall not vest in the public any rights to use the common open space and common property except when the same is voluntarily dedicated to the public by the owners. Before the expiration of said year, the Township shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space and common property, call a public hearing upon 15 days' written notice to such organization and to the owners of the development to be held by the Township, at which hearing such organization and the owners of the development shall show cause why such maintenance by the Township shall not, at the election of the Township, continue for a succeeding year. If the Township shall determine that such organization is ready and able to maintain said open space and property in reasonable condition, the Township shall cease to maintain said open space and property at the end of said year. If the Township shall determine such organization is not ready and able to maintain said open space and property in a reasonable condition, the Township may, in its discretion, have the Township continue to maintain said open space and property during the next succeeding year, subject to a similar hearing and determination in each year thereafter. The decision of the Township in any such case shall constitute a final administrative decision subject to judicial review.

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

**§ 130-38. Lighting. [Amended 10-2-1995 by Ord. No. 1995-21; 8-19-2002 by Ord. No. 2002-8]**

The objective of this section is to minimize undesirable off-site effects. The following standards shall apply to the appropriate property types:

- A. Commercial and industrial properties. All area lighting shall be provided with translucent fixtures and shields around the light source. The light intensity at ground level shall be a maximum of 1.0 footcandle. The total quantity of light radiated above a horizontal plane passing through the light source shall not exceed 7.5%. For special purposes, more intense lighting may be permitted, provided that additional shielding and/or planting buffer are included and approved as part of the plat to reduce off-site effects. No lights shall shine or reflect into adjacent windows. No lights shall be of a rotating, pulsating or other intermittent frequency. Ground-mounted exterior light fixtures, which produce off-site glare, shall be prohibited. Any commercial or industrial property that is adjacent to a residential property shall comply with § 130-38B, Residential properties, standards listed below along the common property line.
- B. Residential properties. All exterior lighting, whether mounted to the principal building, accessory structure or pole, shall be directed onto the property owner's property without substantial spillover onto adjoining properties. Light spillage of more than 0.2 footcandle onto adjacent properties shall be prohibited. Light shields and/or buffer plantings may be used to achieve the required light spillage standard. Pole-mounted lights shall be a maximum of 10 feet high.

**§ 130-39. Lots.**

- A. Insofar as is practical, lots shall be rectangular, lot lines shall be straight, and side lot lines shall be either at right angles or radial to street lines.
- B. Each lot must front upon an approved paved street.
- C. Corner lots. Corner lots shall be of sufficient size to allow building setbacks to meet the front yard requirements along each street. Any principal or accessory building located on a corner lot shall have a minimum setback from both street lines equal to the required front yard. The remaining yards shall meet the requirements for side yards. There shall be no rear yard requirement.
- D. Extra width for street widenings to comply with an adopted Master Plan or Official Map shall either be dedicated or, if not dedicated, shall be anticipated by increasing the lot size in anticipation of the future right-of-way.
- E. Where there is a question as to the suitability of a lot due to flood conditions, high-water table or poor visibility at street and driveway intersections or where percolation tests or test borings show the ground conditions to be inadequate for proper sewage disposal or similar circumstances, the approving authority may withhold approval of such lot or require deletion of such lot with the area merged into an adjacent lot.

- F. Where two or more contiguous lots exist under the same ownership and one or more of said lots do not conform with the area and/or dimension requirements of this chapter, said contiguous lots shall be considered merged into the greatest number of conforming lots.
- G. Any nonconforming lot legally existing on the date of adoption of this chapter and not meeting the definition of the previous subsection may have a building permit issued for a permitted use without an appeal for a variance, provided that the building coverage is not exceeded, the new structure does not violate any height or setback requirements, parking requirements are met and the nonconforming lot is the largest possible assemblage of contiguous land under the preceding subsection. The side and rear yards may be reduced to the same percentage that the area of the undersized lot bears to the zone district requirements (e.g., if the lot is 75% of the minimum lot size, the side and rear yards may be reduced to 75% of the minimum), except that no yard shall be less than half that required by the chapter or five feet, whichever is greater. All lots within developments and/or sites developed in accordance with the terms and conditions of the R-2.0 Residential Low-Density District, as they existed prior to a recent amendment to the Zoning Ordinance, (Ordinance No. 2002-8) shall continue to be regulated by same regulations and standards under which the development occurred without regard to the fact that they now may be in a different zone or subject to different regulations or standards. These developments and/or sites shall continue to be regulated by the R-2.0 standards in existence at the time that the lots were developed. [Amended 4-5-2004 by Ord. No. 2004-13]
- H. Whenever land has been dedicated to the Township to meet the minimum street width requirements or to implement the Official Map or Master Plan, the Building Inspector shall not withhold a building and/or occupancy permit when the lot depth and/or area was rendered substandard due to such dedication and where the owner has no adjacent lands to meet the minimum requirements.
- I. The development of lots as "flag lots" is strongly discouraged and will be permitted by way of a variance governed by the standards of N.J.S.A. 40:55D-70(c). [Added 7-6-2004 by Ord. No. 2004-25]

**§ 130-40. (Reserved)** EN(84)

**§ 130-41. Monuments.** EN(85)

Monuments shall be the size and shape required by N.J.S.A. 46:23-9.12, or any amendments or supplements thereto (the Map Filing Law, as amended), placed in accordance with said statute and indicated on the final plat.

**§ 130-42. Nonconforming uses, structures or lots.**

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

A. Abandonment.

(1) A nonconforming use shall be considered abandoned:

(a) If it is terminated by the owner;

(b) If a nonconforming use involving a structure is discontinued for 12 consecutive months; or

(c) If a nonconforming use of land without structure(s) ceases for a period of six months.

(2) The subsequent use of the abandoned structure and/or land shall be in conformity with this chapter.

B. Maintenance work may be performed on a nonconforming use, structure or lot, provided that the maintenance work does not change the use, expand the building or the functional use of the building, increase the area of a lot used for a nonconforming purpose or increase the nonconformity in any manner.

C. Any existing permitted use on a conforming lot which violates any yard requirements may have additions to the principal building or have an accessory structure erected without an appeal for a variance, provided that the total permitted building coverage shall not be exceeded and the proposed addition or accessory structure does not violate any of the setback requirements of the zoning district. Also, see the provisions of § 130-39G of this chapter. [Amended 8-3-1992 by Ord. No. 1992-6]

D. Subdivision of lots. An existing lot whose area and/or dimensions are sufficient to permit a subdivision, but where a structure exists on the lot with one or more setback violations, may nevertheless be subdivided without an appeal for a variance, provided that the subdivision itself does not create any new zoning violations and does not increase the severity of the existing setback violation such as moving the lot line even closer to the existing building.

**§ 130-43. Off-site and off-tract improvements.**

Before final approval, payment of the developer's pro rata share of off-site and off-tract improvements may be required, including street improvements, water systems, sewerage,

drainage facilities and easements therefor.

- A. Essential off-site and off-tract improvements shall be installed or a performance guaranty furnished in lieu thereof, with the total cost borne by the developer.
- (1) Direct access to an improved street and connection to central water supply and central sanitary sewer (where the development does not qualify for individual on-site wells and sewage disposal systems) shall be required.
  - (2) Where demand for water and/or sewer service is beyond the capacity of present facilities, the approving authority may grant final plat approval, provided that the developer acquires land, constructs improvements and dedicates such water and sewer facilities to overcome the present capacity limitations. Where the expanded facilities have a capacity beyond the needs of the development, the cost to the developer shall be in accordance with Subsection B below.
  - (3) Where off-site and off-tract drainage facilities are not adequate to accommodate stormwater from the development, the approving authority may grant final approval if the developer shall acquire, improve and dedicate to the Township such enlarged, additional or new drainage facilities.
  - (4) In lieu of the developer performing such off-site and off-tract work, the developer may enter into an agreement for such work to be performed by the Township or its contractors at the cost of the developer.
  - (5) Where off-site and off-tract improvements are essential to the development and the developer does not consent to the improvements, the application shall be denied, without prejudice, to such time when the conditions no longer apply.
  - (6) Where an arterial, minor, major roadway and/or intersection improvement is proposed as indicated within the Traffic Circulation Plan of the Township's Master Plan and its location will directly affect a proposed development in terms of providing for public health, safety and welfare, the developments which specifically benefit from such improvement shall contribute a pro rata share in an amount determined by the Board to the construction of this improvement. [Added 2-1-1999 by Ord. No. 1999-4]
- B. Advisable off-site and off-tract improvements are those which, although not essential, would promote the objectives of this chapter and can be most appropriately accomplished in connection with the development. Where such improvements are required as a local improvement by the Township and the costs are to be assessed against all properties specially benefited thereby (including the property of the developer), the following provisions shall apply:



- (1) The approving authority shall refer its recommendations to the governing body.
- (2) If the governing body concurs, the Municipal Engineer or other professional shall determine the nature of the improvements, including the needs created by the development and the existing needs in the area, notwithstanding the proposed development.
- (3) An estimate of the costs of such work shall be prepared, including all costs in any local improvement ordinance and those to be assessed to the developer. Costs shall include construction, engineering, any easement or right-of-way acquisition, legal work, advertising, contingencies, bonding and assessments.
- (4) If the governing body will not adopt a local improvement ordinance, the development shall be designed accordingly.
- (5) If a local improvement ordinance is adopted, the governing body shall proceed in the following manner:
  - (a) If sufficient funds are available for the initial appropriation, the governing body may appropriate such funds and adopt such ordinance.
  - (b) If sufficient funds are not available for the initial appropriation, the governing body may determine the anticipated amount that the lands of the applicant would be expected to be assessed.
    - [1] This amount shall be deposited by the applicant with the Township Clerk/Administrator to final approval and prior to introduction of the local improvement ordinance.
    - [2] The deposit shall be made concurrent with an agreement between the applicant and the Township outlining the purposes for which the money may be spent; that such deposit may be appropriated by the Township and commingled with other appropriated funds and expended for the designated purposes; that if not spent within an agreed-upon time, said deposit shall be returned to the applicant; that the properties specially benefited by such improvement shall be assessed as provided by law, including the property of applicant; and that the applicant's deposit shall be credited against the assessment and any difference shall be paid to the Township or, if the deposit exceeded the amount assessed, the excess shall be refunded to the applicant, without interest.
    - [3] Where 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, but the developer is unwilling to make such deposit as specified above, then there

shall be no final approval until funds become available for the initial appropriation required to adopt the local improvement ordinance.

- (6) The governing body shall determine whether or not to introduce a local improvement ordinance within 30 days after the referral by the approving authority unless the time is extended with the consent of the applicant. If the determination is not made within the designated period, the approving authority shall proceed as if the local improvement ordinance is not to be adopted.

**§ 130-44. Off-street parking and loading.**

- A. Access to and from nonresidential and multifamily residential developments. Drives shall be limited to two to any street, except when the frontage exceeds 500 feet, the number of drives may be based on one drive for each 250 feet of property frontage. The center lines of access points shall be spaced at least 65 feet apart. Each drive shall handle no more than two lanes of traffic; be at least 100 feet from the street line of any intersecting street; and be at least 20 feet from any property line. Curbing shall be either depressed at the driveway or have the curbing rounded at the corners with the access drive connected to the street in the same manner as another street.
- B. Access to off-street parking and loading spaces shall be by the on-site aisles to permit each vehicle to proceed to and from each space without moving another vehicle. Parking spaces shall not be an extension of any street right-of-way.
- C. Buffers. Parking area for six or more vehicles and loading areas for nonresidential uses shall be buffered from adjoining streets and residential uses meeting the objectives of § 130-26.
- D. Curbing. Parking areas containing six or more spaces and all off-street loading areas shall have concrete curbing around the perimeter in conjunction with a drainage plan. In lieu of concrete curbing, the approving authority may accept equivalent methods of defining the edge of paving, preventing vehicles from encroaching upon nonpaved areas, controlling drainage and guiding traffic circulation. Curbing or any alternative shall be ramped in accordance with the Design Standards for Curb Ramps for the Physically Handicapped of the New Jersey Department of Transportation.
- E. Dimensions.
  - (1) Off-street parking spaces shall be a minimum of nine feet wide, except in spaces serving retail uses shall be 10 feet wide. Parking spaces shall be 18 feet in length, except parallel spaces shall be 25 feet in length. Two percent of all parking spaces, but not less than one nor more than 10 spaces, shall be 12 feet wide. These wider spaces shall be located in

one area and designated as "parking for the handicapped."

<b>Angle of Parking Space</b>	<b>For Parking Spaces 10 or 12 Feet Wide</b>		<b>For Parking Spaces 9 Feet Wide</b>	
	<b>1-Way Aisle (feet)</b>	<b>2-Way Aisle (feet)</b>	<b>A1-Way isle (feet)</b>	<b>2-Way Aisle (feet)</b>
90°	25	25	25	25
60°	18	20	20	22
Parallel	12	18	12	18

- (2) Off-street loading spaces shall have 15 feet of vertical clearance and be designed as follows:

<b>Loading Space (feet)</b>		<b>Apron Length (feet)</b>	
<b>Length</b>	<b>Width</b>	<b>90 degrees</b>	<b>60 degrees</b>
60	10	72	66
60	12	63	57
60	14	60	54

NOTE: When off-street parking is provided where the occupant can control utilization of the parking spaces, e.g., employee parking, separate parking areas may be approved for small (compact) cars with the length and width reduced to 16 feet

and eight feet respectively. The aisle widths may be reduced to 90% of the above schedule. The number of parking spaces which may be approved for small (compact) cars shall be a determination of the approving authority based upon documentation by the applicant and any data submitted by others, but in any event it shall not exceed 30% of the total spaces provided.

- F. Drainage. Facilities shall be installed in accordance with good engineering practice as approved by the Township Engineer and in accordance with the drainage provisions of § 130-29. Where subbase conditions are wet, springy or of such nature that surfacing would be inadvisable without first treating the subbase, these areas shall be excavated to a depth of at least 12 inches below the subgrade and filled with a suitable subbase material as determined by the Municipal Engineer. Where required by the Engineer, a system of porous concrete subsurface drains shall be constructed beneath the paving and connected to a suitable drain. Parking spaces shall have a minimum grade of 1.0%.
- G. Surfacing shall be approved as part of the plan approval. Areas to experience heavy traffic, e.g., driveways and loading areas, shall be paved over a stable subbase with not less than four inches of compacted, plant-mixed bituminous stabilized base course in layers of not more than two inches compacted thickness, or equivalent, plus a minimum two-inch thick compacted wearing surface of bituminous concrete (FABC) or equivalent. Areas to experience lighter traffic, e.g., parking spaces, shall have paving of three inches of compacted base course and 1.5 inches compacted wearing surface of the same material. All shall be constructed in accordance with the Standard Specifications of the New Jersey Department of Transportation. Speed bumps or similar devices which have the intent of providing physical obstructions to inhibit speeding, consisting of raised or depressed portions of driveways in off-street parking areas, shall not be permitted. [Amended 8-3-1992 by Ord. No. 1992-6]
- H. Landscaping within parking and loading areas shall be shown on the site plan, including the buffer requirements in § 130-26. Trees shall be spaced so as not to interfere with driver vision, have branches no lower than eight feet and be placed at the rate of at least one tree for every 10 parking spaces. All areas between the parking area and the building shall be landscaped with trees, shrubs and ground cover. Any plantings which do not live shall be replaced within one year or one season. A majority of the parking spaces for lots with more than 50 cars shall be obscured from streets by buildings, landscaped berms, natural ground elevation or plantings, singly or in combination. Landscape islands shall be provided at each end of a parking bay. These islands shall include a concrete curb and be a minimum width of eight feet to accommodate shade tree planting. Every effort should be made to break up the scale and moderate the environment of the parking lot. [Amended 2-1-1999 by Ord. No.

1999-4]

- I. Minimum loading requirements. Adequate off-street loading and maneuvering space shall be provided for every use. The minimum number of spaces shall be based on the following schedule. Those uses not listed shall provide sufficient spaces as determined under site plan review.

**Off-Street Loading Schedule**

	<b>Minimum Number of Spaces*</b>	<b>Gross Floor Area at Which First Berth is Required</b>	<b>Gross Floor Area at Which 2nd Berth is Required</b>	<b>Additional Gross Floor Area each Additional Berth</b>
Residential, church, school, pool, firehouse, golf course, day-care center, service station, movie theater, car wash		N.A.	N.A.	N.A.
Auto/truck sales	1	10,000	40,000	40,000
Bowling alley	1	10,000	100,000	100,000
Contractor's yard	1	10,000	25,000	20,000
Financial institution		10,000	100,000	100,000
Hospital	1	10,000	100,000	100,000
Lumberyard	1	10,000	25,000	20,000

### Off-Street Loading Schedule

	<b>Minimum Number of Spaces*</b>	<b>Gross Floor Area at Which First Berth is Required</b>	<b>Gross Floor Area at Which 2nd Berth is Required</b>	<b>Additional Gross Floor Area each Additional Berth</b>
Manufacturing, assembly, fabricating	1	5,000	40,000	30,000
Medical center		10,000	100,000	100,000
Mortuary	1	10,000	100,000	100,000
Motel	1	10,000	100,000	100,000
Nightclub	1	10,000	25,000	20,000
Office and office building		10,000	100,000	100,000
Personal service		10,000	20,000	20,000
Research	1	5,000	40,000	40,000
Restaurant	1	10,000	25,000	20,000
Retail store	1	10,000	20,000	20,000
Shopping center	1	10,000	40,000	40,000
Veterinary hospital	1	10,000	100,000	100,000
Warehouse, shipping and receiving	1	5,000	40,000	30,000

### Off-Street Loading Schedule

	<b>Minimum Number of Spaces*</b>	<b>Gross Floor Area at Which First Berth is Required</b>	<b>Gross Floor Area at Which 2nd Berth is Required</b>	<b>Additional Gross Floor Area each Additional Berth</b>
Wholesale fuel distribution	1	10,000	40,000	30,000

\* NOTE: The minimum number of spaces shall prevail for uses that have not attained the gross floor area where the first space is required.

- (1) There shall be a minimum of one trash-garbage pickup location separate from the parking and loading areas and located either within or outside a building in steel-like, totally enclosed containers located and screened to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts. If located within the building, the doorways may serve both the loading and trash-garbage collection functions. If a container is used for trash-garbage collection functions and is located outside the building, it may be located adjacent to or within the general loading areas, provided that the containers in no way interfere with or restrict the loading and unloading functions.
- (2) Where any use is located on a tract of at least 50 acres and no portion of a loading area, including maneuvering areas, is closer than 200 feet to any property line and where the length of the driveway connecting the loading area to the street is at least 300 feet, the number of off-street loading spaces may be less than the number required by the above schedule, provided that the applicant, as part of the site plan application, indicates on the site plan and documents to the approving authority how the number of spaces to be provided will be adequate to meet the needs of the specific use proposed.
- (3) No areas for outdoor storage, trash collection or compaction, loading or other such uses shall be located within 20 feet of any public street, public sidewalk or internal pedestrianway. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash collection, trash compaction and other service functions shall be

incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets. [Added 2-1-1999 by Ord. No. 1999-4]

- (4) Community/power retail center establishments. All nonenclosed areas for the storage and sale of seasonal inventory shall be permanently defined and screened with walls and/or fences. Materials, colors and design of screening walls and/or fences shall conform to those used as predominant materials and colors on the building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors on the building. No delivery, loading, trash removal or compaction, or other such operation shall be permitted between the hours of 10:00 p.m. and 7:00 a.m. unless the applicant submits evidence that sound barriers between all areas of such operations effectively reduce noise emissions to a level of 44 db, as measured at the lot line of any adjoining property. The site plan shall identify the number and types of vehicles, including, but not limited to, flatbed trucks, tractor trailer trucks, tank trucks and pickup trucks, that shall be loaded or unloaded, the duration of the loading and unloading operations and the maximum number of vehicles by type expected to be loading or unloading at any one time. [Added 2-1-1999 by Ord. No. 1999-4]

J. Minimum parking requirements. The number of parking spaces for each use shall be determined by the number of dwelling units, the amount of gross floor area as defined in this chapter or such other measure as noted below. Where a particular function contains more than one use, the total parking requirements shall be the sum of the component parts, unless indicated otherwise.

- (1) Auto/truck sales: one space per 50 square feet of showroom and sales office area.
- (2) Bowling alley: four spaces per alley.
- (3) Car wash: eight spaces per washing lane.
- (4) Church: one space per three seats.

- (4.1) Community/power retail center: four spaces per 1,000 square feet of gross floor area. The applicant may deviate from this requirement if it can be determined on the basis of design hour demand from empirical data that a reduction or increase in the required parking is warranted. The Board shall have the authority to grant such a deviation as it deems appropriate. [Added 2-1-1999 by Ord. No. 1999-4]



- (5) Community swimming pool: one space per 15 square feet of surface area.
- (6) Day-care center: one space per 60 square feet of gross floor area.
- (7) Dwelling units, as follows:
  - (a) Efficiency (zero-bedroom): one space.
  - (b) One-bedroom: 1.5 spaces.
  - (c) Two-bedroom: 1.75 spaces.
  - (d) Three-or-more-bedroom: two spaces.
- (8) Financial institution: one space per 250 square feet of gross floor area.
- (9) Golf course: four spaces per hole.
- (10) Hospital: 1.5 spaces per bed.
- (11) Lumber and contractor's yard: one space per 5,000 square feet of gross yard area.
- (12) Manufacturing, assembly and fabrication: one space per 800 square feet of gross floor area.
- (13) Medical professional: one space per 150 square feet of gross floor area.
- (14) Motel: 1.1 spaces per unit.
- (15) Mortuary: 10 spaces per viewing room and chapel.
- (16) Movie theater: one space per three seats; one space per four seats in shopping center.
- (17) Nightclub: one space per three seats.
- (18) Office and office building: one space per 250 square feet of gross floor area.
- (19) Personal service: one space per 200 square feet of gross floor area.
- (20) Professional home occupation (nonmedical): one space per 200 square feet.
- (21) Research: one space per 800 square feet of gross floor area.
- (22) Restaurant: one space per two seats.
- (23) Retail store: one space per 200 square feet of gross floor area.
- (24) Service station: five spaces per bay.

- (25) Shopping center: one space per 200 square feet of gross floor area.
- (26) Veterinary hospital: six spaces per examination room.
- (27) Warehouse, shipping and receiving: one space per 5,000 square feet of gross floor area.
- (28) Wholesale fuel distribution: one space per 10,000 square feet of gross yard area devoted to use.

K. Location.

- (1) Parking and loading spaces shall be located on the same lot as the use being served. No off-street parking or loading space shall have direct access from a street. Parking spaces shall be located at least 20 feet from any building and 15 feet from any street right-of-way. No loading areas shall be in the front yard. [Amended 8-3-1992 by Ord. No. 1992-6]
- (2) No parking or loading space shall be located in any required buffer area.
- (3) Parking spaces located to serve residential uses shall be convenient to the intended use, but generally within 150 feet of the entrance to the building. For nonresidential uses, they shall generally be located within 300 feet of the entrance to the building.
- (4) No parking shall be permitted in fire lanes, streets, driveways, aisles, sidewalks or turning areas.
- (5) Handicapped spaces shall be identified by a sign facing the end of each space and painting in the space itself displaying the international symbol.
- (6) No commercial motor vehicle, school bus, dump truck, walk-in van or construction equipment shall be parked or stored anywhere in a Residential, Historic/Architectural or Rural Agricultural District except when the vehicle is being used in the transaction of business with the owner or occupant of the property. Commercial motor vehicles shall include all commercially licensed vehicles and all trucks or vans with a gross registered weight in excess of 11,000 pounds. This section shall not apply to farms and shall exclude pickup trucks or similar small lightweight vans or vehicles. The provisions of this subsection shall not apply to the parking or storage of school buses and school vans on public school, private school or parochial school property.
- (7) Community/power retail center. [Added 2-1-1999 by Ord. No. 1999-4]
  - (a) No more than 50% of the off-street parking area for the entire property shall be located between the front facade of the principal building(s) and the public roadway. The percentage of parking permitted within the area between the front facade of the

building and the public roadway may be increased to 75% to provide for the following:

- [1] Fifty percent increase in the required front buffer width and amount of required landscaping; or
  - [2] The implementation of a four-foot landscaped berm within the required front yard buffer.
- (b) The length of parking bays shall be limited to reduce the visual impact of the parking area. All parking bays fronting a public roadway shall not provide for more than 20 parking spaces per each row (40 spaces per bay). For parking areas that do not directly front on a public roadway, the parking bay shall not provide for more than 60 parking spaces per row. Landscape islands in conformance with § 130-44H should be provided at intervals equaling a distance of every 20 parking spaces.
- (8) Driveways and access to any public street, except for single-family dwelling units, patio homes or two-family dwelling units, shall be located at least 35 feet from the intersection of the street at the curblin and shall be designed in a manner conducive to safe ingress and egress. Cross access easements between a separately owned community/power retail center are required to ensure vehicular safety and reduce traffic congestion by limiting the number of vehicles accessing the public right-of-way. Curb cut access shall be limited by the Board as deemed necessary in order to provide as few curb cuts as necessary. [Added 2-1-1999 by Ord. No. 1999-4]
- L. Waiver of parking or loading requirements. The Land Development Board may waive all of the loading requirements or a portion of the parking requirements of this section, provided that the following requirements are met: [Amended 1-20-2004 by Ord. No. 2004-1]
- (1) The variation for parking is no more than 20% of the requirements set forth herein.
  - (2) Such exception from the requirements is reasonable and within the general purpose and intent of the parking or loading requirements.
  - (3) Literal enforcement of said provisions will exact undue hardship because of peculiar conditions pertaining to the land in question.

**§ 130-45. Performance standards.**

- A. Air, water and environmental pollution. No use shall emit heat, odor, vibrations, noise or any other pollutant into the ground, water or air that exceeds the most stringent applicable state and federal regulation. No permit shall be issued for any use where a state permit is required

until the state has ascertained and approved the level and quality of emission, type and quality of emission control and the level of monitoring to be conducted.

- B. Storage and waste disposal. No materials shall be deposited so they can be transferred off the lot, directly or indirectly, by natural forces such as precipitation, surface water, evaporation or wind. All materials which might create a pollutant or be a safety hazard or health hazard shall be stored indoors and/or be enclosed in appropriate containers to eliminate such pollutant or hazard. No flammable or explosive substance shall be stored on a property except under conditions approved by the Fire Department. No bulk storage of materials or equipment shall be in any front yard, nor closer to any street line than 100 feet and no closer to any side or rear lot line than the minimum setback for the principal buildings. Each site shall provide appropriate area(s), properly screened from adjacent property, for the orderly deposit and pickup of trash and garbage.

**§ 130-46. Planned developments.**

The approving authority shall find the following:

- A. The planned development provisions shall supersede any conflicting portions of this chapter.
- B. Proposals for maintenance and conservation of the common open space shall be reliable. Any private organization shall be established in accordance with the homeowners' association provisions in § 130-37. The amount, location and purpose of the common open space shall be adequate for the use intended.
- C. The design for public services, control over vehicular and pedestrian traffic and the amenities of light and air, recreation and visual enjoyment shall be adequate and comply with appropriate portions of the Master Plan.
- D. The development will not have an adverse effect upon the area in which it is proposed to be established.
- E. A development contemplating construction over a period of years shall provide adequate terms and conditions to protect the interests of the public and residents, occupants and owners of the development and the end of each stage and upon completion of the development.
- F. Before final approval, the applicant shall submit a development schedule in one or more stages as contained in § 130-19A(2), including the location and mix of housing types in each stage. The housing mix at the end of any stage (except for the final stage) shall not deviate more than 20% from the approved final mix of unit types and cost ranges related to the provision of low- and moderate-income housing. Failure to adhere to the schedule shall mean

no other stages of the development or new development by the same principals shall be considered until the stage in default is completed.

**§ 130-46.1. General development plan. [Added 5-14-2002 by Ord. No. 2002-4]**

- A. Definition. "General development plan" means a comprehensive plan for the development of a planned development.
- B. Minimum tract size: 100 acres (contiguous or noncontiguous).
- C. Timing of application. A developer may submit an application to the Land Development Board for approval of a general development plan prior to the granting of preliminary subdivision or site plan approval of that development by the Land Development Board. [Amended 1-20-2004 by Ord. No. 2004-1]
- D. Public notice of hearing. Public notice of a hearing on an application for general development plan approval shall be required in accordance with the requirements of § 130-9 (Public hearings).
- E. Timing of Land Development Board decision. The Land Development Board shall grant or deny general development plan approval within 95 days after submission of a complete application to the administrative officer or within such further time as may be consented to by the applicant. Failure of the Land Development Board to act within the period prescribed shall constitute general development plan approval. [Amended 1-20-2004 by Ord. No. 2004-1]
- F. Required contents of the general development plan. The general development plan shall set forth the permitted number of dwelling units, the amount of nonresidential floor space, the residential density and the nonresidential floor area ratio for the planned development, in its entirety, according to a schedule which sets forth the timing of the various sections of the development. The planned development shall be a development plan approved by the Land Development Board notwithstanding any provision of P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.), or an ordinance or regulation adopted pursuant thereto after the effective date of the approval. [Amended 1-20-2004 by Ord. No. 2004-1]
- G. Duration. [Amended 1-20-2004 by Ord. No. 2004-1]
  - (1) The term of the effect of the general development plan approval shall be determined by the Land Development Board using the guidelines set forth in Subsection I(3) of this section, except that the term of the effect of the approval shall not exceed 20 years from the date upon which the developer receives final approval of the first section of the

planned development pursuant to P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.).

- (2) In making its determination regarding the duration of the effect of approval of the development plan, the Land Development Board shall consider the number of dwelling units or amount of nonresidential floor area to be constructed, prevailing economic conditions, the timing schedule to be followed in completing the development and the likelihood of its fulfillment, the developer's capability of completing the proposed development and the contents of the general development plan and any conditions which the Land Development Board attaches to the approval thereof.

H. Information that is required to be submitted for general development plan approval:

- (1) A general land use plan at a scale not less than one inch equals 200 feet indicating the tract area and general locations of the land uses to be included in the planned development. The total number of dwelling units and amount of nonresidential floor area to be provided and proposed land which are to be devoted to residential and nonresidential use shall be set forth. In addition, the proposed types of nonresidential uses to be included in the planned development shall be set forth, and the land area to be occupied by each proposed use shall be estimated. The density and intensity of the use of the entire planned development shall be set forth, and a residential density and a nonresidential floor area ratio shall be provided.
- (2) Circulation plan showing the general location and types of transportation facilities, including facilities for pedestrian access within the planned development and any proposed improvements to the existing transportation system outside the planned development.
- (3) An open space plan showing the proposed land area and general location of parks and any other land areas to be set aside for conservation and recreational purposes and a general description of improvements proposed to be made thereon, including a plan for the operation and maintenance of parks and recreational lands.
- (4) A utility plan indicating the need for and showing the proposed location of sewage and water lines, any drainage facilities necessitated by the physical characteristics of the site, proposed methods for handling solid waste disposal and a plan for the operation and maintenance of proposed utilities.
  - (a) Any general development plan (GDP) that includes a golf course shall include a list of permits necessary from other agencies and a commitment that the Township be furnished copies of all permits, monitoring reports and other documents pertaining thereto.
- (5) A stormwater management plan setting forth the proposed method of controlling and

managing stormwater on the site.

- (a) Any GDP that includes a golf course shall include a stormwater management plan designed to result in the maximum feasible stormwater being collected and retained on-site where the ponds can provide stormwater management, flood control, water supply for irrigation purposes to reduce demands on off-tract ground and surface water supplies, aesthetic appearances and/or water hazards for golfers. This shall include off-site drainage arriving at the golf course and any associated residential development and drainage originating from any associated residential development.
- (6) An environmental inventory, including a general description of the vegetation, soils, topography, geology, surface hydrology, climate and cultural resources of the site, existing man-made structures or features and the probable impact of the development on the environmental attributes of the site.
- (7) A community facility plan indicating the scope and type of supporting community facilities which may include, but not be limited to, educational or cultural facilities, historic sites, libraries, hospitals, firehouses and police stations.
- (8) A housing plan outlining the number of housing units to be provided and the extent to which any housing obligation assigned to the municipality pursuant to P.L. 1985, c. 222 will be fulfilled by the development.
- (9) A local service plan indicating those public services which the applicant proposes to provide and which may include, but not be limited to, water, sewer, cable and solid waste disposal.
- (10) A fiscal report describing the anticipated demand on municipal services to be generated by the planned development and any other financial impacts to be faced by municipality or school districts as a result of the completion of the planned development. The fiscal report shall also include a detailed projection on property tax revenues which will accrue to the county, municipality and school districts according to the timing schedule provided by the Board and following the completion of the planned development in its entirety.
- (11) A proposed timing schedule in the case of a planned development whose construction is contemplated over a period of years, including any terms or conditions which are intended to protect the interests of the public and of the residents who occupy any section of the planned development prior to the completion of the development in its entirety.
- (12) A municipal development agreement, which shall mean a written agreement between a

municipality and a developer relating to the planned development.

- (13) Other information. The Land Development Board may require such additional information not specified in this section, or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the municipal agency. [Amended 1-20-2004 by Ord. No. 2004-1]

I. General development plan; timing schedule; modification.

- (1) In the event that the developer seeks to modify the proposed timing schedule, such modification shall require the approval of the Land Development Board. The Land Development Board shall, in deciding whether or not to grant approval of the modification, take into consideration prevailing economic and market conditions, anticipated and actual needs for residential units and nonresidential space within the municipality and the region and the availability and capacity of public facilities to accommodate the proposed development. [Amended 1-20-2004 by Ord. No. 2004-1]
- (2) Any variation in the location of land uses or increase in density or floor area ratio proposed in reaction to a negative decision of or condition of development approval by the Department of Environmental Protection shall be approved by the Land Development Board if the developer can demonstrate to the satisfaction of the Land Development Board that the variation being proposed is a direct result of such determination by the Department of Environmental Protection, as the case may be. [Amended 1-20-2004 by Ord. No. 2004-1]
- (3) Upon the completion of each section of the development as set forth in the approved GDP, the developer shall notify the administrative officer by certified mail as evidence that the developer is fulfilling his obligations under the approved plan. For the purpose of this section "completion" of any section of the development shall mean that the developer has acquired a certificate of occupancy for every residential unit or every nonresidential structure as set forth in the approved GDP. If the municipality does not receive such notification at the completion of any section of the development, the municipality shall notify the developer, by certified mail, in order to determine whether or not terms of the approved plan are being satisfactorily met. If a developer does not complete any section of the development within eight months of the date provided for in the approved plan, or if at any time the municipality has cause to believe that the developer is not fulfilling the obligations pursuant to the approved plan, the municipality shall notify the developer, by certified mail, and the developer shall have 10 days within which to give evidence that they are fulfilling their obligation pursuant to the approved



plan. The municipality thereafter shall conduct a hearing to determine whether or not the developer is in violation of the approved plan. If, after such a hearing, the municipality finds good cause to terminate the approval, it shall provide written notice of same to the developer and the approval shall be terminated 30 days thereafter.

- (4) In the event that a developer who has general development plan approval does not apply for preliminary approval for the planned development which is the subject of that general development plan approval within five years of the date upon which the general development plan has been approved by the Land Development Board, the municipality shall have cause to terminate the approval. [Amended 1-20-2004 by Ord. No. 2004-1]
- (5) In the event that a development which is the subject of an approved GDP is completed before the end of the term of the approval, the approval shall terminate with the completion of the development. For the purpose of this section, a development shall be considered complete on the date upon which a certificate of occupancy has been issued for the final residential or nonresidential structure in the last section of the development in accordance with the timing schedule set forth in the approved general development plan and the developer has fulfilled all of his obligations pursuant to the approval.

**§ 130-47. Principal use.** [Amended 4-6-1998 by Ord. No. 1998-11; 2-1-1999 by Ord. No. 1999-4]

No lot shall have erected upon it more than one principal building. No more than one principal permitted use shall be allowed within this principal building on one principal lot, except that shopping centers, apartment or townhouse complexes, condominium projects and industrial or office complexes may be permitted to have more than one principal building and one principal use on a lot. No more than one principal permitted use shall be allowed within this principal building on one principal lot except that shopping centers, community/power retail centers, apartment or townhouse complexes, condominium projects and industrial or office complexes may be permitted to have more than one principal building and one principal use on a lot.

**§ 130-48. Public utilities.**

All utilities shall be connected to approved public utility systems where they exist.

- A. Electric, telephone and cable television distribution supply lines and service connections shall be installed underground except for those serving lots which abut streets with existing overhead lines. Should a road widening or an extension of service occur as a result of the development, any replacement, relocation or extension of existing overhead lines shall be

underground.

- B. Where soil conditions, woods or other special conditions exist, the developer may apply to the approving authority for an exception from the terms of this section in accordance with § 130-13. To the extent practical, poles shall follow rear lot lines and other interior locations or be located where visual impact will be minimized.

**§ 130-48.1. Design and construction standards for recreational facilities. [Added 9-5-1995 by Ord. No. 1995-19; amended 12-6-1999 by Ord. No. 1999-26; 1-18-2000 by Ord. No. 2000-1; 5-14-2002 by Ord. No. 2002-5]**

- A. Purpose. It is the general purpose and intent of the recreation requirements for residential development that all new residential developments provide recreational facilities as part of the overall recreation program of the Township; that passive and active recreation are of equal importance and both serve legitimate municipal health, safety and welfare purposes; that, to the extent feasible, central recreation facilities owned and maintained by the Township be generally accessible to the majority of Township residents and active recreation be centrally located in close proximity to existing Township-owned recreation lands; and that active recreation, designed or located such that the potential users of said facilities are limited to a certain development or portion thereof, be owned and maintained by private homeowners' associations.
- B. For all residential development, the applicant shall propose adequate recreational facilities to serve the population of the development. The developer's recreation plans shall be submitted to the Land Development Board for its review and approval. The Land Development Board may seek advice from other boards or advisory committees, and it shall be guided in its review of the needs of individual developments by the standards set forth herein and by the goals and objectives of the Master Plan. For the purposes of this section, a single-family detached house shall be deemed to contain four persons, and any attached unit shall be deemed to contain three persons. The applicant shall propose recreation facilities, and the Land Development Board shall evaluate plans giving full consideration to the following standards: [Amended 1-20-2004 by Ord. No. 2004-1]
  - (1) Passive recreation. A minimum standard based upon one acre per 25 people is required in minimum one-acre tracts with 33 or more units, and full consideration shall be given to the preservation of natural features.
  - (2) Active recreation. Separate play areas for the age groups one through five, six through 10 and 11 through 15 should be included. Equipment for these areas should be based on the recreation needs of each age group. Infants through five-year-olds should have a sand area, small swings, static play animals, a small sliding board, etc. A sitting area for the

parents should be provided in close proximity to the play areas. Tricycle space and pavement should be a part of this area. Children six through 10 are interested in movement, slides, seesaws, balance beams, rope climbing areas, chin-up bars, etc. Children 11 through 15 are interested in two kinds of spaces: a general use field where a Frisbee or football can be thrown and a space of identity for the age group. Bicycle paths and hills, lumps, etc., are recommended in this area. Landscaping should provide shade and separation for each area. The following standards shall be observed for recreation:

<b>Recreational Facilities</b>	<b>Number/Unit of Population</b>
Basketball/hockey courts	1 per 1,000
Tennis	1 per 1,000
Baseball/softball	
Youth	1 per 3,000
Adult	1 per 3,000
Football/soccer	1 per 2,000
Multicourt	1 per 2,000
Tot-lot Advanced play Picnic areas	1 per 200 (15% of total population) 1 per 400 (30% of total population) 1 per 5,000
Trails	
Bikeways	One six-foot wide bituminous trail per 300 persons as shown or described in the specifications of § 130-25
Jogging and fitness trails	One mile per 1,000 people. These should be integrated into district parks, active recreation areas and, where appropriate, passive recreation areas.
Open space trails	One mile per 3,000 people

<b>Recreational Facilities</b>	<b>Number/Unit of Population</b>
General use fields	1 per 6,000
Portable sanitary facilities	1 per every 4 facilities (tot-lots and advanced play areas shall be calculated at 50%)

- (a) The Board may require a developer to make certain site preparation improvements to the open spaces. These may include the following:
- [1] Removal of dead trees or diseased trees.
  - [2] Thinning of trees or other growth to encourage more desirable growth.
  - [3] Grading and seeding.
  - [4] Improvements of protection of the natural drainage system by the use of protective structures, stabilization measures and similar improvements.
- (b) The recreation facilities approved as part of the project shall be installed in the earliest phase practicable. In no case shall any certificates of occupancy be issued for units in excess of 2/3 of the units in any phase until the recreation facilities approved as part of that phase have been completed or, if these facilities are located in a later phase, either a proportional amount of cash escrow has been deposited or the developer has posted a guarantee or surety for the recreation facilities. Upon the Township Engineer's certification that those improvements have been installed to his satisfaction, additional certificates of occupancy for the phase may be issued.  
[Amended 6-11-2002 by Ord. No. 2002-7]
- (c) The requirements of this section relating to construction of on-tract recreation facilities on the land which has been set aside for recreational purposes may be modified or waived by the Land Development Board with the consent of the applicant upon the Land Development Board's determination that both the area local to the development and the recreational needs of the Township would be better served by a cash contribution to the Lumberton Township Recreation Trust Fund.  
[Amended 1-20-2004 by Ord. No. 2004-1]
- (d) The amount of the contribution required pursuant hereto shall be determined by the Land Development Board based on the estimated cost of the recreation facilities and equipment and areas that would otherwise be required for the proposed development,

which will also take into consideration 75% of the increased value accruing to the developer that will occur by reason of the additional dwelling units the developer will be able to construct by making a contribution to the fund in lieu of providing required open space. The amount of the contribution determined by the Land Development Board shall be prorated over the total number of dwelling units as shown on the final plan or site plan submitted by the applicant and approved by the Land Development Board in the order to determine a per dwelling unit amount. In any event, the amount of the contribution shall not be less than \$4,100 per dwelling unit to be paid to the Recreation Trust Fund, the purpose of which is to provide for the periodic purchase, lease, acquisition and/or maintenance of active recreation lands and improvements for the use of Township residents. [Amended 1-20-2004 by Ord. No. 2004-1; 11-14-2005 by Ord. No. 2005-29]

- (e) Payment of the contribution required pursuant to this subsection shall be made not later than the time of issuance of each building permit for any buildable lot in a major subdivision.
  - (f) The funds shall be deposited in a separate dedicated trust fund of the Township to be designated to be used to offset the cost of the parks and recreation capital improvements projects and for the acquisition of real estate for the development of Township parks and recreation facilities.
  - (g) All residential developments with 10 or fewer approved dwelling units shall pay the cash contribution to the Recreation Trust Fund in lieu of construction of recreation facilities.
  - (h) All low- and moderate-income residential developments, approved as part of the adopted Housing Plan element of the Master Plan and complying with all Council on Affordable Housing requirements, are exempt from the requirements of this section.
- (3) Tot-lots or playgrounds. Individual sites should be within walking distance of the people served.
- (a) All tot-lots and playgrounds shall be handicap accessible in accordance with the requirements of ADA standards.
  - (b) All playground equipment shall be purchased from a manufacturer who adheres to and provides proof of compliance with the Consumer Product Safety Commission and ASTM standards. Proof of the above shall be provided to both the Recreation Director and Township Engineer for review prior to installation.
  - (c) The playground shall be enclosed with a four-foot high cast-aluminum fence, with a thirty-six-inch wide gate. If required by the approving body, non-CCA

pressure-treated railroad ties, or equivalent, shall be located completely around the perimeter of the fencing except at the gate opening.

- (d) Padding shall be placed on the top rail of the fence.
  - (e) Playground surfaces shall be provided in accordance with CPSC guidelines. Underdrains shall be provided if required by the Township Engineer. In wooded areas, safety surfaces consisting of Goffs infield mix or equivalent may be required around individual pieces of play equipment.
  - (f) Playgrounds in open areas shall be provided with no less than eight deciduous shade trees located near benches, tables and recreation equipment. The trees shall have a minimum caliper of two inches and shall be staked and protected with wire mesh to a height of six feet. All shade trees shall be selected and planted in accordance with the requirements of § 130-52.
  - (g) The sidewalk shall be extended to the perimeter of the play equipment safety area and rest area.
  - (h) The installation of equipment shall conform to guidelines in the Uniform Construction Code, State of New Jersey, Playground Safety Subcode.
- (4) Tennis courts.
- (a) All tennis courts shall be regulation size and shall be oriented on a north-south axis. The blacktop and color coating shall be extended one foot beyond the fence line.
  - (b) The courts shall be enclosed with a ten-foot high, cast aluminum fence. The bottom of the fencing shall be a uniform one inch from the court surface at all locations. Line posts are to be a minimum 2 1/2 inches outside diameter, terminal posts, a minimum three inches outside diameter with brace assembly, and the top rail, a minimum 1 5/8 inch outside diameter. Posts shall be evenly spaced no farther apart than 10 feet on center and shall provide at least 36 inches setting in concrete. Gate openings shall be not less than seven feet wide, with a double door.
  - (c) Tennis courts shall be in a true plane and graded side to side with a cross slope of 1%.
  - (d) The courts shall be four inches of bituminous stabilized base course on a properly prepared subgrade acceptable to the Township Engineer; a one-and-one-half-inch-thick FABC-1 leveling course; and a one-inch SP-1 top course coated with a two-colored sealer as approved by the approving body. The sealer shall be Monsey Decoralt or an equivalent approved by the Township Engineer. Underdrains and granular subbase may be required as determined by the

Township Engineer.

- (e) The courts shall be lined in accordance with the rules of the United States Lawn Tennis Association. The paint shall be white line paint by Monsey Decoralt or an equivalent approved by the Township Engineer.
  - (f) Tennis court nets shall be nylon, as manufactured by Gametime No. 329, or an equivalent as approved by the approving body.
  - (g) Tennis posts shall be baked-on enamel with enclosed ratchets, as manufactured by Chevron, or an equivalent approved by the approving body. Posts shall be set in concrete.
  - (h) An eight-foot aluminum bench with back support shall be located near each gate entrance and be accessible from the walk. The benches shall face the courts, and shall be Model Number 881, manufactured by Gametime, or an equivalent approved by the approving body.
  - (i) Basketball and hockey courts shall have elevated, handicap accessible aluminum bleachers, at a minimum of five rows.
  - (j) Signs shall be located on each court identifying the court number, rules and regulations. The sign material, size, color, location, method of fastening, lettering and message content shall be as specified by the approving body.
  - (k) Deciduous trees shall not be planted closer than 20 feet to a tennis court fence. All existing trees shall be trimmed to prevent overhanging branches.
  - (l) Lighted tennis courts shall provide a minimum of 14 footcandles maintained average in the court area at grade level, using metal halide lamps. Every two courts shall be on a separate electrical control system. Each control system will consist of an astronomical-dial time clock; a waterproof push-button surface-mounted station limited to turning the light on only, with provisions for padlocking; and a watertight cast-aluminum meter cabinet, with a manual on/off switch and provision for a key lock. The meter cabinet shall be baked green enamel. Poles shall be Corten steel, self-weathering, except that aluminum poles shall be used when the poles are located on the playing surface.
- (5) Baseball diamonds.
- (a) All baseball fields shall be designed and constructed based on New Jersey State Interscholastic Athletic Association (NJSIAA) and any subsequent updates. The approving body may specify altered dimensions for baseball and softball fields.

- (b) The entire infield shall be skinned within a radius measuring 95 feet from the front center of the pitcher's plate.
- (c) The infield area shall contain infield grass seed mix equal to or better than Best Top as furnished by Jesse Morie and Son, Inc., at a rate of 10 pounds per 1,000 square feet.
- (d) Construction of the infield shall be as follows: The skinned subbase area should be graded to within four inches of finished grade and to a point 10 feet beyond the baselines and home plate. The infield area, from the edge of the pitcher's mound to the base paths, should not have more than a 1% grade. Stones should be removed and a soil sterilizer applied. The base should be lightly scarified and infield mix applied uniformly to a depth of six inches, and then mattdragged to a smooth level grade. Lastly, the skinned area should be moistened with a fine spray to a depth of 1 1/2 inches and rolled to a uniform smooth surface.
- (e) The pitcher's plate and home plate shall be Sav-A-Pitch, and the home plate shall be Sav-A-Leg as manufactured by Robert Sisco Association or its equivalent as approved by the Township Engineer.
- (f) The backstop shall be constructed in the following manner:
  - [1] The backstop shall be located a minimum of 25 feet behind home plate. It shall consist of two panels, each 12 feet high by 10 feet wide behind the catcher's position with wings 12 feet high by 10 feet wide on both sides. Overhang sections, 10 feet wide by six feet high, shall be over the back and wing panels. It shall be made of nine-gauge chain link fencing with top, center and bottom rails. The design and construction shall be equivalent to an extra-heavy-duty hardball backstop manufactured by Quality Industries (No. H 12201-66).
  - [2] Knuckled sideline fencing eight feet high and 30 feet long with bottom rails shall be installed parallel to the first and third base lines. On each side, there shall be a four-foot opening after the first twelve-foot section that is followed in a straight line by the remaining 18 feet of fencing.
  - [3] It may be required by the approving body that the entire field be enclosed by chain link fence. If this is required, the outfield fence shall start after the 40 feet of sideline fencing and shall be four feet high. There shall be a ten-foot no-grass space just inside the outfield fence that shall be excavated to four inches deep, sterilized and filled with infield mix or an equivalent as approved by the Township Engineer.
- (g) All upright pipes are to be three inches outside diameter. All crossbars and braces are



to be 1 5/8 inches outside diameter. All upright pipes shall be set three feet into a concrete foundation 12 inches in diameter and 42 inches deep. All pipes shall be standard weight Schedule 40. All materials shall be galvanized, and all crossbars and bracing shall face away from the playing area.

- (h) The pitcher's mound and batter's box shall be constructed in the following manner:
  - [1] The height and dimensions of the pitcher's mound will be specified by the Engineer and shall contain mound mix, equal to or better than Morie mound clay as furnished by Jesse Morie and Son, Inc. The mound clay shall be applied to the pitcher's mound area in layers of approximately seven-inch increments, wetting lightly and then tamping into place. This shall be continued until the specified dimensions are attained.
  - [2] The batter's box on each side of home plate shall be excavated to a depth of eight inches, with the sides of the dugout straight and the bottom uniform. Morie mounted clay or an equivalent material shall be applied in two equal layers, moistened and tamped firm between layers. The clay shall be brought to a level within two inches below the baselines. At that point, a rubber door mat shall be installed and then covered with a blend of infield mix and mound mix, tamped until firm.
- (i) Where possible, softball and baseball fields shall have a field orientation with the line from home plate through second pointing north-northeast.
- (j) Outfield distances shall not be less than 300 feet from home plate.
- (k) The athletic field shall be constructed in the following manner:
  - [1] The drainage design shall be in accordance with § 130-48.2, Storm drainage standards for recreation facilities.
  - [2] In the area under construction, all trash and stones shall be removed and the area shall be brought to grades shown on the approved plans. Any topsoil moved during the course of construction shall be redistributed so as to provide at least six inches of cover. Where additional fill is required to bring an area to grade specifications, test results shall be submitted to the Township Engineer for approval prior to adding to the site.
  - [3] The area to be seeded shall receive lime and fertilizer. Types of fertilizer and lime used and rates of application shall be determined by a soil analysis and approved by the Engineer.
    - [a] In preparation of the seedbed, all areas shall be tilled to a minimum depth of

six inches with tillage equipment approved by the Township Engineer.

- [b] Following tillage, lime and fertilizer shall be incorporated into the soil to a minimum depth of six inches in a manner and with equipment that is approved by the Township Engineer.
  - [c] Starter fertilizer shall be applied and worked in to a depth of one inch maximum with a suitable tool.
- [4] Seed for each area should be applied in two applications, with the second application made at a right angle to the first. Hydroseeding is acceptable but lime, fertilizer and mulch should not be mixed with the seed. The type of equipment to be used should be specified, and the method of covering and firming the seed in contact with the soil should be outlined. The seed mixture shall be 80% tall fescue, 10% rye grass and 10% bluegrass or upgraded varieties suitable for athletic fields. All seed mixture should have a germination rate of at least 90% and should be applied at 10 pounds per 1,000 square feet.
- [5] Mulching of the areas seeded is required. Hydro-mulching, hay or straw are acceptable. The kind, quality and rate of application need to be approved by the Township Engineer.
- [6] Repair. Areas that do not show an acceptable stand of desirable turf grass plants per square foot three months after seeding shall be reseeded at the contractor's expense.
- [7] Maintenance.
- [a] Watering. An irrigation system shall be installed to secure adequate germination, initial establishment and continued maintenance of landscaped areas.
  - [b] Mulch removal. Mulch shall be removed from all seeded areas, if necessary, by the contractor at any time prior to first cutting, as requested by the Township Engineer.
  - [c] Cutting. The contractor shall be responsible for the mowing of the grass prior to acceptance. Grass should be mowed to a height of three inches.
- [8] Prior to proceeding with any of the above items, inspections by the Engineer are required at the following times:
- [a] Installation of the drainage system, if required.

- [b] Grading of the site to ensure adherence to plans.
  - [c] Preparation of the seedbed, which includes approval of fertilizer, lime, seed and mulch as well as equipment to be used.
  - [d] Pre-final inspections to assess the initial stand of turf grass plants.
  - [e] Final inspection, which includes inspecting the fencing, parking facility, backstop, benches and any other required amenities.
- (l) Two permanent fifteen-foot aluminum players' benches per field shall be provided, as manufactured by Mexico Forge No. 157-115 or the equivalent, as approved by the approving body. Six inches of infield mix shall be applied from the fence to one foot past the benches and one foot beyond the length of the benches.
  - (m) One portable all aluminum bleacher, five rows, 15 feet which seats 50, shall be provided, as manufactured by Gametime No. 2342, or equivalent as approved by the Township Engineer.
  - (n) Bases shall be provided for all fields. The type and style of bases shall be approved by the Township Engineer and Recreation Director.
  - (o) First priority shall be given to designating separate fields with no overlap. Where overlapping occurs, there shall be not less than 10 feet between the baseball infield area and the soccer-football playing area. The applicant shall provide one pair of removable combination football-soccer goals with nets, sleeves and caps, as manufactured by Mexico Forge No. 901-000 and No. 920080, or an equivalent approved by the Township Engineer.
  - (p) Lighted baseball fields shall provide a minimum of thirty-foot-candle maintained average for the infield and a twenty-foot-candle maintained average for the outfield. Corten Steel self-weathering poles or aluminum poles and metal halide lamps shall be used.
- (6) Softball diamonds.
- (a) All softball fields shall be subject to Subsection B(5) and to the Field and Facility Specifications Guide, published by the Amateur Softball Association.
  - (b) The entire infield shall be skinned within a radius measuring 60 feet from the front center of the pitcher's plate.
  - (c) There will not be any pitcher's mound, however a pitching rubber shall be provided for all softball fields.

- (d) Outfield distances shall be 275 feet minimum from home plate.
  - (e) The distance between bases shall be 60 feet or such other dimension as specified by the Township Engineer.
  - (f) The distance of the backstop from home plate shall be as specified by the Township Engineer.
  - (g) Lighted softball fields shall provide a minimum of twenty-foot candle maintained average for the infield and fifteen-foot candle maintained average for the outfield. Corten Steel self-weathering poles or aluminum poles and metal lamps shall be used.
  - (h) The standards set forth in § 130-48.1B(5) shall be followed, where applicable.
  - (i) Portable bleachers shall be added as specified in § 130-48.1B(5)(l) and (m).
  - (j) Bases shall be provided for all fields. The type and style of bases shall be approved by the Township Engineer and Recreation Director.
- (7) Basketball and hockey courts.
- (a) The dimensions of the paved basketball court area shall be a minimum of 60 feet by 94 feet and larger; 74 feet by 108 feet if the same court is to be used for hockey. Courts shall be oriented on a north-south axis.
  - (b) The court shall be enclosed with a four-foot high, cast aluminum fence, subject to all of the specifications of § 130-48.1.B(4)(b). The fencing shall be located at the edge of the paved area and shall meet the court surface.
  - (c) Padding shall be placed on the top rail of the fence.
  - (d) All hockey courts shall have a three-foot solid enclosure in addition to the required fence, to be approved by the Planning Board. The solid material shall be compatible with the surrounding area, consist of a solid color, require no maintenance and be weather resistant.
  - (e) The courts shall be four inches of bituminous stabilized base course on a properly prepared subgrade acceptable to the Township Engineer and a one-and-one-half-inch-thick FABC-1 top course. Courts shall be in a true plane and graded side to side with a cross slope of 1%.
  - (f) The basketball courts shall be lined with two-inch-wide painted white lines, with court dimensions of 50 feet by 84 feet as measured from the inside of the court lines. All other line locations shall be in accordance with standard design practice as

approved by the approving body.

- (g) Basketball posts shall be Gametime 460, goals and nets to be Gametime 423, and the backboard shall be Gametime 853 or equivalent for all items as approved by the approving body.
- (h) Lighted courts shall be as specified in § 130-48.1.B(4)(l).
- (i) Signs and tree planting, if required, shall be as specified in § 130-48.1.B(4)(j) and (k).
- (j) A bench for each basketball court shall be included as specified in § 130-48.1.B(4)(h).
- (k) Basketball and hockey courts shall have elevated, handicap accessible aluminum bleachers, at a minimum of five rows. Safety fencing shall also be provided at the top of the hockey wall to prevent spectator injuries.
- (l) The dimensions of the paved hockey court area shall be a minimum of 80 feet by 200 feet. Courts shall be oriented on a north-south axis.
- (m) If required by the approving body, curbing shall be placed around the court perimeter to enable the courts to be used for ice skating. Specifications to be determined by the Township Engineer.
- (n) The courts shall be lined with two-inch-wide painted white lines. All line locations shall be in accordance with standard design practice as approved by the approving body.
- (o) Play equipment shall be as specified by the approving body.

C. Other recreation standards.

- (1) All recreation facilities shall be designed with minimum grades to facilitate access by people with handicapping conditions in accordance with ADA standards.
- (2) Concrete or bituminous sidewalks, not less than five feet wide, shall be constructed to connect recreation facilities with adjacent parking lots and residential sidewalks. Buffer trees and maintenance-free ground cover shall be placed in the open space access area when the sidewalk is contained in an open space access less than 50 feet wide and is between residential lots. Such sidewalks shall be constructed to the actual playing facility and spectator areas.
- (3) Four-inch-thick concrete pads shall be placed under all benches and picnic tables and extend four feet out on the three sides and one foot to the rear to provide a stable area for

wheelchairs, to reduce lawn maintenance and to provide a continuous connection to the walkways.

- (4) Evergreen buffer plantings shall be provided wherever necessary to create a visual and noise barrier between adjacent residential dwellings, as approved by the Land Development Board. [Amended 1-20-2004 by Ord. No. 2004-1]
- (5) Landscaping of recreation sites shall be with maintenance-free plant material as approved by the Township.
- (6) All facilities shall be designed in accordance with barrier-free design regulations.
- (7) The following specific standards shall be followed for designing facilities to meet the needs of handicapped persons:
  - (a) Provide handicapped parking stalls with ramps.
  - (b) Provide barrier-free routes of travel with no obstructions and minimal grade changes.
  - (c) Plantings next to walkways shall be species selected that will not interfere with handicapped travel.
  - (d) All routes of travel, pedestrian and vehicular, shall be illuminated wherever use after dark is anticipated. Lighting intensity and design to be approved by the Township Engineer.
  - (e) The quantity and location of gate openings shall be as determined by the approving body. Gate handles shall be located 32 inches from the ground, and sixteen-inch-high metal kickplates shall be provided across the entire width of gates.

D. In order to provide for the safety and general welfare of the public, all residential development shall set aside areas for off-street recreation and/or play areas. The recreation areas required in this section shall not include utility or drainage easements, stormwater controls, detention facilities or right-of-way areas.

E. Any area which is specifically required and designated for active recreational purposes shall be fully usable for that purpose and shall have all improvements required by this section. All recreation areas and facilities shall be designed in accordance with the Americans with Disabilities Act.

**§ 130-48.2. Storm drainage standards for recreation facilities. [Added 5-14-2002 by Ord. No. 2002-5]**

The intent of these standards is to promote the development of safe, attractive and

well-maintained recreational facilities in Lumberton Township. These standards should be considered as general guidelines only.

A. General standards.

- (1) In all cases, storm drainage computations shall be performed in accordance with existing regulations as outlined in the Lumberton Township Subdivision Regulations, including calculation of flows, sizing of facilities and provision for stormwater detention.
- (2) Grading of recreational facilities shall be performed in accordance with accepted engineering standards, as well as with recommended standards for the specific athletic facility in question. All grading shall be subject to review and approval by the Township Engineer.
- (3) All stormwater collection and conveyance facilities shall be designed in such a fashion that interference with the safety and function of the facility is minimized. Under no circumstances are storm drainage structures, except for underground pipes, to be located within playing areas. Wherever possible, structures such as inlets, headwalls and flared end sections should be located at least 10 feet from the defined limit of any play area or the required fence line, whichever is greater.
- (4) The stormwater management plan of a multipurpose recreational facility should be designed so that stormwater runoff is intercepted and conveyed to a discharge point as efficiently as possible to minimize overland flow.

B. Open channel system.

- (1) Wherever possible, within the recreational complex, swales should be used as a means of conveying stormwater to minimize construction costs and maintenance liability.
- (2) Side slopes for drainage swales should be no steeper than 10 to one.
- (3) A minimum longitudinal grade of 1% shall be maintained to preclude ponding in swales.
- (4) Culverted pedestrian walkways should be provided, as necessary, to facilitate pedestrian circulation during wet weather.

C. Pipe systems.

- (1) If required, due to the close proximity of playing fields and the resulting lack of area for construction of swales, the construction of piped storm drainage systems may be necessary.
- (2) All storm sewers within recreational facilities shall be designed for highway loading,

since they may be exposed to heavy construction and maintenance vehicle traffic.

- (3) Exposed drainage structures shall be located as far as possible from playing areas to minimize tripping and falling hazards.

**§ 130-49. Recycling and solid waste management. [Amended 8-3-1992 by Ord. No. 1992-6]**

- A. In the review of site plans and subdivisions, the approving authority shall consider the methods proposed for the handling of solid waste and recyclable materials. At a minimum, single-family developments consisting of 50 or more units, multifamily residential developments consisting of 25 or more units and all nonresidential developments calling for the utilization of 1,000 or more square feet of land shall make provision for the collection, disposition and recycling of recyclable materials, and the method of providing for such collection, disposition and recycling shall be indicated in the submissions for site plan or subdivision approval.
- B. During construction of any major subdivision residential development, adequate storage and waste disposal arrangements shall be provided as outlined in § 130-45B of this Code entitled "Performance standards." [Added 10-2-1995 by Ord. No. 1995-21]

**§ 130-49.1. Residential building appearance. [Added 7-17-1995 by Ord. No. 1995-10]**

- A. No building permit shall hereafter be issued for any detached single-family dwelling to be erected in a major residential subdivision if the dwelling is substantially alike in exterior design and appearance with any neighboring dwelling. The term "neighboring dwelling" shall be defined as a dwelling situated on the same side of the street, within two lots (including detention basin/open space lots). Said "neighboring dwelling" may be one already in existence or one for which a building permit has been issued or is pending. This restriction shall not apply where the front elevations are not visible from any one point or if it is substantially like the one building most directly opposite its front orientation. On a cul-de-sac, lots which have any portion of their lot frontage on the arc of the turnaround shall be considered to be on the same side of the street for the purposes of this section. Houses shall be considered dissimilar in exterior design and appearance if they possess at least three of the following six characteristics:
  - (1) A difference in the height of the main roof ridge above the elevation of the first floor.
  - (2) Differences in roof appurtenances (e.g., dormers, gables, pigeon stoops and cupolas).
  - (3) Differences in front facade siding materials (e.g., masonry vs. synthetic siding).



- (4) Reverse elevation design.
  - (5) Differences in the relative location of windows in the front elevation or in each of both side elevations with respect to each other and with respect to any door, chimney, porch or attached garage in the same elevation.
  - (6) Differences in the relative location of porch or garage elements of the front facade or other relief or variation in the front facade (e.g., jogs, bays).
- B. In addition to the requirements specified above, there shall be no fewer than three separate basic house designs in every residential subdivision consisting of eight or more lots; no fewer than four basic house designs where there are 15 or more lots; and no fewer than five basic house designs where there are 25 or more lots.
- C. To ensure conformity with the provisions of this section, no building permit shall hereafter be issued for more than one dwelling in any housing development, except as provided herein, until an engineer's survey or architect's drawing of the entire tract, or part to be developed, has been submitted to the Zoning Officer, showing thereon or on a schedule attached thereto the model number, type and design of each house. The survey or drawing shall show the dimensions of each house in sufficient detail to allow a determination to be made as to its similarity or lack thereof with other houses proposed for the development. In order to provide market flexibility, it shall not be necessary to select specific house designs for each lot at the outset, but in the alternative, these decisions can be made as requests for building permits are submitted. The developer shall have the responsibility to provide the Zoning Officer with sufficient information at any stage in the development process to assure that the provisions of this section are addressed throughout the development.

**§ 130-50. Sanitary sewers. [Amended 8-3-1992 by Ord. No. 1992-6]**

If a central sewage treatment and collection system is accessible, the developer shall connect to the system. Sanitary sewers and appurtenances shall comply with the requirements of the Mount Holly Sewerage Authority. If on-site systems are proposed, the required data in § 130-20C(17) shall be submitted.

**§ 130-51. Service stations.**

- A. All storage areas, trash facilities, pits, lifts and working area shall be within a building. All lubrication, repair or similar activities shall be performed in an enclosed building, and no dismantled parts, junk vehicles or unregistered vehicles shall be placed outside.
- B. Ingress and egress shall be designed to recognize the turning movements generated. Access

points shall be coordinated with the access points required for nearby uses, frequency of intersecting side streets, minimizing left turns off collector and arterial streets and maintaining building setbacks compatible with the required setbacks and landscaping. No service station shall have an entrance or exit for vehicles within 300 feet of any school, playground, church, hospital, public building or residential zoning district line, except where such property is on another street which the lot in question does not abut. [Amended 8-3-1992 by Ord. No. 1992-6]

- C. All gasoline pumps, air pumps and the islands upon which pumps are normally located shall be set back from any property line and the street right-of-way line at least 50 feet. A minimum space of 20 feet shall exist between any two islands and between any island and the service station building.
- D. No more than 12 motor vehicles may be located outside a service station building for a period not to exceed five days, provided that the owners are awaiting the repair of said motor vehicles.
- E. The exterior display and parking of equipment for rent or sale shall be permitted, provided that the area devoted to this purpose is in addition to the minimum lot size required for a service station, the area devoted to this purpose does not exceed 20% of the total area of the service station site, the maximum sign area for a service station is not exceeded and the location of the equipment being rented or sold does not interfere with the required off-street parking requirements for the service station and does not interfere with the on-lot traffic circulation indicated on the approved site plan.

**§ 130-52. Shade trees. [Amended 4-17-1989 by Ord. No. 1986-6; 8-3-1992 by Ord. No. 1992-6]**

- A. All planted trees shall have a minimum diameter of 2.5 inches measured six inches above the ground and be of a species approved by the approving authority. Trees shall be planted no more than 50 feet apart in a planting easement along all new streets and located a minimum of 10 feet behind the street line but no more than 1/2 of the required front yard setback for the principal building. They shall be balled and burlapped, nursery-grown, free from insects and disease and true to species and variety. Stripping trees or filling around trees in the yard portion of a lot shall not be permitted unless it can be shown that grading requirements or thinning necessitate removal of trees, in which case those lots shall be replanted to reestablish the tone of the area and to conform with adjacent lots. Planted trees that do not live shall be replaced by the developer during the next planting season. Parking lots shall be planted as required in Off-street parking and loading, § 130-44.
- B. In placing "street trees" or "shade trees," the following trees are permitted for use within the

Township of Lumberton, and variation from this list is subject to the approval of the Land Development Board at the time of site plan approval: [Added 11-15-1999 by Ord. No. 1999-20; amended 10-16-2000 by Ord. No. 2000-21; 1-20-2004 by Ord. No. 2004-1]

<b>Botanical Name</b>	<b>Common Name</b>
Acer rubrum	Red maple (October Glory or Red Sunset variety only)
Acer saccharum	Sugar maple (Green Mountain variety preferred)
Carpinus betulus "fastigiata"	European hornbeam
Celtis x occidentalis "magnifica"	Magnifica hackberry
Fraxinus americana	White ash (seedless variety only)
Fraxinus pennsylvanica	Green ash (Cimmaron and Patmore variety only)
Ginkgo biloba	Ginkgo (male only)
Koelreuteria paniculata	Goldenrain tree
Maackia amurensis "Starburst"	"Starburst" Amur Maackia
Quercus acutissima	Sawtooth oak
Quercus bicolor	Swamp white oak
Quercus macrocarpa	Bur oak
Quercus phellos	Willow oak
Zelkova serrata	Zelkova (Village Green variety only)

- C. No tree shall be planted which does not conform or be among the shade trees set forth above. The shade tree easement shall restrict rights of any property owner to remove a shade tree

from the planting easement without the approval of the Planning Board. All shade trees shall be installed prior to the issuance of a certificate of occupancy, unless provided for by a performance guaranty with notification to the purchaser of any lot burdened by the easement that shade trees will be installed subsequent to their purchase, indefinites the species being installed and sets forth the restrictions on removal set forth within the easement. A signed copy of the notification executed by the purchaser of the lot shall be filed with the Construction Official's office prior to a certificate of occupancy issuing. [Added 10-16-2000 by Ord. No. 2000-21]

**§ 130-53. Sidewalks. [Amended 9-5-1995 by Ord. No. 1995-19; 12-6-1999 by Ord. No. 1999-24]**

Sidewalks, also known as "pedestrian ways" throughout this section, shall be installed as determined by the approving authority in the interest of public safety and proper pedestrian circulation and in accordance with the aforementioned Bikeway and Pedestrian Circulation Plan amendments to the Municipal Master Plan.<sup>EN(86)</sup> The construction of sidewalks/pedestrian ways shall be based upon the following criteria:

- A. Sidewalks are typically designed for pedestrian speed and maneuverability and are not safe for higher speed bicycle use. Conflicts are common between pedestrians traveling at low speeds and bicycles. Sidewalks shall be required in areas that link high-density residential areas with schools, public areas and employment centers. The criteria established for providing sidewalks is as follows:
  - (1) Residential density exceeds 1.5 dwelling units per acre, and:
    - (a) The development or project is within 2,500 feet of a public or school bus route;
    - (b) The development or project is located within 2,500 feet of an existing or proposed recreational, residential, business or retail use or a site where such use is permitted by existing or proposed zoning; or
    - (c) The development or project has proposed streets which connect to or extend existing streets with sidewalks on both sides.
  - (2) Residential density exceeds 0.5 dwelling units per acre and the development is located within two miles of a school.
- B. Sidewalks shall be at least four feet wide and may be constructed of concrete, brick or bituminous material. Concrete sidewalks shall be Class C concrete having a twenty-eight-day compressive strength of 4,000 pounds per square inch, shall be air-entrained and shall be four inches thick except at points of vehicular crossing where they shall be at least six inches

thick. Sidewalks crossing driveways shall be reinforced at the midpoint or 1/3 joints with welded wire fabric (66-1212) or equivalent. If constructed of macadam, sidewalks shall adhere to the bikeway standards. Sidewalks of other approved material shall be constructed as approved by the approving authority upon the advice of the Municipal Engineer. Where sidewalks cross curbs, curb ramps shall be provided as outlined in § 130-28 of this Code. Performed joint material shall be placed on concrete sidewalks at no more than twenty-foot intervals and where sidewalks abut curbing or a structure.

- C. In the event that it is determined, in the Board's discretion, that the installation of a sidewalk is inappropriate for a particular development, the developer shall be required to contribute to a Sidewalk Fund in the Township of Lumberton. The Sidewalk Fund shall be created for the installation and maintenance of sidewalks elsewhere throughout the Township. It shall be comprised of contributions to be made by developers and based on an amount equal to the approximate construction cost of said sidewalks, to be determined by the Township Engineer.

**§ 130-54. Sight triangles. [Amended 1-18-2000 by Ord. No. 2000-3]**

Sight triangles shall be based upon the designated speed limit of the intersecting streets. Where any intersection involves earth banks or vegetation, including trees, the developer shall trim or selectively thin trees and grade to provide the sight triangle. Where berms are required to be constructed as part of a subdivision approval, said berms shall be constructed in a fashion so as to not interfere with the sight triangles established herein.

- A. Streets with a designated speed limit of 20 miles per hour at 210 feet.
- B. Streets with a designated speed limit of 30 miles per hour at 310 feet.
- C. Streets with a designated speed limit of 40 miles per hour at 415 feet.
- D. Streets with a designated speed limit of 50 miles per hour at 515 feet.
- E. Streets with a designated speed limit between those indicated above shall be interpolated between the above standards.

**§ 130-55. Signs.**

- A. No person shall erect, alter or relocate any sign without a sign permit, unless exempted under the following provisions. Normal maintenance and the removal of a sign shall not require a permit.
- B. General regulations shall be as follows:

- (1) Animated, flashing and illusionary signs. Signs using mechanical and/or electrical devices to revolve, flash, change intensity of illumination or display movement or the illusion of movement are prohibited.
- (2) Attached signs. Signs shall be parallel to the wall. The face of the sign shall be no more than 15 inches from the surface of the wall.
- (3) Height. The uppermost part of an attached sign shall not exceed the base of the second floor windowsill or the base of the roof or 18 feet, whichever is lower. The lowest portion of any sign which projects above a driveway or walkway shall be at least 14 feet or nine feet, respectively. Signs shall not be mounted on a roof. Freestanding signs shall not exceed a height of 30 feet. [Amended 5-17-1993 by Ord. No. 1993-9]
- (4) Illuminated signs. All lighted signs shall have the light source shielded from adjoining or nearby lots, streets and interior drives and shall have translucent fixtures.
- (5) Location. Freestanding signs shall be no closer to a side lot line than the minimum side yard for the principal building, but in any event no closer to a street right-of-way or property line than 10 feet, and not located in any sight triangle.
- (6) Sign area and dimension. "Sign area" shall include all lettering, wording, coloring and accompanying designs and symbols, together with the background, whether open or closed, but not including the supporting framework and bracing incidental to the display itself. All internally illuminated panels or translucent fixtures, whether or not they contain lettering, wording, designs or symbols, shall be considered to be a part of sign area. [Amended 5-17-1993 by Ord. No. 1993-9]
- (7) Exemptions from sign permits. Street number designations, highway signs, postal boxes, family names on residences, on-site traffic directional and parking signs, signs posting property as "private property," "no hunting," "danger," "warning" or for similar purposes are permitted but are exempt from other sign area limits as set forth in this chapter, so long as said signs do not exceed two square feet each. [Amended 5-17-1993 by Ord No. 1993-9]
- (8) Temporary signs.
  - (a) Construction signs, nonresidential. No more than one sign naming the project under construction and the participating firms and individuals is permitted on the construction site, beginning with the issuance of a building permit and terminating with the issuance of a certificate of occupancy or the expiration of the building permit, whichever comes first. Such signs shall not exceed an area of 32 square feet.
  - (b) Construction sign, residential. Not more than two temporary ground signs for an

approved residential development shall be permitted, provided that each sign does not exceed 12 square feet, shall be no closer than 15 feet to any street or side lot line and shall be removed within 30 days after all the lots or units have been sold.

- (c) Real estate signs. Real estate signs shall be set back at least 10 feet from the edge of the street paving and 10 feet from all property lines and shall not exceed four square feet on each side. Signs shall be removed at the expense of the advertiser within 15 days after the termination or completion of the matter being advertised. They do not require a permit. No more than one sign shall be permitted along each street. Real estate signs shall be permitted only on the lot which the sign is advertising.
- (d) Political signs.
  - [1] Political signs shall not exceed 16 square feet in area. There shall be no more than one sign per lot, and the sign shall have the consent of the owner of the lot. No such sign shall be erected more than 45 days prior to the election and shall be removed within 14 days following such election.
  - [2] If a sign is located within a public right-of-way and has not been registered with the Township Clerk/Administrator as to the person responsible for the removal of the sign or does not carry the identification of the person responsible for the removal of the sign, the Zoning Officer shall be empowered to remove such sign at anytime.
- (e) Mechanics and artisans. Each mechanic and artisan is permitted to erect one sign during the period when the mechanic or artisan is actively performing work on the lands or premises where the sign is placed. The sign shall have a maximum area of six square feet, and it shall not be placed in such a way that it interferes with visibility for motorists exiting the premises. Such a sign shall not require a permit. [Added 5-17-1993 by Ord. No. 1993-9]
- (f) Yard sale signs. Signs advertising the holding of a yard sale are permitted, provided they contain the date of and location for the yard sale, are posted on the day before the yard sale, and are removed by the property owner holding the yard sale the day after the yard sale, and are no more than two square feet in size. Yard sale signs may not be placed on other signs, such as traffic directional signs, or public utility poles, such as light standards or telephone poles. The provisions of this section shall be enforceable by the Code Enforcement Official and Zoning Officer. [Added 7-6-2004 by Ord. No. 2004-24]
- (9) Public and quasi-public uses. One wall or ground sign not exceeding 12 square feet may be located on the premises of places of worship, school buildings, libraries, parish

houses, government buildings and public recreational and community center buildings and grounds. No fee shall be required in connection with the permit for such a sign. [Amended 8-3-1992 by Ord No. 1992-6]

(10) Service stations. Service stations may display the following special signs: [Amended 5-17-1993 by Ord. No. 1993-9]

- (a) One freestanding sign advertising the name of the station, including the company or brand name, insignia or emblem, provided that such sign shall not exceed 50 square feet on a side and shall be at least 15 feet from the property line. Said sign shall not exceed the height requirements established herein for freestanding signs. One freestanding sign shall be permitted for each street frontage. The freestanding sign may have a supplementary price sign, provided that it is mounted on the same support structure as the freestanding sign, that the price sign does not exceed 25 feet in sign area and that the lowest part of the price sign is at least eight feet above grade.
- (b) Incidental signs advertising services, trade information, credit cards, prices and information other than product advertising are permitted, provided that no one sign exceeds 10 square feet, there is no more than one such sign per street frontage and all are set back at least 20 feet from the curblines.
- (c) In addition to the freestanding sign permitted herein, gasoline stations which have a canopy over the pump islands shall be permitted one sign on the canopy, with the area of the sign limited to no more than 10% of the longest facade of the canopy.
- (d) In addition to the freestanding sign, the incidental sign and the sign on the canopy, the principal building shall be permitted to have one attached or wall sign in accordance with the provisions of the Subsection C(2)(a).

(11) Prohibited signs shall be as follows:

- (a) Illuminated tubing, neon lights, barebulb external sign illumination and strings of lights. [Amended 5-17-1993 by Ord. No. 1993-9]
- (b) Banner-type signs, except in celebration of public events and erected with approval of the governing body.
- (c) Billboards.
- (d) Mobile signs, including signs which are not permanently attached to a building, or not placed in the ground in such a fashion as to be permanent in a manner conforming to the Uniform Construction Code,<sup>EN(87)</sup> or signs mounted on wheels, trailers or unregistered motor vehicles. [Also see Historic/Architectural District



exemption.<sup>EN(88)</sup>] A registered vehicle which has as its principal purpose the advertising of a business from as site as opposed to serving as a delivery or service vehicle for other business purposes shall be considered a "mobile sign" for the purposes of this section. [Amended 5-17-1993 by Ord. No. 1993-9]

C. Signs within each district shall be permitted as follows:

(1) Residential districts.

- (a) Single-family and two-family houses. One wall sign not exceeding two square feet advertising or indicating the office of a permitted home occupation.
- (b) Garden apartment or townhouse complex. One freestanding sign giving the name of the project, not exceeding 12 square feet, and a maximum height of four feet, and no closer than 10 feet to any right-of-way.

(2) Commercial district. [Amended 8-3-1992 by Ord. No. 1992-6]

- (a) There shall be no more than two signs per freestanding business. No more than one sign may be an attached or wall sign, and no more than one sign may be freestanding. Their aggregate area shall not exceed the equivalent of 10% of the area of the front of the principal building, including the window and door areas, and such aggregate area shall be calculated by multiplying the length of the front of the building by the lesser of the height of the building or 18 feet. A freestanding sign shall meet the setback requirements of Subsection C(2)(b)[1] below. A freestanding business on a corner lot shall be permitted to apply the standards of this section to each lot frontage. [Amended 5-17-1993 by Ord. No. 1993-9]
- (b) Individual tenants in shopping centers and other multiple-tenant commercial facilities shall be permitted one attached or wall sign which shall meet the requirements of Subsection C(2)(a) above, and an individual tenant with more than one facade facing a customer parking lot shall be permitted one attached or wall sign per such facade. Shopping centers and other multiple-tenant commercial facilities shall be permitted one freestanding sign per lot frontage advertising the name of the shopping center and meeting the following specifications: [Amended 5-17-1993 by Ord. No 1993-9]

[1] Located on the same lot as the shopping center, but no closer to the intersection of two street lines than 50 feet, not exceeding 30 feet in height and no closer to the right-of-way line than 10 feet.

[2] The sign area shall not exceed 150 square feet or one square foot for each linear foot of lot frontage abutting the location of the freestanding sign.

- [3] Individual tenant nameplates on the sign below the principal name of the shopping center are permitted, provided that each nameplate sign is of uniform dimension and lettering, no nameplate is larger than eight square feet in area and the aggregate sign area does not exceed the maximums set forth in Subsection C(2)(b)[2] above.
- [4] No freestanding sign shall be within 100 feet of any other freestanding sign.
- (c) Within the B-2 District only, commercial establishments selling new or used automobiles shall be permitted to have streamers on the site, but shall not be permitted to have banners or pennants. Streamers shall only be permitted on lots with a minimum of 200 feet of lot frontage along Route 38. [Added 5-9-1988 by Ord. No. 1988-9]
- (d) Temporary signs. [Added 4-18-1994 by Ord. No. 1994-3]
  - [1] Any commercial or business establishment located in the B-2 Zoning Districts shall be permitted, in addition to the signs permitted under Subsection C(2)(a) and (b) above, to place one temporary sign advertising an unusual commercial event or promotional sale or event (e.g., grand opening, fire sale, going-out-of-business sale, etc.) in or about the exterior of the premises of the commercial location. Said temporary sign shall not exceed 10% of the area, including windows and doors, of the facade of the building to which the sign is attached, and said sign shall not exceed in length the width of the facade of the building to which it is attached. Said temporary sign or signs shall be attached to the building or placed within a window and shall not extend more than 18 inches from the facade and shall also not extend above the facade and shall also not extend above the roofline of the building. No more than one such sign shall be permitted under any temporary sign permit, which permit shall be secured as set forth below for each such event. Moreover, no more than two such temporary sign permits shall be allowed to be issued in any calendar year at any business location, and at least six months shall elapse between the issuance of permits. Transfer of ownership of the business or property will not affect this limitation. Moreover, said permit shall be valid for no more than 30 days.
    - [a] Any person or entity seeking a temporary sign permit under this subsection shall make application to the Township Zoning Officer, on a form prescribed by the Township, which form shall include, among other information, the following:
      - [i] Name, address and telephone number of the applicant and, if the applicant is not the owner of the property, the written consent of the

owner.

- [ii] The name and address of the business, including block and lot number, where the promotional event is to take place.
  - [iii] A description of the sign for which permission is sought, including its proposed location on the building and its relationship to the location of any permanent signs on the building.
  - [iv] The name and address of the contractor who will be installing said sign.
  - [v] The nature of the event to be advertised on said sign.
- [b] Required fee. Each application shall be accompanied by a fee of \$25, which fee shall be used to defray administrative costs associated with the review of the permit application. Each sign for which permission is sought shall require a separate fee.
- [c] Zoning Officer review. Upon submission of each application for a temporary sign permit as authorized by this subsection, the Zoning Officer shall review said application to determine if the application can be approved without any detriment to the health, safety and general welfare of the public. In making said determination, the Zoning Officer shall consider aesthetics, shall consult with the Traffic Safety Officer of the Lumberton Township Police Department and shall consider whether the proposed sign interferes with or impedes any visibility or sight lines or has any negative visual impact.
- [d] Freestanding signs prohibited. Nothing herein contained shall be construed or interpreted to permit temporary signs of a freestanding nature. Any and all signs approved under this subsection must be attached to the window or some other portion of the facade of the building upon which the sales or promotional event is to take place.
- [2] Performance bond. Each applicant shall post with the Township Administrator a cash performance guaranty to insure compliance with the provisions of this subsection and to insure that upon the conclusion of the time frame for which the permit is issued, the sign and/or tent or tent-like structure shall be removed. As to tents and tent-like structures, the performance guaranty shall be in the amount of \$500. As to signs, the guaranty shall be, on a per-event basis, \$100 for each sign. Said moneys shall be held by the municipality until the end of the time period for which permission is granted. In the event that the applicant fails to remove the signs within 12 hours of the end of the last calendar day of the time frame for which the permit was issued, all performance guaranties shall be

forfeited.

- [3] Fines and penalties. In addition to the forfeiture provisions of Subsection C(2)(d)[2] above, any person, partnership, corporation or other legal entity found to have violated the provisions of this Subsection C(2)(d), or any article, section or paragraph hereof, shall be liable, at the discretion of the Municipal Magistrate, for a fine not to exceed \$1,000 per occurrence or 90 days of community service or 90 days' incarceration, or some combination thereof.

(3) Industrial districts.

- (a) Not more than one freestanding sign advertising the name, product(s) and logo of an industry shall be allowed for each street frontage and meeting the following requirements:

[1] Located on the same lot as the industrial use, but no closer than 30 feet to the right-of-way of any street and no closer to the intersection of two street lines than 50 feet and of a height not exceeding 10 feet.

[2] An area not exceeding zero and 0.5 square foot for each linear foot of front yard setback of the principal building, but not to exceed 200 square feet.

- (b) No more than two attached signs advertising the name, product(s) and seal of an industry or office will be allowed, provided that they shall be attached to the main building and limited to one sign per side, and the area of each sign shall not exceed 200 square feet or 10% of the area of the wall to which it is attached, whichever is less.

- (4) Historic/Architectural District. Nonresidential uses within this district shall be permitted one attached sign. The sign area shall not exceed 10 square feet. Freestanding signs shall be permitted for nonresidential uses, and the sign area shall not exceed 12 square feet. The highest point of an attached sign shall not exceed 12 feet above grade. Freestanding signs shall be set back from the street right-of-way a minimum of five feet, and if this setback cannot be accommodated the freestanding sign shall not be permitted. A portable sign, which would be displayed only during business hours but for no more than 12 hours per day, is permitted within this district, provided that it does not exceed six square feet in area, exclusive of the supporting portion of the sign. All signs, whether permanent or temporary, with the exception of real estate signs, mechanics or artisans signs, and those listed under Subsection B(7) as exempt signs, shall require review and approval of the Committee on Historic Architectural Review (§ 130-35) and the Planning Board prior to the issuance of a sign permit. [Added 5-17-1993 by Ord. No. 1993-9]

- D. If a sign is proposed on a site which otherwise requires the review and approval of a subdivision, site plan, variance or historical review by the Land Development Board, no sign permit shall be issued until the Board has reviewed and approved the sign. The sign permit procedure for all other cases shall be as follows: [Amended 5-17-1993 by Ord. No. 1993-9; 1-20-2004 by Ord. No. 2004-1]
- (1) Applications shall be signed by the owner of the premises and the person responsible for erecting the sign and submitted to the Zoning Officer with the following:
    - (a) The name, address and telephone number of the owner and/or lessee of the premises and of the person or business erecting the sign.
    - (b) Lot lines, sidewalks, the location of structure(s) and the location of the sign(s).
  - (2) The sign permit shall be issued or denied within 45 days of the date of a complete submission, and the work shall be completed within 180 days after issuance of the permit; otherwise, the permit shall be void.
- E. Sign removal. Any sign advertising a use or product no longer at the site shall be removed by the permittee, owner or person having use of the property within 30 days after written notice from the Zoning Officer. Failure to comply shall authorize the Zoning Officer to remove the sign at the expense of the permittee or owner of the premises.

**§ 130-56. Soil erosion, sediment control and topsoil.**

All developments shall be designed in accordance with New Jersey State standards for soil erosion and sediment control. The applicant shall submit a plan showing the proposed means of controlling soil erosion and sedimentation for each site or a portion thereof when developed in stages. The plan shall include, but not necessarily be limited to, construction staging, control measures and devices, soil stockpile areas, surface runoff diversions, sediment basins, temporary and permanent seeding and all else necessary for compliance with state standards.

**§ 130-57. Streetlighting.**

Streetlighting standards of a type and number approved by the approving authority and Municipal Engineer shall be installed at street intersections and elsewhere if deemed necessary by the approving authority. The developer shall provide for the installation of underground service for streetlighting.

**§ 130-58. Streets.**

- A. All developments shall be served by paved streets. The approving authority shall classify new streets according to the Master Plan. All utilities, drains and other facilities located under the road paving shall be installed prior to the placing of any road surfacing material. Streets not shown on the Master Plan or Official Map shall provide for the appropriate extension of existing streets, conform with the topography as far as practical and allow for continued extension into adjoining undeveloped tracts.
- B. Residential development bounded by any arterial or collector street shall control access to said streets by having all driveways intersect minor streets. Where circumstance(s) may dictate that a driveway shall enter an arterial or collector street as an exception, the lot shall provide on-site turnaround facilities, and abutting lots may be required to share one curb cut. All lots with reverse frontage shall have a thirty-foot buffer provided in addition to all other lot size requirements of this chapter. Said buffer area shall consist of a berm which shall be a minimum of four feet in height at its highest point. The bermed buffer area shall be planted with nursery-grown evergreens to provide an effective screen. Additional tree plantings may be provided to improve the appearance of the bermed buffer. The buffer area shall be stabilized with appropriate ground cover which, if mowable, shall have a maximum slope of three feet horizontal to one foot vertical. All plantings shall be according to a landscaping plan and the buffer and shade tree sections of this Article. [Amended 8-3-1992 by Ord. No. 1992-6]
- C. Rights-of-way.
- (1) Street rights-of-way shall be measured from lot line to lot line. The continuation of an existing street shall be at the same pavement and right-of-way width as the existing street, unless a greater width may be required in accordance with the following schedule, in which case the street pavement or right-of-way shall be widened to comply therewith. Any contiguous street along a property boundary upon which the subdivision or site (the development) abuts, which does not comply with the pavement or right-of-way widths shown in the following schedule, shall be widened to comply therewith on the development side of the existing right-of-way center line. If the development is on both sides of such street, then both sides of the street shall be widened to comply therewith. Where arterial or collector streets intersect another arterial or collector street, the right-of-way and pavement widths shall be increased by 10 feet on the right side of the street approaching the intersection for a distance of 300 feet from the intersection of the center lines. Where widening is to occur, the roadway shall be reconstructed from the center line of the existing right-of-way. [Amended 9-5-1995 by Ord. No. 1995-19]

### Schedule of Required Widths

Type	Right-of-Way (feet)	Paving Width (feet)
Major collector	66	36
Minor collector	60	34
Local streets	50	28*

\*NOTE: In those developments which have lots smaller than zero and five-tenths (0.5) acres, pavement width shall be a minimum of 34 feet.

- (2) Before allowing reduced widths for local streets, extreme care is to be taken to assure adequate, accessible and attractive off-street parking. Within each right-of-way, paving widths may vary depending on the number of units served, whether a street is curbed, whether on-street parking is permitted and whether the interior streets serve lots of three acres or larger. The options for paving widths shall be as follows and shall be a determination of the approving authority.

### Paving Widths

Local Street	Right-of-Way (feet)	Two-Side Parking Allowed*	One-Side Parking Allowed*	No Curbside Parking Allowed*,**
All lots are 3 or more acres	50	22	22	22

**Paving Widths**

<b>Local Street</b>	<b>Right-of-Way (feet)</b>	<b>Two-Side Parking Allowed* (feet)</b>	<b>One-Side Parking Allowed* (feet)</b>	<b>No Curbside Parking Allowed**,** (feet)</b>
Lots average 1 to 3 acres	50	28	24	22
Lots average 0.5 to 1 acre	50	30	26	24
Lots average under 0.5 acres	50	34	28	24

\*NOTE: Where not curbed, paving may be two feet less, provided that compacted stone shoulders of at least two feet on each side are constructed.

\*\*NOTE: Narrower street widths where there is no curbside parking allowed shall be limited to areas where off-street parking lots are provided or to areas where there are driveways and/or garage(s) to each unit and the unit is at least 40 feet back from the street right-of-way and has a driveway paved at least 18 feet wide for at least 40 feet in length.

- D. No reserve strips shall be approved except where the control and disposal of land comprising such strips has been given to the governing body.
- E. Where a development adjoins or includes existing streets that do not conform to widths shown on the Master Plan, Official Map or this chapter, additional land along both sides of said street sufficient to conform to the right-of-way requirements shall be either dedicated or anticipated in the development design by creating oversized lots in a subdivision and increased building setbacks on a site plan to accommodate the future widening. The additional widening may be offered to the Township and, if offered, shall be expressed on the plat as follows: "Street right-of-way easement granted to the Township of Lumberton." If the



development is along one side only, 1/2 of the required extra width shall be anticipated.

- F. Local streets shall be designed to discourage through traffic. No street shall have a grade less than zero and 0.75%. The cross section of the cartway from the center line to the curbline or edge of paving shall not exceed a slope of 2%.
- G. Four-way intersections involving local streets shall be avoided wherever possible. Intersecting street center lines shall not be less than 75°. Approaches to all intersections shall follow a straight line for at least 100 feet measured along the curb. No more than two street center lines shall meet or intersect at any one point. Collector and/or arterial streets intersecting from opposite sides of a street shall either be directly opposite each other or be offset at least 250 feet between center lines. Any development abutting an existing arterial or collector street shall have no more than one new street every 800 feet on the same side of the street. Intersections shall be rounded at the curbline with a curbline radius based on the street with the largest radius: arterial streets at 40 feet; collector streets at 30 feet; and local streets at 20 feet.
- H. Sight triangles shall be provided as required in § 130-54.
- I. A tangent between reverse curves on arterial and collector streets shall be at least 200 feet. Street curves shall have a radius conforming to standard engineering practice but also providing a minimum sight distance within the curbline of 160 feet for a local street, 300 feet for a collector street and 550 feet for an arterial street.
- J. Guardrails may be required by the approving authority at drainage structures, streams, embankment limits and curves. Timber or weathering steel guardrail is preferred and shall meet New Jersey Department of Transportation standards. Alternate designs may be used if submitted and approved as part of the application. [Amended 9-5-1995 by Ord. No. 1995-19]
- K. Dead-end (cul-de-sac) streets and accessibility. [Amended 8-3-1992 by Ord. No. 1992-6]
  - (1) Dead-end streets of a permanent nature shall provide a turnaround at the end with a right-of-way radius of not less than 50 feet and a curbline radius of not less than 40 feet. The turnaround area shall be curbed. The center point for the radius shall be on the center line of the associated street or, if offset, to a point where the traveled way is tangent to the paved portion of the approaching street. Where an island is proposed in the center of a cul-de-sac, the travel lane around the island shall be at least 20 feet wide.
  - (2) If a dead-end street is temporary, a turnaround area as outlined above is optional. If constructed, provisions shall be made for removal of the turnaround and reversion of the excess right-of-way to the adjoining properties as an off-tract responsibility of the developer creating the street extension when the street is extended.

- (3) A dead-end street shall serve no more than 14 lots or dwelling units and shall not exceed 1,000 feet in length.
  - (4) Developments with a single means of access shall have no more than 14 lots. All developments containing more than 14 lots shall provide at least two means of access from public streets. To the extent practical, all developments of less than 14 lots shall provide at least two means of access from public streets, and in the absence of such access, efforts shall be made to provide for emergency access subject to the approval of the Fire Subcode Official.
  - (5) As set forth in § 130-58A of this chapter, there shall be an allowance for the extension of streets into adjoining undeveloped tracts. Where a development is proposed on a tract which adjoins streets which have been shown for such extension, said streets shall be interconnected with the proposed development to assure adequate traffic circulation and the provision of emergency services.
- L. No street shall have a name which duplicates or nearly duplicates in spelling or phonetic sound the name of existing streets so as to be confused therewith. The continuation of an existing street shall have the same name. The names of new streets shall be approved by the approving authority.
- M. Streets shall be constructed in accordance with the following standards and specifications. Roadways, including subgrade, subbase, base courses and pavements, shall be constructed in accordance with New Jersey Department of Transportation Standard Specifications, as modified herein. All subsurface utilities, including service connections to each lot (terminating at least two feet behind any sidewalk) and all storm drains, shall be installed prior to the construction of final pavement surfaces. [Amended 10-2-1995 by Ord. No. 1995-21]
- (1) Collector streets, both major and minor, shall have a subbase of six-inch-thick soil aggregate, Mix I-5; a base course of six-inch bituminous stabilized base, Mix No. I-2, and a surface course of two-inch-thick FABC-1, Mix No. I-5.
  - (2) Local minor streets shall have a subbase of six-inch-thick soil aggregate, Mix I-5; a base course of five-inch-thick bituminous stabilized base, Mix No. I-2; and a surface course of two-inch-thick Mix No. 1-5.
  - (3) When approved by the Township Engineer, the thicknesses of base course and subbase may be reduced if justified by California Bearing Ratio laboratory test data or other suitable design data.
- N. Recycled materials may be used in the base and subbase courses only if specifically permitted by the Township Engineer. No recycled materials will be permitted in the surface course of

pavements. [Added 10-2-1995 by Ord. No. 1995-21]

**§ 130-59. Street signs. [Amended 10-2-1995 by Ord. No. 1995-21]**

Street signs shall be of a type, design and material equivalent to existing signs and conforming to the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction; the Uniform Construction Code, State of New Jersey; and the Manual on Uniform Traffic Control Devices; and shall be approved by the approving authority on the advice of the Municipal Engineer. There shall be at least two street signs furnished at each four-way intersection and one street sign at each T-intersection. All signs shall be installed free of visual obstruction.

**§ 130-60. Swimming pools. [Amended 8-3-1992 by Ord. No. 1992-6; 4-3-1995 by Ord. No. 1995-4; 4-3-2007 by Ord. No. 2007-5]**

- A. Residential pools shall be installed only on lots containing a residence.
- B. Swimming pool location, Historical/Architectural (H/A) and R-75 Districts.
  - (1) The swimming pool shall be set back from a side or rear property line a minimum of five feet.
  - (2) The swimming pool apron, or in the case of an aboveground pool, the outer edge of an elevated walkway, shall be set back a minimum of three feet from a side or rear property line.
  - (3) Swimming pools shall only be located in a side or rear yard.
- C. Swimming pool location, other districts.
  - (1) The swimming pool shall be set back from a side or rear property line a minimum of 10 feet for lots which are less than one acre in size and a minimum of 15 feet for lots which are one acre or larger in size.
  - (2) The swimming pool apron, or in the case of an aboveground pool, the outer edge of an elevated walkway, shall be set back a minimum of five feet from a side or rear property line.
  - (3) Swimming pools shall only be located in a side or rear yard except for corner lots. On corner lots, pools may be located in a front yard that does not contain the main entrance to the residence. In this instance, the pool fencing, as required herein, may be located up to half the distance between the face of the residence and the streetline. The pool shall be

set inside the pool fencing at least four feet from the interior side of such fencing.

- D. Required pool setbacks shall be measured from the nearest inside wall of the pool.
- E. Swimming pool coverage. The water surface area of a swimming pool shall occupy no more than 20% of the rear yard area and in the case of a corner lot or reverse frontage lot, no more than 20% of the required rear yard for the zoning district.
- F. Fencing. Fencing shall be required around all swimming pools in accordance with the Uniform Construction Code<sup>EN(89)</sup> and other regulations of Lumberton Township.
- G. Other regulations. Any pool shall meet the requirements of Chapter 253, Swimming Pools, and Chapter 298, Swimming Pools, Sanitation of, of the Code of the Township of Lumberton.

**§ 130-60.1. Telecommunications towers and antennas. [Added 6-21-1999 by Ord. No. 1999-11; amended 11-15-1999 by Ord. No. 1999-21]**

- A. Subject to the conditions set forth in this section, and to plan approval, new telecommunications towers and antennas shall be permitted as conditional uses in all nonresidential zoning districts within the Township of Lumberton and upon the proposed new Municipal Complex located on Municipal Drive. Telecommunications towers and antennas shall not be permitted in the RA Rural Agricultural District; RA/STDR Sending Area District; RA/R-1 TDR Receiving Area District; RA/R-2 TDR Receiving Area District; RA/R3 TDR Receiving Area District; RA/R4 TDR Receiving Area District; RA/R5 TDR Receiving Area District; RA/ST TDR Transition Area District; R-1.0 Residential Low-Density District; R-2.0 Residential Medium-Density District, with the exception of Block 19, Lot 2.01, upon which said use shall be permitted as a conditional use; R-6 Residential Townhouse District; R-75 Residential District; and H/A Historic/Architectural Area District.
- B. Preexisting towers and antennas. Wireless telecommunications towers that existed on the date of the adoption of this section (nonconforming wireless telecommunications towers) are subject to the following provisions:
  - (1) Nonconforming wireless telecommunications towers may continue in use for the purpose now used, but may not be expanded without complying with this section.
  - (2) Nonconforming wireless telecommunications towers which are partially damaged or destroyed due to any reason or cause may be repaired and restored to their former use, location and physical dimensions subject to obtaining a building permit therefor, but without otherwise complying with this section. However, should the destruction or

damage be determined by the Lumberton Land Development Board to be of such an extent that it is beyond the scope and intent of the "partial destruction" clause of N.J.S.A. 40:55D-68, then repair or restoration will require compliance with this section.  
[Amended 1-20-2004 by Ord. No. 2004-1]

- (3) The owner of any nonconforming wireless telecommunications tower may repair, rebuild and/or upgrade (but not expand such telecommunications tower or increase its height or reduce the setbacks) in order to improve the structural integrity of the facility, to allow the facility to accommodate collocated antennas or facilities or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of this section.

C. General requirements for towers and antennas.

- (1) Locational priority. If needed in accordance with an overall comprehensive plan for the provision of full wireless telecommunications services within the Lumberton Township area, wireless telecommunications towers, where permitted as a conditional use, shall be located in accordance with the following prioritized locations:
  - (a) Existing towers. The first priority location shall be collocation on existing telecommunications towers used for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of an electronic communication, provided, however, that locations which meet this criteria shall be subject to the design and siting components of this Ordinance, and collocation sites shall not become "antenna farms" or otherwise be deemed by the land use board to be visually obtrusive;
  - (b) Publicly used structures. The second priority location shall be on land or structures owned, in order of specific preference: (1) the Township of Lumberton; (2) the Board of Education of the Township of Lumberton; (3) the County of Burlington; (4) the State of New Jersey; (5) any other state, county or local governmental agencies or bodies. These publicly used structures are preferred locations throughout the Township because they appear in many zoning districts, are disbursed throughout the Township and, due to their institutional or infrastructure uses, are generally similar in appearance to, or readily adaptable for, telecommunications facilities. Therefore, telecommunications facilities should be less noticeable when placed on publicly used structures than when placed on a commercial or residential structure. Publicly used structures include, but are not limited to, facilities such as municipal buildings, police or fire stations, schools, libraries, community centers, civic centers, utility structures, water towers, elevated roadways, bridges, flagpoles, clock or bell towers, lightpoles and churches.

- (c) The third priority location shall be wholly industrial and commercial structures, such as warehouses, factories, retail outlets, supermarkets, banks, garages or service stations, particularly where existing visual obstructions or clutter on the roof or along a roofline can and will be removed as part of the installation of the telecommunications facility.
  - (d) The fourth priority location shall be such locations as the applicant proves are essential to provide required service to the Lumberton Township area.
- (2) Collocation policy.
- (a) Each applicant for a new telecommunications tower shall present documentary evidence regarding the need for wireless antennas within the Township of Lumberton. This information shall identify the wireless network layout and coverage areas to demonstrate the need for such equipment within this Township.
  - (b) An applicant proposing to erect a new wireless telecommunications tower shall provide documentary evidence that a legitimate attempt has been made to locate the antennas on existing buildings or structures or collocation sites. Such evidence shall include a radio frequency engineering analysis of the potential suitability of existing buildings or structures or collocation sites in the search area for such antennas. Efforts to secure such locations shall be documented through correspondence between the wireless telecommunications provider and the property owner(s) of the existing buildings or structures or collocation sites. The Township reserves the right to engage a professional radio frequency engineer to review such documentation, the cost of which engineer shall be paid from escrow funds supplied by the applicant.
  - (c) Applicants proposing to construct new telecommunications towers shall document the locations of all existing telecommunications towers within the Township of Lumberton and surrounding areas with coverage in the Township, as well as any changes proposed within the following twelve-month period, including plans for new locations in the discontinuance or relocation of existing facilities. Applicants shall provide competent testimony by a radio frequency engineer regarding the suitability of potential locations in light of the design of the wireless telecommunications network. Where a suitable location on an existing tower is found to exist, but an applicant is unable to secure an agreement to collocate its equipment on such tower, the applicant shall provide written evidence of correspondence with the owner of such tower verifying that suitable space is not available on the existing tower(s). Where an applicant seeking to construct a new tower is not a wireless service provider, the applicant shall prove that adequate wireless telecommunications services, sufficient to meet the requirements of the Telecommunications Act of 1996,

as amended, cannot be provided without the proposed tower.

- (d) Site location alternative analysis. Each application shall include a site location alternative analysis describing the location of other sites considered, the availability of those sites, the extent to which other sites do or do not meet the provider's service or engineering needs and the reason why the subject site was chosen. The analysis shall address the following issues:
  - [1] How the proposed location of the telecommunications tower relates to the object of providing full wireless communications services within the Township of Lumberton area;
  - [2] How the proposed location of the proposed wireless telecommunications tower relates to the location of any existing antennas within and near the Lumberton Township area;
  - [3] How the proposed location of the proposed telecommunications tower relates to the anticipated need for additional antennas within and near the Lumberton Township area by the applicant and by other providers of wireless communications services within the Lumberton Township area;
  - [4] How the proposed location of the proposed telecommunications tower relates to the objective of collocating the antenna of many different providers of wireless communications services on the same wireless telecommunications tower; and
  - [5] How its plans specifically relates to, and is coordinated with, the needs of all other providers of wireless communications services within the Lumberton Township area.
- (3) State of federal requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the State or Federal Government with the authority to regulate towers and antennas. If such standards and regulations are changed, the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency, in which case the latter scheduling will control. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (4) Safety standards/building codes. To ensure the structural integrity of towers, the owner of a telecommunications facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for

such telecommunications facilities, as amended from time to time, and as may be published by the electronics industries association, or such other agency or association having expertise in the field. Owners of towers shall conduct periodic inspections of such facilities at least once every year to ensure structural integrity; said inspection shall be conducted by a qualified, independent engineer licensed to practice in the State of New Jersey, and the results of such inspection shall be provided, by way of written report, to the Township Committee of the Township of Lumberton. Failure to undertake said inspection and/or provide the Township with the aforementioned report shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- (5) Tower setbacks. The following setback requirements shall apply to all telecommunications towers and antennas, provided, however, that the Land Development Board may reduce the standard setback requirements of this section if the goals of this section would be better served thereby; and, in the event that any of the following provisions conflict with one another, then the more strenuous and stringent standards shall apply: [Amended 1-20-2004 by Ord. No. 2004-1]
- (a) Towers shall meet the set backs of the underlying zoning district with the exception of the industrial zoning districts, where towers may encroach into the rear setback area, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.
  - (b) Towers shall be set back from the planned public rights-of-way as shown on the most recently adopted Master Street Plan of the Township by a minimum distance equal to 1/2 of the height of the tower, including all antennas and attachments.
  - (c) Towers shall not be located between a principal structure and a public street, with the following exceptions:
    - [1] In industrial zoning districts, towers may be placed within a side yard abutting an internal industrial street; and
    - [2] On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a local street.
  - (d) Towers must be set back a distance equal to the height of the tower from any off site residential structure.
  - (e) For antennas attached to the roof or a supporting structure on a roof top, a 1 to 1 setback ratio (example: ten-foot-high antenna and supporting structure requires ten-foot setback from edge of roof) shall be maintained unless an alternative placement is shown to reduce visual impact.



- (f) A tower's setback may be reduced, or its location in relation to the public street varied, at the discretion of the Board, to allow the integration of a tower not an existing or proposed structure, such as a church steeple, light standard, tower line support device or similar structure.
- (6) Lot size. For purposes of determining whether the installation of a tower or antennas complies with district development regulations, including but not limited to setback requirements, lot coverage requirements and such other requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located only on a portion of such lots.
- (7) Abandonment and removal.
  - (a) Abandonment. Any telecommunications tower and equipment which is not operated for wireless communications purposes for a continuous period of six months shall be considered abandoned, whether or not the owner or operator intends to make use of it or any part of it, and shall be removed by the facility owner at its costs. The owner of a telecommunications tower and the owner of the property where the facility is located shall be under a duty to remove the abandoned telecommunications tower. If such antenna and/or tower is not removed within 60 days of receipt of notice from the Township notifying the owner of such abandonment, the Township may remove such tower and/or antenna as set forth below.
    - [1] If the owner of an abandoned tower or antenna wishes to use such abandoned tower or antenna, the owner must first apply for and receive all applicable permits and meet all of the conditions of this section as if such tower or antenna were a new tower or antenna.
  - (b) Removal. When an owner of a telecommunications tower and antenna, who has been notified to remove the same, fails to do so within 60 days of receipt of notice from the Township notifying the owner and/or operator of such abandonment and the need to remove the same, then the Township may remove such tower and/or antenna and place a lien upon the property for the cost of removal. If removed by the owner, a demolition permit shall be obtained and the facility shall be removed. Upon removal, the site shall be cleaned, restored and revegetated to blend with the existing surrounding vegetation at the time of abandonment. The facility owner shall post a bond at the time that a construction permit is issued for demolition, to cover the cost of tower removal and site restoration. The amount of the bond shall have taken into consideration any cost escalations that may be reasonably anticipated.
    - [1] Any delays by the Township in taking action under this clause shall not in any

way waive the Township's right to take action.

- (8) Principal, accessory and joint uses.
  - (a) Accessory structures used in direct support of a telecommunications tower shall be allowed but not be used for offices, vehicle storage or other outdoor storage. Mobile or immobile equipment not used in direct support of a telecommunications facility shall not be stored or parked on the site of the telecommunications facility.
  - (b) Telecommunications towers may be located on sites containing another principal use in the same billable area.
- (9) Monopole construction. Monopole tower construction shall be utilized in all cases except where it can be conclusively demonstrated that a monopole construction is not suitable for a specific location or application or that a different type pole is necessary for the collocation of additional antennas on the tower.

D. Additional submission requirements.

- (1) A report from a qualified expert containing the following:
  - (a) A description of the tower and the technical and other reasons for the tower design and height, including cross sections and elevations.
  - (b) Documentation to establish that the tower has sufficient structural integrity for the proposed use at the proposed location and meets the minimum safety requirements and margins according to FCC requirements in their current adopted standards and revisions.
  - (c) Indicates the height above grade for all potential mounting positions for collocated antennas and the minimum separation distance between antennas.
  - (d) Description of the tower's capacity, including the number and type of antennas that it can accommodate.
  - (e) Statement detailing current FCC information concerning wireless telecommunications towers and radio frequency admission standards as well as information concerning the projected power density of the proposed facility and how it meets the FCC standards.
- (2) A letter of commitment by the applicant to lease excess space on the tower to other potential users at prevailing rates and standard terms. The letter of commitment shall be recorded prior to the issuance of any building permits. The letter shall commit the tower owner and his successors in interest to this obligation.

- (3) Cessation of use. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations of the site shall be submitted at the time of the application.
  - (4) Visual impact study. A visual impact study, graphically stimulating through models, computer enhanced graphics or similar techniques, the appearance of any proposed tower and indicating its view from at least five locations around and within one mile of the proposed wireless telecommunications tower where the wireless telecommunications tower will be most visible. Aerial photographs of the impact area shall also be submitted.
- E. Design requirements. Telecommunications towers shall be of a monopole design unless the Board determines that an alternative design would better blend into the surrounding environment.
- (1) Aesthetics. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the tower and related facilities to the natural setting and built environment. The towers themselves shall be of a color appropriate to the tower's locational context so as to make it as unobtrusive as possible, unless otherwise required by the FAA.
  - (2) Accessory utility buildings. All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of nonvegetative screening buffer reflects and complements the architectural character of the surrounding neighborhood. A landscape plan shall be submitted for review of proposed screening.
    - (a) Landscaping shall be provided along the perimeter of a security fence to provide a visual screen or buffer for adjoining private properties and the public right-of-way. Required front yard setbacks shall be landscaped. Existing on-site vegetation shall be preserved or improved, and disturbance of existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.
  - (3) Lighting. No lighting is permitted except as follows:
    - (a) Equipment buildings and compounds may have security and safety lighting at the entrance, provided that the light is attached to the facility, is focused downward and is on timing devices and/or sensors so that the light is turned off when not needed for safety or security purposes; and
    - (b) No lighting is permitted on a wireless telecommunications tower except lighting that

specifically is required by the FAA, and any such required lighting shall be focused and shielded to the greatest extent possible so as not to project towards adjacent and nearby properties.

- (4) Height. The antenna and any supporting structure shall not exceed 200 feet in height but, if a lesser height, shall be designed so that its height can be increased to 200 feet if necessary to accommodate other local communications facilities in the future.
- (5) Signs and advertising. No advertising is permitted on a telecommunications tower or accompanying facilities. Only signs for warning or equipment information shall be permitted on any portion of a tower or equipment building.
- (6) Fencing and other security devices. Telecommunications towers and equipment buildings in compounds shall be surrounded by a security feature, including an appropriate anti-climbing device or other similar protective device to prevent unauthorized access to the telecommunications facilities, and shall be further surrounded with a security fence. Additional safety devices shall be permitted or required as needed, and as approved, by the Board as may be necessary.
- (7) Noise. No equipment shall be operated so as to produce noise in excess of limits set by the Township's noise ordinance,<sup>EN(90)</sup> except in emergency situations requiring the use of a backup generator.
- (8) Radio frequency emissions. The FTA gives the FCC sole jurisdiction over the field of regulation of radio frequency (RF) emission and telecommunications towers which meet the FCC standards shall not be conditioned or denied on the basis of RF impacts. Applicants shall provide current FCC information concerning wireless telecommunications towers and radio frequency emissions standards. Applicants for telecommunications towers shall be required to provide information on the projected power density of the proposed facility and how this meets the FCC standards.

F. Violations and penalties.

- (1) Any person who attempts to erect or erects a telecommunications tower or antennas covered by this section without having first obtained the necessary approvals, variances or building permits, in the manner provided in this section, shall be deemed in violation of this section. Any responsible party or other persons convicted by a court of competent jurisdiction or violating any provision of this section shall be punished by a fine not to exceed \$1,000 or by imprisonment not to exceed 90 days or by a sentence of community service not to exceed 90 days.
- (2) If any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this section, or without obtaining the required approvals or

permits, or if any building, structure or land is used in violation of this section, the Township Solicitor, in addition to any other remedies, may institute proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violations. Each and every day that such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use continues shall be deemed a separate offense. In the event that the Township is successful in securing the judicial relief requested, then the owner and operator of the telecommunications tower shall be jointly and severally liable for the reasonable costs and attorneys fees incurred by the Township in the course of said action.

**§ 130-61. Townhouses.**

See § 130-24.

**§ 130-62. Trailers, campers and boats. [Amended 7-20-1992 by Ord. No. 1992-3; 8-3-1992 by Ord. No. 1992-6]**

No trailer, auto trailer, trailer coach, travel trailer, camper or boat shall be used for dwelling purposes, sleeping quarters or the permanent conduct of any business, profession, occupation or trade, except that such equipment may be used for temporary residency for one year or such shorter period it takes to repair a damaged unit. Such equipment may also be used for a temporary construction office located on a construction site, provided that the approving authority has specifically authorized the temporary construction office and approved its location as part of its approval of a subdivision or site plan. Prior to use for a temporary construction office, a temporary permit must be issued by the Construction Official. This section shall not be construed to prohibit the parking or storage of such equipment on private premises only. Such equipment shall not be parked on a public street in a residential zoning district for a period exceeding 24 hours.

**§ 130-62.1. Voluntary transfer of development rights program. [Added 9-5-1995 by Ord. No. 1995-17]EN(91)**

A. Allocation and transfer of development rights.

- (1) Generally. This section sets forth the eligibility standards and credit allocations made of development potential to various parcels of land within the Township of Lumberton and is authorized pursuant to the regulations set forth in § 130-71 to respectively transfer and reserve development potential under this chapter.

- (2) Program eligibility. A parcel's eligibility for inclusion within a TDR development is described in the allocation plan which is attached to this chapter and made a part of it by reference.<sup>EN(92)</sup>
- (3) Minimum eligibility criteria. The minimum eligibility criteria for participation within a TDR development are:
  - (a) Sending area. A primary purpose of the Lumberton TDR program is to conserve the rural, predominantly agricultural resources of the Township. Accordingly, the program criteria for participating in the sending area are as follows:
    - [1] The parcel is located within the sending area as identified on Plate 32 of the Lumberton Township Master Plan adopted October 26, 1994.
    - [2] The parcel must be at least six acres in size.
    - [3] The parcel must be assessed as farmland in 1994.
    - [4] The parcel must not be deed restricted from further subdivision or further development.
    - [5] The property which shall become the subject of the deed of easement, restriction and enrollment shall contain general reservation language for future rights-of-way and easement areas that may be needed for county and municipal infrastructure improvements, such as future road and drainage improvements, which areas shall be exempted from the restriction against future development required under this chapter. [Added 3-21-1996 by Ord. No. 1996-3]
  - (b) Receiving area. The only criteria for participating in the receiving area is that the parcel is located within the boundaries of the receiving area as identified on Plate 32 of the Lumberton Township Master Plan adopted October 26, 1994.
- (4) Credit allocation.
  - (a) General principles.
    - [1] Pursuant to N.J.S.A. 40:55D-114, a TDR program must seek to transfer the development potential off of a parcel of land.
    - [2] Pursuant to N.J.S.A. 40:55D-115, "development potential" is defined as "the maximum number of dwelling units or square feet of nonresidential floor area that could be constructed on a specified lot or in a specified zone under the Master Plan and land use regulations in effect on the date of the adoption of the development transfer ordinance and in accordance with recognized

environmental constraints." Therefore, the Lumberton Township TDR credit allocation formula seeks to closely estimate the number of dwelling units which could have been built on each eligible parcel given the base zoning density of one dwelling unit for every two acres of land and the environmental constraints present.

- [3] The underlying two-acre zoning requires the use of individual septic tanks for sewage disposal. Accordingly, it has been determined that it is the suitability of soil for septic tank permitting which most directly indicates the development potential of the land and therefore will act as the basis upon which transferable development rights ("TDR's") or "credits" are allocated.
- [4] The standard source of information related to the septic suitability of soils located in Burlington County is the USDA Soil Conservation Service (SCS) soil survey ("survey"). The SCS survey characterizes soil based on numerous factors, one of which is the disposal of septic effluent. The combination of the soils' characteristics result in a septic suitability rating of slight, moderate or severe.
- [5] The data source utilized for the allocation of development rights is the integrated terrain unit (ITU) data generated by the New Jersey Department of Environmental Protection (NJDEP), of which a primary base layer of information is the SCS soil survey data.
- [6] In order to allocate credits in a manner consistent with the existing two-acre zoning but within the context of environmental constraints, the formula set forth in Subsection A(4)(b) below was developed and applied to the computerized soils data generated for each parcel.

(b) Credit allocation formula. [Amended 5-6-1996 by Ord. No. 1996-7; 8-19-2002 by Ord. No. 2002-8]

$$\left[ \frac{(\text{No. of acres of slight soils})}{5} + \frac{(\text{No. of acres of moderate soils})}{10} + \frac{(\text{No. of acres of severe soils})}{50} \right] \times 1.1$$

- [1] The product of the above formula is then rounded down to the nearest whole number to equal the TDR credit allocation.
- [2] One TDR credit is subtracted from the total allocation for each single-family unit existing on a given parcel at the time of adoption of this section.

- (c) Allocation plan. All parcels eligible for participation in the Lumberton TDR program as set forth in the Master Plan have been identified, and a computation of the TDR credits allocated pursuant to the credit allocation formula has been completed. The information is contained in the allocation plan, which is incorporated within this chapter by reference.<sup>EN(93)</sup>
  - (d) Filing of allocation plan and map. Upon the adoption of this chapter, the Township Clerk shall file with the County Recording Office a copy of the allocation plan and Zoning Map showing graphically the location of the Township's sending and receiving zones. A change in the credit allocation made by the allocation plan by appeal, assignment or transfer to be effective must similarly be recorded in the County Recording Office.
- (5) Credit allocation appeal process.
- (a) Purpose. Any landowner eligible for participation in a TDR program who is dissatisfied with their credit allocation may appeal their allocation in accordance with the procedures set forth below.
  - (b) Timing. Any appeal of a credit allocation must occur prior to the recording of a TDR easement. Once a property is restricted through the recording of the TDR easement, the opportunity for an allocation appeal is lost and the parcel's owner shall be irrefutably presumed to have elected to accept the allocation given as an appropriate measure of the development potential of the parcel.
  - (c) Procedure. There are two methods which can be used to appeal the allocation. One relies on the submission of a soils description of the subject property prepared by the Natural Resource Conservation Service (NRCS). The second requires the submission of a conceptual plan of development accompanied with representative soil borings. Each is designed to establish a parcel's development potential. The parcel's owner may determine which method to utilize.
- [1] Soils descriptions. In order to appeal a credit allocation based on soil descriptions, a landowner must procure a revised soils description of the subject property from a licensed soil scientist. Such a soils description shall be verified by the Burlington County NRCS. The description must include the following information:
- [a] Landowner's name(s) and address(es).
  - [b] Parcel block and lot number(s).
  - [c] Total parcel acreage (sources may include a tax map or property survey).



- [d] Delineation of the subject parcel on the tax map and appropriate map from the Burlington County Soil Conservation Service (SCS) soil survey.
  - [e] A description of the soils present on the property listed by soil name and total acreage of each soil type.
  - [f] A classification of each soil type by acreage into the SCS categories of slight, moderate and severe septic limitations.
  - [g] A recalculation of credit allocations pursuant to the credit allocation formula set forth in Subsection A(4)(b) of this section.
  - [h] The name and signature of the soil scientist who prepared the soils description, the date the soil description was prepared and the dated name and signature of the NRCS soil scientist who verified the findings of the soils described.
- [2] Conceptual subdivision plan. In order to appeal a credit allocation utilizing a development plan, a landowner may prepare a conceptual subdivision plan for the subject parcel. The subdivision plan is prepared to demonstrate that the number of residential units which could have been constructed on the subject parcel exceeds the number of TDR credits allocated to the property. Such a conceptual plan shall consist of the following information:
- [a] A map of the property at a scale of no less than one inch equals 100 feet which includes:
    - [i] Property acreage.
    - [ii] Tax lot boundaries.
    - [iii] Stream corridors.
    - [iv] Vegetation (other than agricultural crops).
    - [v] Roads.
    - [vi] High-tension line easements.
  - [b] A copy of the map described in Subsection A(5)(c)[2][a] above, upon which the following information has been added:
    - [i] A layout of a hypothetical subdivision, which subdivision meets the bulk and area requirements of the underlying zone.

- [ii] The acreage of each subdivided parcel.
  - [iii] The location for soil boring performed.
  - [iv] The dimension (width and length) of internal roads.
- [c] Soil borings. Representative soil borings must be submitted to demonstrate the viability of using septic tanks for the hypothetical development. Prior to performing any soil borings, a plan shall be submitted and approved by the Board Engineer. The results of all soil borings performed on the site shall be submitted to the Board Engineer. Soil borings performed to meet this standard shall comply with the following criteria:
- [i] Soil borings must be performed on a minimum of 30% of the subdivided lots created by the hypothetical development spaced evenly apart within the subdivision or one per every five acres, whichever results in a smaller number of borings.
  - [ii] The soil boring must reach a minimum depth of five feet.
  - [iii] The soil borings must be performed by a New Jersey licensed soils scientist or a professional engineer.
  - [iv] A report summarizing the findings of the soil borings must be prepared.
  - [v] A certification signed by the person performing the tests and writing the report which certifies to the accuracy of the soil borings and other data contained in the report shall accompany the report.
- (6) Steps in credit allocation appeal process. [Amended 1-20-2004 by Ord. No. 2004-1]
- (a) Notice of appeal. The parcel owner shall submit a properly completed notice of appeal and required application and review fees to the Land Development Board Secretary. The notice on forms approved by the Township Land Development Board shall include the following information:
    - [1] Date of appeal.
    - [2] Name(s) and mailing address(es) of all property owners.
    - [3] Copy of the latest deed to the property.
    - [4] Block and lot number(s) of parcel(s).
    - [5] Acreage of parcel(s) pursuant to tax map or property survey.

- [6] Number of TDR credits allocated to the parcel(s) pursuant to the allocation plan.
  - [7] Number of TDR credits the landowner is requesting as yielded under one of the two methods of appeal provided.
  - [8] Supporting documentation which fulfills the requirements of the selected appeal methodology set forth in Subsection A(5) above.
  - [9] Signature of all property owners.
- (b) Review by Land Development Board Engineers. The Land Development Board Secretary forwards the notice of appeal and all related information to the Land Development Board Engineer. The Engineer shall review the submission for accuracy and compliance with the requirements set forth herein and with the Zoning Ordinance, if the landowner has elected to submit a conceptual development plan. The Engineer will advise the Land Development Board of his findings.
- (c) Land Development Board action.
- [1] The Land Development Board at a regular or special meeting shall, after giving due consideration to the Engineer's report and any additional information which the parcel owner or others wish to submit, grant the appeal if the parcel owner's proof demonstrates that the parcel on the date of this section's adoption had a development potential stated in credits greater than that originally allocated. Otherwise the application should be denied. Public notice of the meeting shall not be required.
  - [2] The Land Development Board shall take action on the appeal within 60 days of receipt of the notice of appeal by the Land Development Board Secretary, unless this time period is extended by the applicant. If the Board fails to act, the application shall be deemed denied.
  - [3] Should the Planning Board approve the appeal, it will so direct the Secretary to amend the allocation plan to reflect the number of credits approved.

**B. TDR credit transfer mechanisms.**

- (1) Declaration of enrollment. A landowner seeking to enroll his land within a TDR program and thus create credits which may thereafter be transferred shall follow the following procedures:
  - (a) The landowner, on forms authorized by the Board and obtained from the Township Clerk, shall submit to the administrative officer:

- [1] The original and two copies of a fully completed enrollment application.
  - [2] Review fees.
  - [3] The original and two copies of the TDR easement.
  - [4] Clear proof of title.
- (b) The administrative officer shall, within 95 days of receipt, determine that the application:
- [1] Accurately specifies the number of TDR credits available to the parcel.
  - [2] Covers a parcel of land eligible for inclusion within a sending program.
  - [3] Accurately sets forth the block and lot description of the parcel seeking enrollment.
  - [4] Reserves sufficient credits for the existing and proposed uses on the site.
  - [5] Contains all other information required by the enrollment form.
- (c) The administrative officer, upon receipt, shall forward to the Board Solicitor for review:
- [1] One copy of the enrollment application.
  - [2] The original and one copy of the TDR easement.
  - [3] Clear proof of title.
  - [4] A copy of each of the foregoing documents shall also be sent by the administrative officer to the Burlington County Planning Board so that that Board can determine the nature and extent of any areas which should be withheld from the easement for future infrastructure purposes. The County Planning Board shall have 14 days within receipt of the same to advise the administrative officer and Board Solicitor of its concerns and comments.  
[Added 3-21-1996 by Ord. No. 1996-3]
- (d) The Board Solicitor shall determine within 14 days of receipt that:
- [1] The TDR easement is in a proper legal form for recording in the County Clerk's office.
  - [2] The applicant for enrollment holds legal title clear of any encumbrances to the parcel or that the holder of any lien, mortgage or other interest has agreed in

writing to subordinate their interest in the parcel to the public interests set forth in the TDR easement.

- (e) Upon determining the facts set forth in Subsection B(1)(d) above, the Board Solicitor shall certify to these facts by:
  - [1] Signing the TDR easement at a space provided.
  - [2] Returning the original TDR easement to the administrative officer for processing.
- (f) Upon return of the original TDR easement signed by the Board Solicitor, the administrative officer shall:
  - [1] Assign serial numbers to each TDR credit sought to be created.
  - [2] Sign the TDR easement form, certifying that the application procedures required by this chapter have been followed and that, upon proper recording of the TDR easement, the parcel will contain the number of transferable credits specified within the certification, provided that the TDR easement is recorded within 90 days from the date that the certification is signed. If unrecorded, the enrollment shall be null and void, and the landowner must reapply.
  - [3] Return the original and signed TDR easement to the landowner for recording.
- (g) If the administrative officer or Board Solicitor shall fail to act within the time periods specified, unless these time periods are extended by the applicant, the application shall be deemed denied.
- (h) The landowner, upon recording the TDR easement, shall file proof of the recording with the administrative officer prior to the approval of any transfer of any credit created under the easement.
- (i) Upon receipt of proof that a TDR easement has been recorded, the administrative officer shall:
  - [1] Record the fact of recordation upon the records of the Township. This record shall include the Clerk's assigned book and page of recording, if known.
  - [2] Forward a copy of the recorded TDR easement to the Land Development Board for its information. [Amended 1-20-2004 by Ord. No. 2004-1]
- (j) A landowner shall be responsible for all costs associated with the review of the enrollment application, including professional fees authorized by § 130-6B of this

chapter.

- (k) The administrative officer shall act on all applications submitted in the order in which they are submitted.
- (2) TDR credit assignment. A landowner against whose land a TDR easement has been recorded may assign any of the credits created through the use of the following procedures:
  - (a) The landowner, on forms authorized by the Land Development Board and obtained from the Township Clerk, shall submit to the administrative officer for review:  
[Amended 1-20-2004 by Ord. No. 2004-1]
    - [1] An original and two copies of the application for assignment.
    - [2] An original and two copies of the proposed assignment.
    - [3] Appropriate review fees.
  - (b) The administrative officer, within 95 days, shall determine that the application:
    - [1] Contains all of the information required by the form.
    - [2] Seeks to assign no more than the maximum number of credits available and not already assigned or extinguished.
    - [3] Provides the recording information about the TDR easement.
    - [4] Accurately reflects the information contained in it.
    - [5] Reflects that no material change in the title of the parcel has occurred since the TDR easement was recorded.
  - (c) If the administrative officer determines that the application and supporting documentation establishes the criteria set forth in Subsection B(2)(b) above, the administrative officer shall sign the assignment, certifying that upon recording the assignment, will transfer the number of credits contained within it to the party named, provided that if the assignment is not recorded within 90 days of the date that the certification is signed, unless this time period is extended by the applicant, the assignment shall be null and void.
  - (d) If the administrative officer shall fail to act within the time period provided, the application shall be deemed denied.
  - (e) Upon signing, the assignment shall be returned to the landowner for recording.

- (f) The assignee of the credits shall, upon filing of the assignment, file proof of recording with the administrative officer prior to the approval of any credit use.
  - (g) Upon receipt of proof that the assignment has been recorded, the administrative officer shall:
    - [1] Record the fact of recordation upon the records of the Township. The record shall include the Clerk's assigned book and page of recording, if known.
    - [2] Forward a copy of the recorded assignment to the Land Development Board for its information. [Amended 1-20-2004 by Ord. No. 2004-1]
  - (h) A landowner shall be responsible for all costs associated with the review of the assignment application, including professional fees authorized by § 130-6B of this chapter.
  - (i) The administrative officer shall act on all applications in the order in which they are received.
- (3) TDR credit use; extinguishment. An owner or developer of land located within a receiving zone may utilize credits held by a landowner of land located within a sending zone or his assigns to increase the number of units that may be developed by utilizing the following procedures:
- (a) The owner/developer of land within the receiving zone must first obtain final approval for the development of a project within the receiving zone contingent and conditioned on the acquisition and extinguishment of TDR credits.
  - (b) To meet the condition of approval, the owner/developer, at or prior to the signing of a subdivision plat or the issuance of the first building permit, whichever occurs first, on forms approved by the Land Development Board and obtained from the Township Clerk, shall submit to the administrative officer: [Amended 1-20-2004 by Ord. No. 2004-1]
    - [1] An original and two copies of completed application for TDR credit use.
    - [2] An original and two copies of a deed of credit transfer.
    - [3] All appropriate fees for review.
  - (c) The administrative officer shall, within 95 days of receipt, determine that the application:
    - [1] Accurately specifies the number of TDR credits needed for the development of

the parcel sought to be developed.

- [2] Demonstrates that the developer owns, by assignment or otherwise, all credits needed for the proposed development.
  - [3] Accurately specifies by reference to assigned serial numbers or otherwise which credits are being used by the development.
  - [4] Accurately provides such other information required by the application.
  - [5] Demonstrates that the parcel from which the credits arise are subject to a recorded TDR easement.
- (d) If the administrative officer determines that the application and supporting documentation establishes the criteria set forth in Subsection C(3)(c) above, the administrative officer shall sign the deed of credit transfer, certifying that upon recording the deed of credit transfer, will permanently transfer the number of credits contained within it to the parcel of land cited, provided that if the deed of credit transfer is not recorded within 90 days of the date that the certification is signed, unless this time period is extended by the applicant, the deed of credit transfer shall be null and void.
- (e) If the administrative officer shall fail to act within the time periods provided, the application shall be deemed denied.
- (f) Upon signing, the deed of credit transfer shall be returned to the landowner for recording.
- (g) The owner or developer of the land using the credits shall, upon filing of the deed of credit transfer, file proof of recording with the administrative officer prior to the issuance of any building permit for development of the land upon which the credit is to be used.
- (h) Recording the deed of credit transfer shall extinguish the ability to use any credit transferred except upon the parcel to which the TDR credit has been transferred.
- (i) Upon receipt of proof that the deed of credit transfer has been recorded, the administrative officer shall:
- [1] Record the fact of recordation upon the records of the Township. The record shall include the Clerk's assigned book and page of recording, if known.
  - [2] Forward a copy of the recorded deed of credit transfer to the Land Development Board for its information. [Amended 1-20-2004 by Ord. No. 2004-1]



- (j) A landowner shall be responsible for all costs associated with the review of the assignment application, including professional fees authorized by § 130-6B of this chapter.
- (k) The administrative officer shall act on all applications in the order in which they are received.
- (4) Any person, firm or entity who purchases or otherwise acquires, encumbers or utilizes any development potential under this chapter shall record that fact with the State Transfer of Development Rights Bank Board of Directors and shall do so within 10 business days thereof, pursuant to N.J.S.A. 4:1C-53b.
- (5) Calculation of credits required for development. [Added 6-21-1999 by Ord. No. 1999-12]
  - (a) The calculation of the TDR credit absorption for lands in the receiving zones which are the subject of subdivision application shall be based upon the following ratios:
    - [1] Each single-family detached dwelling unit in the RA/R-1; RA/R-3; and RA/R-5 Zoning Districts is equal to one TDR credit.
    - [2] Each age-restricted attached dwelling unit in the RA/R-4 Zoning District is equal to 0.6 TDR credits.
    - [3] Each age-restricted attached and detached dwelling unit in the RA/R-6 Zoning District is equal to 0.7 TDR credits.
  - (b) To calculate the total number of TDR credits required to be transferred from the TDR sending area lands to the proposed development in the receiving area, the following formula shall apply:
    - [1] Total TDR credit required for development: \_\_\_\_\_
    - [2] Subtract TDR credits allocated to receiving area land: \_\_\_\_\_
    - [3] Total number of TDR credits to be transferred from sending area: \_\_\_\_\_

C. Reassignment and disenrollment.

- (1) Generally. It is understood that the transfer development rights program is voluntary. In order to provide an adequate number of credits to service the receiving zone, not knowing in advance whether any individual property owner in the sending zone would be willing to provide the credits required, more credits capable of being transferred have been created than available locations for their receipt. Recognizing the inherent unfairness which may be visited upon a property owner in the sending zone or his

assignee should property be enrolled within the program without there being in existence an adequate area within the receiving zone to utilize the credits so created, this subsection has been created to provide relief.

- (2) Standard. Should a landowner or his assignee owning a parcel of land enrolled within a TDR program determine that they have an inability to utilize credits within the receiving zone, they may apply to the Land Development Board for reassignment of the credits to the parcel from which they originated or disenrollment of the parcel from the TDR program upon the showing of good cause in accordance with the procedures set forth below. [Amended 1-20-2004 by Ord. No. 2004-1]
- (3) Procedures for reassignment and disenrollment.
  - (a) Reassignment. An assignee seeking to reassign any of the credits which have previously been assigned by a landowner may seek to reassign the credits obtained, absent any bonus, back to the parcel from which they originated by using the following procedures:
    - [1] The assignee on forms authorized by the Land Development Board and obtained from the Township Clerk shall submit an original and two copies of the application for reassignment, an original and two copies of the reassignment document and appropriate review fees to the administrative officer for review. [Amended 1-20-2004 by Ord. No. 2004-1]
    - [2] The administrative officer, within 15 days, shall determine that the application:
      - [a] Contains all of the information required by the form.
      - [b] Seeks to reassign all or a portion of the credits, absent any bonus, previously assigned to the assignee back to the parcel from which the credits came.
      - [c] Provides the recording information about the TDR easement and original assignment.
      - [d] Reflects that no material change in the title of the parcel has occurred since the TDR easement and assignment were recorded.
    - [3] If the administrative officer determines that the application and supporting documents are complete, this official shall schedule the matter for a hearing before the Land Development Board at its next regular or special meeting called for this purpose. [Amended 1-20-2004 by Ord. No. 2004-1]
    - [4] The Land Development Board shall: [Amended 1-20-2004 by Ord. No. 2004-1]

- [a] At the regular or special meeting during which the matter is considered, conduct a hearing on the application. If the Land Development Board determines, after considering all evidence submitted both in favor of and opposing the application, that, through an inability to use the credits within the receiving zone or through other just cause, it is not feasible to expect that the credits will be usable within a reasonable time frame and both the assignee and the landowner agree to a reassignment of the credits, the Board shall grant the assignee the right to reassign the credits provided. Otherwise the application should be denied. Public notice of the meeting shall not be required.
- [b] The Land Development Board shall take action on the application within 95 days of its receipt by the Land Development Board Secretary. If the Planning Board fails to act, the application shall be deemed denied. Should the Land Development Board approve the application, it will direct its Chairman and Secretary to certify to this fact on the original reassignment document which is to be delivered to the applicant for recording. The reassignment document is to be recorded within 90 days from the date that the certification is filed, unless this time period is extended by the applicant. If unrecorded, the appeal of the reassignment shall be null and void, and the assignee must reapply to obtain relief.
- [5] The assignee, upon recording the reassignment document, shall file proof of the recording with the administrative officer. Until such proof is filed, reassignment of the credits shall be ineffective.
- [6] Upon receipt of proof that a TDR easement has been recorded, the administrative officer shall:
  - [a] Record the fact of the reassessment upon the records of the Township. This record shall include the Clerk's assigned book and page of recording if known.
  - [b] Forward a copy of the recorded reassignment document to the Land Development Board for its information. [Amended 1-20-2004 by Ord. No. 2004-1]
- (b) Disenrollment. A landowner to disenroll his land from involvement with the TDR program is to follow the following procedures:
  - [1] The landowner, on forms authorized by the Board and obtained from the Township Clerk, shall submit to the administrative officer:

- [a] The original and two copies of a fully completed disenrollment application.
  - [b] Review fees.
  - [c] The original and two copies of the disenrollment document designed to terminate the restrictions imposed upon the landowner's property.
  - [d] Clear proof of title.
  - [e] Proof that none of the credits created for the property by enrollment have been used by another property owner or developer through the filing of a deed of credit transfer or assigned to a third party who does not consent to the disenrollment application.
- [2] The administrative officer shall, within 95 days of receipt, determine that the application is complete.
- [3] Upon determining that the application is complete, the administrative officer shall schedule a public hearing before the Land Development Board on notice to the public and to the Burlington County Land Use Office. At this hearing, the Land Development Board shall determine whether a hardship exists to the landowner through an inability to utilize his credits within the receiving zone or for other good and sufficient reasons the public's interest would be served by allowing relief from the restrictions imposed under the TDR program. In reaching this conclusion, the Land Development Board shall take into consideration all evidence, both submitted in favor of and in opposition to the relief required, in accordance with the procedures normally available for development applications before the Board. After this review, the Board shall reduce its findings to a written resolution recommending to the Township Committee whether to grant or deny the application proposed. If the Board fails to act within 90 days of the date the application is submitted, unless this time period is extended by the applicant, the application shall be deemed denied. [Amended 3-21-1996 by Ord. No. 1996-3; 1-20-2004 by Ord. No. 2004-1]
- [4] If the application is approved, the record before the Board, including its findings, shall be submitted to the Township Committee and to the applicant. The Township Committee shall review the proceedings before the Land Development Board and determine whether good cause exists for the relief specified. If they agree that the relief should be granted, they shall direct the Mayor and Township Clerk to execute the disenrollment document. Upon execution by the Mayor and Clerk, the document shall be returned to the landowner for recording. If recording does not occur within 90 days of the date

that it is signed by the Mayor and Clerk, approval to disenroll shall be denied, and the applicant shall be required to reapply if relief is to be obtained.

[Amended 1-20-2004 by Ord. No. 2004-1]

- [5] The landowner, upon recording of the document, shall file proof of recording with the administrative officer prior to disenrollment becoming effective.
- [6] Upon receipt of proof of recording of the disenrollment document, the administrative officer shall:
  - [a] Record the fact that the disenrollment document has been recorded on the Township records, including the Clerk's assigned book and page of recording, if known.
  - [b] Forward a copy of the recorded disenrollment document to the Land Development Board for its information. [Amended 1-20-2004 by Ord. No. 2004-1]
- [7] The assignee and/or landowner seeking either reassignment or disenrollment shall be responsible for all costs associated with the review of the reassignment or disenrollment, including professional fees authorized by § 130-6B of this chapter.
- [8] The assignee and/or landowner may extend the time limits for administrative action by the administrative officer or by the Board. This right to extend shall not apply to any time period set forth in this chapter for recording of a document.

D. The Development Credit Bank.

- (1) Authorization. The Township Committee is hereby authorized to enter into an agreement with the Board of Freeholders of Burlington County to establish a Municipal Development Credit Bank to facilitate the marketing of development credits between owners of land with credit allocations and the owners of land where credits may be used.
- (2) Purpose. The use of Township funds to purchase development credits for resale is deemed to be a public purpose, to facilitate the permanent preservation of lands for agriculture in the sending zone. [Amended 3-21-1996 by Ord. No. 1996-3]
- (3) Minimum standards. Any cooperative agreement to establish a Municipal Development Credit Bank must contain the following minimum standards:
  - (a) The County of Burlington shall provide funds at least equal to any contribution by the Township of Lumberton. The Township bank may, however, choose to acquire

development credits with 100% municipal funding in the case of an emergency acquisition.

- (b) A policy for the acquisition of development credits under certain hardship conditions shall be adopted by the bank in order to allow for the prioritization of all applications for the purchase of development credits.
- (c) The bank shall establish a policy which provides for the use of development credits as collateral for loans, such that the TDR Credit Bank may act as a guarantor of commercial farm loans based on the established value of the development credits.
- (d) The membership of any such Municipal Development Credit Bank created shall include at least one representative of the landowners in the sending zone who shall be on the bank's Board of Directors at all times. [Amended 3-21-1996 by Ord. No. 1996-3]
- (e) The bank shall be empowered to purchase, with existing moneys available, any and all development credits created in accordance with this chapter.
- (f) Upon the sale of any development credits for use in the receiving areas, the county's proportionate contribution shall be returned to the county immediately for further allocation to the bank or other use.
- (g) In the event that any credits are sold by the bank at a price higher than paid for them, the county shall be entitled to those funds in proportion to its total contribution to the available funds of the bank.
- (h) The bank shall be empowered to lend (or guarantee loans from commercial banks) on a nonrecourse basis to landowners who have voluntarily elected to participate in the TDR program utilizing development credits as the collateral for these loans. For these loans, interest should be set at below market rates, with loan-to-value ratios of at least 70% and principal to be repaid out of the proceeds of the sale of the development credits pledged as collateral.
- (i) The bank shall be empowered to purchase development credits from landowners who have voluntarily elected to participate in the TDR program. The price at which the bank may purchase these credits shall be initially established by the Board of the bank. However, that price shall thereafter vary from time to time based upon market conditions. Once a sale has occurred between a landowner and a third party (other than the bank) in an arm's-length transaction with neither party under duress to buy or sell, then the price established by that sale, and thereafter whatever price is established by the most recent such sale, shall be the information which the bank examines to determine the price at which the bank shall purchase credits and/or

evaluate credits as collateral for bank loans.

- (j) The bank shall be empowered to sell development credits after it has acquired them, but said sales may occur only after it is demonstrated that there exists a significant demand for credits which is not being satisfied by the landowners holding development credits. The intent and purpose of this provision is to eliminate the bank as a competitor of the landowners in the bidding process and sale of development credits. The price at which the bank may sell its credits may be established by its Board of Directors, from time to time, or be established by the sale of credits through the receipt of sealed bids. However, the purpose of the bank shall be to maximize the value of these development credits.
- (k) To assure the availability of bank assistance to all landowners on a fair and equitable basis, the bank may limit the funds used by it to acquire development credits, to loan to landowners and/or to guarantee loans to landowners from commercial banks, based on the following formula: The total funds currently available to the bank shall be divided by the then-current purchase price of a development credit required to be paid by the bank to establish the maximum number of credits which the bank could then potentially acquire. Said number shall then be divided by the maximum number of potential development credits that are available from lands that have voluntarily agreed to participate in the TDR program and which have not yet been used for development. The resulting percentage shall then be applied to the number of credits owned by the landowners seeking assistance from the bank to establish the maximum number of credits that the bank may acquire or accept as collateral for a loan from that landowner.

E. Design and performance standards, TDR receiving zone.

- (1) Generally. Generally the design and performance standards contained within § 130-23 et seq. of this chapter shall be utilized except as elsewhere provided within this article. Because of the tenuous nature of receiving districts in relationship to adjacent agricultural preserves, special standards are being established under this article. Where they conflict with the general regulations applicable to other districts within the community, they shall control the development of land within the receiving zone.
- (2) Purpose of design standards. The design standards set forth in this article are applicable to the TDR receiving zone. The transfer of development rights (TDR) program is intended to provide for and control the form, mass, scale and pace of development which is more intense than and represents a significant departure from the underlying zoning. The control of this more intensive level of development through the use of design standards will ensure the Township of high quality development which is critical to the success of the TDR program. These standards are consistent with the intent of N.J.S.A.

40:55D-117c which requires the incorporation in the Master Plan and land use regulations explicit planning objectives and design standards for the receiving zone. The purpose of these additional design standards is to allow for the development of land in the TDR receiving zone in a pattern that results in a harmonious grouping of buildings which is sympathetic to and characteristic of the existing vernacular landscape, i.e., the historical homes located immediately adjacent to and in the receiving zone and the historical and traditional buildings of Lumberton Village. These design standards are also intended to preserve specific natural and cultural elements, as well as conserve land and create a physical environment that: [Amended 3-21-1996 by Ord. No. 1996-3]

- (a) Provides a consistent architectural theme expressed through a combination of styles, architectural elements, details and landscaping at the side, street, lot and building scales which create a sense of place similar to that extant in the surrounding traditional communities.
  - (b) Maintains land form integrity by maximizing the use of the existing natural elements such as topography, aquifer recharge areas, soil, waterways and vegetation.
  - (c) Maximizes the use of existing cultural features such as buildings, structures, walls, fences, roads, agricultural drainage structures and other artifacts, through preservation, restoration and/or rehabilitation.
  - (d) Places buildings in harmonious relation to each other, to the land and to existing and proposed roads and streets.
  - (e) Considers the importance of public spaces (streets, sidewalks, squares, parks and/or open space) as social spaces tantamount to the buildings which define these places and emphasizes pedestrian and bicycle access and circulation.
  - (f) Minimizes conflicts between pedestrians and vehicles by overcoming the negative visual impact created by large expanses of pavement typical of parking lots, wide multiple cartways and large radius street intersections.
  - (g) Serves to facilitate biodiversity within the region by providing diverse habitats within the district and by clustering development, which allow for more diverse habitats on a Township scale.
- (3) Site and architectural standards and guidelines.
- (a) General. [Amended 1-20-2004 by Ord. No. 2004-1]

[1] These standards and guidelines establish basic criteria and direction which permit and encourage creativity and innovation on the part of developers and design professionals. They are intended to aid in preparing submissions to the



Township Land Development Board as well as assist the Board and the construction official in reviewing and approving submitted plans in an expedited manner in accordance with N.J.S.A. 40:55D-117c.

- [2] Each development shall have internally compatible architectural and landscaping themes. Each developer, at the time an application for development is considered by the Land Development Board, shall specify how the design has considered the retention of natural elements, such as topography, surface water and vegetation; the retention of existing cultural features; site design feature relationships such as building orientation on the site and to other structures; stormwater management; streets and parking; landscaping; building design features, such as variable lot and building widths, the provision of different exterior materials, variations of rooflines and architectural styles, alternating building heights and variation of facade fenestration, porches and colors; and how the proposed project blends with adjacent planned or existing developments. It is paramount that multifamily residential structures have sufficient variety in both building and site design features to make them appear uncommon to each other.

(b) Site standards and guidelines. The applicant shall comply with the following site standards and guidelines:

- [1] Retention of natural elements.

- [a] General. The retention of existing natural elements, including topography, surface water, soil and vegetation, minimizing the disruption of the seasonal high-water table and the protection of both surface and groundwater quality are imperative to retaining the character and quality of heretofore undeveloped land.

- [b] Topography, soil and groundwater.

- [i] All grading of land to accommodate development shall be kept to a minimum. Clearing or site grading shall only occur on land designated for building construction and the installation of any related streets, utilities, drives, walks and active recreation. Buildings and structures shall be designed to fit into, rather than dominate, the landscape. Minimizing site grading will retain the visual aesthetics of the existing land form, reduce soil erosion and disruption to soil horizons and depth of the seasonal high-water table.

- [ii] Subject to the provisions of § 246-1 et seq. of the Code of the Township

of Lumberton, no soil shall be removed from any site. Topsoil moved during the course of construction shall be redistributed over the disturbed areas of the development and shall be stabilized by seeding or planting or another method shown on the approved plan. Subsoil shall be retained on the site and incorporated into the overall regrading and drainage plan. No grading construction or regrading shall be permitted which creates or aggravates water stagnation or adversely impacts drainage areas shown on the approved plan. Excess subsoil may only be removed from the site or relocated outside the Township upon the Township Engineer's recommendation and with the approval of the Township Committee. Notwithstanding the foregoing, topsoil shall be permitted to be removed from a site when the topsoil is to be used for public purposes specifically approved by the governing body. Said removal of soil for public purposes shall be exempt from the soil removal permit provisions of § 246-1 insofar as hearings are concerned; however, a general plan identifying the contours, slopes and amount of soil to be removed shall be filed with the governing body prior to adoption of the resolution which must be adopted to authorize the removal of said soil. [Amended 5-18-1998 by Ord. No. 1998-20<sup>EN(94)</sup> ]

[iii] Requirements of § 130-56, entitled "Soil erosion, sediment control and topsoil," shall apply to the extent possible on site to encourage balancing of soil excavation and fill generated by site development. Where farm fields have historically be drained by underground tile fields or boundary ditches, site designs which require the destruction or elimination of maintenance of such structures shall take into consideration and provide for the future effects of potential changes in seasonal high-water table levels on the proposed development.

[iv] Slopes over 15% shall be preserved in their natural state and incorporated into the design.

[v] Following construction, disturbed ares shall be properly revegetated according to guidelines contained herein.

[c] Surface water.

[i] Intermittent and perennial waterways.

[A] Existing intermittent and perennial waterways and floodplains shall be incorporated into the design. Waterways shall not be piped, nor shall the configuration or channel of waterways be altered, except

as required for any new or improved road crossings.

- [B] To preserve and improve water quality and enhance flood protection, vegetative buffers shall be maintained in all perennial waterway corridors. All buffer areas shall be considered as part of required open space requirements.

\{1\} Clearing vegetation or mowing within 50 feet from water's edge, the one-hundred-year floodplain or the wetland and wetland transition area, whichever is greater, shall be prohibited, except for the controlled removal of exotic invasive plant species, removal of diseased or dead vegetation, correction of bank erosion conditions or to accommodate new or improved road crossings. Any stream bank grading or crossing construction shall conform to existing county and state regulations.

\{2\} Clearing vegetative buffers to create building sites is not permitted within 100 feet from water's edge, the one-hundred-year floodplain or the wetland and wetland transition area. No construction except for road and utility crossings conforming to state and county regulations shall take place within 100 feet of water's edge.

\{3\} Lot boundaries shall be at least 50 feet from water's edge, or, at the Planning Board's discretion, the lot boundary may be extended into the body of water with the reservation of a fifty-foot buffer. Land between lot boundaries and water's edge shall be considered open space, and ownership and responsibility shall be as provided for in the open space regulations.

\{4\} In areas where vegetative buffers do not exist, the planting of 50% of the area with multilayered native floodplain flora is required as a minimum. The balance of the land area may be released to natural succession for a minimum width of 50 feet from water's edge.

- [ii] Waterway bank stabilization. Bank stabilization, when necessary, shall be accomplished by using natural vegetative techniques. If the severity of stabilization problems requires the use of riprap and/or gabions, dark reddish-brown rust-colored stone shall be used. Appropriate native

floodplain vegetation shall be incorporated into the design in conjunction with the stone. Concrete flow channels shall be prohibited. All bank stabilization plans shall conform to existing county and state requirements.

- [iii] Ponds. Existing ponds shall be incorporated into the design. The creation of buffers of native grasses and shrubbery around open water to minimize erosion and provide for bank stabilization shall be required. Clearing vegetation or mowing up within 25 feet of the water's edge shall be prohibited, except for occasional pathways for recreational and/or maintenance access to water.
- [iv] Wetlands. Existing wetlands and respective transition areas required by state regulations shall be incorporated into the design. Proposals to fill and use wetlands and/or transition areas in conjunction with either on-site or off-site mitigation is discouraged except in extreme circumstances, i.e., provision of access and/or utilities to site.
- [v] Floodplains. Existing floodplains shall be incorporated into the design. Development in floodplains shall be regulated as set forth in Chapter 157, Flood Damage Prevention, of the Code of the Township of Lumberton.
- [vi] Permanent preservation. All surface water elements, including streams and the lands 50 feet from water's edge, ponds and the lands 25 feet from water's edge, floodplains and wetlands and wetland transition areas as delineated, shall be used for common open space or recreation to the maximum extent possible and shall be permanently preserved for that purpose under ownership and responsibility as specified within these regulations. These environmentally sensitive areas shall be physically delineated in the field with snow fences prior to construction to prevent desecration and ensure continued preservation.

[d] Vegetation.

- [i] All existing hedgerows, woodland patches and other corridors, including stream corridor vegetation, shall be incorporated into the design. The removal of woodlands and isolated specimen trees shall be prohibited. If relief from this provision is granted, the replacement of removed trees must be undertaken pursuant to this article.
- [ii] Stripping trees or changing the existing grade around trees more than

six inches diameter at breast height (dbh) in the yard portion of a lot shall not be permitted unless it can be shown that grading requirements or stripping necessitate removal of trees, in which case such lots shall be replanted to reestablish the vegetative character of the area and to conform to adjacent lots as specified herein.

[iii] In accordance with § 130-52, the following trees are permitted for use within the Township of Lumberton: [Added 11-15-1999 by Ord. No. 1999-20; amended 10-16-2000 by Ord. No. 2000-21]

<b>Botanical Name</b>	<b>Common Name</b>
Acer rubrum	Red maple (October Glory or Red Sunset variety only)
Acer saccharum	Sugar maple (Green Mountain variety preferred)
Carpinus betulus "fastigiata"	European hornbeam
Celtis x occidentalis "magnifica"	Magnifica hackberry
Fraxinus americana	White ash (seedless variety only)
Fraxinus pennsylvanica	Green ash (Cimmaron and Patmore variety only)
Ginkgo biloba	Ginkgo (male only)
Koelreuteria paniculata	Goldenrain tree
Maackia amurensis "Starburst"	Starburst Amur Maackia
Quercus acutissima	Sawtooth oak
Quercus bicolor	Swamp white oak

<b>Botanical Name</b>	<b>Common Name</b>
Quercus macrocarpa	Bur oak
Quercus phellos	Willow oak
Zelkova serrata	Zelkova (Village Green variety only)

[2] Retention of cultural features.

[a] The retention of existing traditional cultural features, including but not limited to buildings (main buildings as well as outbuildings), structures, roads and paths, walls, fences, hedgerows, field patterns, agricultural drainage structures and other artifacts, is important to maintaining the character and quality of the vernacular landscape and shall be incorporated into the design when and where appropriate.

[b] All existing buildings (including outbuildings) within the site to be developed identified as historic sites in the Master Plan as well as other buildings constructed prior to 50 years ago shall be considered candidates for continued use, preservation, restoration or rehabilitation. Justification for discontinuing use of and/or removing or demolishing any such buildings shall be submitted to the Historic Preservation Commission and the approving authority. If a building or structure is listed on National or State Historic Registers, appropriate approvals from respective agencies must be obtained prior to alteration or demolition.

[3] Public utilities. The provisions of § 130-48, Public utilities, apply as modified herein. Aboveground utility facilities, such as transformers, pumping stations, etc., as well as access to underground vaults (other than manholes), shall be properly fenced and landscaped as provided herein.

[4] Drainage; stormwater management.

[a] Increases in impervious surfaces associated with development shall require measures to control increases in stormwater runoff and nonpoint source (NPS) pollution. Reduction of stormwater runoff and NPS pollution requires the application of nonstructural source controls, site planning and structural best management practices (BMPs). The objective is to control water quantity and quality at the source by proper land management and

implementation of source controls. However, if nonstructural measures are insufficient to achieve the required water quantity and quality goals, integrated systems combining control and treatment, including structural controls, shall be used.

- [b] The management of stormwater shall be accomplished in accordance with the requirements of N.J.A.C. 7:8, Stormwater Management, and using the guidance provided in the latest edition of New Jersey Department of Environmental Protection and Agriculture's Stormwater and Nonpoint Source Pollution Control - Best Management Practices Manual, both of which are hereby fully incorporated into this article by reference.
- [c] The provisions of § 130-29, Drainage, of this chapter shall apply.
- [d] Where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. Approvals issued pursuant to these requirements shall be considered an integral part of the development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act or ordinance.

[5] Landscaping.

- [a] General. The overall purpose of site landscaping is to enhance aesthetics, create a sense of place, reduce nonpoint source pollution runoff and facilitate stormwater management. These goals of site landscaping are accomplished by maintaining and/or reestablishing the character and tone of the natural vegetation in the area; lessening the visual impact of buildings, structures and paved areas; providing for soil stabilization; and providing a diversity of habitats, including river corridors, wetlands, upland fields, meadows and successional woodlands. Landscaping shall be designed to improve microclimates around buildings, i.e., large evergreen trees should be limited in placement to protect north and northwest exposures and deciduous canopy trees should be placed to shade southern exposures.
- [b] Character and tone of vegetation. Identifying and understanding the character and tone of vegetation existing on and surrounding the site are paramount to achieving the landscape goals set forth above. The character and tone of existing vegetation are determined by identifying the environmental setting, i.e., forest, meadow, floodplain, in which the site is

located and the stage of development of the vegetation, i.e., successional field, successional woodlands, mature woodlands, etc., identification of the types of canopy, understory, shrubs and ground cover further this understanding of the site. Landscape designs should complement the character and tone of existing vegetation through the use of native vegetation indigenous to the area and species related to such vegetation. Plantings should be massed and multilayered. Plant species should be repeated throughout the site to provide continuity and cohesiveness in the landscape design.

- [i] Native vegetation. Where appropriate, native vegetation shall be used. See Plate L1, Native Vegetation.<sup>EN(95)</sup>
- [ii] Nonnative vegetation. The use of certain nonnative drought-tolerant types and species, as analogues, is recommended. See Plate L2, Nonnative Drought Tolerant.<sup>EN(96)</sup>
- [iii] Prohibited vegetation. Certain species of vegetation, because of their characteristics, are prohibited from use in specific locations. Other species, because of their potential invasive characteristics, are prohibited. See Plate L3, Prohibited Vegetation.<sup>EN(97)</sup>

[c] Vegetation preservation and replacement.

- [i] Existing vegetation. To the greatest extent possible, existing vegetation on the tract in good health and condition shall be preserved. Individual trees with a diameter of four inches dbh or greater and stands of trees and mature shrubs and hedgerows located within yard setbacks and buffer areas or at least 10 feet or more from a building foundation shall be preserved. The placement of buildings, driveways, streets, parking areas and other improvements shall take into consideration the location of existing vegetation by preserving such vegetation to the greatest extent possible.
- [ii] Dead vegetation. All dead or dying vegetation, either standing or fallen, shall be removed from the tract, unless such are located in a preserved stand of trees greater than one acre in area.
- [iii] Vegetation protection. Existing vegetation to be preserved shall be protected during the period of construction as follows:
  - [A] No staging, storage or stockpiling areas for construction materials or soil shall be located under the dripline of existing trees to be



preserved. No such areas shall be located within five feet of existing shrubs or a hedgerow to be preserved.

- [B] A protective barrier consisting of snow or silt fencing a minimum of four feet high shall be installed around the dripline of exiting trees to be preserved and five feet extending from the dripline of existing shrubs or hedgerows to be preserved prior to the commencement of any site work or construction. Such protective barrier shall be freestanding and sturdy, not supported in any way by the vegetation it is protecting, and shall remain in place until construction has been completed.
  - [iv] Trees removed to facilitate construction shall be replaced only as provided for in this chapter, based upon the formula shown in Plate L4, Replacement of Trees.<sup>EN(98)</sup>
  - [v] All replacement trees shall be no less than 2.5 inches in caliper, measured six inches above finished grade and of the species listed as native canopy vegetation in Plate L1.<sup>EN(99)</sup> Planted trees that do not live for two growing seasons after planted shall be replaced by the developer during the next planting season.
  - [vi] Replacement trees may be located anywhere within the development site, i.e., as an addition to existing woodlands, a new woodland patch, an addition to existing woodland patch, an addition to existing woodland corridor/hedgerow, for the creation of a vegetative buffer strip (river corridor or otherwise) or as street trees.
- [d] Streetscape requirements.
- [i] Trees for the purposes of providing shade along designated streets, while avoiding root damage to sidewalks, paving or utility lines, shall be planted along streets within a designated tree strip or easement provided for that purpose no less than 10 feet from the edge of street pavement or curb, at no greater than 40 feet between trees. Shade trees planted as street trees shall consist of at least three species of canopy trees shown in Plate L5, Recommended Street Trees,<sup>EN(100)</sup> be at least 12 feet in height, 2.5 inches in caliber measured six inches above the finished grade, have branches no lower than seven feet from the ground and be planted in an alternating pattern.
  - [ii] In addition, street furniture, subject to the approval of the approving

authority, shall be located along collector or arterial streets near transit facilities, near civic or open space areas and within commercial districts where appropriate. Street furniture may consist of one or more of the following:

- [A] Benches.
- [B] Refuse receptacles.
- [C] Planters.
- [D] Drinking fountains.
- [E] Public telephones.
- [F] Bicycle racks.
- [G] Appropriate sculpture pieces.
- [H] Kiosks.

[e] Other shade trees. Shade trees planted in public areas, such as parks, parking lots and general open space, other than adjacent to streets, shall be of any species and type from the list of native and nonnative canopy trees listed in Plates L1 and L2, except those specifically prohibited because of fruits, thorns, etc., as shown in Plate L3.<sup>EN(101)</sup>

[f] Buffers.

- [i] Generally. Where buffers are required to separate uses, existing vegetation shall be augmented to meet required visual imperviousness. Buffer vegetation shall be multilayered with a variety of species in each layer that emulates the typical hedgerows found between fields and adjacent to roads within the community. Typical hedgerow vegetation is shown in Plate L6, Typical Hedgerow Vegetation.<sup>EN(102)</sup> Buffer areas shall be of such width that the vegetation shall provide the specified percent of visual imperviousness. A six-foot-high solid wood fence, i.e., stockade or board, which meets local ordinance requirements, shall be provided in conjunction with required buffer vegetation, when the width of the buffer area necessary to provide the required percentage of visual imperviousness exceeds 20% of the width of the affected property. Buffers shall be planted in a manner reflecting naturalized grouping of plants as shown in Plate L7, Typical Buffer Planting

Plan,<sup>EN(103)</sup> rather than unnatural looking staggered double rows.

- [ii] Buffer maintenance. Buffer areas shall be maintained and kept clean of all such debris, rubbish, weeds and tall grass by the owner. Any screen planting shall be maintained permanently, and any plant material which does not survive shall be replaced within two years or two growing seasons. No structure, activity, storage of materials or parking of vehicles shall be permitted in a buffer area, except signs as permitted in this article and access drives from public streets.
- [iii] Utility facility buffers. Vegetative buffers of native and/or drought-tolerant nonnative evergreen trees and shrubs shall be planted around all aboveground utility facilities such as transformers, pumping stations, etc. If deemed necessary, earthen berms may be required, but not as a substitute for vegetation. Vegetation shall be spaced to visually screen 90% of utility equipment from public view within three years of planting. If security or safety requires chain-link-type fencing around utility facilities, the chain link fabric, posts, other supporting rails and gates shall be flat black in color and installed between the utility equipment and the vegetative/berm area.
- [iv] Residential/nonresidential boundary buffers. Vegetative buffers of native and/or drought-tolerant nonnative deciduous and evergreen trees and shrubs shall be planted so as to visually separate tracts of residential and nonresidential development. Species shall include 75% evergreen and 10% ornamental trees and shrubs and shall be spaced to visually screen 90% of the view within two years.
- [v] Tract boundary buffers. Vegetative buffers of native and/or drought-tolerant nonnative deciduous and evergreen trees and shrubs shall be planted so as to visually separate tracts or single-family from multiple-family dwellings within the same tract. Species shall include 50% evergreen and 10% ornamental trees and shrubs and shall be spaced to visually screen 75% of the view within two years.
- [vi] Road buffers. Vegetative buffers of native and/or drought-tolerant nonnative deciduous and evergreen trees and shrubs shall be planted adjacent to arterial roads so as to visually separate the road from development. Species shall include 75% evergreen and 10% ornamental trees and shrubs and shall be spaced to visually screen 75% of the view within two years.

- [vii] New vegetation. New vegetation used in buffer plantings shall conform to the following standards when planted:
- [A] Nonornamental deciduous trees shall be planted with a tree spade or balled and burlapped and have a minimum height of 12 feet. Ornamental deciduous trees shall be balled and burlapped and have a minimum height of five feet.
  - [B] Evergreen trees shall be planted with a tree spade or balled and burlapped and have a minimum height of five feet and shall not have limbs removed greater than one foot from their base.
  - [C] Upright growing deciduous and evergreen shrubs shall be installed from at least a No. 2 can and shall have a minimum height of two feet.
  - [D] Prostrate growing deciduous and evergreen shrubs shall be installed from at least a No. 2 can and shall have a minimum diameter spread of two feet.
- [g] Stormwater management structures. All stormwater management structures shall be appropriately landscaped.
- [i] Dry basins. Dry basins may be either single use, i.e., for stormwater purposes only, or multiple use for stormwater management as well as recreation. Single-use basins shall be planted with native floodplain vegetation (see Plate L2<sup>EN(104)</sup>) and released to succession. Multiple-use dry basins shall be seeded and kept mowed, but may be planted with floodplain species canopy trees, in a manner that would not interfere with planned recreational activities in the basin.
  - [ii] Wet basins. Wet basins shall be planted to minimize erosion caused by the movement of groundwater through the banks as a result of water table fluctuations, wind-induced wave action and surface runoff. Appropriate plantings shall include low maintenance riparian, littoral, emergent and submerged aquatic vegetation, shown in Plate L8, Aquatic Vegetation.<sup>EN(105)</sup>
- [h] Stream corridors. Where vegetation is to be replaced in stream corridors, it shall be multilayer native floodplain species, as shown in Plate L1.<sup>EN(106)</sup> Minimum width of vegetative corridors shall be 50 feet from water's edge, wetland boundary, or boundary of one-hundred-year floodplain, whichever

is greater.

- [i] Berms. Berms constructed in conjunction with landscaping shall be curvilinear in the plan view with varying elevations at least six feet high. They shall have side slopes no greater than three to one (3:1) in areas where the berm requires mowing or slopes no greater than two and five-tenths to one (2.5:1) in areas where mowing is not required. Trees and shrubs shall be planted along side slopes and not along the ridge of the berm.
- [j] Lawns/turf. The use of large expanses of lawn areas shall be avoided wherever possible. Lawns shall also be avoided where conditions are poor or indicate problems with turf establishment and management.
- [k] Site preparation. Appropriate fertilizer use shall be practiced during the development stage. Soil preparation prior to planting or lawn installation shall be completed to minimize the need for fertilizer and pesticide use. A layer of topsoil, not less than six inches, containing organic matter, shall be used to reduce the need for fertilizers and pesticides. Proper fertilizer management includes the selection of types of grasses that adapt to low moisture and nitrogen levels when establishing new lawns.
- [l] Timing, size and quality of plantings. All trees and shrubs shall be planted during nursery industry recommended planting seasons for respective species and shall be nursery grown, be of substantially uniform size and shape, have straight trunks with the main leader neither pruned, split nor broken and comply with standards developed by the American Association of Nurserymen, American National Standards Institute (ANSI) 260.1-1986 or later edition.
- [m] Landscape plan. A landscape plan for the development site shall be submitted to the Land Development Board for approval by a New Jersey certified landscape architect, whose name, signature, certification number and seal shall appear on it. [Amended 1-20-2004 by Ord. No. 2004-1]
  - [i] The plan should, as a minimum, include the following:
    - [A] Location of existing trees having a caliper of four inches or greater dbh.
    - [B] Methods to be used to ensure protection of existing trees during construction.
    - [C] Number and size of trees requiring removal and specific plans for

replacement.

[D] Location, number, size, spacing and species of all new plantings.

[E] Illustrations of street furniture and recreation equipment.

[F] Proposed plant material drawn to scale at mature size. The scale used shall be sufficient to adequately show the overall concept.

[ii] Submission of this plan shall be concurrent with applications for preliminary and final approval.

(c) Architectural standards and guidelines.

[1] General.

[a] The TDR receiving zone is adjacent to the Historic District of Lumberton Village and provides for increased densities of residential development that significantly departs from the underlying zoning of the area. Based on providing increased residential densities and being an extension of Lumberton Village, the development of the TDR receiving area requires the establishment and implementation of specific architectural standards and guidelines. New buildings shall blend into the community without direct imitation or by trying to replicate in detail any historic architectural period. New buildings shall be similar in size, scale and mass to existing historic buildings located immediately adjacent to and in the receiving zone and into the existing vernacular of Lumberton Village. There shall also be a consistency of mass, material and detail within each new building in relation to other new buildings. By incorporating the existing architectural characteristics into contemporary floor plan designs and technology, and by properly siting buildings, the new structures shall blend into their surroundings and be compatible with the community. Buildings shall be harmoniously related to the terrain rather than dominating it. A carefully chosen variety of architectural styles and appropriate diversity of building types is necessary to create the visual quality of a community, constructed over a significant period of time.

[b] The retention of existing structures on the site is encouraged. The Secretary of the Interior's Standards for Rehabilitation of Historic Buildings shall be used as the criteria for renovating historic or architecturally significant structures within the site.

[2] Theme. An architectural theme reflected in building massing and details is

essential to achieving the desired aesthetic. The historic buildings located immediately adjacent to and in the receiving zone, including the various houses set forth on Plate 31 which follows page 27 of the Township of Lumberton's Master Plan Elements and Background Studies adopted on October 26, 1994, represent architectural styles of the 18th and 19th Century. The buildings of the adjacent Lumberton Village Historic District represent architectural styles from a similar period. Therefore, the architectural theme within the receiving area shall generally reflect the traditional period styles of the 18th, 19th and early 20th Centuries, not contemporary. These styles typically include Colonial, Georgian and Federal, as well as Greek Revival and Victorian. The traditions associated with these architectural styles are encouraged while stylistic trim characteristics of other periods and regions are highly discouraged. Design of buildings shall incorporate elements and features based on the existing vernacular style as generalized in Plate A1, Architectural Styles, and Plate A2, Architectural Considerations.<sup>EN(107)</sup>

- [3] Similarity - dissimilarity. Section 130-49.1, Residential building appearance, of this chapter is represented here. Use of the standard is required for developments proposed under this article.
- [4] Architectural elements.
  - [a] Facades.
    - [i] The front facade of the principal building on any lot shall face toward a public street. The architectural style of a building shall be continued in all of its major features on all sides visible from a public street.
    - [ii] Any wall which is separated by more than 10 (ten) feet from an adjacent building, shall not be blank.
    - [iii] Except for porch and entry elements, front facades of residential buildings should be relatively unbroken with a minimum of protrusions/setbacks. When multiple protrusions and setbacks are used, the length of the building shall be sufficient to accommodate this design feature, and one protrusion should be prominent. Gable vents should be appropriately scaled, not overpowering the gable, and be so colored as to blend into the facade cladding.
    - [iv] Large rectangular multifamily buildings with undifferentiated facades, especially with large glass areas, are inappropriate. Where large buildings are required, the building mass shall be broken up through the

use of indentations, articulation of facade surfaces, arcades, variations in cladding, variations in rooflines, gables and other design techniques. Multifamily buildings shall share a consistent design theme with the neighboring single-family detached buildings. Cornice lines facing street frontage shall be uniform.

- [v] Exterior mounted mechanical equipment shall be architecturally screened and set toward the rear of all buildings, hidden from public view.

[b] Cladding materials.

- [i] The primary cladding materials shall be wood, aluminum or vinyl clapboard siding (with four inches to six inches exposed to weather), smooth stucco or brick. Stone may be used if it resembles the size, scale and color of stone indigenous to South Jersey. Stone colors shall be submitted to the approving authority for approval. If stone is used, it shall be built up in either coursed rubble or random rubble style as shown in Plate A3.<sup>EN(108)</sup> Bricks shall be standard red or earth tone (new or used) with plain smooth faces and without ornamentation or other than natural coloration and shall be in a horizontal running bond or Flemish bond pattern with mortar joints not greater than 1/2 inch in height. Orange, yellow and white brick shall not be used. Cladding colors shall be submitted to the approving authority for approval.
- [ii] Building walls of wood, aluminum or vinyl clapboard shall have all openings trimmed in boards two inches to four inches nominal width, and corners shall be trimmed in boards of four inches to six inches nominal width.
- [iii] No more than two types of cladding materials shall be used on any one building without the specific approval of the approving authority. Walls constructed of more than one material shall only change material along a horizontal line with the heavier material always being beneath the lighter material. Change of material along a vertical line may be approved by the approving authority when the overall building design emulates a style of building that was created by making successive additions during different time periods; for example, a smooth stucco or brick three-bay main building with a two-bay clapboard addition.
- [iv] Front and side facades of any building on a corner lot shall be constructed of the same materials and similarly detailed. Buildings on



corner lots are those at the intersections of streets and those adjacent to open space parcels. Foundation walls facing a street shall be exposed no more than 18 inches above the ground. Gables atop brick walls may be finished in smooth stucco, clapboard siding or brick. The exposed portions of chimneys shall be brick or stucco.

[c] Windows, residential.

- [i] Windows shall be double hung sash or fixed with divided lights, square or vertical in proportion and appropriate to the architectural style of the building as shown in Plate A1, Architectural Styles.<sup>EN(109)</sup> Casement windows with divided lights may be used in special situations as appropriate. The total rough window openings on the facade facing the street shall not exceed 30% of the total surface area of the facade. Where windows are combined into pairs, triples or bands, such windows shall provide a sound proportion of windows to the wall area and, when used on the front facade, shall be separated by a post having a minimum nominal width of four inches. Where an asymmetrical rhythm of openings is used, balance shall be achieved by adding or subtracting shapes, sizes and the relative visual weights of each window (see Plate A2<sup>EN(110)</sup>). Windows facing a street, or clearly visible from a street, shall not be closer than two feet from the corners of the building.
- [ii] Windows may be circular, semicircular, hexagonal or octagonal in shape, but only one such window may be placed on each elevation. Windows may be quarter-circular in shape when paired in a gable end. Window lights shall be square or vertical in proportion, and single glass panes shall be no larger than 20 square feet. Mirrored windows shall not be permitted.
- [iii] One-piece lintels shall extend horizontally beyond the window opening. Brick soldier lintels shall extend beyond the window opening a minimum of one brick width.
- [iv] Oriels and bays (canted or perpendicular) shall be in proportion to the wall on which used, and not appear overpowering or undersized. Bay windows on street facades shall extend to the ground or, if 18 inches above ground level, be visually supported on brackets.
- [v] Where the style of architecture and size of window opening dictates, windows on the front facade and the side facade of a building on a corner shall be shuttered. Shutters may be wood or vinyl, and the width

shall be reasonably proportionate, approximating one-half (1/2) the width of the window, and shall not be longer than the distance from the bottom of the lintel to the top of the sill. When shutters are used, horizontal louvered shutters are permissible; solid panel shutters are preferred for the first floor. Shutters shall be applied to all or none of the typical windows requiring shutters on any given elevation.

[d] Entrances, residential.

- [i] Porches, pent roofs, roof overhangs, porticoes, hooded front doors, elaborate door surrounds with or without side lights or other strong architectural expressions, shall define the front entrance to all residences. Storm doors and screen doors shall be not less than half-view and free from decorative trim.
- [ii] Where used, front porches shall be unenclosed and linear in form; shall be constructed of wood, stone or brick; shall have a minimum depth of six feet; and shall have wood or simulated wood posts or columns of not less than six inches nominal width with articulated bases and capitals and wood or simulated wood balustrades. A projecting porch with separate roof shall span not less than 50% up to 100% of the front facade. A cutaway porch shall be between 30% and 50% of the front facade. If a porch, pent roof, portico or hood is not used, door surrounds, distinctive architraves, transom windows or pilasters shall be used and shall extend above the uppermost part of adjacent window lintels.
- [iii] Where front entrance steps require more than three risers, they shall be constructed of a material other than plain concrete. Railings used in conjunction with steps shall be wood, steel or black wrought iron.

[e] Roofs.

- [i] Roofs shall be simple and symmetrically pitched and only in the configuration of gables and hips. The pitch of the roof shall be between seven on 12 and 14 on 12, except for mansard, low hip Federal, hip on hip or hip with flat/deck. Rooflines and the mass of roof as viewed from the street should not be overpowering. Flat roofs shall be permitted only in conjunction with cornices on entrance hoods, porticos and on side porches/piazzas. Shed roofs which pitch in one direction shall be permitted only when the ridge is attached to an exterior wall.

- [ii] Roofs may be built of standing seam steel, copper, cedar shakes, natural slate, artificial shakes, artificial slate or asphalt shingle.
  - [iii] Skylights, solar panels, vent stacks and other roof protrusions shall not be placed on a roof facing a street, nor shall they be visibly obtrusive from nearby streets except for single loaded houses with reverse frontage lots.
- [f] Garages. [Amended 10-16-2000 by Ord. No. 2000-20]
- [i] If a garage is integral to or attached to the house, the entry shall be from the side. If the lot width is insufficient to accommodate side entry, consideration should be given to using either alleys with rear entry garages or reduced side yard setbacks to provide sufficient area for side entry. If neither of the above are practical, the facade of the garage facing the street shall be flush with or set back from the principal building. Garage doors shall not exceed eight feet in height or nine feet in width if facing the street, or 18 feet in width if accessed from the side. The use of detached garages is encouraged in lieu of an attached garage.
  - [ii] Garages and carports for not more than three vehicles may be constructed on a single lot. The garaging, storing or parking of commercial vehicles over three-fourth ton on any properties, private roads or public streets in all residential districts is prohibited; provided, however, that nothing herein shall prohibit the parking of a commercial vehicle for such reasonable time as may be required in the normal course of pickup and delivery service. Owners, lessees, occupants and other persons responsible for or knowingly permitting violation of this subsection shall be guilty of such violation as will the owner or user of any vehicle so parked, garaged or stored. Vehicles designed and used for agricultural purposes are exempted from these requirements. Not more than one commercial registered trailer, mobile home or vehicle owned or used by the resident shall be permitted in a residential zone, provided that the vehicle is located in the rear yard and adequate buffering per § 130-26 is provided. This provision shall not be deemed to limit the number of commercial cars or trucks used in conjunction with a permitted agricultural use. A garage shall not be used for commercial purposes in residential districts. Regardless of capacity, only one private garage, whether attached or unattached, shall be permitted per residential dwelling.

[g] Outbuildings, sheds and decks.

- [i] Outbuildings and sheds shall match or complement the main building. The color of the outbuilding and roofing shall match the main building.
- [ii] Decks shall be built of plastic lumber, cedar or pressure-treated wood within the setback lines of side and rear yards. Decks and stairs constructed of wood that are clearly visible from the street shall be painted or treated with opaque-colored stain with the exception of the floor and treads which may be left unfinished. See also § 130-63C(6).

[h] Fences.

- [i] Subject to the provisions of § 235-1 et seq., and § 298-1 et seq., of the Code, the provisions of § 130-32, Fences and walls, apply, except that chain link fences may not be used on residential properties.
- [ii] If security and/or safety of a nonresidential site requires the use of chain-link-type fencing, the chain link, posts and other supporting rails will be flat black in color and installed behind a berm and/or vegetative buffer. Vinyl slats may not be installed on fences. Access to such sites shall not be visible from the street.
- [iii] Chain link fences erected in conjunction with athletic fields, such as back stops, boundary fences, etc., may be standard galvanized steel color.

[i] Miscellaneous.

- [i] The following items shall not be located in front yards, side yards facing a street or sidewalk, nor visibly obtrusive from nearby streets:
  - [A] Clothes drying apparatus.
  - [B] HVAC equipment.
  - [C] Solar panels.
  - [D] Antennas.
  - [E] Garbage cans.
  - [F] Bird baths or statuary (except that of museum quality).
  - [G] Synthetic fauna or flora.

[H] In-ground or aboveground swimming pools.

[I] Recreation and play equipment.

[J] Hot tubs, spas, etc.

[ii] Flagpoles less than six feet long may be mounted at an angle to porch columns or posts and building walls.

[j] Signs and graphics. The provisions of § 130-55 of this chapter, entitled "Signs," apply.

(4) Open space standards and guidelines.

(a) Purpose of open space requirements. The purpose of requiring open space in TDR receiving areas is to preserve open space in proper quantities, locations and types which will:

- [1] Promote public health, safety and welfare of the citizens of the Township of Lumberton.
- [2] Improve and enhance the quality of life for existing and future residents of the Township of Lumberton.
- [3] Define and identify communities developing with TDR receiving areas by enhancing the visual character of the communities.
- [4] Provide transition areas between communities and different land uses in and around TDR receiving areas.
- [5] Protect and preserve environmentally sensitive areas and natural resources in TDR receiving areas.
- [6] Provide active and passive recreational facilities and space needed by communities developing within TDR receiving areas.
- [7] Preserve and protect agricultural lands.

(b) Permitted open space uses are as follows:

- [1] Farmland, agriculture and agricultural uses.
- [2] Environmentally sensitive area preserves.
- [3] Stormwater management facilities, i.e., detention and retention basins, swales, etc., and combination detention basin/active recreational playing fields, in which

recreation facilities shall be ancillary to the stormwater management facilities.

[4] Active recreational uses:

[a] Playgrounds.

[b] Baseball and softball fields.

[c] Football and soccer fields.

[d] Tennis courts, basketball courts, volleyball courts, shuffleboard courts and other similar court-type games.

[e] In-ground swimming pools of sufficient size to serve the target population, i.e., neighborhood, community or municipality-wide population.

[f] Golf courses.

[g] Other active recreational uses permitted by the reviewing board.

[5] Passive recreational uses:

[a] Ornamental and botanical gardens.

[b] Picnic groves and areas and sitting areas.

[c] Gazebos, belvederes, bandstands and other similar structures.

[d] Pedestrian/bicycle paths.

[e] Other passive recreational facilities permitted by the reviewing board.

(c) Permitted open space accessory uses are as follows:

[1] Off-street parking space and access drives which are incidental to and serve only permitted open space uses.

[2] Rest room facilities incidental to permitted open space uses.

[3] Maintenance buildings, provided that the gross floor area of such buildings does not exceed 500 square feet and the height of such buildings does not exceed 15 feet.

[4] Clubhouses, which may include a snack facility operated only during recreational events, provided that the gross floor area of such buildings does not exceed 1,000 square feet and the height of such buildings does not exceed 15

feet.

- [5] Equipment storage buildings, provided that the gross floor area of such buildings shall not exceed 500 square feet and the height of such buildings shall not exceed 15 feet.
- [6] Accessory buildings designed to combine three or more functions, i.e., rest rooms, clubhouse and equipment storage, provided that the gross floor area of such buildings does not exceed 1,500 square feet and the height of such buildings is compliant with the limitations set forth supra.
- [7] Other accessory buildings and structures permitted by the approving board.
- [8] Signage as permitted in this article.

(d) Prohibited open space uses are as follows:

- [1] All residential, commercial or industrial uses not specifically permitted supra in this article.
- [2] Billboards.
- [3] Signage not specifically permitted in this article.

(e) Required open space.

- [1] Residential development in the TDR receiving area enjoys the potential for increased residential density over current RA zoning. Developers of such increased residential intensity in the TDR receiving area have an obligation to provide open space with active and passive recreational facilities.
- [2] Total open space. A minimum of 10% of the total tract are shall be reserved for open space in the RA/R-2 District and a minimum of 30% of the total tract area shall be reserved for open space in the RA/R-6 District. [Amended 4-17-2006 by Ord. No. 2006-8]
- [3] (Reserved)<sup>EN(111)</sup>
- [4] Passive recreation. A pedestrian/bicycle path shall be provided interconnecting all of the residential developments in the TDR receiving area. The pedestrian/bicycle path shall provide access to active and passive recreational facilities in open space areas and to other places of importance and interest, i.e., historic sites, etc., in the TDR receiving area.

(f) Open space design standards.

- [1] Buffer area. A buffer area at least 20 feet wide shall be provided along common property lines separating single-family dwellings and active recreational uses, including accessory uses in open space areas. Buffer areas shall be designed pursuant to §§ 130-26A, B, C, and E and 130-65 of this chapter.
- [2] Pedestrian/bicycle path. Pedestrian/bicycle paths, including a perimeter bicycle path, shall be provided throughout the TDR receiving area, interconnecting the various communities and open space areas in the communities planned for the TDR receiving area, and to provide access to existing and future school sites.
  - [a] Separate pedestrian/bicycle paths shall be provided along Crispin Road and Creek Road. Such paths shall be at least six feet wide and shall be separated from the cartway by a grass strip at least five feet wide.
  - [b] Bicycle lanes shall be provided along main collector roads which traverse interior sections of communities, linking them with Crispin Road and Creek Road and adjoining communities outside the TDR receiving area. Such lanes shall be identified by pavement striping and street signage. Pavement striping shall consist of a four-inch-wide painted stripe, whose specifications meet or exceed New Jersey Department of Transportation standards, and shall be located four feet from the edge of pavement or curb. Bicycle lane signs shall be placed 500 feet on center. On-street parking shall be prohibited along both sides of main collector roads designated for bicycle lanes.
  - [c] Separate pedestrian/bicycle paths shall be provided through open space areas to provide access to active and passive recreational facilities. Such paths shall be at least six feet wide.
  - [d] Separate pedestrian/bicycle paths shall be constructed according to § 130-25 of this chapter.
- [3] Off-street parking for active and passive recreational facilities shall comply with § 130-44 of this chapter.
- [4] Signs.
  - [a] One freestanding identification sign shall be permitted for each main entrance to an active recreational facility. The sign shall not exceed 12 square feet in area and four feet in height and shall be no closer than 10 feet to the street right-of-way.



[b] Directional signs are permitted in open space areas, provided that they do not exceed two square feet.

(g) Designation and maintenance of open space.

[1] Restriction on sale of required open space. Land designated as open space shall be maintained as open space and shall not be separately sold, subdivided or developed except as provided in this chapter.

[2] Maintenance requirements.

[a] Maintenance of natural areas shall be limited to removal of litter and dead tree and plant material.

[b] Agricultural open space shall be maintained for agricultural use.

[c] Maintenance of recreational areas shall ensure that no hazards, nuisances or unhealthy conditions exist and shall be performed at the frequency and thoroughness required for adequate use and enjoyment of the respective recreational areas according to their specified function(s).

(h) Preservation of required open space.

[1] Ownership and responsibility. Open space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open space areas may be owned, preserved and maintained by any of the following mechanisms or combinations thereof:

[a] Dedication of open space to the Township or appropriate public agency or nonprofit entity, i.e., conservation or open space land trust, willing to accept the dedication. Lands dedicated as open space shall be restricted by deed requiring that the use of such lands be limited to only permitted open space uses approved by the approving board.

[b] Common ownership of the open space by a private property owner's association which assumes full responsibility for its maintenance. Such open space lands held in common ownership shall be restricted by deed requiring that the use of such lands be limited to only permitted open space uses approved by the approving board, prohibiting development and/or subsequent subdivision of the open space, and providing maintenance responsibility.

[2] Failure to maintain. In the event that any private owner of open space fails to maintain the open space according to the standards of this chapter, the Township

of Lumberton may, following reasonable notice and demand that the maintenance deficiency be corrected, enter the open space to maintain it. The cost of such maintenance shall be charged to those persons and/or entities having primary responsibility for maintenance of the open space.

- (i) Approval of required open space; application of required open space approval. An open space plan shall be submitted as part of the development application approval process. This plan shall designate and indicate the boundaries of all open space areas required by this chapter. The plan shall:
  - [1] Designate areas to be reserved as open space. The specific design of open space areas shall be sensitive to the physical and design characteristics of the site.
  - [2] Designate the type of open space which will be provided.
  - [3] Specify the manner in which the open space shall be perpetuated, maintained and administered.

**§ 130-62.2. RA/R-6 planned unit development standards. [Added 3-6-2000 by Ord. No. 2000-5]**

A. Purpose. The following standards are intended to create design Guidelines for the RA/R-6 age-restricted receiving zone. The Township seeks to provide an age-restricted community with mixed uses, including neighborhood retail/office uses, public or quasi-public spaces, and open space areas. The design standards provide a guidance structure in reviewing all development applications regarding land within the RA/R-6 Zoning District. The following guidance statements indicate clear goals intended to be followed:

- (1) Encourage the flexibility of housing design and type;
- (2) Provide a usable open space plan that provides for passive and active recreation opportunities;
- (3) Provide a functional circulation plan which encourages pedestrian connections between the retail/office uses and the residential neighborhoods;
- (4) Create smaller lots to accommodate the smaller family sizes typical of older households;
- (5) Encourage an interconnection between existing and proposed uses so as to create a sense of community within adjacent neighborhoods;
- (6) Encourage the creation of a development which permits higher densities while promoting a more efficient use of land and public services;

- (7) Promote a development with identifiable physical, visual, and spatial characteristics that are created through the consistent use of compatible design regulations;
- (8) Provide a layout of streets and open space which encourages pedestrian 'interconnections to commercial/office uses;
- (9) Promote creation of a place which is oriented to the pedestrian, promotes citizen security and social interaction;
- (10) Establish community spaces which act as focal points of activity and interaction for both commercial and residential neighborhoods;
- (11) Promote a development with visual and spatial characteristics as expressed in the site plan and design regulating standards;
- (12) Promote the creation of a neighborhood that is identifiable in the landscape, surrounded by open space, and sensitive in the preservation of natural features; and
- (13) Provide a procedural framework for the approval of a comprehensive development, providing standards that incorporate street, architectural, and site design elements.

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

**ALLEY** -- A narrow right-of-way located through the interior of blocks and providing vehicular and service access to the side or rear of properties.

**ASSISTED CARE LIVING** -- An assisted living facility shall be a facility which provides long-term housing opportunities for individuals of age-restricted category, which facilities shall provide, in addition to a basic living unit, medical, nursing, and related facilities which may be required by the residents therein to afford them the opportunity to obtain assistance when needed while preserving their basic living unit during the time that any additional medical, nursing, or related services are required. For purposes of this section, assisted care units shall not be institutional in character. They shall be designed to be residential in character and adhere to the standards established in this section.

**BAY** -- A regularly repeated unit on a building elevation defined by columns, pilasters, or other vertical elements, or defined by a given number of windows or openings.

**BLOCK** -- Those structures fronting on one or both sides of a roadway and located between the two nearest points of intersection of said roadway or between the nearest point of intersection and the terminus of the roadway. Lanes and alleys shall not constitute an intersection.

**BOULEVARD** -- A major street with a planted median in the center of two cartways, with parkways on both outside edges.

**BUILDING SETBACK** -- The setback requirements do not apply to building projections or recesses. The setback area shall consist of a measurement from the property line or right-of-way line to the building foundation.

**COLUMN** -- A vertical pillar or shaft, usually structural.

**CORNICE** -- Horizontal molding projecting along the top part of a wall.

**CUPOLA** -- A small roof tower, usually rising from the roof ridge.

**DETACHED GARAGE** -- Garages constructed on residential lots which are not attached to the principal residence except by pergolas, indoor or outdoor connecting corridors or the like.

**FACADE** -- A building face or wall.

**FASCIA** -- A projecting flat horizontal member or molding.

**FENESTRATION** -- Windows and other openings on a building facade.

**GABLE** -- The part of the end wall of a building between the eaves and a pitched or gambrel roof.

**LINTEL** -- A horizontal beam over an opening in a masonry wall, either structural or decorative.

**MIXED USE BUILDING** -- A building containing more than one use, including multistory structures with commercial/retail on the ground level and offices on the upper levels. Such buildings shall vary in terms of footprint and architectural elevations.

**MODIFIED GRID STREET PATTERN** -- An interconnected system of streets and avenues which is primarily a geometric/rectangular grid in pattern; however, modified in street layout and block shape as to avoid a monotonous repetition of the basic street/block grid pattern. Streets and avenues should be limited to a maximum length of 400 to 800 feet in length without visual terminations. Major boulevards can be longer.

**PARKWAY** -- A planting area located within the public right-of-way, typically located between the curb and the sidewalk, and planted with ground cover and trees.

**PILASTER** -- A column partially embedded in a wall.

**PORTICO** -- An open-sided structure attached to a building sheltering an entrance or serving as a semi-enclosed space.

**C. General design standards.**

- (1) These design standards shall supersede any of the other design regulations within the Township Land Development Ordinance as they apply to the RA/R-6 Zoning District

only and shall be the design basis for the lands within the RA/R-6 Zoning District. The Street Design Standards, Building Design Standards, Site Planning Standards and the General Design Standards shall be governed in their entirety by the provisions of this section. Whenever other provisions of this chapter or other Township ordinances or regulations impose different standards and requirements than those contained herein, the provisions of this section shall apply.

- (2) Any applicant seeking to develop properties located within the RA/R-6 Zoning District shall be required per N.J.S.A. 40:55D-45 to provide a general development plan which shall be subject to review and approval by the Township Land Development Board. The purpose of the general development plan shall be to establish parameters within which permitted housing stock shall be constructed in conjunction with the construction of retail/office uses, open space dedications and other residential construction within the RA/R-6 Zoning District. For the purposes of this section, the general development plan shall be prepared in accordance with the requirements of the Township Subdivision and Land Development Ordinance as modified by this section and per N.J.S.A. 40:55D-45.2. The general development plan shall include, but not be limited to, the following:  
[Amended 1-20-2004 by Ord. No. 2004-1]

- (a) General land use plan.
- (b) Circulation plan.
- (c) Open space plan.
- (d) Utility plan.
- (e) Stormwater management plan.
- (f) Environmental inventory.
- (g) Community facility plan.
- (h) Housing plan.
- (i) Local service plan.
- (j) Fiscal report.
- (k) Phasing/timing schedule.

The developer is encouraged to submit a sketch plan of the general

development plan for the review and comment of the Land Development Board prior to the submission of the general development plan. Included in this plan shall be a block plan indicating the block layout and block types proposed and a public space plan indicating the layout and types of open space and streets proposed.

adequate;

- (c) That provision through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment are adequate;
  - (d) That the proposed planned development will not have an unreasonably adverse impact upon the area in which it is proposed to be established; and
  - (e) In the case of a proposed development which contemplates construction over a period of years, that the terms and conditions intended to protect the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development are adequate.
- (4) The development standards contained in the Street Design Standards, Building Design Standards, Site Planning Standards and General Design Standards are both written and illustrated. The illustrations and written text are intended to be complementary and, wherever an apparent inconsistency exists, an applicant may apply to the Land Development Board for an interpretation of the ordinance regarding such standard. [Amended 1-20-2004 by Ord. No. 2004-1]
- (5) The Site Planning and Design Standards shall be deemed to be the minimum standards applicable for the RA/R-6 Zone District. Requests for deviation from the standards for any section of the proposed development shall be reviewed by the Land Development Board and may require more stringent standards based on the proposed effect of the deviation in order to protect the health, safety and welfare of the citizens of the Township and the overall integrity of the RA/R-6 Zone District. [Amended 1-20-2004 by Ord. No. 2004-1]
- (6) Any application seeking a deviation from the provisions of this section relating to the Street Regulating Standards, Building Regulating Standards, the percentage or types of dwelling units or the amount of commercial development measured in floor area shall be treated as permitted uses which may be subject to conditions at the time of approval by the Township Land Development Board. All requests for such deviations must be evaluated in terms of the policy statements articulated in § 130-62.2A, and the reasons for said deviation shall be established in any determination made by the Board. [Amended 1-20-2004 by Ord. No. 2004-1]
- (7) Proposed deviations shall be reviewed and approved or denied by the Land Development Board based upon the following criteria: [Amended 1-20-2004 by Ord. No. 2004-1]
- (a) The design and improvement shall be in harmony with the purpose and intent of this section.

- (b) The design and improvement shall generally enhance the street and/or building regulating standards or, in any case, not have an adverse impact on its physical, visual, or spatial characteristics.
  - (c) The design and improvements shall generally enhance the streetscape and neighborhood or, in any case, not have an adverse impact on the streetscape and neighborhood.
  - (d) The modification shall not result in configurations of lots or street systems which are impractical or detract from the appearance of the development.
  - (e) The proposed modification shall not result in any danger to the public health, safety, or welfare by making access to the dwellings by emergency vehicles more difficult, by depriving adjoining properties of adequate light and air, or by violating the other purposes for which zoning ordinances are to be enacted.
  - (f) Landscaping and other methods shall be used to insure compliance with the design standards and guidelines of this section.
  - (g) The minimum lot size of any lot to be created shall only be reduced below the requirements of this section by approval of the Land Development Board.
  - (h) The applicant shall demonstrate that the proposed modification will allow for equal or better results and represents the minimum modification necessary.
  - (i) In the event of the granting of a deviation, the Land Development Board may impose such conditions it deems necessary to permit the deviation while insuring the integrity of the RA/R-6 Zone District.
- D. Street regulating standards. All streets and boulevards shall be built to the specifications set forth in this section. The RA/R-6 Zoning District permits the construction of four street types. The extension of Bobby's Run Boulevard shall be constructed according to the standards per § 130-62.2D(2), District Boulevard, and/or § 130-62.2D(3), Commercial Mixed-Use Street. Graphic illustration of the four categories of street types are set forth below.
- (1) General requirements.
    - (a) Streets have specifically been designed to provide a sense of enclosure, enhance neighborhood character and promote pedestrian accessibility. Each street has been designed and specified for right-of-way, street pavement, parkway, sidewalk, landscaping, lighting, parking, average daily traffic (ADT), and curb radii.
    - (b) Streets shall curve at strategic locations to allow the grid pattern to be unique and avoid a static street pattern. The modest bend or curve should not affect the overall

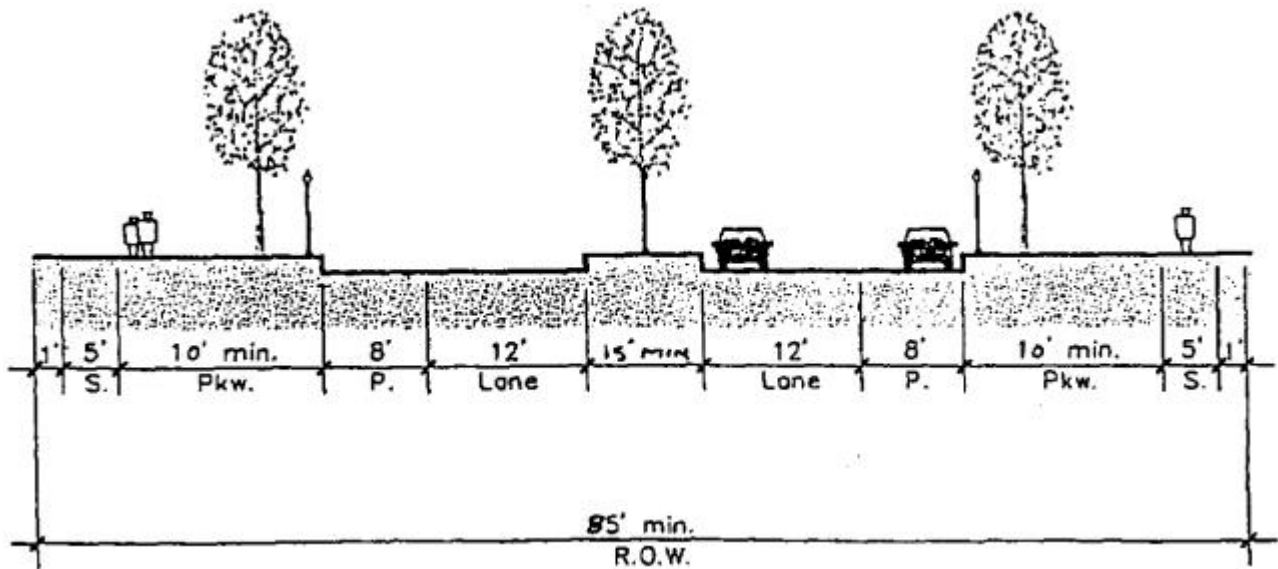


lot layout but will instead promote flexibility and character. To the greatest extent possible, existing topography should be used to provide added interest and character to the street layout.

- (c) The boulevard and commercial mixed-use street shall have a rear alley. The remaining streets may provide a rear alley for vehicular access. The alleys may be public roadways or private access roadways created by easements. All alleys should be provided with adequate lighting mounted on the building or residential poles in conformance with the section.
  - (d) Parallel parking shall be provided on all street types unless designated otherwise in the Street Regulating Standards. Diagonal head-in parking is permitted along the front of commercial/office uses. Curbside parking shall not be permitted within 25 feet of an intersection.
  - (e) Planted parkways shall be provided at a minimum of five feet in width. Sidewalks shall have a minimum width of five feet, except along commercial uses where the sidewalk shall be at least eight feet in width. The required planted parkway area may be reduced to accommodate the wider sidewalk, At corners, handicapped ramps shall be provided. Sidewalks in commercial areas shall be continued across street surfaces using paving materials to delineate crosswalks.
  - (f) Curbing shall be required on all streets except where specified within the Street Regulating Standards. Curb radii is specified in the individual street type descriptions.
  - (g) Granite block curbing, or equivalent, is recommended. Such curbing shall not extend more than six inches above the finished pavement on all streets.
  - (h) Streets in the RA/R-6 Zone District shall be connected with streets in the existing adjacent developments and shall provide for the continuation of the circulation pattern in the existing community.
  - (i) Each street shall be designed based on a defined hierarchy to control through traffic, minimize direct lot access to collector streets, and promote safe and efficient mobility through the RA/R-6 Zone District.
  - (j) The median planting area located in the district boulevard shall be graded one foot to 1.5 feet above the final curb grade to minimize drainage problems.
- (2) District Boulevard.
- (a) Specifications.

- [1] Traffic flow: two-way.
- [2] Parking: both sides.
- [3] Right-of-way: 85 feet to 105 feet.
- [4] Pavement width: 40 feet to 65 feet.
- [5] Speed: 35 mph.
- [6] Curb radius: 25 feet/curbs required.
- [7] Pedestrian access: sidewalks on both sides. Sidewalks must connect with designated crosswalks.
- [8] Streetlighting: 60 feet on center for both sides of the street and median. Lights on the center median should offset side light by 30 feet.
- [9] Landscaping: trees in parkway and median at no more than forty-foot intervals; existing trees should be retained to the extent possible.

(b) Graphic illustration.



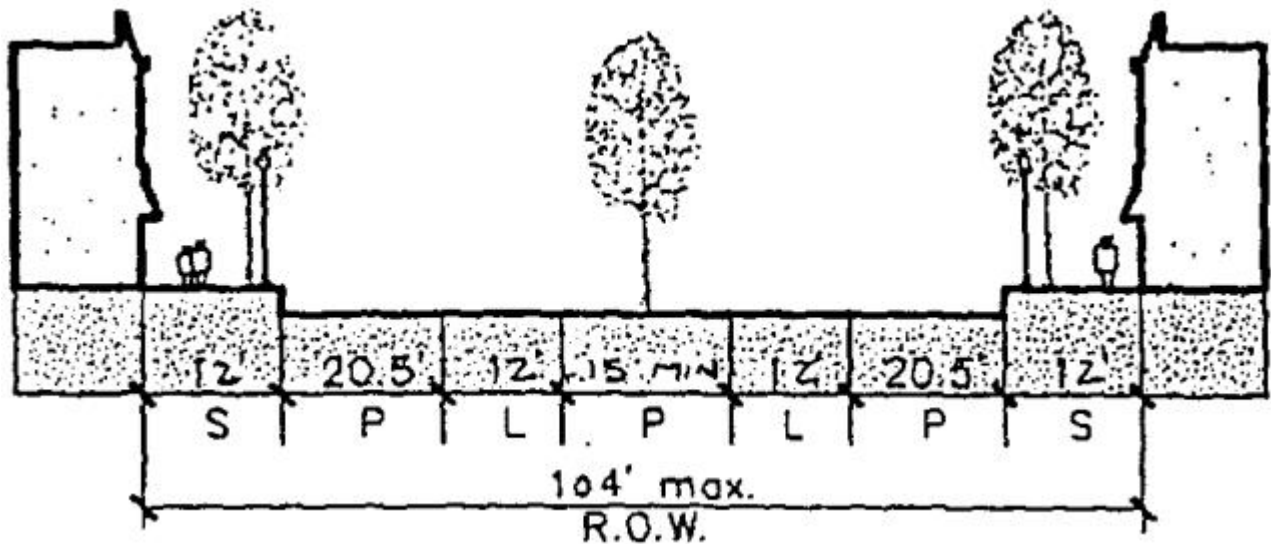
(3) Commercial mixed-use street.

(a) Specifications.

- [1] Traffic flow: two-way.

- [2] Parking: both sides.
- [3] Right-of-way: 104 feet maximum.
- [4] Pavement width: 65 feet.
- [5] Speed: 25 mph.
- [6] Curb radius: 25 feet/curbs required.
- [7] Pedestrian access: sidewalks on both sides. Sidewalks 12 feet wide along angled parking configuration as shown. Sidewalks must connect with designated crosswalk.
- [8] Streetlighting: 40 feet.
- [9] Landscaping: trees in sidewalk and median at no more than forty-foot intervals.
- [10] Special conditions: a minimum of two-story buildings are required along this street section.

(b) Graphic illustrations.

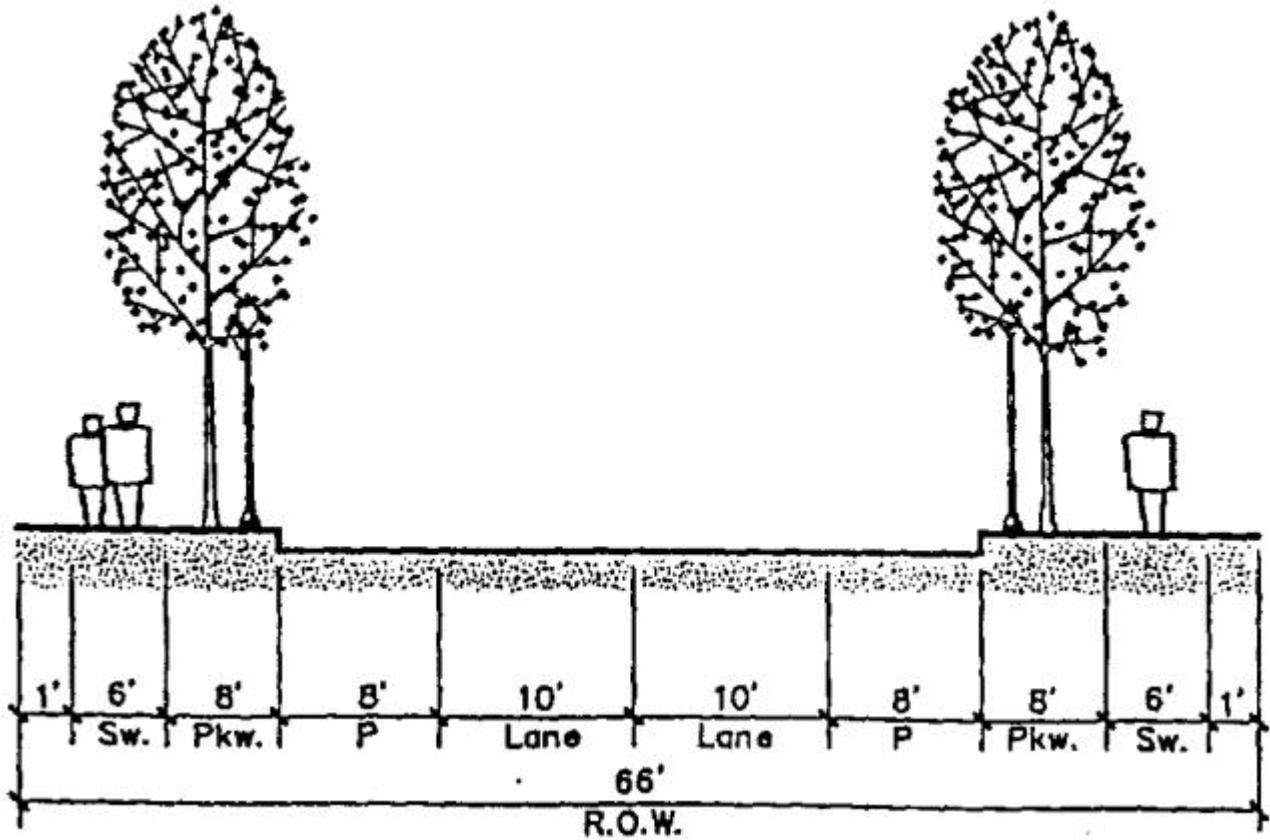


**Mixed-Use Street Section**

(4) Collector street.

(a) Specifications.

- [1] Traffic slow: two-way.
  - [2] Parking: both sides.
  - [3] Right-of-way: 66 feet.
  - [4] Pavement width: 36 feet.
  - [5] Speed: 25 mph.
  - [6] Curb radius: 15 feet/curbs required.
  - [7] Pedestrian access: sidewalks on both sides. Connection at designated crosswalk markings or texture.
  - [8] Average daily traffic: less than 3,500.
  - [9] Streetlighting: 80 feet on center.
  - [10] Landscaping: trees in parkway at no more than thirty-foot intervals; existing trees should be retained to the extent possible.
- (b) Graphic illustration.



Section of Collector Street

(5) Neighborhood street.

(a) Specifications.

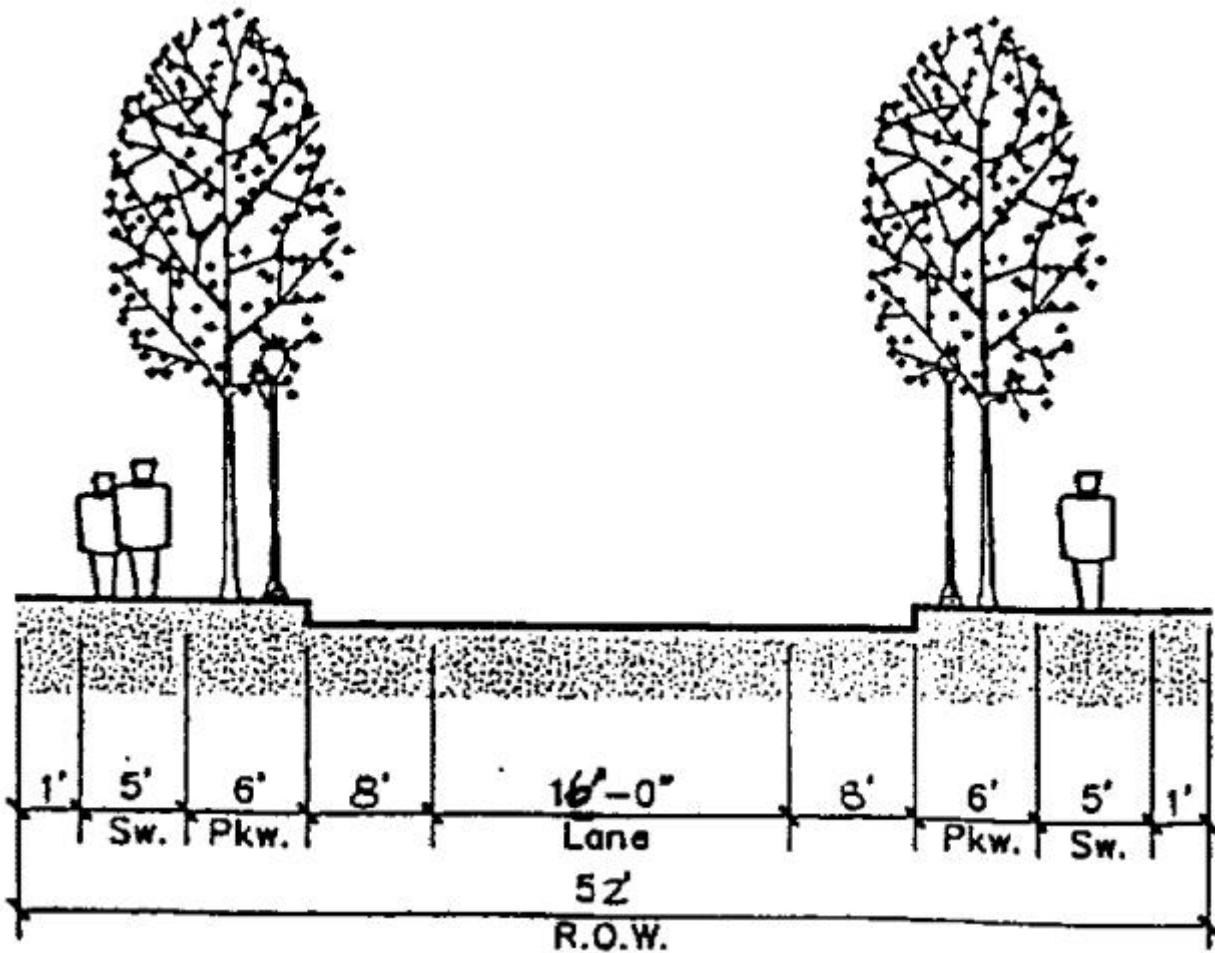
- [1] Traffic flow: two-way.
- [2] Parking: both sides.
- [3] Right-of-way: 52 feet.
- [4] Pavement width: 32 feet.
- [5] Speed: 25 mph.
- [6] Curb radius: 15 feet/curbs required.
- [7] Pedestrian access: sidewalks on both sides. Connection at designated crosswalks.

[8] Average daily traffic: less than 1,500.

[9] Streetlighting: 80 feet on center.

[10] Landscaping: trees in parkway at no more than thirty-foot intervals; existing trees should be retained to the extent possible.

(b) Graphic illustration.



Section of Neighborhood Street

(6) Alley.

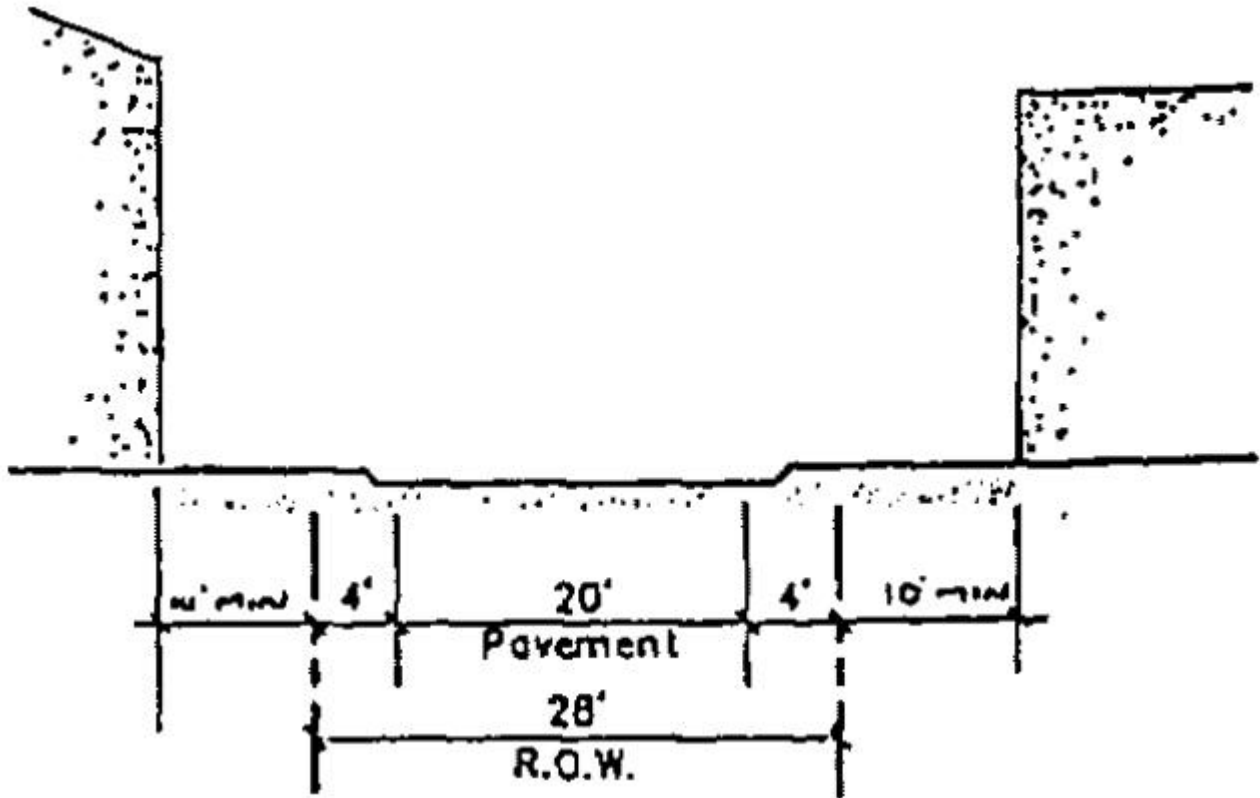
(a) Purpose. Alleys are generally service and vehicle access lanes. Vehicles such as delivery and garbage trucks are frequent users. In addition, personal automobiles may utilize these alleys as separate entrances to dwellings that front on the Boulevard. These alleys may also service as access lanes for common parking areas

at the rear of the commercial district.

(b) Specifications.

- [1] Traffic flow: one-way.
- [2] Parking: none.
- [3] Right-of-way: 28 feet.
- [4] Pavement width: 20 feet.
- [5] Speed: 15 mph.
- [6] Curb radius: 10 feet at intersections with other classes of streets/curbs required.
- [7] Pedestrian access: on pavement.
- [8] Average daily traffic: less than 200.
- [9] Streetlighting: 80 feet on center.
- [10] Landscaping: no plantings required. The alley's character is more hardscape and less vegetated. If lawn or shrubbery are not provided, then border area shall be surfaced with a nonerodable surface such as gravel, brick or quarry stone or sand laid on top of a stone base.

(c) Graphic illustration.



Section of Alley

E. Building-regulating standards.

- (1) Housing unit count. The total area of the RA/R-6 Zoning District is approximately 185 acres. Fifteen acres of the receiving area are zoned for commercial use and will not generate or utilize TDR credits. The following is the density permitted in the RA/R-6 Zoning District and the credit absorption ratio:

- (a) Gross acreage = 170.696;

TDR base density @ 3.0 d.u./acre = 512 units.

- (b) TDR allocation:



(b) TDR allocation:

<b>Zone</b>	<b>Acres</b>	<b>TDR Credits</b>
Receiving area	185	68
Sending area	1,355	382
<b>TOTAL</b>	<b>1,540</b>	<b>453</b>

(c) Credit absorption:

- [1]  $512 \text{ d.u.} \times 0.7 \text{ TDR credits/d.u.} = 358 \text{ TDR credits required.}$
- [2]  $358 \text{ TDR} - 68 \text{ TDR from Receiving} = 287 \text{ TDR required from sending.}$
- [3] 287 TDR required from sending = 75% credit absorption.

382 TDR available from sending

(2) General residential standards.

- (a) The residential net density shall decrease from the commercial district adjacent to Bobby's Run Boulevard to the boundary of the district. The concentration of smaller lots and higher net density shall be located closer to the commercial core area. The provision of larger residential lots shall be located toward the periphery of the zoning district.
- (b) Building designs shall vary in terms of footprint, architectural elevations, window placement, type of roof, height, front entrance, and porch locations. Colors, materials, and architectural details should be limited in number, compatibility and repetition throughout the neighborhood.
- (c) The front facade of the principal building on any lot shall face onto a public street and shall not be oriented to face directly toward a parking lot.
- (d) No two detached single-family homes with the same basic floor plan and style shall be constructed adjacent to one another unless there is substantial differentiation in the front elevation consisting of at least three of the following:
  - [1] Porch and window configuration;
  - [2] Varied roof styles;
  - [3] Variation of exterior materials of at least 50% of the front facade;
  - [4] The width of lot and/or house varies.
- (e) The ground floor of all residential units shall be raised above the level of the adjacent

sidewalk by a minimum of two feet, or the finished floor elevation shall be above the sidewalk grade.

- (f) All dwelling units shall provide for front yards that are clearly defined, using landscaping, fencing, or a brick or stone wall which do not exceed a maximum height of 3.5 feet. However, the front yard defining element shall not obstruct views within the required sight triangles per § 130-54.
- (g) A minimum of 60% of all dwelling units shall incorporate a covered front entry porch into the front facade of the building. Front porches shall generally be located on the front of the dwelling facing the sidewalk but may occasionally be located on the side facade. The size of the front entry porch shall be a minimum of six feet deep and 10 feet in length.
- (h) Residential buildings shall be provided in the following manner (housing count = 512):

<b>Residential Structure</b>	<b>Maximum</b>
Large lot	50%
Narrow lot	60%
Duplex/townhouse	15%

(3) Large lot/narrow lot residential dwelling.

(a) Bulk requirements

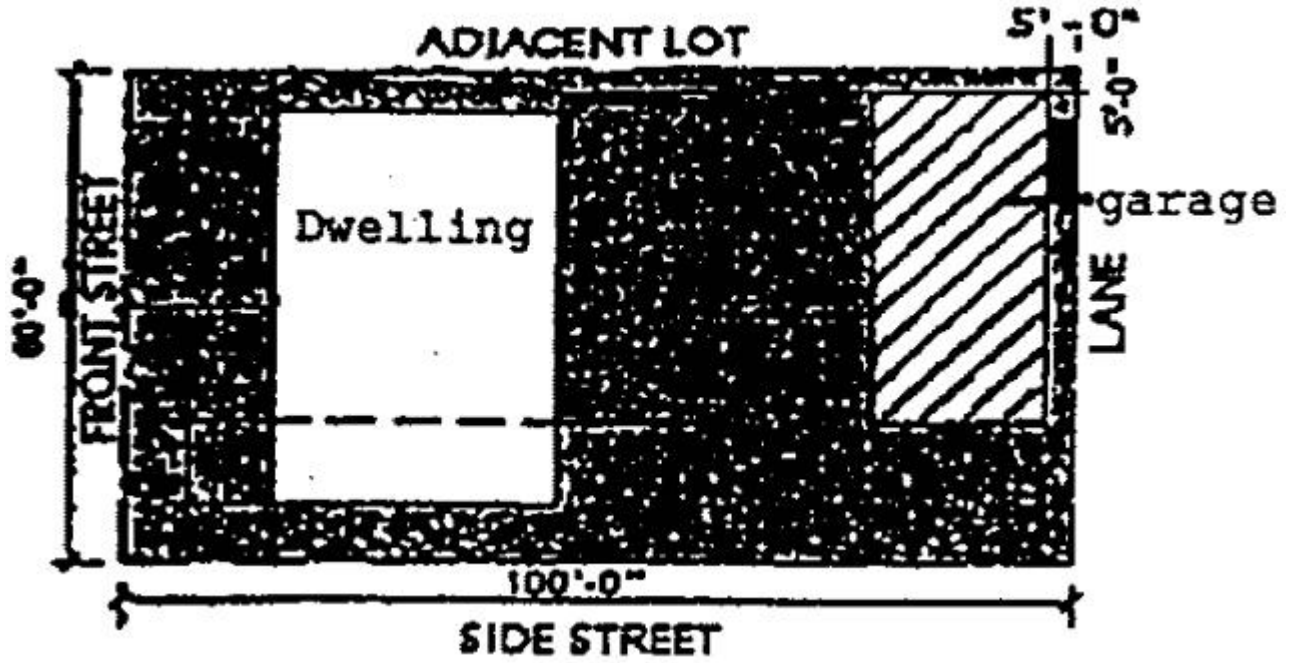
<b>Large Lot/Narrow Lot Residential Dwelling</b>				
<b>Bulk Requirement</b>	<b>Large Lot Minimum</b>	<b>Maximum</b>	<b>Narrow Lot Minimum</b>	<b>Maximum</b>
<b>Principal Building:</b>				
Lot width	60 feet	100 feet	40 feet	59 feet

**Large Lot/Narrow Lot Residential Dwelling**

<b>Bulk Requirement</b>	<b>Large Lot Minimum</b>	<b>Maximum</b>	<b>Narrow Lot Minimum</b>	<b>Maximum</b>
Lot depth	100 feet	--	100 feet	--
Lot area	6,000 square feet	10,000 square feet	5,000 square feet	5,900 square feet
Front yard	15 feet	25 feet	15 feet	25 feet
Rear yard	20 feet	--	20 feet	--
Side yard	6 feet (each)	12 feet (both)	5 feet (each)	10 feet (both)
<b>Accessory Building:</b>				
Side/rear yard	5 feet	--	5 feet	--
Building coverage		10%		10%
<b>TOTAL:</b>				
Building coverage		40%		40%
Impervious coverage		60%		65%
Building height	1 1/2 stories	2 stories	1 1/2 stories	2 stories

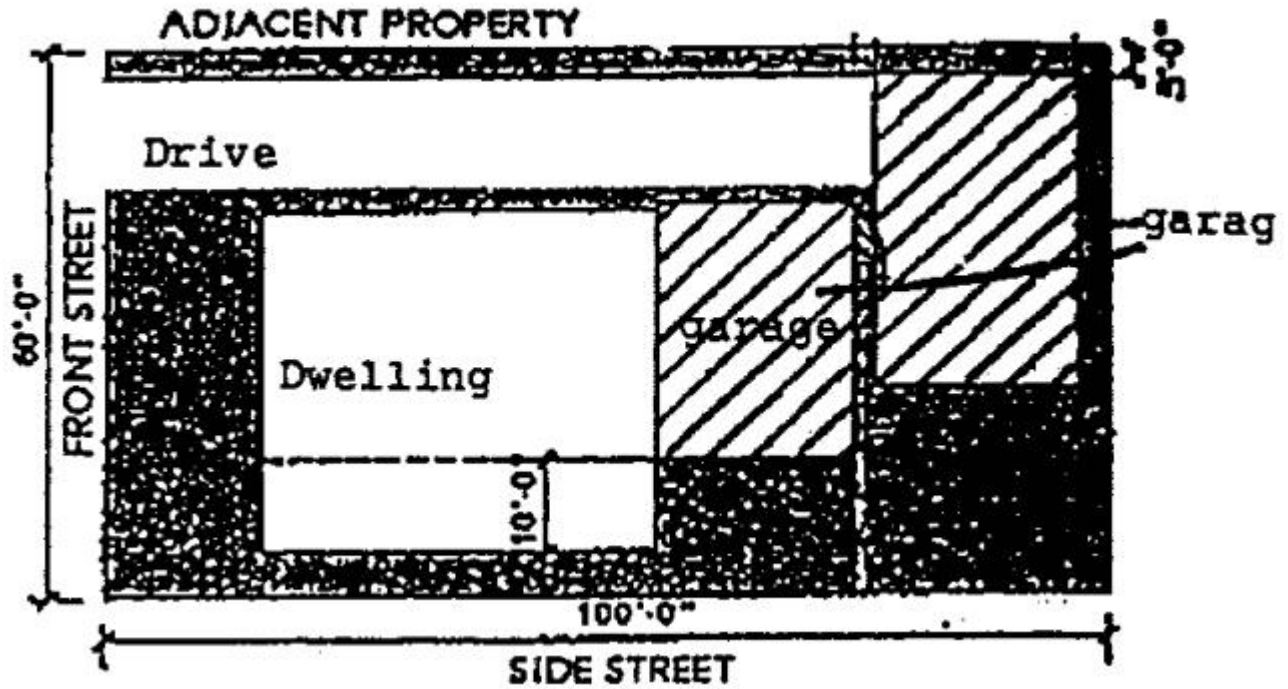
- (b) On-site parking shall be provided by an enclosed garage and located in the rear yard with access from a lane or alley. If a lane or alley does not exist, access from the street is permitted. When the garage is accessed from the fronting street, the garage shall be located in the rear yard. If the garage is accessed from the side street, the front facade of the garage shall be set back an additional 10 feet measured from the principal structure. Driveway access to the fronting street should be minimized as much as possible. Corner lots shall provide driveway access from the lowest of the 15 street categories. Shared driveway access is encouraged and shall be a maximum of 12 feet wide.

(c) Graphic illustrations.



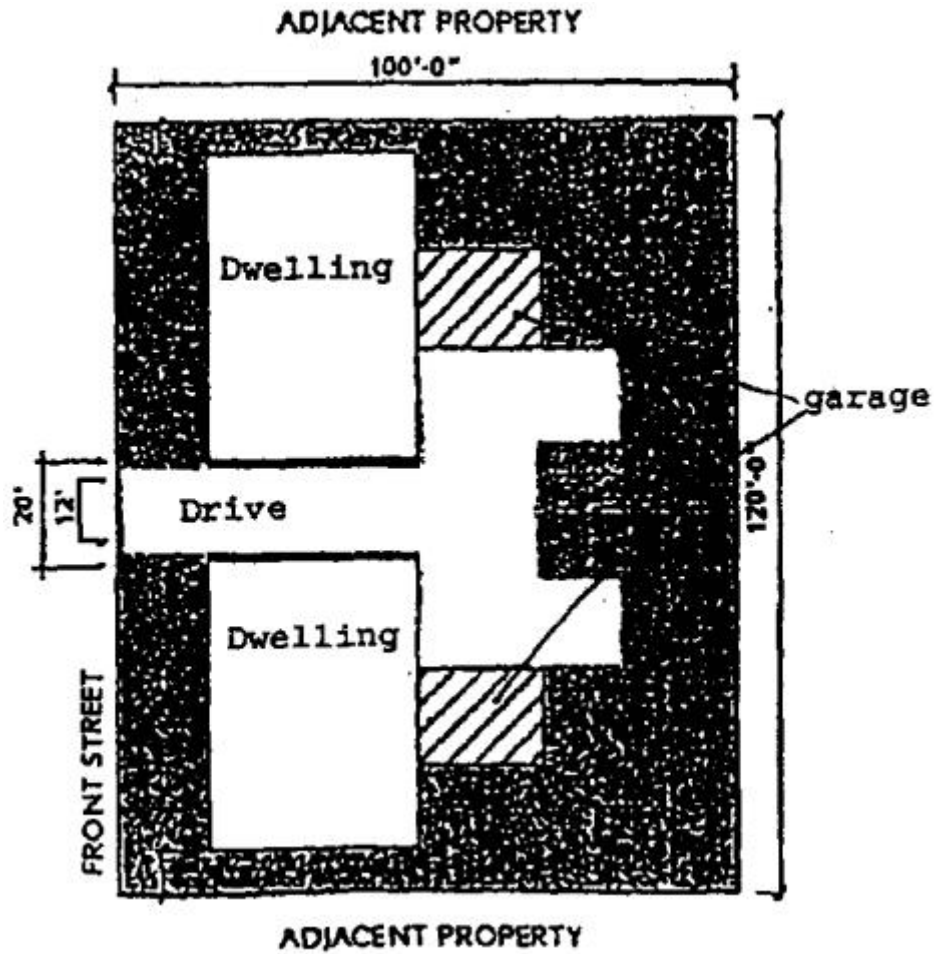
Plan With Lane

On-site parking shall be provided by an enclosed garage and located in the rear yard.



Plan W/Out Lane

If a land/alley does not exist, access from the fronting street is permitted. When the garage is accessed from the fronting street, the garage shall be located in the rear yard. If the garage is accessed from the side street the front facade of the garage shall be set back an additional 10 feet from the principal structure.



Plan: Shared Driveway

- (4) Duplex residential dwelling.
  - (a) Bulk requirements.

**Duplex Residential Dwelling (half unit)**

Bulk Requirement	Minimum	Maximum
<b>Principal Building:</b>		

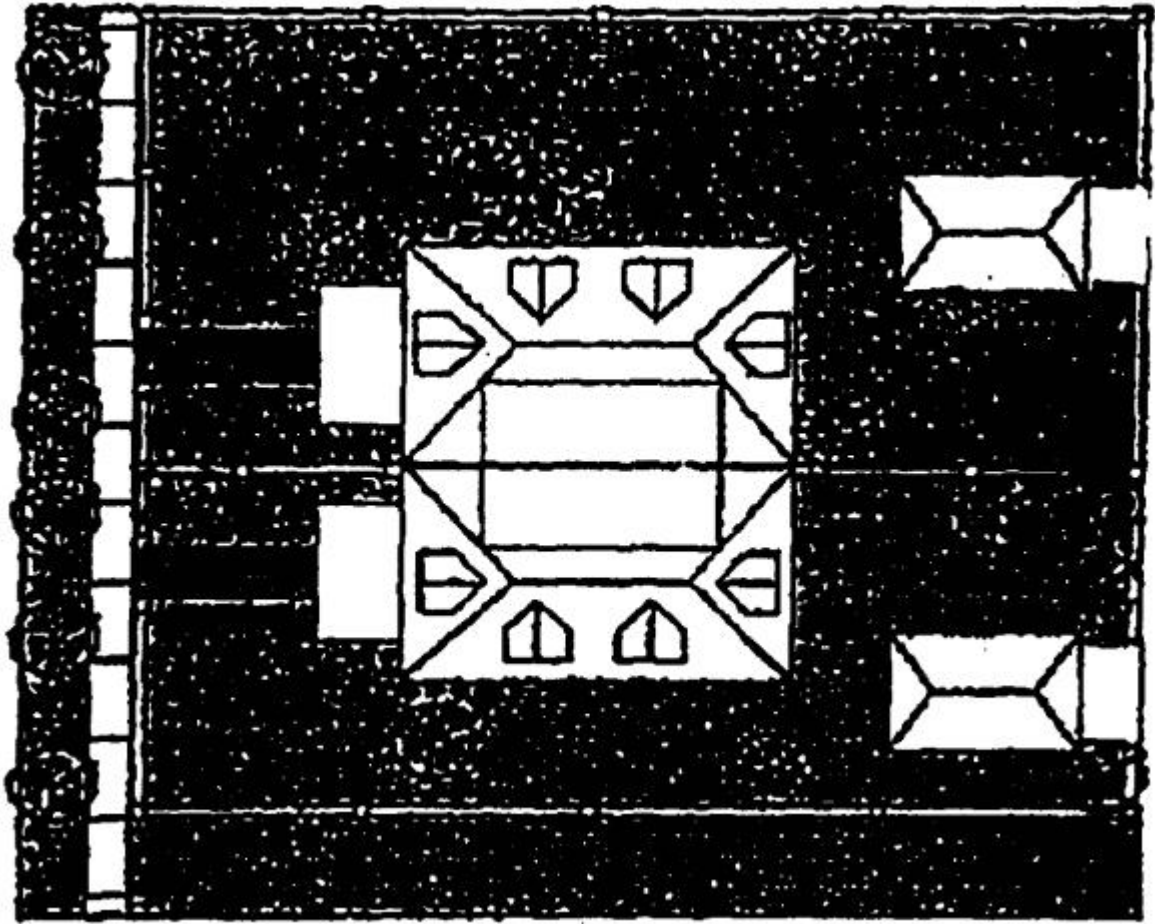
**Duplex Residential Dwelling (half unit)**

<b>Bulk Requirement</b>	<b>Minimum</b>	<b>Maximum</b>
Lot width	35 feet	50 feet
Lot depth	100 feet	--
Lot area	3,500 square feet	5,000 square feet
Front yard	15 feet	25 feet
Side yard	7.5 feet	--
Rear yard	35 feet	--
<b>Accessory Building:</b>		
Side/rear yard	5 feet	--
Building coverage		10%
<b>TOTAL:</b>		
Building coverage		50%
Impervious coverage		70%
Building height	1 1/2 stories	2 stories

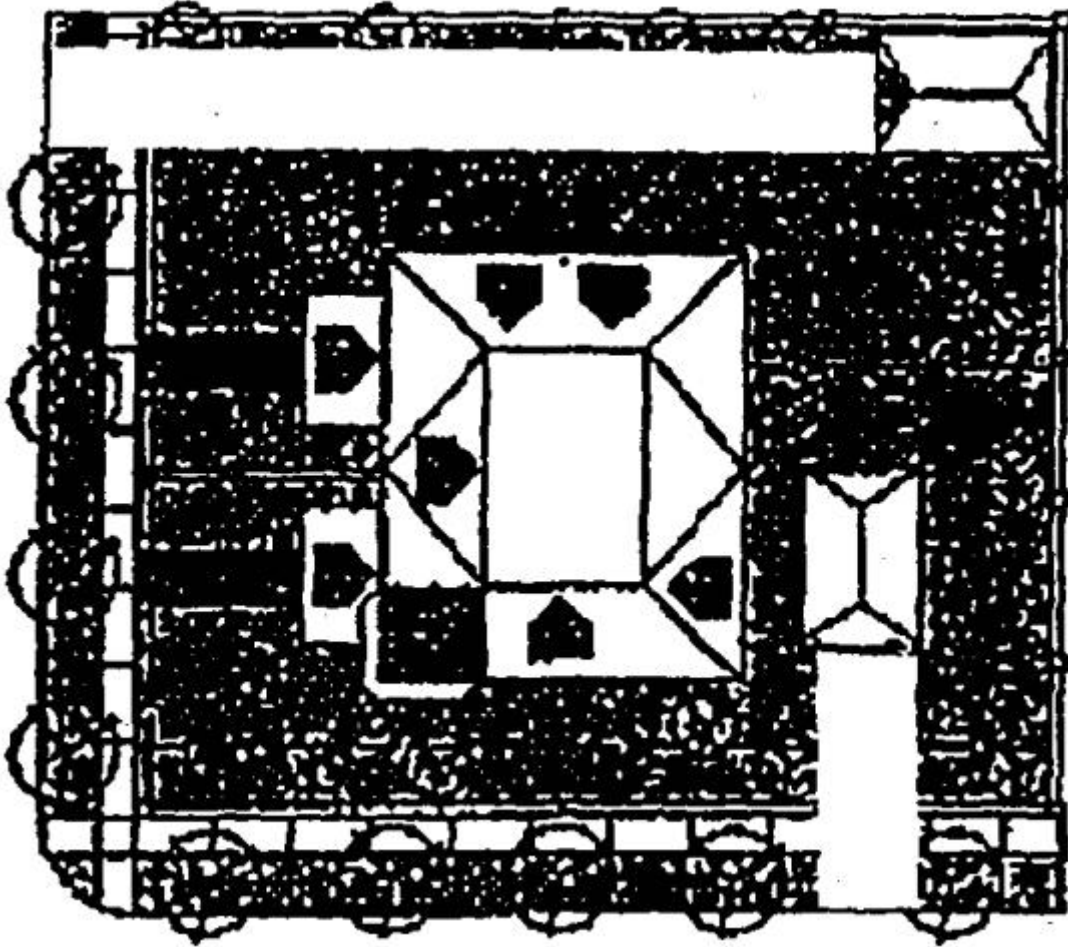
(b) On-site parking shall be provided by an enclosed garage located in the rear yard with access from the lane. If a lane or alley does not exist, access from the street is permitted. When the garage is accessed from the fronting street, the garage shall be located in the rear yard. If the garage is accessed from the side street, the front facade of the garage shall be set back an additional 10 feet, measured from the principal structure. Driveway access to the fronting street should be minimized as much as possible. Corner lots shall provide driveway access from the lowest of the street categories.

(c) Graphic illustrations.





**Plan: Duplex (interior)**



**Plan: Duplex (corner)**

(5) Townhouse residential dwelling.

(a) Bulk requirements.

**Townhouse Residential Dwelling**

**Bulk Requirement**

**Minimum**

**Maximum**

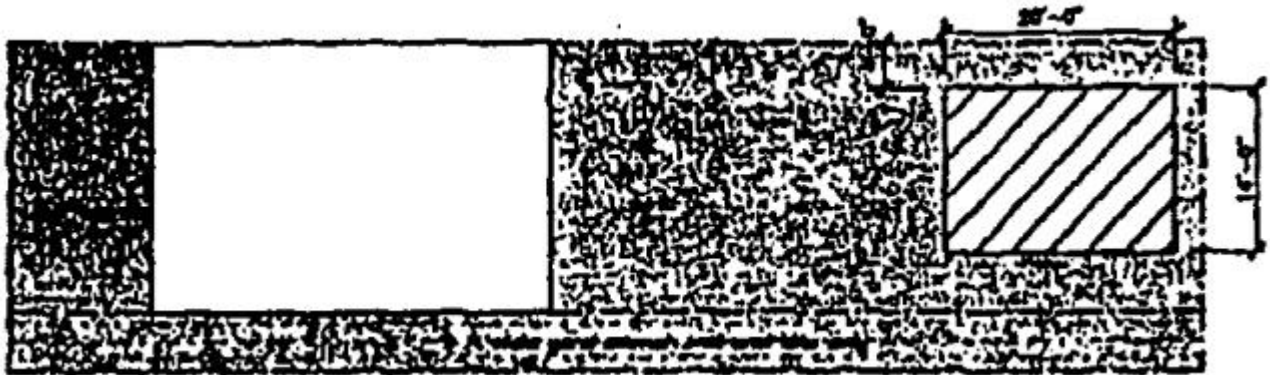
**Principal Building:**

**Townhouse Residential Dwelling**

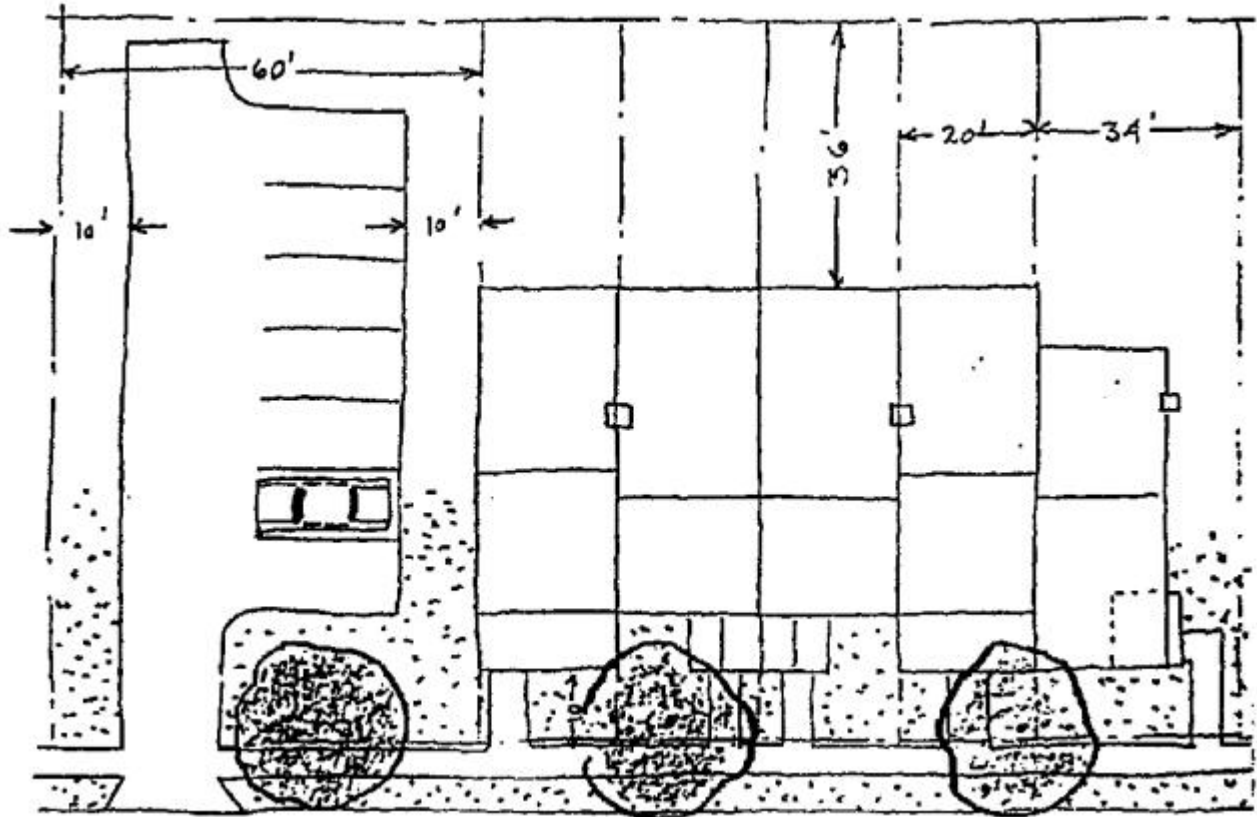
<b>Bulk Requirement</b>	<b>Minimum</b>	<b>Maximum</b>
Lot width	20 feet	34 feet
Lot depth	100 feet	--
Lot area	2,000 square feet	3,200 square feet
Front yard	5 feet	10 feet
Side yard	5 feet (corner unit lots)	---
Rear yard	45 feet	--
<b>Accessory Building:</b>		
Front yard	--	--
Side/rear yard	5 feet	--
Building coverage		15%
<b>TOTAL:</b>		
Building coverage		70%
Impervious coverage		80%
Building height	1 1/2 stories	2 1/2 stories

\* Note: The minimum lot size for townhouse residential dwellings under condominium ownership shall be 20,000 square feet. The minimum side yard requirement shall not apply for townhouse residential dwelling units held as condominium ownership. Instead a minimum distance of 15 feet should be provided between each structure.

- (b) On-site parking shall be provided by a garage or parking pad in the rear yard with access from a lane or alley. If a lane or alley does not exist, direct access from the fronting street is permitted only when a side yard parking lot is provided. The parking court shall provide for off-street parking spaces for the townhouse units and shall not exceed a total of eight parking spaces. The parking area shall be set back from the principal building, street line and side lot line a distance of 10 feet and from the rear lot line a distance of five feet. Landscape buffering shall be provided per § 130-26(D). Shade trees shall be provided at a rate of one tree for every three spaces. If the garage is accessed from the side street, the front facade of the garage shall be set back an additional 10 feet measured from the principal structure. Driveway access to the fronting street should be minimized as much as possible.
- (c) The number of continuous units within the townhouse structure shall be a minimum of three and maximum of six.
- (d) Graphic illustrations.



**Townhouse Plan With Lane**



**Townhouse Plan With Parking Court**

- (6) General commercial/office standards.
  - (a) The commercial component of the RA/R-6 Zoning District shall be mandatory and 50% of the commercial components shall be constructed prior to the final construction of the residential units. If phasing is proposed, the amount of commercial square footage shall be in proportion to the number of residential units constructed for each phase.
  - (b) Commercial uses shall be contained in buildings as specified below. Mixed-use structures are encouraged with commercial/retail uses on the ground level and offices on the upper levels.
  - (c) (Reserved)<sup>EN(112)</sup>
  - (d) The commercial core area of this zoning district shall be the focus of the highest

density permitted and provide for the most activity.

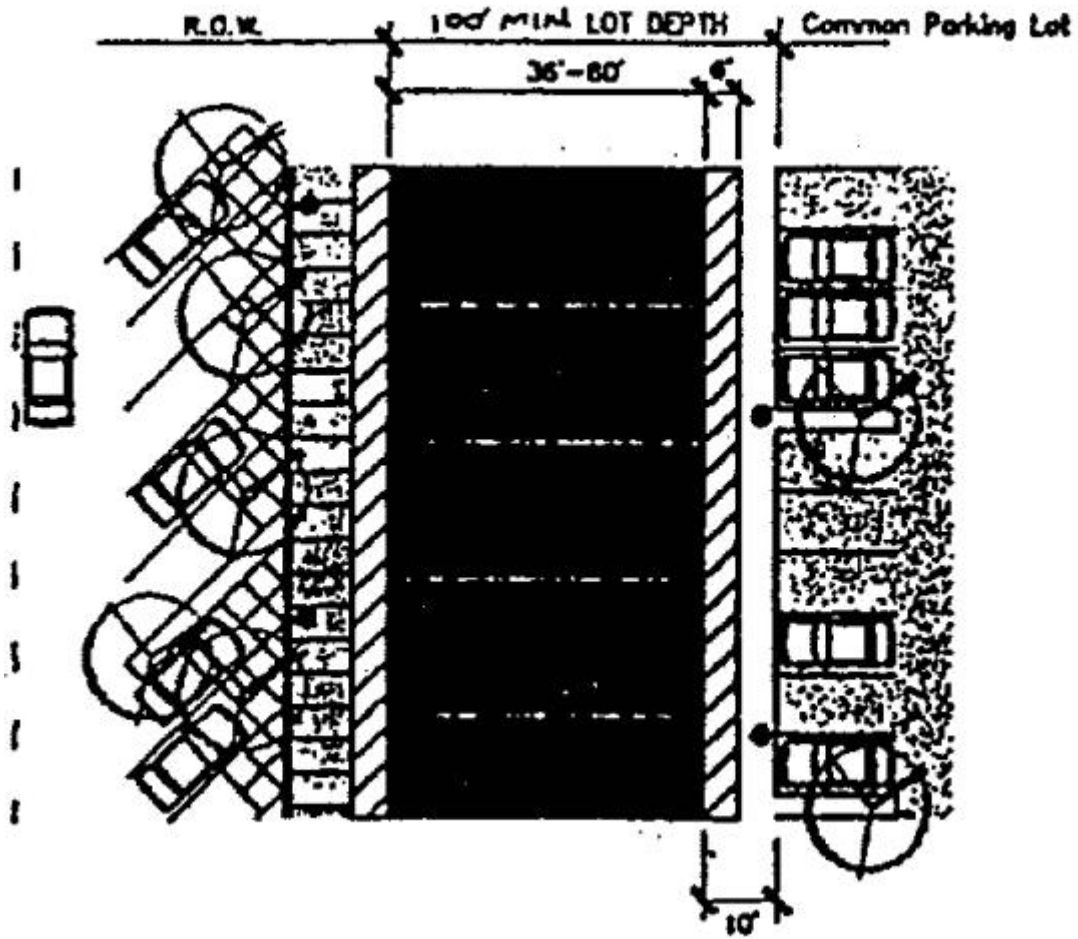
- (e) Fifteen acres of the RA/R-6 Zoning District shall be designated for commercial/office use.
  - (f) Commercial/office buildings shall provide a parking area at the rear of the building with access from an alley. On-street parking shall be provided in addition to the rear yard parking area.
- (7) Commercial building bulk standards.
- (a) Bulk requirements.

<b>Commercial Building</b>		
<b>Bulk Requirement</b>	<b>Minimum</b>	<b>Maximum</b>
Building depth	36 feet	80 feet
Building height	1 story ground floor at grade	2 1/2 stories 1 foot above grade with appropriate stair or ramp
Building bay spacing	20 feet	36 feet
Lot depth	100 feet	--
Lot width	20 feet (1 bay)	entire building not exceeding 5 bays
Front yard	0 feet	5 feet
Rear yard	10 feet from building line to curb line of parking lot or alley	30 feet
Side yard	0 feet	15 feet with alley rear yard parking access

**Commercial Building**

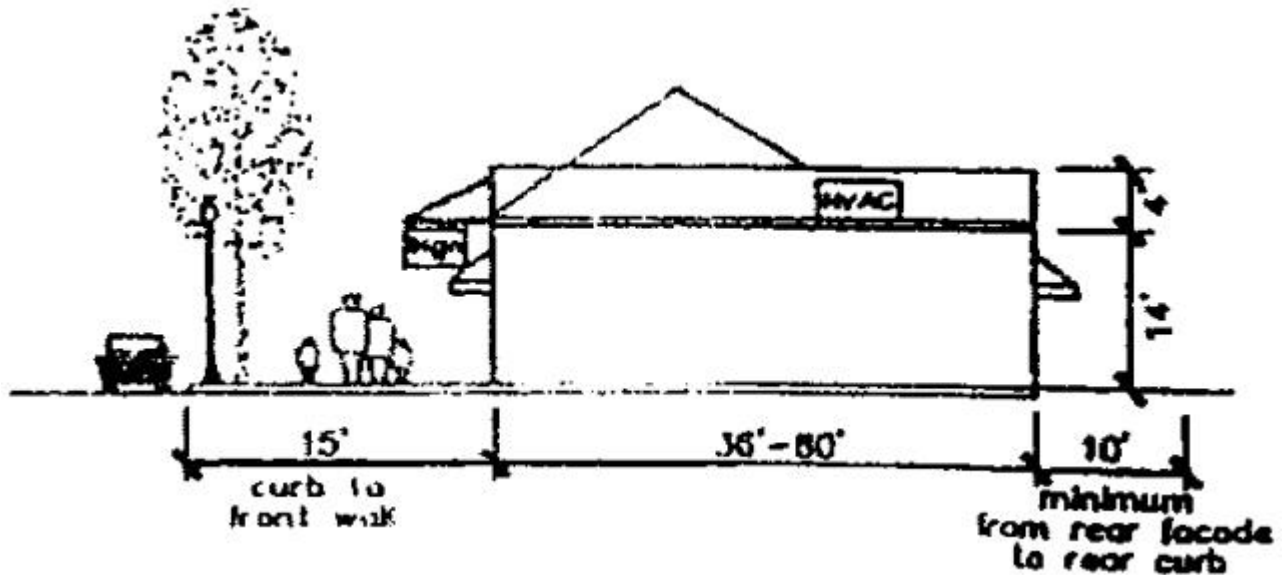
<b>Bulk Requirement</b>	<b>Minimum</b>	<b>Maximum</b>
Roof type	9/12 roof pitch, flat with parapet, gable, hip or combination	
Total complete square footage	120,000 square feet/ a minimum of 15% shall be designated for office use	168,000 square feet/ a minimum of 30% shall be designated for office use

(b) Graphic illustrations.



Plan: Commercial





### Section Commercial

#### F. Site planning regulations.

- (1) Generally the site standards and guidelines for the RA/R-6 Zoning District shall conform with § 130-62.1 et seq. of this chapter except as elsewhere provided within this subsection. Where a conflict is evident with the general regulations of other districts, the standards contained within this subsection shall control the development of land within the RA/R-6 Zoning District.
- (2) Blocks.
  - (a) Residential block layout.
    - [1] A residential neighborhood with varying block configurations shall be designed within a street grid and accommodate a variety of lot sizes and types.
    - [2] A block consisting of between one and 10 lots shall be developed with the minimum of three different base model type homes. Blocks consisting of between 11 and 30 lots shall be developed with a minimum of four base model type homes. Each base model type home in any block shall have at least two alternative front elevations containing different design features.
    - [3] The minimum and maximum setback lines for residential buildings shall be used as a guideline for all residential units in a given block. A block shall not be

developed so as to create a single setback line. Building setbacks shall vary within the minimum and maximum guidelines.

- [4] Residential neighborhood blocks shall contain residential, open space and community facilities. The blocks should be rectangular in shape. The minimum and maximum size of the block shall be dependent upon the proposed lot configuration and sizes. However, the block shall not exceed 400 feet in width and 700 feet in length except when a public open space, such as a park, community clubhouse or other recreational elements is provided for within the block.
- (b) Commercial/mixed-use block layout. Commercial blocks may contain residential, public, commercial/office uses. The minimum and maximum width of the commercial block shall be 120 feet and 472 feet, respectively. The minimum and maximum length of the commercial block shall be dependent upon the proposed lot configuration and sizes. However, the block shall not exceed 400 feet in width and 700 feet in length except when a public open space, such as a park, community clubhouse, or other recreational element is provided for within the block.
- (3) Open space and recreation.
- (a) Development within the RA/R-6 Zoning District shall provide for a minimum of 25% total open space. At least 50% of the open space within this district shall be functional uplands and not part of environmentally sensitive areas such as wetlands and floodplain or stormwater management facilities.
- (b) Open space areas may be used for public and semipublic recreation purposes. Recreational facilities shall be required to serve the anticipated characteristics and demographic profile of the development's population, the recreational facilities available in neighboring developments, and the relevant provisions regarding recreational facilities contained in the Master Plan. The active recreational facilities required in the RA/R-6 Zoning District shall be approved by the Township Recreation Committee prior to the reviewing board approving the respective development application.
- (c) Pedestrian/bicycle paths, including a separate pedestrian/bicycle path which continues throughout the RA/R-6 receiving area, shall provide interconnections between the various neighborhoods of the development and open space areas and access to existing and future school sites and existing residential developments.
- (d) All public open space shall front on or have access to a public street on at least one side and shall be accessible by a pedestrian/bicycle path to residents within the

RA/R-6 receiving area.

- (e) Internal open spaces shall account for at least 10% of the total open space required. Internal open spaces shall be provided and designed as active gathering areas for all residents of the development in both day and evening and shall include-places for strolling, sitting, social interaction and informal recreation by various age categories. The internal open spaces shall be such that a minimum of 60% of the area is covered with trees, shrubs, lawn and ground cover. These internal open spaces shall be located within close proximity to the residential units. In no case shall any internal open space be located more than 400 feet from any residential lot. A clubhouse or other similar building shall be provided within a portion of the internal open space network. The structure shall be centrally located to allow for equal access opportunities for all residents within the zoning district.
  - (f) Open space, particularly peripheral open space areas, containing existing attractive or unique natural features, such as streams, creeks, ponds, wetlands, woodlands, specimen trees, and other areas of mature vegetation worthy of preservation may be left unimproved and in a natural state. Certain improvements such as the cutting of trails for walking or jogging and the provision of picnic areas may be made in the open space. In addition, the Board may require other improvements such as removal of dead or diseased trees, thinning of trees or other vegetation to encourage more desirable growth, grading, and seeding.
  - (g) The construction schedule of the development shall coordinate the improvement of the open space with the construction of the residential dwellings. One hundred percent of the open space, including passive and active, must be developed and usable at seventy-five-percent completion of the residential units. If phasing is proposed, the amount of open space shall be in proportion to the number of residential units constructed for each phase.
- (4) Drainage and detention basins.
- (a) The provisions of §§ 130-29 and 130-62.1 of this chapter shall apply. Where any provision of this subsection imposes restrictions different from those imposed by any other ordinance, the provisions of this subsection shall control.
  - (b) Detention basins, headwalls, outlet structures, concrete flow channels, rip rap channels, and other drainage improvements shall be screened with plant material and berms, where appropriate. Drainage structures shall be situated in the least visible location or, if visible, incorporated into the natural curves of the land. Detention basin embankments and the basin shall be extensively landscaped with wet-site-tolerant plant materials. No wall or bank of a basin shall forma straight line

for more than 100 feet.

- (c) In lieu of peripheral fencing, detention basin edges shall be contoured and shaped to form low angles at the primary waterline, thereby insuring greater pedestrian safety.
- (5) Parking.
- (a) Parking shall be provided according to the minimum standards specified below. Additional standards per § 130-44 shall be applied to the RA/R-6 receiving area. Where a conflict is evident with the regulations of § 130-44, the standards contained within this subsection shall control.

<b>Use</b>	<b>Required Off-Street Parking*</b>
Large lot residential unit	Two spaces per unit
Narrow lot residential unit	One space, two total
Duplex and townhouse	One space per first bedroom, an additional space if more than one bedroom
Retail/commercial	One space for the first 1,000 square feet and one space for each additional 350 feet
Office	One space for each 400 square feet of gross floor area

\* Additional spaces needed for such uses will be provided by on-street parking. Total on-street and off-street parking for retail and offices shall not exceed one car per 350 square feet.

- (b) Off-street parking for commercial uses shall be sufficient to provide parking for the employees of all proposed uses in addition to the off street parking requirements. Spaces reserved for employees shall be designated as such by means of striping and

signage. Off street parking lots shall be prohibited in any front yard setback area and shall be located at the rear of buildings. Access by means of common driveways from side streets or alleys required. Rear parking areas shall interconnect with commercial parking lots on adjacent properties. Cross-access easements for adjacent lots with interconnected parking lots shall be required. Common parking facilities are encouraged where possible.

- (c) On-street parking shall be provided to serve customers of commercial, office and residential uses. On-street parking in the commercial district shall be provided as curbside, parallel, or angle parking located along both sides of the streets on all blocks upon which commercial uses front. On-street parking in residential areas shall be parallel to the cartway.
  - (d) Parking for all dwelling units shall be prohibited in front yard setback areas. With the exception of lots that do not back up to lanes, driveways and driveway access shall be prohibited in any front yard area. Driveways shall be set back a minimum of three feet from the side facade of dwelling units. Parking areas shall be set back a minimum of 20 feet from the rear of dwelling units. Driveways shall be set back a minimum of three feet from any side property line, unless such driveway is shared by dwellings on two adjacent lots, in which case the driveway may be located with the driveway center line on the common lot line. Parking for townhouses shall be provided as driveways or garages with access from a rear lane. Where a rear lane does not exist, the combination of an off-street parking court and on-street parking shall be utilized,
  - (e) All commercial parking requirements shall be provided on the block and on the lot in the rear yard.
  - (f) Blocks which contain residential uses shall meet residential parking requirements on the lot or within a one-hundred-foot radius of the lot.
  - (g) Overflow parking lots for commercial and office uses shall be located not more than a five-hundred-foot radius from the block which it serves.
- (6) Landscaping.
- (a) Landscape plantings shall be provided according to the minimum standards specified below. Additional standards per § 130-62.1 et seq. shall be applied to the RA/R-6 receiving area. Where a conflict is evident with the regulations of § 130-62.1, the standards contained within this subsection shall control.
  - (b) Within two years from the time of planting, all dead or dying plants, whether installed new, transplanted, or designated as existing trees to be retained on the plan,

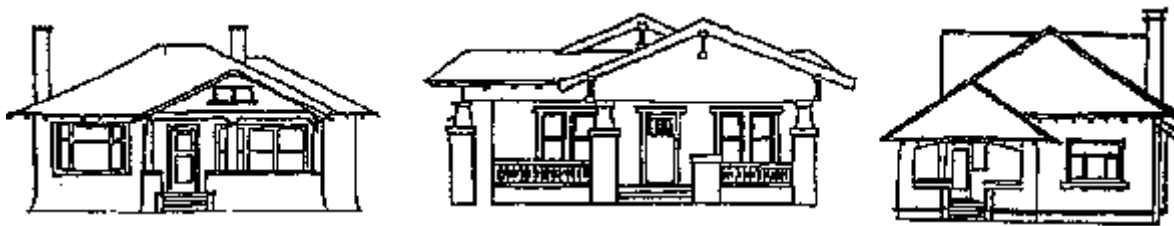
shall be replaced by the developer. The developer shall be responsible for the required maintenance and watering during the initial two years.

- (c) Street trees shall be planted on both sides of the street and in the parkway between the curb and sidewalk, if such exists. Attention to tree selection should be based on providing trees that will not contribute to severe buckling of the sidewalk. Street trees shall be planted 25 feet from the curb radius of each street intersection.
- (d) The parkway shall incorporate street tree plantings with an approved groundcover as the understory planting.

G. Architectural design standards.

- (1) The RA/R-6 receiving area zone is not located adjacent to the Historic District of Lumberton Village, therefore, a departure from requiring new buildings to be similar in size, scale and mass to existing historic buildings located within Historic Lumberton Village. This TDR receiving area provides for age-restricted development which requires the implementation of specific architectural standards and guidelines that portray a building style to complement the needs of persons 55 years and older. The architectural theme within the RA/R-6 receiving area shall generally reflect the design characteristics associated with the bungalow-style architecture. The bungalow architecture emphasizes casual living and offers a compact layout with plenty of air and light. This style of architecture is ubiquitous in nature, allowing for many style variations within the basic bungalow form and allowing for the avoidance of several repeat dwellings within one block. Variations on the architectural design of buildings within the TDR receiving area are permitted, provided the general guidelines as listed below are adhered to. The general architectural characteristics of the buildings within the RA/R-6 receiving area shall be provided and guided by the following standards:
  - (a) Cladding: clapboard, shingles, stucco, brick or combination of materials.
  - (b) Footprint: rectangular with protrusions for bays and porches. The average footprint is approximately 1,064 square feet.
  - (c) Building height and elevation: 1 1/2 story with low horizontal lines, stick work in gable, battered pedestals/piers/columns, symmetrical fenestration.
  - (d) Roof: gable turned away from street or hipped, gently pitched broad gables, lower gable covers large porch, large gable covers house. Wide projecting eaves, heavy bargeboard supported by brackets. Dormers have a shed or gable roof. Roof materials are slate, cedar wood shingles, composite tile, dimensioned asphalt, standing seam copper or anodized aluminum.

- (e) Entrance: slab door with lights, craftsman door, side lights.
- (f) Porch: open, enclosed, screened or extended by terrace with pergola. Large projection in front of house, extends across facade with a variation which allows for a cutaway porch. Columns are tapered or battered posts on pedestals.
- (g) Windows: one over one double hung or multipaned rectangular lights in upper sash, paired or triple, verticle divisions in upper sash, bay on side elevation.
- (h) Chimneys: large end wall, typically brick or stucco.



- (2) Generally, the provisions of § 130-62.1 of this chapter shall apply, as applicable. Where any provision of this subsection imposes restrictions different from those imposed by any other ordinance, the provisions of this subsection shall control.
- (3) The architectural design standards are intended to address the overall architectural detailing of all buildings within the RA/R-6 receiving area.
- (4) Building orientation. Buildings shall be located to allow for adequate fire and emergency access. Buildings shall be located to front towards and relate to public streets, both functionally and visually. Buildings shall not be oriented to front toward a parking lot.
- (5) Building appearance. Commercial buildings shall avoid long, monotonous, uninterrupted walls or roof planes. Building wall offsets, including projections, recesses, and changes in floor level shall be used in order to add architectural interest and variety and to relieve the visual effect of a simple long roof. Storefronts and other ground-floor commercial uses shall be accentuated through cornice lines. Further differentiation can be achieved through distinct, but compatible, exterior materials, signs, awnings, and exterior lighting. Ground-floor retail, service, and restaurant uses shall have large-pane display windows, which shall not exceed 75% of the total ground-level facade area. Buildings with multiple storefronts shall be unified through the use of architecturally compatible materials, colors, details, awnings, signage, and lighting fixtures.
- (6) Building facade. The architectural treatment of the front facade shall be continued, in its major features, around all visibly exposed sides of a building. All sides of a building shall be architecturally designed to be consistent with regard to style, materials, colors,

and details. Blank wall or service area treatment of side and/or rear elevations visible from the public viewshed is discouraged. Where the construction of a blank wall is necessitated, it is recommended that the affected facades be articulated by the provision of false windows, architecturally articulated masonry or, if the building is occupied by a commercial use, by using recessed or projecting display window cases. All residential buildings shall be raised a minimum of two feet above the residential sidewalk line. All visible facades shall have an articulated base. The above-ground foundation to sill height shall be covered with either brick, fieldstone, split face CMU, brick pattern concrete, or other masonry solution appropriate to the architecture.

- (7) Building entrance. All entrances and doors to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, over-hangs, railings, balustrades, fanlights, transoms and sidelights, where appropriate. Secondary doors for second-floor commercial/office uses shall not be on the primary street facade. Fixed or retractable awnings are permitted at ground-floor level, provided they complement a building's architectural style, materials, colors, and details. Canvas is the preferred material, although other waterproofed fabrics may be used. Metal or aluminum awnings are prohibited. In buildings with multiple storefronts, compatible awnings should be used as a means of unifying the structure. Open or covered stoops are recommended on townhouses, although porches are allowed. Stoops and steps should be faced in masonry, brick, slate, stucco or stone. Steps must be a minimum 36 inches wide and can be fronted on the front or side of the stoop platform.
- (8) Building signs. Signs shall conform to § 130-55. Where a conflict exists between this subsection and § 130-55, the standards provided in this subsection shall control. Wall-mounted signs are permitted, provided that the areas shall not exceed 5% of the ground-floor area and shall not be higher than 15 feet above the front sidewalk elevation. Projecting signs are permitted, provided that they shall not exceed an area of six square feet and the distance to the lower edge of the signboard shall be a minimum of 10 feet. Awning signs for ground-floor uses only are permitted, provided that they shall not exceed 10 square feet in area and are not in addition to a wall-mounted sign. One freestanding sign shall be permitted, provided that the building is set back a minimum of five feet from the right-of-way line, and the area shall not exceed three square feet. The following design standards shall be complied with:
  - (a) Signs affixed to the exterior of a building shall be architecturally compatible with the style, composition, materials, colors, and details of the building, as well as with other signs used on the building or in its vicinity.
  - (b) Signs shall fit within the existing facade features and shall not interfere with door and window openings.



- (c) Whenever possible, signs located on buildings within the same block face shall be placed at the same height in order to create a unified sign band.
  - (d) Wood and painted metal are the preferred materials for signs. Flat signs should be framed with raised edges. Wood signs shall use only high-quality exterior-grade wood with suitable grade finishes.
- (9) General standards.
- (a) Walls, fences and hedges. All lots shall have a front yard clearly defined by landscaping, hedging, picket fencing, or a wall that defines the transition from public to the private front yard space. Fences, hedges, and walls shall be limited to a maximum of 3 1/2 feet in height and provide a sense of semiprivate space. Walls and fences shall be architecturally compatible with the style, materials and colors of the principal building on the same lot.
  - (b) Garages. Garages shall be provided in the rear and side yards, accessed from driveways, lanes, or adjacent streets. Front-loading garages shall be set back a minimum of 10 feet from the principal facade. Garage doors shall not exceed eight feet in width, unless such wider door is articulated so as to reduce its scale. The number of individual garage doors that may be on any single lot is two.
  - (c) Streetscape. Modular masonry materials, such as brick, slate, and concrete pavers, or gridded cast-in-paving materials, such as exposed aggregate concrete slabs, shall be encouraged for sidewalks, pedestrian walkways and pathways, crosswalks, public or semipublic plazas, courtyards, and open spaces. Sidewalks are prohibited and nonaggregate exposed concrete slabs should be avoided. Asphalt sidewalks are prohibited and nonaggregate exposed concrete slabs should be avoided. Nonaggregate concrete walks are permitted, provided concrete pavers or similar material is provided at key crosswalk locations, as determined by the Land Development Board. Streetlights shall be decorative and blend with the architectural style within the TDR receiving area. Streets and sites shall be provided with adequate lighting, while minimizing adverse impacts such as glare and overhead sky glow on adjacent properties. House side shields shall be provided where abutting a residential use. Uplighting of street trees within the commercial area is encouraged. [Amended 1-20-2004 by Ord. No. 2004-1]
  - (d) Garbage and recycling. Consistent with § 130-49, in addition to the standards, all garbage and recycling collection should be limited to alleys, where provided.

**§ 130-63. Yards. [Amended 4-17-1989 by Ord. No. 1989-6]**

- A. No open space providing front, side or rear yard space for one building shall be considered as providing the yard provisions of another.
- B. A lot with frontage on two or more streets, including corner lots, shall have a building setback from each street not less than the required front yard.
- C. Projections. [Amended 6-18-1990 by Ord. No. 1990-11]
  - (1) Windowsills, belt courses and other ornamental features shall not project more than six inches into the required front, side or rear yard.
  - (2) Cornices, eaves, gutters, chimneys or projecting windows shall not project more than two feet into the required front, side or rear yard.
  - (3) Ground floor entrance steps and turf terraces, when open to the sky, may project into the front, side or rear yard.
  - (4) A roofed patio or deck consisting wholly or partially of an artificial surface shall be included as part of the building for purposes of calculating front, rear and side yard setbacks.
  - (5) A patio, when open to the sky, which rises no more than six inches above grade shall be permitted to project into the required side or rear yard, and it shall be counted as a part of the calculation of paved surfaces as set forth in the Schedule of Limitations.<sup>EN(113)</sup>
  - (6) A deck, when attached to a single-family detached dwelling and open to the sky, shall be permitted to project into the required rear yard by up to 15 feet in any zone, subject to the following conditions:
    - (a) The deck shall be constructed of wood and have open spacing which allows for the passage of rainfall through the deck to the ground surface.
    - (b) The soil under the deck remains open and uncovered to allow for the passage of rainfall through the soil.
    - (c) One-half the area of the deck shall be counted toward the calculation of paved surfaces as set forth in the Schedule of Limitations.<sup>EN(114)</sup>

**§ 130-64. Water supply.**

Where water is accessible for a servicing utility, the developer shall arrange for water services to each lot, dwelling unit or use within the development. The water distribution system shall adhere to the required standards of the Township, county and/or state and be subject to their approval,

where required, and be designed with adequate capacity and sustained pressure for present and probable future development.

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## **ARTICLE VI, Zoning**

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### **§ 130-65. Districts.**

The Township is divided into zoning districts as set forth in this article and as shown on the Zoning Map.

### **§ 130-66. Zoning Map.**

The boundaries of zoning districts are established on the Zoning Map which accompanies and is made part of this chapter.<sup>EN(115)</sup>

### **§ 130-67. Interpretation of district boundaries.**

- A. Zoning district boundaries are intended to follow street center lines, railroad rights-of-way, streams, lot lines and/or continuations of lot lines, unless otherwise indicated by dimensions on the Zoning Map. Dimensions shall be in feet, measured horizontally from the street rights-of-way, even if the street center line serves as a zoning district boundary. Zoning district boundaries extend vertically in both directions from ground level.
- B. Where a zoning district boundary divides a lot, the use of one district may be extended into the other no more than 50 feet, provided that the property line lies within 50 feet. The permitted uses of the extended district shall thereafter be permitted in the extended area.
- C. Where a street or public way serves as the zoning district boundary and it is lawfully vacated, the former center line shall be the zoning district boundary.

### **§ 130-68. Prohibited uses. [Amended 4-5-1999 by Ord. No. 1999-7]**

- A. Tattoo parlors.
- B. All uses not expressly permitted in this chapter are prohibited.

**§ 130-69. Existing uses. [Amended 8-19-2002 by Ord. No. 2002-8]**

Any use, building or structure legally existing at the time of the enactment of this chapter may be continued in accordance with § 130-42, even though such use, building or structure may not conform with the provisions of this chapter. Any lot or dwelling unit lawfully existing as a result of a preliminary or final subdivision approval or certificate of occupancy approved as of August 1, 2002, shall continue to be governed by the zoning regulations in effect at the time of said approval, as set forth in Subsections C, E, F, G and H of § 130-71.

**§ 130-70. Exceptions to restrictions.**

For provisions regarding exceptions, see also § 130-13.

- A. Height. Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans, air-conditioning equipment and similar mechanical equipment required to operate and maintain the building and fire or parapet walls, skylights, towers, spires, cupolas, steeples, flagpoles, chimneys, smokestacks or similar structures may be erected above the height limits prescribed in this chapter but in no case more than 25% above the maximum height permitted in the district as long as they cover no more than 20% of the roof area. However, spires, steeples, barns, silos, water towers and radio and television towers shall have no height restrictions as long as they are no wider than 20 feet, except that they shall comply with any requirements of the Federal Aviation Agency and be set back from any property line a distance equal to the height of the structure. Freestanding flag poles shall not exceed a height of 35 feet. [Amended 8-3-1992 by Ord. No. 1992-6]
- B. Lot area. See §§ 130-39 and 130-42.
- C. Front yard setback. Uses in all zoning districts may be located closer to the street line than required in the Schedule of Limitations, but only where the pattern of existing buildings within 200 feet of either side of the lot on the same side of the street is established at a closer distance. Such new buildings may then be built no closer to the street line than the average setback of these existing buildings.

**§ 130-71. Schedule of limitations. [Amended 4-17-1989 by Ord. No. 1989-6; 4-18-1988 by Ord. No. 1988-7; 8-7-1989 by Ord. No. 1989-8; 8-3-1992 by Ord. No. 1992-6; 3-21-1994 by Ord. No. 1994-2; 4-18-1994 by Ord. No. 1994-3; 4-3-1995 by Ord. No. 1995-4; 7-17-1995 by Ord. No. 1995-10; 9-5-1995 by Ord. No. 1995-17]**

A. RA Rural Agricultural District.

- (1) Purpose. The purpose of this district is to recognize the predominant pattern of agricultural and scattered single-family residential uses.
- (2) Permitted principal uses shall be:
  - (a) Detached dwellings.
  - (b) Farms and farm buildings.
  - (c) Golf courses.
- (3) Permitted accessory uses shall be:
  - (a) Customary farm buildings.
  - (b) Accessory dwellings for domestic or household employees or farm workers, provided that each such dwelling unit meets local codes and complies in every respect to the statutes of the State of New Jersey and the rules and regulations of the New Jersey State Board of Health concerning farm labor housing.
  - (c) Roadside farm stands primarily for the sale of farm products grown or raised locally by the owner or operator of the farm, with a limit of one stand per farm, and provided that such stand shall be set back a minimum of 20 feet from the street line.
  - (d) Private garages and carports.
  - (e) Off-street parking facilities.
  - (f) Private residential swimming pools.
- (4) Where golf courses are developed, permitted accessory uses shall be:
  - (a) Clubhouses.
  - (b) Maintenance buildings.
  - (c) Tennis courts.
  - (d) Swimming pools.
  - (e) Other customary accessory uses.
- (5) Conditional uses shall meet the standards set forth in § 130-4 and shall be as follows:
  - (a) Utility structures and facilities needed to provide the direct service of gas, electricity,

telephone, water and sewerage, but not offices, garages, warehouses, maintenance areas or similar commercially or industrially related operations of such companies.

- (b) Quasi-public buildings and recreation areas.
- (c) A home occupation, provided that it meets the standards set forth in § 130-36, Home occupations.
- (d) Hospitals, philanthropic and charitable uses.
- (6) Bulk regulations. The bulk requirements for this district are set forth on the Schedule of Limitations accompanying this chapter and are incorporated within this chapter by reference.<sup>EN(116)</sup>

**B. RA/S TDR Sending Area District.**

- (1) Purpose. The purpose of this district is to provide an area which has the option of either developing in accordance with the standards of the RA Rural Agricultural District or transferring development rights in accordance with the standards of § 130-62.1 of this chapter.
- (2) Permitted principal uses shall be:
  - (a) Permitted principal uses for properties which do not transfer development rights shall be the same as those in the RA Rural Agricultural District.
  - (b) For those parcels which transfer development rights, the permitted uses shall be:
    - [1] Farms and farm buildings.
    - [2] Detached dwellings.
  - (c) Golf courses are not permitted on a parcel which transfers development rights.
- (3) Permitted accessory uses shall be:
  - (a) Customary farm buildings.
  - (b) Accessory dwellings for domestic or household employees or farm workers, provided that each such dwelling unit meets local codes and complies in every respect to the statutes of the State of New Jersey and the rules and regulations of the New Jersey State Board of Health concerning farm labor housing.
  - (c) Roadside farm stands primarily for the sale of farm products grown or raised locally by the owner or operator of the farm, with a limit of one stand per farm, and

provided that such stand shall be set back a minimum of 20 feet from the street line.

- (d) Private garages and carports.
  - (e) Off-street parking facilities.
  - (f) Private residential swimming pools.
- (4) Where golf courses are developed, permitted accessory uses shall be:
- (a) Clubhouses.
  - (b) Maintenance buildings.
  - (c) Tennis courts.
  - (d) Swimming pools.
  - (e) Other customary accessory uses.
- (5) Conditional uses shall meet the standards set forth in § 130-4. Of the following uses, only a home occupation shall be permitted on a parcel which transfers development rights:
- (a) Utility structures and facilities needed to provide the direct service of gas, electricity, telephone, water and sewerage, but not offices, garages, warehouses, maintenance areas or similar commercially or industrially related operations of such companies.
  - (b) Quasi-public buildings and recreation areas.
  - (c) A home occupation, provided that it meets the standards set forth in § 130-36, Home occupations.
  - (d) Hospitals, philanthropic and charitable uses.
  - (e) Museums and educational facilities.
- (6) Bulk regulations.
- (a) For parcels which do not transfer development rights, the standards set forth in the Schedule of Limitations for the RA Rural Agricultural District shall apply.<sup>EN(117)</sup>
  - (b) The attached Schedule of Limitations sets forth the standards which apply to parcels which transfer development rights, and one development right shall be retained for each existing and proposed dwelling.

[1] The number of detached dwellings which may be developed on parcels which

transfer development rights shall not exceed one dwelling for each 50 acres [two-hundredths (.02) dwelling unit per acre].

- [2] For existing parcels which are smaller than 50 acres in size and transfer development rights, one detached dwelling shall be permitted.

C. (Reserved)<sup>EN(118)</sup>

D. RA/R-2 TDR Receiving Area District.

- (1) Purpose. The purpose of this district is to provide an area which has the option of either developing in accordance with the standards of the RA Rural Agricultural District or receiving development rights in accordance with the standards of § 130-62.1 of this chapter.
- (2) Permitted principal uses shall be:
  - (a) Permitted principal uses for properties which do not receive development rights shall be the same as those in the RA Rural Agricultural District.
  - (b) For those parcels which participate in the transfer of development rights, the permitted use shall be detached dwellings.
  - (c) Golf courses are not permitted on parcels which participate in the transfer of development rights.
- (3) Permitted accessory uses shall be as follows:
  - (a) For parcels which do not participate in the transfer of development rights:
    - [1] Customary farm buildings.
    - [2] Accessory dwellings for domestic or household employees or farm workers, provided that each such dwelling unit meets local codes and complies in every respect to the statutes of the State of New Jersey and the rules and regulations of the New Jersey State Board of Health concerning farm labor housing.
    - [3] Roadside farm stands primarily for the sale of farm products grown or raised locally by the owner or operator of the farm, with a limit of one stand per farm, and provided that such stand shall be set back a minimum of 20 feet from the street line.
    - [4] Private garages and carports.
    - [5] Off-street parking facilities.



- [6] Private residential swimming pools.
- (b) Where golf courses are developed, permitted accessory uses shall be:
  - [1] Clubhouses.
  - [2] Maintenance buildings.
  - [3] Tennis courts.
  - [4] Swimming pools.
  - [5] Other customary accessory uses.
- (c) For detached dwellings, permitted accessory uses shall be:
  - [1] Private garages and carports.
  - [2] Off-street parking facilities.
  - [3] Private residential swimming pools.
- (d) For a development with common facilities, such as a detached single-family development with a homeowners' association, accessory uses may include:
  - [1] A community center.
  - [2] A clubhouse.
  - [3] Recreation areas.
  - [4] Swimming pools.
  - [5] Off-street parking facilities.
- (4) Conditional uses shall meet the standards set forth in § 130-4. Of the following uses, only a home occupation and the provisions of Subsection D(4)(e) shall be permitted on a parcel which participates in the transfer of development rights:
  - (a) Utility structures and facilities needed to provide the direct service of gas, electricity, telephone, water and sewerage, but not offices, garages, warehouses, maintenance areas or similar commercially or industrially related operations of such companies.
  - (b) Quasi-public buildings and recreation areas.
  - (c) A home occupation, provided that it meets the standards set forth in § 130-36, Home occupations.

- (d) Hospitals and philanthropic and charitable uses. [Amended 8-21-2006 by Ord. No. 2006-12]
  - (e) If a privately owned golf course is developed in the RA/ST TDR Transition Area District, the development of detached dwellings shall take place in accordance with the detailed standards set forth in the Schedule of Limitations for conditional uses, with the following mix of dwellings on lots of different sizes:
    - [1] A minimum of 20% of the dwellings shall be developed on lots which are at least 40,000 square feet in area, and those lots shall be located near Crispin Road and Creek Road in accordance with the guidelines set forth in the Land Use Plan element of the Township of Lumberton Master Plan.
    - [2] A minimum of 15% of the dwellings shall be developed on lots which are 30,000 to 40,000 square feet in area, and those lots shall serve as a transition between the larger and smaller lots permitted in this district.
    - [3] A maximum of 65% of the dwellings shall be permitted on lots which are 20,000 to 30,000 square feet in area.
    - [4] A minimum of 15% and a maximum of 25% of the total dwellings permitted on lots which are less than 30,000 square feet in area shall be relocated to the RA/ST TDR Transition Area District and developed in conjunction with the golf course. The standards for the development of the dwellings to be located in the RA/ST TDR Transition Area District are set forth in the Schedule of Limitations for that district.
- (5) Bulk regulations.
- (a) For parcels which do not receive development rights, the standards set forth in the Schedule of Limitations<sup>EN(119)</sup> for RA Rural Agricultural District shall apply.
  - (b) The attached Schedule of Limitations sets forth the standards which apply to parcels which participate in the transfer of development rights.
  - (c) As indicated in the Schedule of Limitations, a minimum of 20% of the dwellings shall be developed on lots which are at least 40,000 square feet in area, and those lots shall be located near Crispin Road and Creek Road.
    - [1] The houses on lots located on Crispin Road shall face and have direct driveway access to Crispin Road.
    - [2] To the extent feasible, houses placed on lots along Creek Road shall face Creek Road but without direct driveway access to Creek Road. They shall have a

minimum front yard setback of 100 feet, with a bike path placed along Creek Road in a double row of trees.

- [3] If reverse frontage lots are permitted on Creek Road for topographical reasons, then these lots are required to have a landscaped berm to screen the view from Creek Road.
  - [4] A minimum of 5% of the dwellings shall be developed on lots which are 30,000 to 40,000 square feet in area, and those lots shall serve as a transition between the larger and smaller lots permitted in this district.
  - (d) A maximum of 75% of the dwellings shall be developed on lots which are 20,000 to 30,000 square feet in area.
  - (e) The density standard of eight-tenths units per acre applies on a gross basis to an entire development. [Amended 8-19-2002 by Ord. No. 2002-8]
  - (f) In order to properly incorporate the historic Jones House in the RA/R-1 District, an access road to development in the RA/R-2 District shall intersect Crispin Road opposite the historic house.
- E. RA/R-6 TDR II Receiving Area District. [Added 4-17-2006 by Ord. No. 2006-8<sup>EN(120)</sup>]
- (1) Purpose. The purpose of this district is to provide an area which has the option of either developing in accordance with the standards of the RA Rural Agricultural District or as a receiving area for the development of an age-restricted community with limited mixed-use and commercial development, requiring development rights (credits) in accordance with the standards of §§ 130-62.1 and 130-62.2 of this chapter.
  - (2) The RA Rural Agricultural District use, area, yard and other development standards shall be used whenever transfer development rights/credits are not utilized.
  - (3) Conditional use. An RA/R-6 planned unit development shall be a permitted conditional use and shall meet the standards set forth in § 130-4 and the standards herein.
    - (a) Eligibility criteria. In order to utilize the provisions of this subsection, an applicant shall first meet the following eligibility criteria:
      - [1] The minimum tract size shall be 150 acres.
      - [2] Credits from the transfer development rights program shall be purchased commensurate with the level of development proposed in accordance with § 130-62.1B(5). Any nonresidential use shall not require the purchase of transfer development credits.

- [3] The development shall be designed in accordance with the standards of § 130-62.2.
- [4] The residential portion of the project shall be an age-restricted development, except as may be required to implement the housing element and fair share plan of the municipality.
- [5] All such development shall be planned development for which a general development plan shall be secured.

(b) Permitted principal uses shall include the following:

- [1] Single-family detached dwellings.
- [2] Single-family semidetached dwellings.
- [3] Townhouse dwellings.
- [4] Multifamily dwellings for low- and moderate-income housing.
- [5] Assisted living facility.
- [6] Personal sales, personal services and offices limited to an area not to exceed 15 acres in area. Such uses may be in buildings combined with multifamily dwellings.
- [7] Municipal use.

(c) Permitted accessory uses and structures shall include the following:

- [1] Community center.
- [2] Clubhouse.
- [3] Community swimming pool.
- [4] Private swimming pool in conjunction with single-family detached and single-family semidetached uses.
- [5] Community indoor and outdoor recreation for residents and their guests.
- [6] Private residential garages.
- [7] Private residential tool sheds.
- [8] Off-street parking in accordance with § 130-44 and N.J.A.C. 5:21-1 et seq.

[9] Signs in accordance with §§ 130-55 and 130-62.2.

[10] Home occupations in accordance with § 130-37.

[11] Management office and maintenance facilities.

[12] Accessory uses customarily incidental to permitted principal uses.

(d) Area, yard and coverage standards shall be as required in the Schedule of Limitations<sup>EN(121)</sup> and § 130-62.2.

F. (Reserved)<sup>EN(122)</sup>

G. (Reserved)<sup>EN(123)</sup>

H. RA/ST TDR Transition Area District.

- (1) Purpose. The purpose of this district is to provide an area which has the option of either developing in accordance with the standards of the RA Rural Agricultural District, selling development rights in accordance with the standards of § 130-62.1 of this chapter, developing a golf course after sending TDR's or developing houses in conjunction with the development of a golf course.
- (2) Permitted principal uses for properties which do not transfer development rights shall be the same as those in the RA Rural Agricultural District.
- (3) Golf courses are permitted on parcels which sell development rights, provided that development takes place in accordance with the conditional use standards set forth herein.
- (4) With the exception of the restriction of golf course development, parcels from which development rights are sold shall be subject to the same development restrictions as are set forth in the RA/S TDR Sending Area District.
- (5) Permitted accessory uses shall be as follows:
  - (a) For parcels which do not participate in the transfer of development rights:
    - [1] Customary farm buildings; accessory dwellings for domestic or household employees or farm workers, provided that each such dwelling unit meets local codes and complies in every respect to the statutes of the State of New Jersey and the rules and regulations of the New Jersey State Board of Health concerning farm labor housing.
    - [2] Roadside farm stands primarily for the sale of farm products grown or raised

locally by the owner or operator of the farm, with a limit of one stand per farm, and provided that such stand shall be set back a minimum of 20 feet from the street line.

- [3] Private garages and carports.
- [4] Off-street parking facilities.
- [5] Private residential swimming pools.

(b) Where golf courses are developed, permitted accessory uses shall be:

- [1] Clubhouses.
- [2] Maintenance buildings.
- [3] Tennis courts.
- [4] Swimming pools.
- [5] Other customary accessory uses.

(c) For detached dwellings:

- [1] Private garages and carports.
- [2] Off-street parking facilities.
- [3] Private residential swimming pools.

(d) For a development with common facilities, such as a detached single-family development with a homeowners' association, accessory uses may include:

- [1] A community center.
- [2] A clubhouse.
- [3] Recreation areas.
- [4] Swimming pools.
- [5] Off-street parking facilities.

(6) Conditional uses. Conditional uses shall meet the standards set forth in § 130-4. Of the following uses, only Subsection H(6)(c), (e) and (f) shall be permitted on a parcel which participates in the transfer of development rights:

(a) Utility structures and facilities needed to provide the direct service of gas, electricity,

telephone, water and sewerage, but not offices, garages, warehouses, maintenance areas or similar commercially or industrially related operations of such companies.

- (b) Quasi-public buildings and recreation areas.
- (c) A home occupation, provided that it meets the standards set forth in § 130-36, Home occupation.
- (d) Hospitals and philanthropic, and charitable uses. [Amended 8-21-2006 by Ord. No. 2006-12]
- (e) Detached dwellings developed in conjunction with a golf course:
  - [1] Detached dwellings shall be permitted in accordance with the standards set forth in the Schedule of Limitations.<sup>EN(124)</sup>
  - [2] The number of dwellings permitted shall be limited to those which may be developed in this district under the terms of the conditional use standards of the RA/R-2 TDR Receiving Area District.
- (f) An alternate form of golf course development.
  - [1] An alternate form of golf course development shall be permitted which would call for the dedication of land to the Township of Lumberton to accommodate a conventional eighteen-hole municipal golf course and municipal recreation facilities.
  - [2] In return for the dedication, the landowner shall be entitled to a bonus of development rights which shall be 30% of the total number of units otherwise allocated to the land:
    - [a] Only these bonus units shall be constructed on land located in this district, provided that the minimum lot area is 20,000 square feet and the amount of land reserved, including streets to service the development, does not exceed 10% of the total area of the tract.
    - [b] In order to assure that the intent of this provision is clear, the calculation of development rights for the entire parcel shall be made in accordance with the standards which apply in the RA/S TDR Sending Area District, and the thirty-percent bonus shall apply to that number.
  - [3] In the placement of a deed restriction on the land to reflect the sale of development rights and the prohibition against further development, such restriction shall only be placed upon the lands which are dedicated to the

Township.

[4] Configuration of unrestricted land and the location of development of the bonus units shall be determined at the time of preliminary subdivision approval. The Township of Lumberton shall have the discretion to accept or reject the configuration of the lands to be dedicated for public use in order to assure that they are suitable for their intended public purpose.

(7) Bulk regulations.

- (a) For parcels which do not transfer development rights, the standards set forth in the Schedule of Limitations<sup>EN(125)</sup> for the RA Rural Agricultural District shall apply.
- (b) For parcels which transfer development rights, the standards set forth for the RA/S TDR Sending Area District shall apply, except as otherwise may apply under the conditional use standards set forth herein.

I. R-1.0 Residential Low-Density District.

- (1) Purpose. The purpose of this district is to provide an opportunity for cluster development of detached dwellings at a low density to maintain the rural character of the area while providing for development opportunities and the preservation of critical environmental features.
- (2) Permitted principal uses shall be:
  - (a) Detached dwellings.
  - (b) Farms and farm buildings.
  - (c) Golf courses.
- (3) Permitted accessory uses shall be as follows:
  - (a) Customary farm buildings.
  - (b) Accessory dwellings for domestic or household employees or farm workers, provided that each such dwelling unit meets local codes and complies in every respect to the statutes of the State of New Jersey and the rules and regulations of the New Jersey State Board of Health concerning farm labor housing.
  - (c) Roadside farm stands primarily for the sale of farm products grown or raised locally by the owner or operator of the farm, with a limit of one stand per farm, and provided that such stand shall be set back a minimum of 20 feet from the street line.



- (d) Private garages and carports.
  - (e) Off-street parking facilities.
  - (f) Private residential swimming pools.
- (4) Where golf courses are developed, permitted accessory uses shall be:
- (a) Clubhouses.
  - (b) Maintenance buildings.
  - (c) Tennis courts.
  - (d) Swimming pools.
  - (e) Other customary accessory uses.
- (5) For a development with common facilities, such as a detached single-family development with a homeowners' association, accessory uses may include:
- (a) A community center.
  - (b) A clubhouse.
  - (c) Recreation areas.
  - (d) Swimming pools.
  - (e) Off-street parking facilities.
- (6) Conditional uses shall meet the standards set forth in § 130-4 and shall be as follows:
- (a) Utility structures and facilities needed to provide the direct service of gas, electricity, telephone, water and sewerage, but not offices, garages, warehouses, maintenance areas or similar commercially or industrially related operations of such companies.
  - (b) Quasi-public buildings and recreation areas.
  - (c) A home occupation, provided that it meets the standards set forth in § 130-36, Home occupations.
  - (d) Hospitals and philanthropic and charitable uses. [Amended 8-21-2006 by Ord. No. 2006-12]
- (7) Bulk regulations. The bulk requirements for this district are set forth on the Schedule of Limitations<sup>EN(126)</sup> accompanying this chapter and are incorporated within this chapter

by reference.

J. R-2.0 Residential Medium-Density District.

- (1) Purpose. The purpose of this district is to allow for residential development while offering sufficient flexibility in the standards to provide on-site recreation space and the preservation of critical environmental features.
- (2) Permitted principal uses shall be:
  - (a) Detached dwellings.
  - (b) Farms and farm buildings.
- (3) Permitted accessory uses shall be as follows:
  - (a) Customary farm buildings.
  - (b) Accessory dwellings for domestic or household employees or farm workers, provided that each such dwelling unit meets local codes and complies in every respect to the statutes of the State of New Jersey and the rules and regulations of the New Jersey State Board of Health concerning farm labor housing.
  - (c) Roadside farm stands primarily for the sale of farm products grown or raised locally by the owner or operator of the farm, with a limit of one stand per farm, and provided that such stand shall be set back a minimum of 20 feet from the street line.
  - (d) Private garages and carports.
  - (e) Off-street parking facilities.
  - (f) Private residential swimming pools.
- (4) For a development with common facilities, such as a detached single-family development with a homeowners' association, accessory uses may include:
  - (a) A community center.
  - (b) A clubhouse.
  - (c) Recreation areas.
  - (d) Swimming pools.
  - (e) Off-street parking facilities.

- (5) Conditional uses shall meet the standards set forth in § 130-4 and shall be as follows:
  - (a) Utility structures and facilities needed to provide the direct service of gas, electricity, telephone, water and sewerage, but not offices, garages, warehouses, maintenance areas or similar commercially or industrially related operations of such companies.
  - (b) Quasi-public buildings and recreation areas.
  - (c) A home occupation, provided that it meets the standards set forth in § 130-36, Home occupations.
  - (d) Hospitals and philanthropic and charitable uses. [Amended 8-21-2006 by Ord. No. 2006-12]
  - (e) Professional offices and medical buildings.
- (6) Bulk regulations. The bulk requirements for this district are set forth on the Schedule of Limitations<sup>EN(127)</sup> accompanying this chapter and are incorporated within this chapter by reference.

**K. R-6 Residential Townhouses District.**

- (1) Purpose. The purpose of this district is to continue the development of higher density residential uses in an area which has been primarily developed in townhouse use in close proximity to both garden apartments and commercial development.
- (2) Permitted principal uses shall be:
  - (a) Townhouses.
  - (b) Detached dwellings.
- (3) Permitted accessory uses shall be:
  - (a) Private garages and carports.
  - (b) Off-street parking facilities.
  - (c) Private residential swimming pools.
  - (d) Swimming pools and recreation facilities as part of townhouse developments, provided that they are no closer than 40 feet to any lot line or principal building.
- (4) Conditional uses shall meet the standards set forth in § 130-4 and shall be as follows:
  - (a) Utility structures and facilities needed to provide the direct service of gas, electricity, telephone, water and sewerage, but not offices, garages, warehouses, maintenance

areas or similar commercially or industrially related operations of such companies.

- (b) Quasi-public buildings and recreation areas.
- (c) A home occupation, provided that it meets the standards set forth in § 130-36, Home occupations.
- (d) Hospitals and philanthropic and charitable uses. [Amended 8-21-2006 by Ord. No. 2006-12]
- (e) Professional offices and medical buildings.
- (5) Bulk regulations. The bulk requirements for this district are set forth on the Schedule of Limitations<sup>EN(128)</sup> accompanying this chapter and are incorporated within this chapter by reference.

L. R-12 Residential Apartments District.

- (1) Purpose. The purpose of this district is to continue the development of higher density residential uses in an area which has been primarily developed in townhouse use in close proximity to both garden apartments and commercial development.
- (2) Permitted principal uses shall be:
  - (a) Garden apartments.
  - (b) Townhouses.
  - (c) Detached dwellings.
- (3) Permitted accessory uses shall be:
  - (a) Private garages and carports.
  - (b) Off-street parking facilities.
  - (c) Private residential swimming pools.
  - (d) Swimming pools and recreation facilities as part of garden apartment or townhouse developments, provided that they are no closer than 40 feet to any lot line or principal building.
- (4) Conditional uses. None.
- (5) Bulk regulations. The bulk requirements for this district are set forth on the Schedule of Limitations<sup>EN(129)</sup> accompanying this chapter and are incorporated within this chapter

by reference.

M. R-75 Residential District.

- (1) Purpose. The purpose of this district is to continue to allow small-lot, single-family detached development in areas where this pattern has been firmly established.
- (2) Permitted principal uses shall be detached dwellings.
- (3) Permitted accessory uses shall be:
  - (a) Private garages and carports.
  - (b) Off-street parking facilities.
  - (c) Private residential swimming pools.
- (4) Conditional uses shall meet the standards set forth in § 130-4 and shall be as follows:
  - (a) Utility structures and facilities needed to provide the direct service of gas, electricity, telephone, water and sewerage, but not offices, garages, warehouses, maintenance areas or similar commercially or industrially related operations of such companies.
  - (b) Quasi-public buildings and recreation areas.
  - (c) A home occupation, provided that it meets the standards set forth in § 130-36, Home occupations.
  - (d) Hospitals and philanthropic and charitable uses. [Amended 8-21-2006 by Ord. No. 2006-12]
  - (e) Professional offices and medical buildings.
- (5) Bulk regulations. The bulk requirements for this district are set forth on the Schedule of Limitations<sup>EN(130)</sup> accompanying this chapter and are incorporated within this chapter by reference.

N. B-1 Neighborhood Business District.

- (1) Purpose. The purpose of this district is to establish zones which will provide convenience shopping for the general neighborhoods in which they are located. The lot areas and permitted uses are intended to be small in size and operating scale to serve the needs of the immediate neighborhood conveniently without attracting regional traffic.
- (2) Principal permitted uses shall be: [Amended 6-16-1997 by Ord. No. 1997-13]
  - (a) The retail sale of consumable products, wearing apparel, pharmaceuticals and

general merchandise.

- (b) Shopping center.
- (c) Restaurant.
- (d) Personal service facilities, such as:
  - [1] Office.
  - [2] Financial institution.
  - [3] Medical center.
  - [4] Day-care center.<sup>EN(131)</sup>
- (3) Permitted accessory uses shall be:
  - (a) Off-street parking and loading.
  - (b) Private garages incidental to the business conducted thereon.
- (4) Conditional uses shall meet the standards set forth in § 130-4 and shall be public utility uses exclusive of maintenance buildings and yards.
- (5) Bulk regulations. The bulk requirements for this district are set forth on the Schedule of Limitations<sup>EN(132)</sup> accompanying this chapter and are incorporated within this chapter by reference.
- (6) Access to properties.
  - (a) In the B-1 District adjacent to the Lumberton - Mt. Holly Road, access to properties zoned for business on the northwesterly side of Lumberton - Mt. Holly Road shall be permitted only from the following roads: Lumberton - Mt. Holly Road, Wilson Avenue, Harding Avenue and Pershing Avenue. No access to business uses in the area shall be permitted from Roosevelt Avenue.
  - (b) In the B-1 District along Maple Grove Boulevard, full access to properties shall be permitted from Maple Grove Boulevard and only ingress shall be permitted from Route 38. There shall be no egress onto Route 38.

O. B-2 Highway Business District.

- (1) Purpose. The purpose of this district is to establish a zone in those areas along or near Route 38 which have evolved over the years into a strip commercial pattern dominated by uses which rely on and serve highway traffic.

(2) Permitted principal uses shall be:

- (a) Mortuary.
- (b) Movie theater.
- (c) Car wash.
- (d) Auto/truck sales.
- (e) Auto parts.
- (f) Restaurant.
- (g) Nightclub.
- (h) Bowling.
- (i) Lumberyard.
- (j) Motel.
- (k) Shopping center.
- (l) The retail sale of consumable products, wearing apparel, pharmaceuticals and general merchandise.
- (m) Personal service facilities, such as:
  - [1] Office.
  - [2] Financial institution.
  - [3] Medical center.
  - [4] Day-care center.
- (n) Research, testing and experimentation.
- (o) Manufacturing, fabrication and assembly.
- (p) EN(133) Businesses involving the sale, distribution, lease, repair and servicing of farm-related industrial and commercial equipment and machinery. [Added 6-16-1997 by Ord. No. 1997-13]

(3) Permitted accessory uses shall be:

- (a) Auto/truck repair, but not bodywork or painting.

- (b) Off-street parking and loading.
  - (c) Private garages incidental to the business conducted thereon.
  - (d) Temporary outdoor displays contained in tents or tent-like structures in accordance with the provisions of § 130-23G of the Code.
- (4) Conditional uses shall meet the standards set forth in § 130-4 and shall be:
- (a) Public utility uses exclusive of maintenance buildings and yards.
  - (b) Equipment storage yards.
  - (c) Service stations.
- (5) Bulk regulations. The bulk requirements for this district are set forth on the Schedule of Limitations<sup>EN(134)</sup> accompanying this chapter and are incorporated within this chapter by reference.

P. I-1 General Industry District.

- (1) Purpose. The purpose of this district is to provide for the continuation of light industrial and heavy commercial activity and to allow small industries and businesses not involved in retail sales a place to locate. It is further specifically intended that airport-related uses shall not be permitted in this zone as they are already provided for under § 130-71R in the I-3 Airport Industrial District. [Amended 7-17-2000 by Ord. No. 2000-16]
- (2) Permitted principal uses shall be:
- (a) Office buildings.
  - (b) Hospitals.
  - (c) Utilities.
  - (d) Research, testing and experimentation.
  - (e) Warehouse, shipping and receiving.
  - (f) Manufacturing, fabrication and assembly.
  - (g) Body shops.
  - (h) Auto and truck repair.
  - (i) Businesses involving the sale, distribution, lease, repair and servicing of farm-related industrial and commercial equipment and machinery. [Added 6-16-1997 by Ord. No.



1997-13]

- (j) Child-care centers. [Added 8-21-2006 by Ord. No. 2006-12<sup>EN(135)</sup>]
- (3) Permitted accessory uses shall be:
  - (a) Off-street parking and loading.
  - (b) Supply and equipment storage.
  - (c) Cafeteria.
- (4) Conditional uses.
  - (a) Conditional uses shall meet the standards set forth in § 130-4 and shall be public utility uses exclusive of maintenance buildings and yards.
  - (b) Sexually oriented businesses. [Added 4-5-1999 by Ord. No. 1999-5]

[1] Definitions. As used in this subsection, the following terms shall have the meanings indicated:

**SEXUALLY-ORIENTED BUSINESS** -- Shall be defined as set forth at N.J.S.A. 2C:33-12.2 and N.J.S.A. 2C:34-6.

[2] Sexually oriented businesses as conditional uses in I-1 zoning districts.

[a] Except as otherwise provided herein, sexually operated businesses shall not be permitted in any zone or district within the Township of Lumberton.

[b] The operation of sexually oriented businesses shall be permitted, as a conditional use only, in the I-1 General Industry District. Accordingly, § 130-71P(4) of the Code of the Township of Lumberton is hereby amended to establish the following conditions which must be met in order for a sexually oriented business to operate in that district:

[i] The business shall be situated upon property which has the following area and yard requirements.

[A] Lot size: 1/2 acre.

[B] Lot width: 200 feet.

[C] Front yard setback: 100 feet.

[D] Front buffer: 50 feet.

- [E] Side buffer: 50 feet.
- [F] Rear buffer: 50 feet.
- [ii] The fifty-foot front side and rear buffer requirements set forth above shall be in conformance with the provisions of N.J.S.A. 2C:34-7(b) and shall include both plantings acceptable to the Township Land Development Board and in compliance with the provisions of § 130-26(D) and fencing as required by the Land Development Board pursuant to the provisions of § 130-32. [Amended 1-20-2004 by Ord. No. 2004-1]
- [iii] No sexually-oriented business shall be operated within 1,000 feet of any existing sexually-oriented business; or of any church, synagogue, temple or other place of public worship; or of any elementary or secondary school, child-care center, nursery or other institution or educational use; or of any municipal or county playground or place of public resort and recreation or public community center, park or similar use; or of any other religious, institutional, municipal or educational use; nor within 500 feet of any school bus stop.
- [iv] The maximum distance between any access driveway and any adjoining property line shall be 30 feet.
- [v] The maximum width of curb cuts for access driveways shall be 20 feet, except that a combined entrance and exit shall total 40 feet.
- [vi] Parking requirements shall be generally governed by the provisions of § 130-44, except that there shall be one parking space for each three seats, with a minimum number of parking spaces for not less than 10 cars. No materials sold or displayed within the establishment shall be visible from any window or door, or within public view.
- [vii] All trash, refuse, debris, or any matter to be disposed of shall be shredded, cut or rendered in such a fashion so that the remains shall not be readable, legible or discernable; and each establishment shall provide an appropriate trash enclosure area, with fencing around the same, to eliminate the spread of unwanted literature onto adjoining properties.
- [viii] No sexually-oriented business shall display more than two signs, visible from the exterior; and of those signs, they shall consist of one identification sign and one sign giving notice that the premises are off limits to minors. The identification sign shall be no more than 40 square

feet in size. The word "sign" shall also include the interior of any business premises which can be viewed from the exterior; and shall include interior store displays, even if placed behind front windows, where the same can be viewed from the exterior.

[ix] No sexually oriented business shall be permitted to include within its commercial building, structure, premises or portion or part thereof any partition between subdivisions of a room, portion or part of a building, structure or premises having an aperture which is designed or constructed to facilitate sexual activity between persons on either side of the partition; and any booths, stalls or partitioned portions of a room, or individual rooms, used for the viewing of motion pictures or other forms of entertainment, or live entertainment, having doors, curtains or partial partitions, shall be permitted, unless such booths, stalls, partitioned portions of a room or individual room so used shall have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room.

[x] A sexually oriented business governed by the provisions of this section shall not be open for business any earlier than 9:00 a.m. or any later than 11:00 p.m., Mondays through Saturdays, and shall be closed on Sundays and legal holidays.

[3] Violations and penalties.

[a] For a violation of any provision of this subsection, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the County Jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.

[b] Separate violations. Each and every day in which a violation of any provision of this subsection exists shall constitute a separate violation; and each and every violation of this subsection, which can be deemed severable from any other violation, shall be deemed a separate violation.

[c] Minimum penalty. There shall be a minimum penalty of a fine fixed in the amount of not less than \$100.

(5) Bulk regulations. The bulk requirements for this district are set forth on the Schedule of Limitations<sup>EN(136)</sup> accompanying this chapter and are incorporated within this chapter by reference.

Q. I-2 Planned Industrial District.

- (1) Purpose. The purpose of this district is to provide wider employment opportunities in proximity to residential centers. The I-2 District is located to take advantage of existing highway facilities.
- (2) Permitted principal uses shall be:
  - (a) Office buildings.
  - (b) Restaurants.
  - (c) Hospitals.
  - (d) Utilities.
  - (e) Research, testing and experimentation.
  - (f) Warehouse, shipping and receiving.
  - (g) Manufacturing, fabrication and assembly.
  - (h) Body shops.
  - (i) Auto and truck repair.
  - (j) Businesses involving the sale, distribution, lease, repair and servicing of farm-related industrial and commercial equipment and machinery. [Added 6-16-1997 by Ord. No. 1997-13]
  - (k) Community/power retail center establishments. [Added 2-1-1999 by Ord. No. 1999-4]
  - (l) Movie theater. [Added 2-1-1999 by Ord. No. 1999-4]
  - (m) Child-care center. [Added 8-21-2006 by Ord. No. 2006-12<sup>EN(137)</sup>]
- (3) Permitted accessory uses shall be:
  - (a) Off-street parking and loading.
  - (b) Supply and equipment storage.
  - (c) Cafeteria.
  - (d) Private helicopter landing pad.
- (4) Conditional uses. Petroleum distribution terminals may be constructed, provided that all

of the following conditions are met:

- (a) Storage tanks shall not exceed 30 feet in height.
- (b) The total site area for a petroleum distribution terminal shall not exceed seven acres.
- (c) No aboveground storage tank may be located within 300 feet of a district which permits residential development.
- (d) If the site for a petroleum distribution terminal adjoins a residential district, the buffer standards of this article shall be met as a standard for this conditional use. As a part of the buffer, plant materials shall be selected which will have sufficient height at maturity to effectively screen or otherwise reduce the visual impact of the terminal and its associated structures as seen from residential districts.

(5) Bulk regulations.

- (a) The bulk requirements for this district are set forth on the Schedule of Limitations<sup>EN(138)</sup> accompanying this chapter and are incorporated within this chapter by reference.
- (b) An industrial park shall be permitted on a tract of 20 acres or more, provided that the following standards are met:
  - [1] The park will contain three or more tenants.
  - [2] The average lot size shall not be less than two acres, and the minimum lot size shall not be less than one acre.
  - [3] No lots of less than two acres may be subdivided until a sufficient number of lots in excess of two acres have been subdivided in order to maintain the minimum average lot size of two acres.
  - [4] The minimum lot width for parcels less than two acres shall be 150 feet.
  - [5] No lots of less than two acres shall be permitted to front on arterial or collector roadways as designated in the adopted Master Plan.
  - [6] All other provisions shall be as set forth in the Schedule of Limitations.

R. R-I Rural Industrial District. [Added 8-19-2002 by Ord. No. 2002-8]<sup>EN(139)</sup>

- (1) Purpose. The purpose of this district is to provide for limited, low impacting, nonresidential uses within the larger RA area.

(2) Permitted principal uses shall be:

(a) Any uses existing as of January 1, 2002, excluding airports.

(3) Conditional uses:

(a) Airports and related general aviation related operations subject to the following: that said usage shall not result in the expansion or enlargement of the runways or operations.

(4) Bulk regulations:

(a) The bulk requirements for this district are set forth in the Schedule of Limitations accompanying this chapter which are incorporated herein by reference thereto.<sup>EN(140)</sup>

S. GB General Business District. [Added 8-19-2002 by Ord. No. 2002-8]<sup>EN(141)</sup> ]

(1) Purpose. The purpose of this district is to take advantage of both road frontages and large undeveloped areas by combining aspects of both commercial and industrial zones.

(2) Permitted principal uses shall be:

(a) Office buildings.

(b) Restaurants.

(c) Hospitals.

(d) Utilities.

(e) Community/power retail center establishments.

(f) Movie theater.

(g) Mortuary.

(h) Car wash.

(i) Nightclub.

(j) Bowling.

(k) Lumberyard.

(l) Motel.

- (m) Shopping center.
  - (n) The retail sale of consumable products, wearing apparel, pharmaceuticals and general merchandise.
  - (o) Personal service facilities, such as:
    - [1] Office.
    - [2] Financial institution.
    - [3] Medical center.
    - [4] Day-care center.
  - (p) Auto/truck sales.
  - (q) Auto parts.
  - (r) Warehouse, shipping and receiving.
  - (s) Manufacturing, fabrication and assembly.
  - (t) Businesses involving the sale, distribution, lease, repair and servicing of farm-related industrial and commercial equipment and machinery.
- (3) Permitted accessory uses shall be:
- (a) Off-street parking and loading.
  - (b) Supply and equipment storage.
  - (c) Cafeteria.
  - (d) Private garages incidental to the business conducted thereon.
  - (e) Temporary outdoor displays contained in tents or tent-like structures in accordance with the provisions of § 130-23G of the Code.
- (4) Conditional uses shall meet the standards set forth in § 130-4 and shall be:
- (a) Service stations.
- (5) Bulk regulations. The bulk requirements for this district are set forth on the Schedule of Limitations accompanying this chapter and are incorporated within this chapter by reference.<sup>EN(142)</sup>
- (6) Schedule of Limitations. The use and area restrictions shall be as set forth in the General

Business Zone.

T. H/A Historic/Architectural Area District.

- (1) Purpose. The purpose of this district is to provide for the preservation and restoration of the Village of Lumberton through the establishment of controls effecting building appearance. Use controls are somewhat liberalized in an effort to attract investment in the restoration of the village.
- (2) Permitted principal uses shall be:
  - (a) Detached dwellings.
  - (b) Two-family dwellings: see § 130-35.
- (3) Permitted accessory uses shall be:
  - (a) Home occupations.
  - (b) Private garages.
  - (c) Private residential swimming pools.
- (4) Conditional uses.
  - (a) Existing structures may be used as:
    - [1] Apartments.
    - [2] Rooming houses.
    - [3] Professional offices or day-care centers, provided that the off-street parking requirements of this chapter can be met.
  - (b) On Main Street, north of the South Branch of the Rancocas Creek, retail use shall be permitted, provided that the building retains its historic character and provided, further, that the signs advertising the business are in keeping with the character of the district.
  - (c) The off-street parking requirements of this chapter must be met.
- (5) Bulk regulations.
  - (a) The bulk requirements for this district are set forth on the Schedule of Limitations<sup>EN(143)</sup> accompanying this chapter and are incorporated within this chapter by reference. They shall apply to all permitted and conditional uses.



- (b) Where an existing lot is nonconforming, the provisions of § 130-39G shall apply.
- (c) Lots with an area of less than 20,000 square feet shall not be subdivided in order to produce more building lots, since this may be detrimental to the integrity of the district and to those areas which are subject to flooding.
- (d) The minimum front yard setback shall be increased if the buildings located within 200 feet and in the same block frontage are all set back a distance greater than 10 feet, and in this situation the front yard setback shall be no closer to the street than the building within this two-hundred-foot distance which is closest to the street line.
- (e) Similarly, the front yard setback may be decreased to less than 10 feet if the prevailing setback of existing buildings within 200 feet in the same block frontage is less than 10 feet, and in this situation the front yard setback shall be considered to be the average of the existing setbacks within this two-hundred-foot distance.
- (f) As defined herein, the minimum front yard setback shall be met from all streets; and in the case of corner lots and through lots, the calculations indicated herein shall apply to all block frontages.
- (g) As indicated in the Schedule of Limitations, the minimum side yard on one side shall be 10% of the lot width, and the combined side yards shall be at least 30% of the lot width.
- (h) In the case of corner lots, all lot lines which are not along the street line shall be considered to be side lot lines, and the side yard standards shall apply; the lot width standard which shall be used in calculating the required side yards shall be the narrower of the two lot widths as measured at the required front yard setback line from the street.
- (i) For two-family dwellings which are joined at the lot line, the minimum side yard shall apply to one side only, and it shall be at least 30% of lot width.
- (j) The minimum rear yard shall be 30% of the lot depth or 40 feet, whichever is less.

U. I-3 Industrial 3 District. [Added 12-18-2006 by Ord. No. 2006-20]

- (1) Purpose. The purpose of the I-3 District is to encourage industrial and commercial uses with relatively low volumes of large truck traffic that are compatible with the adjacent and nearby use of the South Jersey Regional Airport.
- (2) Permitted principal uses shall include the following:
  - (a) Agriculture. Agriculture support services, as follows:

- [1] Agricultural machinery sales and repair.
  - [2] Dry and cold storage of agricultural products.
  - [3] Farm supplies for use in soil preparation and maintenance, planting and harvesting of crops, corralling and feeding of livestock and similar uses.
- (b) Automobile and truck repair.
  - (c) Beverage, candy, dairy, and food processing.
  - (d) Garden center, including retail and wholesale sales.
  - (e) General administrative and business offices.
  - (f) Machine shop.
  - (g) Manufacturing, fabrication and/or assembly of products from the following previously prepared materials:
    - [1] Wood and paper;
    - [2] Leather and textiles;
    - [3] Electrical and electronic components;
    - [4] Plastic and metal components.
  - (h) Personal and household storage.
  - (i) Pharmaceutical and cosmetic manufacturing.
  - (j) Printing and publishing.
- (3) Accessory uses and structures permitted in conjunction with a permitted principal use shall include the following:
- (a) Distribution of products primarily manufactured or assembled on site.
  - (b) Fences, walls, guardhouses and other means of securing property.
  - (c) Landscape contracting in conjunction with a garden center.
  - (d) Manager's apartment in conjunction with personal and household storage.
  - (e) Off-street parking and loading.
  - (f) Outdoor display of products in conjunction with a garden center.

- (g) Signs.
  - (h) Supply and equipment storage.
  - (i) Accessory use customarily incidental to a permitted principal use.
- (4) Conditional uses permitted. The following uses and structures may be permitted when authorized as a conditional use by the Land Development Board in accordance with the general standards of § 130-4 and the following specific criteria:
- (a) Auto body repair conforming to the following criteria:
    - [1] All wrecked, dismantled, partially restored vehicles and parts shall be kept within an enclosure at least six feet in height that is completely opaque.
    - [2] All work on vehicles shall take place within an enclosed building.
    - [3] Adequate stormwater collection and recycling systems for the recovery of fluids and particulate matter from vehicles shall be installed.
  - (b) Towing, automobile recovery and automobile impoundment yard conforming to the following criteria:
    - [1] The storage of vehicles shall conform to the criteria for outdoor storage, herein; however, no vertical stacking of vehicles shall be permitted.
    - [2] Storage of damaged vehicles shall conform to the criteria for auto body repair herein.
    - [3] When determined to be required by the Land Development Board, vehicle dropoff area(s) shall be designated on a site plan adequate for the intensity of the use of the facility.
  - (c) Outdoor storage conforming to the following criteria:
    - [1] Outdoor storage shall not be permitted in a front yard.
    - [2] The height of any material or equipment stored outdoors shall not exceed 20 feet or the height of the principal building, whichever is less.
    - [3] Outdoor storage shall be adequately screened with a combination of fencing, walls, and/or landscaping from any external view of the site. The height of the plant material installed shall match the height of any stored objects, equipment or material within five years of planting.
    - [4] Outdoor storage shall only be located on the premises in conformance with an

approved site plan.

- (5) Bulk regulations. The bulk requirements for this district are set forth in the Schedule of Limitations accompanying this chapter and are incorporated within this chapter by reference.

**§ 130-72. Air safety regulations.** EN(144)

- A. Airports and related aviation facilities shall be considered to be permitted uses in all zoning districts in the Township, in accordance with the requirements and standards of the New Jersey Air Safety and Hazardous Zoning Act of 1983.<sup>EN(145)</sup> Airport hazard areas, incorporating the runway subzone, the runway end subzone and the clear zone, shall be of a size and shape conforming to the standards and dimensions set forth in the New Jersey Administrative Code under regulations promulgated by the Commissioner of the Department of Transportation, as set forth in N.J.A.C. 16:62. All land uses regulated under those provisions shall be similarly regulated in this chapter. In addition to airports and related aviation facilities, however, only those uses which are specifically permitted in the zoning district shall be permitted in the regulated airport hazard area. As set forth in the Department regulations, no variances or subdivisions may be granted whose purposes would be contrary to the standards of the regulations. No variance or other relief from the standards promulgated may be granted without the explicit approval of the Commissioner of Transportation.
- B. Any party seeking to extend the length or breadth of an airport runway, or add any airport runway, and by this extension extend the effect of the use regulations called for under the New Jersey Air Safety and Hazardous Zoning Act of 1983 shall own, have obtained a property's consent or waiver or control the development rights for any tract, parcel or area of land, the zoning on which will be altered, modified or changed as a result of the expansion contemplated. No expansion shall be deemed authorized by this subsection unless ownership and/or control is demonstrated prior to approval of the proposed expansion by a review agency operating within the Township of Lumberton. The term "control" shall mean in the context of this subsection ownership of the development rights pursuant to the TDR provisions of this subsection, possession of rights under a deed restriction covering the land in issue which permits the extension of the land use regulations referenced or possession of some other easement which demonstrates that the property owner, the zoning on whose land will be altered, has sustained no measurable loss as a result of the extension of the zoning provision. [Added 12-6-1999 by Ord. No. 1999-23]

**§ 130-73. Demolition of buildings. [Added 5-1-1989 by Ord. No. 1989-7]**

- A. Notwithstanding any other provisions to the contrary in any other ordinance of this Township, no structure or building shall be demolished or removed in any zoning district of this Township until application for a permit has been made to the Township Land Development Board, which shall determine if the structure or building is a historic landmark or historic site, and upon the Land Development Board's determination that said structure or building is an historic landmark or historic site, it shall not be demolished unless it is deemed to pose a clear and present danger to the health or safety of persons within this Township. [Amended 1-20-2004 by Ord. No. 2004-1]
- B. This prohibition against demolition of buildings or structures shall remain in force until a comprehensive ordinance providing for preservation and protection of historic structures and sites has been enacted by the governing body or for 90 days from the date of the enactment of this section, whichever occurs first.
- C. An "historic landmark" shall be defined as follows: any real property, such as a building, structure, ruins, foundation, place or object, including but not limited to a village area, natural object, configuration, geological feature or formation, which:
- (1) Is of particular historical, cultural, scenic or architectural significance to the Township of Lumberton and in which the broad cultural, political, economic or social history of the nation, state or community is reflected or exemplified;
  - (2) Is identified with historic personages or with important events in the main current of national state or local history;
  - (3) Shows evidence of habitation, activity or the culture of prehistoric man;
  - (4) Embodies a distinguishing characteristic or an architectural type valuable as representative of a period, style or method of construction; or
  - (5) Represents the work of a builder, designer, artist or architect whose individual style significantly influenced the architectural history of the Township of Lumberton or other areas.
- D. "Historic site" is defined as any landmark, whether located within or outside of a zoning district presently delineated as a historic district, or any building, structure, improvement, area or property within an historic district as presently constituted.
- E. Nothing herein shall prevent the demolition of any structure or building for which a permit has already been issued prior to the enactment of this chapter.

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## **ARTICLE VII, Administration**

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### **§ 130-74. Amendment procedure.**

All provisions of this chapter may be amended in accordance with applicable laws.

### **§ 130-75. Appeals. [Amended 11-21-1994 by Ord. No. 1994-20; 1-20-2004 by Ord. No. 2004-1]**

- A. Appeal to Township Committee. Any interested party may appeal to the Township Committee any final decision of the Land Development Board of Adjustment granting an application for development pursuant to N.J.S.A. 40:55D-70d. Such appeal shall be made within 10 days of the date of publication of such final decision. The appeal to the governing body shall be made by serving the Township Clerk in person or by certified mail with a notice of appeal, specifying the grounds therefor and the name and address of the appellant and name and address of his attorney, if represented. Such appeal shall be decided by the governing body only upon the record established before the Land Development Board. The procedure applicable to said appeal shall be governed by the provisions of N.J.S.A. 40:55D-17.
- B. Any other appeals of either final decisions of the Land Development Board not included in the foregoing provisions, or any appeals from decisions of the Land Development Board on any class of application for development, shall be directed to a court of competent jurisdiction according to law.

### **§ 130-76. Compliance required.**

All requirements of this chapter shall be met at the time of any construction, alteration, addition or enlargement of any building or structure, and the use requirements shall be met prior to the issuance of any zoning permit or certificate of occupancy.

### **§ 130-77. Interpretation of provisions.**

- A. The provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than other provisions of law, the provisions of this chapter shall control. Where other provisions of law require greater restrictions than this chapter, the

provisions of such other laws shall control.

B. See Interpretation of district boundaries, § 130-67.

**§ 130-78. Effect on pending actions.**

These regulations shall not abate or modify any action, penalty, liability or right pending under any ordinance repealed by the adoption of this chapter except as expressly provided in this chapter.

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**ARTICLE VIII, Affordable Housing Fees [Added 10-17-2005 by Ord. No. 2005-28; amended 9-5-2006 by Ord. No. 2006-14]**

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**§ 130-79. Growth share affordable housing obligation.**

- A. Authority and purpose. Pursuant to the provisions of the Third Round Substantive Rules promulgated and adopted by the New Jersey Council on Affordable Housing, N.J.A.C. 5:94 et seq. and N.J.A.C. 5:95 et seq., it is hereby declared that the purpose of this article is to help the Township of Lumberton fulfill its affirmative obligation to facilitate the provision of affordable housing. This article shall be read in conjunction with Chapter 90 of the Code of the Township of Lumberton.
- B. Definitions. As used in this article, words and phrases shall have the same meanings they have pursuant to N.J.A.C. 5:94-1.4, as said provision may from time to time be amended.
- C. Affordable housing production obligation based upon growth share.
- (1) Residential development.
- (a) Any market-rate residential development in any zoning district in the Township shall provide one unit of affordable housing, as defined in § 130-79B, for every eight new market-rate units that are produced as determined by the formula in Subsection C(1)(b) and C(1)(c) below, except as otherwise exempted herein. For the purposes of this article, "residential development" shall mean both a development that is entirely residential or that includes both residential and nonresidential uses. Residential development shall also include new market-rate residential units created from the conversion of a nonresidential building to residential unit(s) requiring the issuance of a certificate of occupancy.

- (b) The on-site construction percentage of affordable units shall be calculated by the total number of approved units, divided by nine.
  - (c) The off-site payment in lieu of construction shall be determined by the total number of units, divided by eight, times the cost of an affordable housing unit as determined by Subsection C(5) herein.
  - (d) Any residential development that generates a fraction of an affordable unit shall be required, at the choice of the developer, to either construct the additional affordable unit or, alternatively, to make a payment in lieu of construction for that fraction of an affordable housing unit as determined by Subsection C(5) herein.
- (2) Nonresidential development: M, A5, S and U Use Groups. Any development in the Township of Lumberton that is categorized as an A5, S or U Use Group by the New Jersey Uniform Construction Code shall be required to pay an affordable housing development fee pursuant to § 90-7C.
- (3) Nonresidential development: other. All other nonresidential development that includes net new floor area in any zoning district shall be required to provide affordable housing constructed at the ratio of one affordable unit for every 25 new jobs. The calculation of the number of jobs and employment opportunities created shall be in accordance with Appendix E of N.J.A.C. 5:94-1 et seq., entitled "UCC Use Groups for Projecting and Implementing Nonresidential Components of Growth Share." In lieu of constructing affordable housing units and any fraction thereof, the developer of nonresidential development shall pay a contribution in accordance with Subsection C(5) herein.
- (4) Exemptions. The following types of development shall be exempt from the requirements of this article:
- (a) Development by the Township or any of its instrumentalities.
  - (b) Lumberton Board of Education facilities and private or parochial institutions substantially similar to same.
  - (c) Houses of worship, excluding any buildings or structures associated therewith that are deemed by COAH to trigger a growth share obligation, excepting schools as exempted in Subsection C(4)(b).
  - (d) Residential development in any zoning district in the Township that is less than three dwelling units. Such development, however, shall be required to pay an affordable housing development fee pursuant to § 90-7B.
- (5) The minimum contribution for affordable housing shall be \$125,000 per affordable housing unit generated. This figure shall be increased in accordance with the increase in



the Consumer Price Index for housing in the Philadelphia PMSA as of January 1 of each year.

D. Satisfaction of affordable housing production obligation. With the prior written approval of the Township Committee upon favorable recommendation by the Planning Board, and except as modified in Subsection C(2) above, the applicant may choose to satisfy its affordable housing growth share obligation through the mechanisms permitted in COAH's rules, including:

- (1) On-site affordable housing production;
- (2) Off-site affordable housing production in the Township;
- (3) The purchase of an existing market-rate home(s) at another location in the community and its conversion to an affordable price-restricted home in accordance with COAH's rules (buy down/write down);
- (4) Participation in reconstruction and/or buy-down/rent-down programs;
- (5) Payment of a contribution in lieu of construction; and/or
- (6) Any other compliance mechanism permitted by COAH's rules.

E. Affordable housing compliance mechanisms.

- (1) Construction of affordable housing on site.
  - (a) Affordable housing units may be provided within buildings as permitted by the zoning regulations of the Township or as required by an adopted redevelopment plan.
  - (b) No density increase shall be granted for the construction of the affordable housing units on site.
  - (c) All required setbacks, building height, open space requirements and coverage limits for the zone shall be met on all lots.
- (2) Creation of affordable housing units off site within the Township.
  - (a) Applicants electing to create affordable housing units elsewhere within the Township of Lumberton may do so with the prior written approval of the Township Committee, and may do so within existing buildings, whether converted, reconstructed or purchased for buy down/write down, in any residential zone of Lumberton Township, as set forth and regulated herein.
  - (b) All such units shall meet or shall be improved to meet Uniform Construction Code

requirements and shall be certified to be in standard condition prior to their conveyance or occupancy.

- (c) All required setbacks, building height and impervious coverage limits for the zone shall be met on the lot, except that existing setback deficiencies and other nonconformities of the lot and/or building(s) located thereon may be continued for as long as the buildings remain on site without the need for additional variances.
- F. Low- and moderate-income split and compliance with COAH rules. All affordable units created pursuant to this section shall comply with Chapter 90, Affordable Housing, § 90-2, of the Code of the Township of Lumberton.
- G. It shall be the developer's responsibility, at its sole cost and expense, to ensure full COAH compliance and to file timely certifications, reports and/or monitoring forms as may be required by COAH to ensure credit for each affordable unit.
- H. Residential developments that have been zoned to produce an affordable housing set-aside or that include only low- and moderate-income housing units shall be exempt from the growth share obligations of this article and shall be exempt from payment of development fees pursuant to § 90-7 of this Code.

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## Schedule of Limitations

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### SCHEDULE OF LIMITATIONS<sup>1</sup>

[Amended 8-3-1992 by Ord. No. 1992-6; 7-17-1995 by Ord. No. 1995-10;

9-5-1995 by Ord. No. 1995-17; 2-1-1999 by Ord. No. 1999-4; 8-19-2002 by Ord. No. 2002-8; 4-17-2006 by Ord. No. 2006-8; 12-18-2006 by Ord. No. 2006-20]

	Minimum Lot Area or Lot Range	Minimum Gross Leasable Area <sup>3</sup>	Minimum Dimensions (feet)					
				Principal Building Yards				
				Lot Width	Front Yard	Side Yard	Both Side Yards	
Zoning District and Permitted Uses	(acres or square feet)	(square feet)						

<b>RA Rural Agricultural</b>								
Farm	5 acres		400	100	50	100	100	100
Detached dwelling	5 acres		200	100	50	100	75	100
Golf course	100 acres		600	100	100	200	100	100
<b>RA/S TDR Sending Area</b>								
Farm	5 acres		400	100	50	100	100	100
Detached dwelling	5 acre		200	100	50	100	75	100
<b>RA/R-2 Receiving Area</b>								
Detached dwelling	Less than 40,000		150	50	20	50	50	60
Dwelling on Crispin Road	40,000		150	75	20	50	50	85
Dwelling on Creek Road	40,000		150	100	20	50	50	110
Interior lot SFD <sup>8</sup> 1	30,000, 39,999		130	40	15	40	50	50
Interior lot SFD 2	20,000 29,999		100	40	15	30	50	50
<b>RA/ST TDR Transition</b>								
Farm	5 acres		400	100	50	100	100	100
Detached dwelling	5 acres		200	100	50	100	75	100
Golf course	100 acres		600	100	100	200	100	100
SFD (conditional use; see RA/R-2)	15,000		100	35	12	30	50	45
SFD (conditional use; sewer and water)	20,000		120	40	15	40	50	50
<b>R-1.0 Residential Low-Density</b>								
Dwelling (no sewer or water)	2 acres		200	100	50	100	75	100
Detached dwelling	1 acre		150	50	20	50	50	60
Detached dwelling (cluster)	15,000		100	35	12	30	50	50
Duplex (per lot, cluster only)	10,000		80	30	0	25	40	50
Farm	5 acres		400	100	50	100	100	100
Golf course	50 acres		NA	100	100	200	100	100
<b>R-2.0 Residential Medium Density</b>								
SFD (well and/or septic)	4 acres		200	100	50	100	75	100
SFD (public water and sewer)	2 acres		120	40	15	30	50	50

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Township of Lumberton, NJ*

SFD (existing cluster)	10,000		80	30	10	25	40	40
Semidetached (existing cluster)	6,000		50	30	0	15	40	40
<b>R-6.0 Residential Townhouses</b>								
Townhouses ( per lot)	2,000		20	25	0	0	25	N/A
Townhouses (gross)	5 acres		200	40	40	NA	40	75
Detached dwelling	20,000		120	40	15	30	50	50
Detached dwelling (cluster)	10,000		80	30	10	25	40	40
Duplex (per lot, cluster only)	6,000		50	30	0	15	40	40

NOTES:

- <sup>1</sup> Additional bulk and area requirements are set forth in the text of this chapter and should be read along with this Schedule.
- <sup>2</sup> The percentages shown apply to lot width.
- <sup>3</sup> Smaller stores located within the primary community/power retail center, but not including anchor stores, having a gross floor area in excess of 35,000 square feet shall not equal, in the aggregate, more than 33 percent of the total gross floor area of the entire center.
- <sup>4</sup> No structure or activity shall be permitted within the required front yard setback except for access drives.
- <sup>5</sup> The minimum lot size may be reduced to 20 acres for separate fee simple lots permitted within the community/power retail center establishments.
- <sup>6</sup> For provisions pertaining to sexually oriented businesses as a conditional use, see § 130-71P(4)(b)
- <sup>7</sup> Silos may rise to 50 feet.
- <sup>8</sup> SFD = Single-family detached dwelling; same as detached dwelling.

Zoning District and Permitted Uses	Minimum Lot Area or Lot Range  (acres or square feet)	Gross Leasable Area <sup>3</sup>  (square feet)	Minimum Dimensions (feet)					
			Lot Width	Principal Building Yards				Street Lin
				Front Yard	Side Yard	Both Side Yards	Rear Yard	
<b>RA/R-6 Planned Unit Development</b>								
Large lot	6,000-10,000		60-100	15-25	6	12	20	25
Narrow lot	5,000-5,900		40-59	12-25	5	10	20	25
Duplex	3,500-5,000		35-50	15-25	7.5	NA	35	25
Townhouse	2,000-3,000		20-34	5-10	5	NA	45	NA
Commercial/mixed building	20,000		200	0-5	0-15	0-30	10-30	NA
<b>R-12.0 Residential Apartments</b>								
Garden apartments (eligibility for use)	5 acres		300	75	75	NA	75	75
Townhouses (per lot)	2,000		20	25	0	0	25	NA
Townhouses (eligibility for use)	5 acres		200	40	40	NA	40	75
Detached dwelling	20,000		120	40	15	30	50	50
Detached dwelling (cluster)	10,000		80	30	10	25	40	40
Duplex (per lot, cluster only)	6,000		50	30	0	15	40	40
<b>R-75 Residential</b>								
Detached dwelling	7,500		65	25	7	14	35	35
<b>B-1 Neighborhood Business</b>								
All uses	15,000		100	50	10	20	20	60
<b>B-2 Highway Business</b>								
All uses	40,000		200	75	20	40	30	100
<b>I-1 General Industrial</b>								
All uses <sup>6</sup>	1 acre		150	50	20	40	40	60
<b>I-2 Planned Industrial</b>								

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Township of Lumberton, NJ*

All uses	3 acres		250	70	20	40	60	80
Community/power retail center establishment	30 acres <sup>5</sup>	250,000 square feet	250	75 <sup>4</sup>	20	40	60	80
<b>I-3 Industrial 3</b>								
All uses	5 acres	NA	250	70	20	40	60	80
<b>R-I Rural Industrial</b>								
All uses	3 acres		250	70	20	40	60	80
<b>GB General Business</b>								
Site	1 acre		200	75	26	56	30	100
Park tract	10 acres		400	75	56	75	50	50
Site	30,000		125	35	20	30	20	20
<b>H/A Historic Architectural</b>								
All uses	10,000		80	10	10% <sup>2</sup>	30% <sup>2</sup>	40	20

NOTES:

- <sup>1</sup> Additional bulk and area requirements are set forth in the text of this chapter and should be read along with this Schedule.
- <sup>2</sup> The percentages shown apply to lot width.
- <sup>3</sup> Smaller stores located within the primary community/power retail center, but not including anchor stores, having a gross floor area in excess of 35,000 square feet shall not equal, in the aggregate, more than 33 percent of the total gross floor area of the entire center.
- <sup>4</sup> No structure or activity shall be permitted within the required front yard setback except for access drives.
- <sup>5</sup> The minimum lot size may be reduced to 20 acres for separate fee simple lots permitted within the community/power retail center establishments.
- <sup>6</sup> For provisions pertaining to sexually oriented businesses as a conditional use, see § 130-71P(4)(b).
- <sup>7</sup> Silos may rise to 50 feet.
- <sup>8</sup> SFD = Single-family detached dwelling; same as detached dwelling.

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**Schedule of Uses**

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**[Amended 2-1-1999 by Ord. No. 1999-4; 4-5-1999 by Ord. No. 1999-5;  
6-21-1999 by Ord. No. 1999-11; 8-21-2006 by Ord. No. 2006-12]**

P = Permitted Use  
C = Conditional Use  
X = Nonpermitted Use

<b>Use Category</b>	<b>R-A</b>	<b>R-1.0</b>	<b>R-2.5</b>	<b>R-6</b>	<b>R-12</b>	<b>R-75</b>	<b>B-1</b>	<b>B-2</b>	<b>I-1</b>	<b>I-2</b>	<b>H/A</b>
Accessory auto truck repair	X	X	X	X	X	X	X	X	X	X	X
Accessory cafeteria	X	X	X	X	X	X	X	X	P	P	X
Accessory farm buildings	P	P	P	X	X	X	X	X	X	X	X
Accessory farm stands	P	P	P	X	X	X	X	X	X	X	X
Accessory farm worker housing	P	P	P	X	X	X	X	X	X	X	X
Accessory helicopter landing pad	X	X	X	X	X	X	X	X	P	P	X
Accessory off-street loading	X	X	X	X	X	X	P	P	P	P	X
Accessory off-street parking	P	P	P	P	P	P	P	P	P	P	P
Accessory private garages and carports	P	P	P	P	P	P	P	P	X	X	P
Accessory residential swimming pools	P	P	P	P	P	P	X	X	X	X	P
Accessory supply and equipment storage	X	X	X	X	X	X	X	X	P	P	X
Airports	P	P	P	P	P	P	P	P	P	P	P
Apartments	X	X	X	X	X	X	X	X	X	X	P
Auto parts	X	X	X	X	X	X	X	P	X	X	X
Auto/truck repair	X	X	X	X	X	X	X	X	P	P	X
Auto/truck sales	X	X	X	X	X	X	X	P	X	X	X
Aviation industrial operations	X	X	X	X	X	X	X	X	P	P	X
Body shops	X	X	X	X	X	X	X	X	P	P	X
Bowling	X	X	X	X	X	X	X	P	X	X	X
Business offices	X	X	X	X	X	X	P	P	P	P	X

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Township of Lumberton, NJ*

Car wash	X	X	X	X	X	X	X	P	X	X	X
Community/power retail center establishment	X	X	X	X	X	X	X	X	X	P	X
Day-care center <sup>1(146)</sup>	X	X	X	X	X	X	P	P	P	P	C
Detached dwellings	P	P	P	P	P	P	X	X	X	X	P
Duplex dwellings	X	P	P	P	P	X	X	X	X	X	C
Farms	P	P	P	X	X	X	X	X	X	X	X
Financial institutions	X	X	X	X	X	X	P	P	X	X	X
Garden apartments	X	X	X	X	P	X	X	X	X	X	X
Golf courses	P	P	P	X	X	X	X	X	X	X	X
Home occupation	C	C	C	C	X	C	X	X	X	X	P
Hospitals, philanthropic, charitable uses	C	C	C	C	X	C	X	X	X	X	X
Lumberyard	X	X	X	X	X	X	X	P	X	X	X
Manufacturing, fabrication, assembly	X	X	X	X	X	X	X	X	P	P	X
Medical buildings	X	X	X	C	X	C	P	P	P	P	X
Mobile home parks	X	X	X	P	X	X	X	X	X	X	X
Mortuary	X	X	X	X	X	X	X	P	X	X	X
Motel	X	X	X	X	X	X	X	P	P	P	X
Movie theater	X	X	X	X	X	X	X	P	X	P	X
Nightclub	X	X	X	X	X	X	X	P	X	X	X
Personal services	X	X	X	X	X	X	P	P	X	X	X
Petroleum distribution terminals	X	X	X	X	X	X	X	X	C	C	X
Professional offices	X	X	X	C	X	C	P	P	P	P	C
Quasi-public buildings and recreational areas	C	C	C	C	X	C	X	X	X	X	X
Research, testing, experimentation	X	X	X	X	X	X	X	X	P	P	X
Restaurant	X	X	X	X	X	X	X	P	P	P	X
Retail sales	X	X	X	X	X	X	P	P	X	X	C
Rooming houses	X	X	X	X	X	X	X	X	X	X	P
Service stations	X	X	X	X	X	X	C	C	X	X	X



*PC/Codebook  
Township of Lumberton, NJ*

Sexually oriented business	X	X	X	X	X	X	X	X	C	X	X
Shopping center	X	X	X	X	X	X	X	P	X	X	X
Telecommunications towers and antennas	X	X	X	X	X	X	C	C	C	C	X
Townhouses	X	X	P	P	P	X	X	X	X	X	X
Utility facilities and structures	C	C	C	C	X	C	C	C	P	P	X
Warehouse, shipping, receiving	X	X	X	X	X	X	X	X	P	P	X

P = Permitted Use

C = Conditional Use

X = Nonpermitted Use

## Chapter 136, DOGS AND OTHER ANIMALS

[HISTORY: Adopted by the Township Committee of the Township of Lumberton: Art. I, 12-17-1973 by Ord. No. 1973-19 as part of Ch. VII of the 1973 Code; Art. II, 12-3-1990 as Ord. No. 1990-20. Amendments noted where applicable.]

### GENERAL REFERENCES

Noise -- See Ch. 201.

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## ARTICLE I, General Provisions [Adopted 12-17-1973 by Ord. No. 1973-19 as part of Ch. VII of the 1973 Code]

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### § 136-1. Definitions.

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

DOG -- Any dog, bitch or spayed bitch.

DOG OF LICENSING AGE -- Any dog which has attained the age of seven months or which

possesses a set of permanent teeth.<sup>EN(147)</sup>

**KENNEL** -- Any establishment wherein or whereon the business of boarding or selling dogs or breeding dogs for sale is carried on.

**OWNER** -- When applied to the proprietorship of a dog, includes every person having a right of property in such dog and every person who has such dog in his keeping.

**PET SHOP** -- Any room or group of rooms, cage or exhibition pen, not part of a kennel, wherein dogs for sale are kept or displayed.

**POUND** -- An establishment for the confinement of dogs seized under the provisions of this Article or otherwise.

### **§ 136-2. Registrar of Dogs.**

The Township Committee shall annually by resolution appoint a suitable resident of the Township as Registrar of Dogs to serve for a term of one year. The Committee shall also fix the time and place the Registrar shall be available for registering dogs.

### **§ 136-3. Licensing requirements, fees.**

A. License required. No person shall keep or harbor any dog within the Township except in compliance with this chapter and without first obtaining a license therefor from the registrar. Licenses shall be required of all dogs of licensing age, including:

- (1) Any dog acquired by any person during the course of any calendar year and kept within the Township for more than 10 days after acquisition.
- (2) Any unlicensed dog brought into the Township by any person and kept within the Township for more than 10 days.
- (3) Any dog licensed by another state brought into the Township by any person and kept within the Township for more than 90 days.

B. Application for license. Each application for a license under this section shall give the following information:

- (1) A general description of the dog sought to be licensed, including breed, sex, age, color and markings, and whether such dog is of a longhaired or shorthaired variety.
- (2) The name, street and post office address of the owner of and the person who shall keep

or harbor such dog.

- C. Registration numbers shall be issued in the order in which applications are received.
- D. Date of application. Applications for licenses for dogs which are required to be licensed shall be made within 10 days of the day upon which the dog in question first becomes subject to the provisions of this Article.
- E. License record. The information on all applications under this Article and the registration number issued to each licensed dog shall be preserved for a period of three years by the Registrar. In addition, he shall report to the State Department of Health each month on forms furnished by the Department.
- F. Expiration date. Each dog license and registration tag shall expire on the last day of January of each year.
- G. Fees. [Amended 10-15-1979 by Ord. No. 1979-14; 5-18-1981 by Ord. No. 1981-5; 12-21-1981 by Ord. No. 1981-10; 10-3-1983 by Ord. No. 1983-9; 12-16-1985 by Ord. No. 1985-17; 12-3-1990 by Ord. No. 1990-20]
  - (1) The person applying for a license shall pay a fee of \$7 for each dog. He shall also pay a registration fee of \$1 and a pilot clinic fee of \$0.20 for each dog. In addition, a surcharge of \$3 will be assessed for each license issued for a nonneutered or nonspayed dog of reproductive age. Those owners presenting a statement signed by a veterinarian or a notarized statement signed personally certifying that their dog has been sterilized will be exempt from the fee of \$3. This license fee will be subject to a late charge penalty of \$2 for any person applying for a license and registration tag on or after February 1 in any license year for any dog which was required to be licensed and registered under the provisions of this Article and could have been licensed and registered thereunder during the month of January of the license year.
  - (2) Notwithstanding the licensing and registration provisions contained in Subsection G(1), the fee for issuing a special license for a potentially dangerous dog pursuant to Article II hereof shall be \$700 for said license for each dog and for each annual renewal, and said licenses, registration tags and renewals thereof shall expire on the last day of March of each year. Notwithstanding any other provisions of this Article, all fines and fees collected or received by the municipality pursuant to N.J.S.A. 4:19-29 through 4:19-31, or any amendments or supplements thereto, the enabling statute, shall be deposited in a special account and used by the municipality to administer and enforce the provisions of said statute.
- H. Exceptions. The provisions of this section shall not apply to any dog licensed under § 136-4 of this Article. Dogs used as guides for blind persons and commonly known as "Seeing Eye"

dogs, dogs used to assist handicapped persons and commonly known as "service" dogs or dogs used to assist deaf persons and commonly known as "hearing ear" dogs shall be licensed and registered in the same manner as other dogs, except that the owner or keeper shall not be required to pay any fee.<sup>EN(148)</sup>

**§ 136-4. Kennels and pet shops, fees.**

- A. License required. Any person who keeps or operates or proposes to establish a kennel or pet shop shall apply to the Registrar for a license entitling him to keep or operate such establishment. Any person holding such license shall not be required to secure individual licenses for dogs owned by such licensee and kept at such establishments; such licenses shall not be transferable to another owner or different premises.
- B. Application information.
  - (1) The application shall contain the following information:
    - (a) The name and permanent and local address of the applicant.
    - (b) The street address where the establishment is located or proposed to be located, together with a general description of the premises.
    - (c) The purposes for which it is to be maintained.
  - (2) Each application shall be accompanied by the written approval of the Health Officer of the Board of Health that the establishment or proposed establishment complies with local and state rules governing the location of and sanitation at such establishment.
- C. License term. All licenses issued for a kennel or pet shop shall state the purpose for which the establishment is maintained, and all such licenses shall expire on the last day of June of each year.<sup>EN(149)</sup>
- D. License fees. The annual license fees for kennel and pet shop licenses shall be as follows:
  - (1) Kennel accommodating 10 or fewer dogs: \$10.
  - (2) Kennel accommodating more than 10 dogs: \$25.
  - (3) Pet shop: \$10.
- E. Compliance with state regulations. All licenses issued for a kennel or pet shop shall be subject to revocation by the Township Committee on recommendation of the State Department of Health or the Board of Health for failure to comply with the rules and regulations of the State Department of Health or the Board of Health, after the owner has

been afforded a hearing by either the State Department of Health or the Board of Health.

- F. Control of dogs off premises. No dog kept in a kennel or pet shop shall be permitted off premises except on a leash or in a crate or under other safe control.
- G. Reports to State Health Department. The Registrar shall forward to the State Department of Health a list of all kennels, pet shops and pounds licensed within 30 days after the licenses therefor are issued, which list shall include the name and address of the licensee and the kind of license issued.

**§ 136-5. Disposition of fees.**

- A. License fees and other moneys collected or received under the provisions of this Article, except the registration tag fees, shall be forwarded to the Chief Financial Officer within 30 days after collection or receipt and shall be placed in a special account separate from any of the other accounts of the Township and shall be used for the following purposes only: collecting, keeping and disposing of dogs liable to seizure under this Article; local prevention and control of rabies; providing anti-rabies treatment under the direction of the Local Board of Health for any person known or suspected to have been exposed to rabies; all other purposes prescribed by the statutes of New Jersey governing the subject; and for administering the provisions of this Article.
- B. Any unexpended balance remaining in such special account shall be retained therein until the end of the third fiscal year following and may be used for any of the purposes set forth in this section. At the end of the third fiscal year following, and at the end of each fiscal year thereafter, there shall be transferred from such special account to the general funds of the Township any amount then in such account which is in excess of the total amount paid into the special account during the last two fiscal years next preceding.
- C. The registration tag fee for each dog shall be forwarded within 30 days after collection by the Registrar to the State Department of Health.<sup>EN(150)</sup>

**§ 136-6. Dog canvass.**

The Registrar shall promptly after February 1 of each year cause a canvass to be made of all dogs owned, kept or harbored within the limits of the Township and shall report to the Clerk/Administrator, the Board of Health and the State Department of Health the results thereof, setting forth in separate columns the names and addresses of persons owning, keeping or harboring dogs; the number of licensed dogs owned, kept or harbored by each person, together with the registration number of each dog; the number of unlicensed dogs owned, kept or

harbored by each person, together with a complete description of each unlicensed dog.

**§ 136-7. Impoundment of dogs, procedure, causes.**

- A. Establishment of pound; Animal Control Officer. The Township Committee may by resolution establish a pound and appoint an Animal Control Officer. The Township Committee may by resolution enter into a contract with Animal Control Officers for the collection, keeping for redemption and destruction of all strays found within the Township limits in accordance with the provisions of this Article.
- B. Causes for impounding. The Animal Control Officer or any police officer may take into custody and impound or cause to be taken into custody and impounded any of the following dogs:
  - (1) Any unlicensed dog running at large in violation of the provisions of this Article.
  - (2) Any dog off the premises of the owner of or the person keeping or harboring such dog which such official or his agent has reason to believe is a stray dog.
  - (3) Any dog off the premises of the owner of or the person keeping or harboring such dog without a current registration tag on its collar.
  - (4) Any female dog in season off the premises of the owner of or the person keeping or harboring such dog.
  - (5) Any dog which has been determined to be a vicious dog as provided in Article II, provided that if such dogs cannot be seized with safety, they may be killed.
- C. Access to premises. Any officer or agent authorized or empowered to perform any duty under this Article is hereby authorized to go upon any premises to seize for impounding any dog which he may lawfully seize and impound when such officer is in immediate pursuit of such dog, except upon the premises of the owner of the dog if the owner is present and forbids the same.
- D. Notice of seizure.
  - (1) If any dog so impounded or seized wears a registration tag, collar or harness having inscribed thereon or attached thereto the name and address of any person or the owner of or the person keeping or harboring the dog is known, the Animal Control Officer or police officer shall immediately serve on the person whose address is given on the collar or on the person owning, keeping or harboring the dog a notice, in writing, stating that the dog has been seized and will be liable to be offered for adoption or destroyed if not

claimed within seven days after service of the notice.<sup>EN(151)</sup>

- (2) A notice under this subsection may be served either by delivering it to the person on whom it is to be served or by leaving it at the person's usual or last known place of abode or at the address given on the collar or by forwarding it by mail in a prepaid letter addressed to that person at his usual or last known place of abode or to the address given on the collar.
- E. Care of impounded dogs. It shall be the duty of the Animal Control Officer to keep male and female dogs separate at all times and to segregate and keep segregated all sick animals and animals suspected of being infected with any communicable disease. Every dog seized or impounded under this section shall be kept, fed and kindly treated by the Animal Control Officer for the period of time as provided by this section.
- F. Destruction of unclaimed dogs. The Animal Control Officer or any person authorized under this Article to do so may cause the destruction of any unclaimed dog in as humane a manner as possible under any of the following contingencies:
- (1) When any dog so seized has not been claimed by the person owning, keeping or harboring such dog within seven days after notice or within seven days of the dog's detention when notice has not been or cannot be given, as set forth in the previous subsections.
  - (2) If the person owning, keeping or harboring any dog so seized has not claimed the dog and has not paid all expenses incurred by reason of its detention, including the sum of \$5 for the first 12 hours and the sum of \$1 for each additional day thereafter.
  - (3) If the seized dog is unlicensed at the time of its seizure and the person owning, keeping or harboring such dog has not produced a license and registration tag as provided in this Article.

**§ 136-8. Prohibited acts.**

No person shall own, keep or harbor a dog in the Township except in compliance with the provisions of this Article and the following regulations.

- A. Wearing of registration. All dogs which are required by the provisions of this Article to be licensed shall wear a collar or harness with the registration tag for such dog securely fastened thereto.
- B. Use of registration tags. No person, except an officer in the performance of his duties, shall remove a registration tag from the collar of any dog without the consent of the owner, not

shall any person attach a registration tag to a dog for which it was not issued.

- C. Interference with official duties. No person shall hinder, molest or interfere with anyone authorized or empowered to perform any duty under this Article.
- D. Disturbing the peace. No person shall own, keep, harbor or maintain any dog which habitually barks or cries.
- E. Leashing of dogs. No person owning, keeping or harboring any dog shall permit it upon a public highway or outside of the premises occupied by the owner unless such dog is securely confined and controlled by an adequate leash not more than six feet long and is accompanied by a responsible person over the age of 12 years.
- F. Property damage. No person owning, keeping or harboring a dog shall permit or suffer it to do any injury or to do any damage to any lawn, shrubbery, flowers, grounds or property.
- G. No person owning, harboring, keeping or in charge of any dog, cat or other animal shall cause, suffer or allow such dog, cat or other animal to soil, defile, defecate on or commit any nuisance on any common thoroughfare, sidewalk, passageway, bypath, play area, park or any place where people congregate or walk or upon any public property whatsoever or upon any private property without the permission of the owner of such property. [Added 4-6-1998 by Ord. No. 1998-13]
- H. Any person owning, harboring, keeping or in charge of any dog, cat or other animal which soils, defiles, defecates on or commits any nuisance on any common thoroughfare, sidewalk, passageway, bypath, play area, park or any place where people congregate or walk or upon any public property whatsoever or upon any private property without the permission of the owner of such property shall immediately remove all feces deposited by such dog, cat or other animal by any sanitary method approved by the local health authority. [Added 4-6-1998 by Ord. No. 1998-13]
- I. The feces removed from the aforementioned designated areas shall be disposed of by the person owning, harboring, keeping or in charge of any such dog, cat or other animal in accordance with the provisions of this section, in a sanitary manner approved by the local health authority. [Added 4-6-1998 by Ord. No. 1998-13]
- J. The provisions of this section shall not apply to blind persons who may use dogs as guides. [Added 4-6-1998 by Ord. No. 1998-13]
- K. Limitation of ownership/custodianship. No person shall be defined to include a family unit, and no owner, as that term is defined in § 136-1 of this chapter, shall keep, harbor or have possession or custody of more than four dogs on any one residential premises within the Township. The only exceptions will be in the instance of a lawfully operating kennel or pet



shop. This restriction shall not include the temporary keeping of puppies for a maximum of 90 days which have been born to a female dog on the premises at the time of the birth of said puppies. [Added 12-16-2002 by Ord. No. 2002-15]

**§ 136-9. Regulation of cats. [Amended 4-3-2000 by Ord. No. 2000-9]**

A. Title; repeal of prior regulations. This section of Chapter 236 shall be known as the "Regulation of Cats Ordinance of the Township of Lumberton." This section shall supersede, repeal and replace the heretofore existing § 236-9 of the Code of the Township of Lumberton.

B. Definitions. As used in this section, the following terms shall have the meanings indicated, within this section:

CAT -- Any animal of the feline species, whether male or female.

FERAL CAT -- A wild or stray cat that is not owned by an owner, as defined herein. Reference to cats in the singular or plural shall be read to include both as the case may require.

HARBOR -- To provide food, shelter, health care or any other care to cats, whether on a regular or irregular basis, and whether the cats are vaccinated or housed.

OWN -- When applied to the proprietorship of a cat, includes possessing cats by providing regular care by way of food, shelter and/or health care.

OWNER -- When applied to the proprietorship of a cat, includes every person having a right of property in such cat and every person who has such cat in his keeping. For purposes of this section, the singular shall mean the plural, as the case may require.

POUND -- An establishment for the confinement of cats seized either under the provisions of this section or otherwise.

PUBLIC NUISANCE -- A cat shall be considered a "public nuisance" if it has no known owner or custodian, if it has no known place of care or shelter or if it trespasses upon or damages either private or public property or annoys or harms lawful users or occupants thereof.

C. Control of cats. Any person who owns or harbors any cat at any place within the Township or who permits any cat to enter the corporate limits of the Township shall exercise sufficient and proper care of and control over such animal at all times so as to prevent the same from becoming a public nuisance, as defined in this section.

D. Rabies vaccination. It shall be unlawful for any owner or custodian of such cats to own or harbor such animal for a period of time exceeding seven business days unless said cat has

been properly vaccinated with a rabies vaccine approved by the New Jersey Department of Health and Senior Services (NJDH&SS). Said vaccination shall be administered only by a licensed veterinarian or vet tech, under the supervision of a licensed veterinarian. After the initial vaccination, each cat shall be revaccinated at an interval approved by the NJDH&SS.

- E. Certification of vaccination. Certification of vaccination/receipts issued by the veterinarian shall be kept by the owner or custodian of said cat for the purpose of not only the animal's health records, but also for display upon the request by any animal control warden, law enforcement officer or the Animal Registrar of the Township of Lumberton at the time such documentation is requested.
- F. Limitation on ownership/custodianship. Individual households in the Township of Lumberton shall be limited to a maximum of any combination of six cats housed on the premises and shall be required to obtain proper vaccination for such cats. The only exceptions will be in the instance of a lawfully operating kennel or pet shop. Owners of property designated as farmland, provided that owners are actively engaged in the operation of said farm, shall be exempt from this provision.
- G. Harboring of cats. Any individual found feeding or in any way attracting or harboring cats and/or feral cat colonies without complying with the vaccination and other provisions of this section shall be deemed in violation of this provision and will be responsible for any costs incurred by the Township of Lumberton in the process of the collection and surrendering of said cats, as well as any fines or penalties hereinafter set forth.
- H. Establishment of feral cat colonies prohibited. Inasmuch as cats are generally considered to be domestic animals/pets, wildlife preserves such as cat colonies for feral cats may contribute to public health potential for rabies in the wildlife community and place residents at added risk. Therefore, the establishment of feral cat colonies is not permitted. The setting out of food or liquids, empty dishes and bowls shall operate as evidence of the establishment of feral cat colonies. Such evidence shall act as a presumption against the individual. Any individual harboring a feral cat colony will be in violation of this provision and subject to payment to the Township of any fees/costs as well as any fines/penalties associated with violation of this section.
- I. Establishment of pound; Animal Control Officer. The Township Committee may by resolution establish a pound and appoint an Animal Control Officer. The Township Committee may by resolution enter into a contract with Animal Control Officers for the collection, keeping for redemption and destruction of all cats found to be a public nuisance and within the municipal limits in accordance with the provision of this section.
- J. Impounding of cats. The Animal Control Officer, any police officer or any other person designated by the Township Committee as a person authorized to enforce the provisions of

this section shall, upon receipt of a complaint that a cat is a public nuisance, seize the cat and keep the same in his care and custody for a period of seven full days from the date of apprehension, provided that the owner can pick up said cat at any time following payment of the necessary fees set forth under Subsection L below.

K. Notice of seizure.

- (1) If any cat apprehended pursuant to the provisions of this section bears any identification of ownership or place of abode, the Animal Control Officer or other duly authorized apprehending official shall, on the date of apprehension, notify the owner or the occupant of the place of abode that the animal has been apprehended and that it may be claimed at a designated location, subject to the provisions of this section.
- (2) A notice under this section may be served either by delivering it to the person on whom it is to be served or by leaving it at the person's usual or last known place of abode or by forwarding it by the post and in a prepaid letter addressed to that person at his usual or last known place of abode.

L. Claiming impounding cats. During the seven-day custodial period, any cat so incarcerated may be claimed by its owners upon payment to the Animal Control Officer or authorized custodian of all reasonable expenses incurred by reason of its detention, including the sum of \$35 for the pickup of the cat, the sum of \$5 for the first 12 hours and the sum of \$1 for each additional day or fraction thereof thereafter.

M. Disposition of unclaimed cats. Any cat which has been seized pursuant to this section and which has not been reclaimed during the custodial period herein set forth may be claimed by any person willing to assume the responsibilities of ownership. Otherwise, the cat may be disposed of by the Animal Control officer or other duly designated official in as humane a manner as possible.

N. Fines and penalties. Any individual found to be in violation of this section shall be responsible for the fees and costs associated with the pickup, detainment and disposition of cats and feral cats, as well as a fine of at least \$50 and no greater than \$500 in the discretion of the Municipal Court Judge.

**§ 136-10. Violations and penalties. [Amended 12-3-1990 by Ord. No. 1990-20]**

Unless otherwise specifically provided for in this article, any person who violates any of the provisions of this article or does any act or thing herein prohibited, or neglects, fails or refuses to do any act or thing herein required to be done shall, upon conviction thereof before the Municipal Judge or other judicial officer authorized to hear and determine the matter, forfeit and pay such fine, not less than \$5 nor more than \$50 for each offense, as shall be imposed by the Judge or

other judicial officer, in his or her discretion.

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**ARTICLE II, Vicious Dogs [Adopted 12-3-1990 by Ord. No. 1990-20<sup>EN(152)</sup>]**

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**§ 136-11. Definitions.**

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

**ANIMAL CONTROL OFFICER** -- A certified municipal animal control officer or, in the absence of such an officer, the chief law enforcement officer of the municipality or his designee.

**DEPARTMENT** -- The New Jersey State Department of Health.

**DOG** -- Any dog or dog hybrid of either sex, whether or not neutered or spayed.

**DOMESTIC ANIMAL** -- Any cat, dog or livestock other than poultry.

**ENABLING STATUTE** -- Refers to N.J.S.A. 4:19-17 et seq., and all amendments thereof and supplements thereto.

**PANEL** -- Any panel selected pursuant to the enabling statute.

**POTENTIALLY DANGEROUS DOG** -- Any dog or dog hybrid declared potentially dangerous by the panel pursuant to the enabling statute.

**VICIOUS DOG** -- Any dog or dog hybrid declared vicious by the panel pursuant to the enabling statute.

**§ 136-12. Complaint procedure.**

- A. It shall be the duty of the Chief of Police of this municipality to receive and investigate complaints involving attacks or bites by dogs, dogfighting activities and the training or encouragement of dogs to make unprovoked attacks upon persons or domestic animals.
- B. It shall be the duty of all appropriate Township officials to enforce the provisions of the enabling statute as applicable within the Township. In the event that a hearing is to be convened pursuant to the statute just cited, the County Board of Health shall be notified and shall convene such a hearing, select the panel, conduct the hearing and carry out the decisions of the panel.
- C. The owner of any dog which has been declared vicious or potentially dangerous shall be

responsible for all actual costs and expenses of impounding and destroying said dog, convening said hearing, the notices in connection therewith and all other related expenses incurred by the Township. In the event that any dog is impounded pursuant to the enabling statute in a facility other than the Township pound, the owner shall be responsible for all actual costs and expenses of impounding said dog, regardless of whether the dog is declared vicious or potentially dangerous.

**§ 136-13. Special license required.**

No person shall keep or harbor within the Township of Lumberton any dog which has been declared potentially dangerous without obtaining from the Township Clerk/Administrator a special municipal license and complying with all requirements of the enabling statute, this Article and the order of the panel. The fee for a license to keep in the municipality a potentially dangerous dog shall be as set forth in § 136-3G of Article I of this chapter. The Township Clerk/Administrator, when issuing such a license, shall assign a municipal registration number in accordance with the uniform statewide municipal registration system established by the regulations of the Department, together with a red identification tag. Prior to the issuance of such a license, the Animal Control Officer shall verify to the Township Clerk/Administrator that the owner of the dog has complied with the panel's orders.

**§ 136-14. Seizure and impoundment.**

Notwithstanding any other provisions of this Article, the seizure and impoundment of dogs pursuant to the enabling statute and as provided for in this Article, shall be governed by the provisions of the statute cited.

**§ 136-15. Disposal of impounded dogs.**

Any dog that has been impounded pursuant to the provisions of this Article and the statute herein cited who remains unclaimed for seven days after notice or for seven days after seizure when it is not possible to serve notice shall be subject to disposal, except as may be otherwise required by the enabling statute and this Article. The Animal Control Officer may cause any dog subject to disposal to be humanely put to death in a manner causing the least possible pain to the dog.

**§ 136-16. Violations and penalties.**

The owner of a potentially dangerous dog who is found by a preponderance of the evidence to have violated the statute herein cited or any rule or regulation adopted pursuant thereto or to have

failed to comply with the panel's order shall be subject to a fine of not more than \$1,000 per day of the violation, and each day's continuance of the violation shall constitute a separate and distinct violation. The Lumberton Township Municipal Court shall have jurisdiction to enforce this penalty. An Animal Control Officer is authorized to seize and impound any potentially dangerous dog whose owner falls to comply with the provisions of the statute or any rule or regulation adopted pursuant thereto or a panel's order. The Municipal Court may order that the dog so seized and impounded be destroyed in an expeditious and humane manner.

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## **Chapter 139, DRAINAGE**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Sewers and septic systems -- See Ch. 238.  
Soil removal and erosion control -- See Ch. 246.  
Streets and sidewalks -- See Ch. 250.

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## **ARTICLE I, Municipal Storm Drains [Adopted 9-4-1990 by Ord. No. 1990-14]**

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### **§ 139-1. Submission of plan required before increase of impervious surface.**

Anyone owning or having control over a dwelling or commercial building is prohibited from regrading the land to such an extent as to change the direction of surface water flow or to install a sump pump or pumps, to utilize roof drains or footing and foundation drains or field tile drains or to in any other way or through any other means increase impervious surface from patios, home additions, garden sheds, garages and greenhouses until a detailed plan covering such activity has been prepared and submitted to the Construction Official and Township Engineer for review.

### **§ 139-2. Review of plan.**

The Construction Official and Township Engineer shall review the plan referred to in the preceding section to determine if the activity contemplated would substantially increase the flow of water from the applicant's property into municipal storm drains, including ditches and pipes, so as to create an unreasonable hazard, either to the drainage system itself or in general for the community.

**§ 139-3. Decision; appeal.**

- A. In the event that the Construction Official and/or Township Engineer concludes that the proposed activity or use should not be undertaken, either of them shall submit a report to the applicant and to the Township Clerk/Administrator outlining the reasons why such activity or use is disapproved.
- B. An applicant desiring to appeal the decision of the Construction Official and/or Township Engineer must, within 20 days of receiving said report, make application to the Land Development Board in the same manner and pursuant to the same procedures as would be followed in an application for a use variance pursuant to N.J.S.A. 40:55D-70, or any amendments or supplements thereto, and Chapter 130, Development Regulations, of the Code of this Township. [Amended 1-20-2004 by Ord. No. 2004-1]

**§ 139-4. Fees.**

- A. Upon application for review by the Construction Official and/or Township Engineer pursuant to this article, a fee of \$50 will be assessed.
- B. In the event of an appeal to the Land Development Board under this article, an additional fee of \$50 will be assessed. [Amended 1-20-2004 by Ord. No. 2004-1]
- C. These fees are intended to defray the administrative costs and professional fees incurred by the municipality in conducting the review in the first instance and to defray similar costs and expenses in the event of an appeal.

**§ 139-5. Effect of other provisions.**

This article shall apply in all cases and to all owners or users of property affected, notwithstanding the fact that other ordinances may exempt from regulation the principal use to which said property is dedicated.

**§ 139-6. Violations and penalties. [Amended 8-3-1992 by Ord. No. 1992-6]**

- A. Maximum penalty. For violation of any provisions of this Article, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem

appropriate and just.

- B. Separate violations. Each and every day in which a violation of any provision of this article exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.
- E. No violation shall be deemed to occur during the period of an appeal as provided for in this article.

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**ARTICLE II, Municipal Ditches [Adopted 10-5-1990 by Ord. No. 1990-18]**

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**§ 139-7. Piping prohibited.**

Anyone owning or having control over a dwelling or commercial building that is located adjacent to or in close proximity with a ditch owned and/or maintained by the Township of Lumberton is prohibited from placing pipes of any kind from said dwelling or commercial structure to said ditch for the purpose of transporting liquid substances of any kind.

**§ 139-8. Removal at expense of owner.**

Upon discovering piping placed in violation of this article, the Township, through its Zoning Officer, Police Department or Public Works Department, may order said piping removed within a reasonable time, and in the event that it is not removed within the time period set, the Township may arrange for its removal at the expense of the property owner or person having control over said property. In the event that the Township must remove said pipe, the complete cost for the same shall be assessed against the property and shall become a lien thereon.

**§ 139-9. Violations and penalties. [Amended 8-3-1992 by Ord. No. 1992-6]**

- A. Maximum penalty. For violation of any provisions of this article, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term



not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.

- B. Separate violations. Each and every day in which a violation of any provision of this article exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

## Chapter 141, DRUG-FREE ZONES

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 9-6-1988 by Ord. No. 1988-22; amended in its entirety 9-21-1998 by Ord. No. 1998-27. Subsequent amendments noted where applicable.]

### § 141-1. Adoption of map. [Amended 1-18-2005 by Ord. No. 2005-1]

In accordance with and pursuant to the authority of P.L. 1988, c. 44 (N.J.S.A. 2C:35-7) and P.L. 1997, c. 327 (N.J.S.A. 2C:35-7.1), the Drug-Free Zone Map produced December 2004 by David J. Latini, Township Engineer, which replaces previous maps produced in July 1993 and July 1998 by Richard A. Alaimo Associates, is hereby approved and adopted as an official finding and record of the location and areas within the municipality of property which is used for school purposes and which is owned by or leased to an elementary or secondary school or school board, and of the areas on or within 1,000 feet of such school property; and for public housing facilities, public parks or publicly owned or leased libraries or museums as defined in P.L. 1997, c. 327, and of the areas on or within 500 feet of such public housing facilities, public parks, public buildings or publicly owned or leased libraries or museums.

### § 141-2. Map to constitute official findings.

The Drug-Free Zone Map approved and adopted pursuant to § 141-1 of this chapter shall continue to constitute an official finding and record as to location and boundaries of areas on or within 1,000 feet of property owned by or leased to any elementary or secondary school or school board which is used for school purposes or within 500 feet of property owned by or leased to any

public entity for a public housing facility, public park purposes or library or museum purposes until such time, if any, that this chapter shall be amended to reflect any additions or deletions with respect to the location and boundaries of such properties and drug-free zones.

**§ 141-3. Notification of changes in boundaries.**

The school board, or the chief administrative officer in the case of any private or parochial school, and the Township Clerk are hereby directed and shall have the continuing obligation to promptly notify the Municipal Engineer and the Municipal Solicitor of any changes or contemplated changes in the location and boundaries of any property owned by or leased to any elementary or secondary school or school board and which is used for school purposes or to any public housing facility or for any public park or library or museum purposes.

**§ 141-4. Map to be filed.**

The Clerk of the Township is hereby directed to receive and to keep on file the original of the map approved and adopted pursuant to § 141-1 of this chapter and to provide at a reasonable cost a true copy thereof to any person, agency or court which may from time to time request such a copy, along with a certification that such copy is a true copy of the map approved and adopted herein and kept on file. It is hereby further directed that a true copy of such map and of this chapter shall be provided without cost to the Clerk of Burlington County and to the office of the Burlington County Prosecutor.

**§ 141-5. Additional findings.**

The following additional matters are hereby determined, declared, recited and stated:

- A. It is understood that the map approved and adopted pursuant to § 141-1 of this chapter was prepared and is intended to be used as evidence in the prosecutions arising under the criminal laws of this state and that, pursuant to state law, such map shall constitute prima facie evidence of the following:
- (1) The location of elementary and secondary schools, of public housing facilities, of public parks and of libraries and museums within the municipality.
  - (2) The boundaries of the real property which are owned by or leased to such schools or a school board or to such entities as may be responsible for the public housing facility, public park or libraries or museums.
  - (3) That such school(s) and public property(ies) are and continue to be used for school

- purposes or for public housing facilities, public parks and/or libraries or museums.
- (4) The location and boundaries of areas which are on or within 1,000 feet of such school properties or on or within 500 feet of such public housing facilities, public parks or libraries or museums.
- B. All of the property depicted on the map approved and adopted herein as school property, or as public housing facilities, public parks or libraries or museums were owned by or leased to a school or school board and were being used for school purposes as of July 9, 1987 (the effective date of P.L. 1988, c. 44), and/or were owned by or leased to a public entity and being used for public housing facilities, public parks or libraries or museums as of January 9, 1998 (the effective date of P.L. 1997, c. 327).
- C. Pursuant to the provisions of P.L. 1988, c. 44, and P.L. 1997, c. 327, a prosecutor is not precluded from introducing or relying upon any other evidence or testimony to establish a violation of the offense defined in those statutes, including use of a map or diagram other than the one approved and adopted pursuant to § 141-1 of this chapter. The failure of the map approved herein to depict the location and boundaries of any properties which are, in fact, used for school purposes, public housing facilities, public parks or libraries and museums and which are owned by or leased to any elementary or secondary school or school board, as applicable, or to any other public entity operating the public housing facility, public park or library/museum, as applicable, whether the absence of such depiction is the result of inadvertent omission or the result of any changes in the location and boundaries of such property which have not yet been incorporated into a revised approved map, shall not be deemed to be an official finding and record that such property is not owned by or leased to the applicable public entity or that such property is not used for the applicable public purposes (i.e., school purposes, public housing facilities, public parks or libraries or museums).
- D. All of the requirements set forth in P.L. 1988, c. 44, concerning the preparation, approval and adoption of a Drug-Free School Zone Map, and the provisions of P.L. 1997, c. 327, concerning the preparation, approval and adoption of a Drug-Free Public Facility/Public Park Zone Map, have been complied with.

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## **Chapter 147, FARMING**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

**Land development regulations -- See Ch. 130.**

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**ARTICLE I, Right to Farm [Adopted 2-17-2004 by Ord. No. 2004-7]**

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**§ 147-1. Permitted use; rights defined.**

- A. The right to farm, as defined in N.J.S.A. 4:1C-3, is hereby recognized to exist in the Township of Lumberton, in the County of Burlington, and is hereby declared a permitted use in all zones of this Township where an agricultural use is preexisting.
- B. This right to farm includes, but not by way of limitation:
- (1) Production of agricultural and horticultural crops, trees and forest products, livestock and poultry and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping.
  - (2) Housing and employment of necessary farm laborers.
  - (3) Erection of necessary agricultural buildings ancillary to agricultural and horticultural production.
  - (4) The grazing of animals and use of range for fowl.
  - (5) Construction of fences for livestock and fowl, as well as to control depredation by wildlife.
  - (6) The operation and transportation of large, slow-moving equipment over roads within the Township of Lumberton.
  - (7) Control of pests, predators and diseases of plants and animals.
  - (8) Conduct agricultural-related education and farm-based recreational activities, provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm and permission of the farm owner and lessee is obtained.
  - (9) Use of irrigation pumps and equipment, aerial and ground seeding and spraying, tractors, harvest aides and other equipment.
  - (10) Processing and packaging of the agricultural output of the commercial farm.
  - (11) The operation of a farm market, including the construction of business and parking areas in conformance with Lumberton Township standards.

- (12) The operation of a pick-your-own operation, meaning a direct marketing alternative wherein retail or wholesale customers are invited onto a commercial farm in order to harvest agricultural, floricultural or horticultural products.
  - (13) Replenishment of soil nutrients and improvement of soil tilth.
  - (14) Clearing of woodlands using open burning and other techniques; installation and maintenance of vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetland areas.
  - (15) On-site disposal of organic agricultural wastes.
  - (16) The application of manure and chemical fertilizers, insecticides and herbicides in accordance with manufacturers' instructions.
  - (17) Agricultural-related educational and farm-based recreational activities, provided that the activities are related to marketing the agricultural or horticultural output of the farm, including but not limited to equestrian activities, including the boarding of horses and riding instructions.
- C. The foregoing activities must be in conformance with applicable federal and state law.
  - D. The foregoing practices and activities may occur on holidays, weekdays and weekends by day or night and shall include the attendant or incidental noise, odors, dust and fumes associated with these practices.
  - E. It is hereby determined that whatever nuisance may be caused to others by these uses and activities is more than offset by the benefits of farming to the neighborhood community and society in general.
  - F. Any person aggrieved by the operation of a commercial farm shall file a complaint with the applicable county agriculture development board or the State Agriculture Development Committee in counties where no county board exists prior to filing an action in Court.
  - G. An additional purpose of this article is to promote a good neighbor policy by advising purchasers and users of property within 500 feet from the lot line of any agricultural operation of the potential discomforts associated with such purchase or residence. It is intended that, through mandatory disclosures, purchasers and users will better understand the impacts of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near land actively devoted to commercial agriculture (or in an Agricultural Development Area, meaning an area identified by a county agriculture development board pursuant to the provisions of N.J.S.A. 4:1C-18, and certified by the State Agriculture Development Committee). The disclosure required by this paragraph is set forth

in the disclosure form attached hereto and made a part hereof.<sup>EN(153)</sup>

- H. It is the intent of this article to require all developers in Lumberton Township to include language in their deeds advising buyers of this Right to Farm Ordinance and to permit the Land Development Board to require this language as part of any subdivision or site plan approval.
- I. The Township Land Development Board shall, as part of any subdivision or site plan approval, direct any developer to include in their deeds to buyers advisement of this Right to Farm Ordinance.

## Chapter 149, FIRE INSURANCE CLAIMS

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 1-16-1996 by Ord. No. 1996-1. Amendments noted where applicable.]

### GENERAL REFERENCES

- Fire prevention -- See Ch. 152.
- Housing standards -- See Ch. 168.
- Smoke detectors -- See Ch. 242.

#### § 149-1. Prerequisite for payment of insurance.

No insurance company authorized to issue fire insurance policies in this state shall pay any claims in excess of \$2,500 on any real property located within the Township of Lumberton unless or until the insured person or entity submits an official certificate of search for municipal liens pursuant to N.J.S.A. 54:5-12, certifying that all taxes, assessments or other municipal liens or charges, including any and all demolition costs incurred by the municipality, levied and assessed and due and payable against said property have been paid, or secures a certified copy of a resolution adopted pursuant to § 149-4 of this chapter.

#### § 149-2. Revision of tax search certificate.

The official certificate of search may, from time to time, be altered, by the bonded official responsible for preparing such certificates, in order to correct any errors or omissions or to add any municipal liens or related charges due and payable subsequent to the preparation of the official certificate.

**§ 149-3. Payment of liens.**

Unless a resolution is received in accordance with § 149-4 of this chapter by the insurance company writing the fire insurance policy on property in the Township of Lumberton, such insurance company is hereby directed and required, prior to the payment of any claims for fire damages in excess of \$2,500, to pay to the township the amount of the liens appearing on the official certificate and such other recorded liens or related charges as may be certified to the insurance company; provided, however, that if an appeal is taken on the amount of any lien or charge, other than an appeal on the assessed valuation of real property pursuant to N.J.S.A. 54:3-21, the insurance company shall withhold 75% of the full amount of the lien or charge being contested pending termination of all proceedings, at which time such moneys and all interest accruing thereon at a rate paid on interest-bearing accounts in banking institutions in the state shall be disbursed in accordance with the final order or judgment of the Court.

**§ 149-4. Payment of liens in installments.**

The governing body of the Township of Lumberton may enter into an agreement with the owner of any fire damaged property to pay in full all delinquent taxes, assessments or other municipal liens or charges by installments pursuant to N.J.S.A. 54:5-19 or for the redemption of the tax sale lien by installment payments pursuant to Article 7, Chapter 5, Title 54, of the Revised Statutes<sup>EN(154)</sup> if the governing body of the Township of Lumberton is satisfied that the claim for fire damages is to be used to restore or improve the fire damaged property. An insurance company receiving a certified copy of a resolution of agreement from the governing body is authorized to make full payment on the claim to the insured person or entity.

**§ 149-5. Priority of claims.**

A municipal claim made in accordance with the provisions of this chapter shall be paramount to any other claims on the proceeds of the fire insurance policy, except the claim of a holder of a mortgage on the fire damaged property where the fire insurance policy at the time of the loss listed the mortgagee as a named insured, in which event the claim of the mortgagee to the proceeds shall be paramount to the municipal lien under this chapter only to the extent of the amount due and payable to the mortgagee under the mortgage documents.

**§ 149-6. Statutory provisions controlling.**

This chapter is adopted under and in accordance with P.L. 1978, c. 184, § 1 et seq. (N.J.S.A.

17:36-8, et seq.), and any amendments and supplements thereto, and any regulations promulgated pursuant thereto, and anything herein contained to the contrary shall be controlled by said legislative enactment and regulations.

## Chapter 152, FIRE PREVENTION

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 7-15-1985 as Ord. No. 1985-13 (Chapter XA of the 1973 Code). Amendments noted where applicable.]

### GENERAL REFERENCES

Alarm systems -- See Ch. 92.

Uniform construction codes -- See Ch. 121.

Smoke detectors -- See Ch. 242.

### § 152-1. Local enforcement. [Amended 6-6-1988 by Ord. No. 1988-12]

Pursuant to Section 11 of the Uniform Fire Safety Act (P.L. 1983, c. 383),<sup>EN(155)</sup> the New Jersey Uniform Fire Code shall be adopted by reference and locally enforced in the municipality of Lumberton.

### § 152-2. Local enforcing agency designated.

The local enforcing agency shall be the Bureau of Fire Prevention in the Township of Lumberton.

### § 152-3. Duties of local enforcing agency.

The local enforcement agency shall enforce the Uniform Fire Safety Act and the codes and regulations adopted under it in all buildings, structures and premises within the established boundaries of Lumberton Township, other than owner-occupied one- and two-family dwellings, and shall faithfully comply with the requirements of the Uniform Fire Safety Act and the Uniform Fire Code.

### § 152-4. Inspection of life hazard uses.

The local enforcing agency established by § 152-2 of this chapter shall carry out the periodic inspections of life hazard uses required by the Uniform Fire Code on behalf of the Commissioner



of Community Affairs.

**§ 152-5. Supervision and control. [Amended 6-6-1988 by Ord. No. 1988-12]**

The local enforcing agency established by § 152-2 of this chapter shall be under the direct supervision and control of the Fire Official, who shall report to the Director of the Department of Public Safety.

**§ 152-6. Appointment of Fire Official. [Amended 6-6-1988 by Ord. No. 1988-12]**

The local enforcing agency shall be under the supervision of a Fire Official who shall be appointed by Lumberton Township from among a list of three recommendations provided by the Chief of the Fire Department.

**§ 152-7. Term of office of Fire Official.**

The Fire Official shall serve for a term of one year. Any vacancy shall be filled for the unexpired term.

**§ 152-8. Appointment of inspectors and employees. [Amended 6-6-1988 by Ord. No. 1988-12]**

Such inspectors and other employees as may be necessary in the local enforcing agency shall be appointed by Lumberton Township upon the recommendation of the Chief of the Fire Department.

**§ 152-9. Removal from office.**

Inspectors and other employees of the enforcing agency shall be subject to removal by Lumberton Township, upon the recommendation of the Fire Official, for inefficiency or misconduct. Each inspector or employee to be so removed shall be afforded an opportunity to be heard by the appointing authority or a designated hearing officer.

**§ 152-10. Board of Appeals.**

Pursuant to Sections 15 and 17 of the Uniform Fire Safety Act,<sup>EN(156)</sup> any person aggrieved by any order of the local enforcement agency shall have the right to appeal to the Construction

Board of Appeals of Burlington County.

**§ 152-11. Fees, registration and permits. [Amended 6-6-1988 by Ord. No. 1988-12; 3-1-1993 by Ord. No. 1993-2;7-9-2004 by Ord. No. 2004-20]**

The inspection and permit fees established by the Uniform Fire Code, as updated, shall be charged by the Fire Official as follows:

A. Permit application fees:

Type	Fee
1	\$100
2	\$200
3	\$400
4	\$500
5	\$1,000

B. Annual registration fees for non-life-hazard uses:

(1) Use types shall be as follows:

Use Type	Abbreviation
Assembly	(A)
Business	(B)
Educational	(E)
Factory and industrial	(F)
High-hazard	(H)

<b>Use Type</b>	<b>Abbreviation</b>
Institutional	(I)
Mercantile	(M)
Storage	(S)
Utility and miscellaneous	(U)

- (2) Annual registration fees for non-life-hazard uses; Non-life hazards are those businesses that do not classify as a life hazard under the New Jersey Uniform Fire Code and are inspected by the Lumberton Township Fire Prevention Bureau on an annual cycle.

<b>Building Size (square feet)</b>	<b>Annual Fee</b>
0-2000	\$50
2001-4000	\$75
4001-6000	\$100
6001-8000	\$150
8001-10,000	\$200
10,001-12,000	\$250
12,001+	\$300

- C. Cyclical inspections and enforcement of Uniform Fire Code in hotels and multiple dwellings. Pursuant to the provisions of N.J.A.C. 5:71-3.6(f), and 3.6(f)(1), the Fire Official is hereby authorized to inspect hotels and multiple dwellings that are not life-hazard uses at a frequency of not less than once every five years as is currently permitted by N.J.A.C. 5:10. The term "hotels" shall mean hotels, motels, rooming houses and boardinghouses; the term "multiple dwellings" shall be interpreted to mean building sections containing more than four

dwelling units as well as those containing less than four dwelling units, unless: 1) the property is held under a condominium or cooperative form of ownership or by a mutual housing corporation; 2) is in the building that has no occupied dwelling units not occupied by unit owners, if a condominium, or by shareholders, if a cooperative or mutual housing corporation; 3) has at least two exterior walls unattached to any adjoining building section; and 4) is attached to any adjoining building sections exclusively by fire separation walls having a one-and-one-half-hour minimum fire-resistance rating, in the case of buildings constructed prior to January 1, 1977, or as required by the State Uniform Construction Code at the time of construction.

(1) The fee for such cyclical inspections shall be \$5 per dwelling unit per inspection.

## Chapter 155, FLAG, AMERICAN

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 8-1-1988 as Ord. No. 1988-19. Amendments noted where applicable.]

### § 155-1. Definition.

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

FLAG or AMERICAN FLAG -- Refers to the flag of the United States of America, as designated and authorized by Congress.

### § 155-2. Use and display.

When to display the American flag and how to fly it shall be governed by the Code of Etiquette for the Display and Use of the United States Flag, as set forth in P.L. 94-344, July 7, 1976, and its amendments and supplements, which is hereby incorporated by reference.

### § 155-3. Prohibited acts.

- A. The flag shall not be dipped to any person or thing and should never be displayed with the union down, save as a distress signal, and shall never be carried flat or horizontally but always aloft and free.
- B. The flag shall not be displayed on a float, motorcar or boat except from a staff.
- C. The flag shall never be used as a covering for a ceiling, nor have placed upon it any word, design or drawing. It shall never be used as a receptacle for carrying anything and shall not be

used to cover a statue or monument.

- D. The flag shall never be used for advertising purposes, nor be embroidered on such articles as cushions or handkerchiefs, printed or otherwise impressed on boxes or used as a costume or athletic uniform, and advertising signs shall not be fastened to its staff or halyard.
- E. The flag shall never be used as drapery of any sort and never festooned, drawn back nor up in folds, but always allowed to fall free. Only one American flag shall be displayed at one time at a business or residence and not displayed in a row or series along a roadway or property line.
- F. Although a citizen may fly the flag at any time he or she wishes, the American flag may be displayed only from sunrise to sunset on buildings and on stationary flagstaffs in the open; provided, however, that it may be displayed at night but should be lighted and, if flown outside, should be constructed of suitable all-weather material.
- G. The American flag shall not be publicly burned, mutilated or desecrated in any way or for any purpose. When the flag is in such a condition that it is no longer a fitting emblem for display, it may be destroyed in a dignified way, preferably by burning in private.

**§ 155-4. Violations and penalties.** EN(157)

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

## Chapter 157, FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 8-1-1983 as Ord. No. 1983-8 (Ch. XVII of the 1973 Code). Amendments noted where applicable.]

#### **GENERAL REFERENCES**

**Uniform construction codes -- See Ch. 121.**

**Development regulations -- See Ch. 130.**

#### **§ 157-1. Statutory authorization.**

The Legislature of the State of New Jersey has, in N.J.S.A. 40:48-1 et seq., or any amendments or supplements thereto, delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the Township Committee of the Township of Lumberton, in the State of New Jersey, does ordain the following.

#### **§ 157-2. Findings of fact.**

- A. The flood hazard areas of the Township of Lumberton are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

#### **§ 157-3. Purpose.**

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health.
- B. Minimize expenditure of public money for costly flood control projects.
- C. Minimize the need for rescue and relief efforts associated with flooding and generally

undertaken at the expense of the general public.

- D. Minimize prolonged business interruptions.
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard.
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

**§ 157-4. Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion or in flood heights or velocities.
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters.
- D. Controlling filling, grading, dredging and other development which may increase flood damage.
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

**§ 157-5. Word usage and definitions.**

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application.
- B. As used in this chapter, the following terms shall have the meanings indicated:

APPEAL -- A request for a review of the Building Inspector's interpretation of any provision of

this chapter or a request for a variance.

**AREA OF SHALLOW FLOODING** -- A designated AO Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD** -- That land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year.

**BASE FLOOD** -- The flood having a one-percent chance of being equaled or exceeded in any given year.

**BASEMENT** -- Any area of the building having its floor subgrade (below ground level) on all sides. [Amended 3-16-1987 by Ord. No. 1987-5]

**BREAKAWAY WALL** -- A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system. [Amended 3-16-1987 by Ord. No. 1987-5]

**DEVELOPMENT** -- Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

**ELEVATED BUILDING** -- A nonbasement building built, in the case of a building in an area of special flood hazard, to have the top of the elevated floor or, in the case of a building in a coastal high-hazard area, to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In an area of special flood hazard, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In areas of coastal high hazard, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls.

**FLOOD or FLOODING** -- A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD INSURANCE RATE MAP (FIRM)** -- The official map on which the Federal Insurance



Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** -- The official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary - Floodway Map and the water surface elevation of the base flood.

**FLOODWAY** -- The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 of one foot.

**LOWEST FLOOR** -- The lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's "lowest floor," provided that such enclosure is not built so to render the structure in violation of other applicable nonelevation design requirements. [Amended 3-16-1987 by Ord. No. 1987-5]

**MANUFACTURED HOME** -- A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles. [Added 3-16-1987 by Ord. No. 1987-5]

**MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION** -- A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale. [Added 3-16-1987 by Ord. No. 1987-5]

**NEW CONSTRUCTION** -- Structures for which the start of construction commenced on or after the effective date of this chapter.

**REPETITIVE LOSS** -- Flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred. [Added 7-10-2007 by Ord. No. 2007-12]

**START OF CONSTRUCTION** -- For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of

columns or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. [Amended 3-16-1987 by Ord. No. 1987-5]

**STRUCTURE** -- A walled and roofed building, a manufactured home or a gas or liquid storage tank that is principally above ground. [Amended 3-16-1987 by Ord. No. 1987-5]

**SUBSTANTIAL IMPROVEMENT**

- (1) Any combination of repairs, reconstruction, alteration, or improvements to a structure taking place during a ten-year period, in which the cumulative cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. NOTE: The market value of the building should be the appraised value of the structure prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual amount of repair work performed. This term does not, however, include either:  
[Amended 7-10-2007 by Ord. No. 2007-12]
  - (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which has been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
  - (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (2) For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure.

**VARIANCE** -- A grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

**§ 157-6. Applicability.**

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the

Township of Lumberton.

**§ 157-7. Basis for establishing areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Emergency Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study, Township of Lumberton," dated February 15, 1983, or any revision hereto, with accompanying Flood Insurance Rate Maps and Flood Boundary - Floodway Maps is hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file with the Township Clerk/Administrator at the Municipal Complex, Lumberton, New Jersey.

**§ 157-8. Violations and penalties. [Amended 8-3-1992 by Ord. No 1992-6]**

- A. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. For violation of the provisions of this chapter by failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with conditions, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.
- E. Nothing herein contained shall prevent the Township of Lumberton from taking such other lawful action as is necessary to prevent or remedy any violation.

**§ 157-9. Abrogation and greater restrictions.**

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and any other ordinance, easement, covenant or

deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**§ 157-10. Interpretation.**

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements,
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

**§ 157-11. Warning and disclaimer of liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Township of Lumberton, any officer or employee thereof or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**§ 157-12. Development permit.**

- A. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in § 157-7. Applications for a development permit shall be made on forms furnished by the Construction Official and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the locations of the foregoing.
- B. Specifically, the following information is required:
  - (1) The elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures.
  - (2) The elevation, in relation to mean sea level, to which any structure has been floodproofed.

- (3) A certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 157-18B.
- (4) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**§ 157-13. Designation of local administrator.**

The Construction Official is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

**§ 157-14. Duties and responsibilities of local administrator.**

Duties of the Construction Official shall include but not be limited to:

A. Permit review. The Construction Official shall:

- (1) Review all development permits to determine that the permit requirements of this chapter have been satisfied.
- (2) Review all development permits to determine that all necessary permits have been obtained from those federal, state or local government agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development is located in the floodway and, if located in the floodway, assure that the encroachment provisions of § 157-19A are met.

B. Use of other base flood data. When base flood elevation and floodway data has not been provided in accordance with § 157-7, Basis for establishing areas of special flood hazard, the Construction Official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer § 157-18, Specific standards, Subsection A, residential construction, and Subsection B, Nonresidential construction. [Amended 3-16-1987 by Ord. No. 1987-5]

C. Information to be obtained and maintained. The Construction Official shall:

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new substantially improved floodproofed structures:

- (a) Verify and record the actual elevation, in relation to mean sea level.
  - (b) Maintain the floodproofing certifications required in § 157-12B(3).
  - (c) Maintain for public inspection all records pertaining to the provisions of this chapter.
- D. Alteration of watercourses. The Construction Official shall:
- (1) Notify adjacent communities and the Division of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
  - (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- E. Interpretation of FIRM boundaries. The Construction Official shall make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 157-15.

**§ 157-15. Appeals. [Amended 1-20-2004 by Ord. No. 2004-1]**

- A. The Land Development Board, as established by the Township Committee, shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Land Development Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Construction Official in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Land Development Board or any taxpayer may appeal such decision to the Superior Court.
- D. In passing upon such applications, the Land Development Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
  - (1) The danger that materials may be swept onto other lands to the injury of others.
  - (2) The danger to life and property due to flooding or erosion damage.
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - (4) The importance of the services provided by the proposed facility to the community.

- (5) The necessity to the facility of a waterfront location, where applicable.
  - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
  - (7) The compatibility of the proposed use with existing and anticipated development.
  - (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
  - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- E. Upon consideration of the factors of Subsection D above and the purposes of this chapter, the Land Development Board may attach such condition to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The Construction Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

**§ 157-16. Variances.**

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in § 157-15D(1) through (11) above have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the minimum

necessary, considering the flood hazard, to afford relief.

E. Variances shall only be issued upon:

- (1) A showing of good and sufficient cause;
- (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense or create nuisances, cause fraud on or victimization of the public, as identified in § 157-15D, or conflict with existing local laws or ordinances.

F. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

**§ 157-17. General standards.**

In all areas of special flood hazard, the following standards are required:

A. Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include but are not to be limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. [Amended 3-16-1987 by Ord. No. 1987-5]

B. Construction materials and methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.



- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (2) New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (4) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. [Added 3-16-1987 by Ord. No. 1987-5]

D. Subdivision proposals.

- (1) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (2) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (3) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres, whichever is less.

E. Enclosure openings. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. [Added 3-16-1987 by Ord. No. 1987-5]

**§ 157-18. Specific standards.**

In all areas of special flood hazard where base flood elevation data have been provided as set

forth in § 157-7, Basis for establishing areas of special flood hazard, or in § 157-14B, Use of other base flood data, the following standards are required:

- A. Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
- B. Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:
  - (1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water,
  - (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting any applicable provisions of this subsection. Such certification shall be provided to the official as set forth in § 157-14C(2).
- C. Manufactured homes. [Amended 3-16-1987 by Ord. No. 1987-5]
  - (1) Manufactured homes shall be anchored in accordance with § 157-17A(2).
  - (2) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.
- D. Federal floodplain standards. In addition to the standards referred to in this section or anywhere else in this chapter, all of the standards of Section 60.3(d) of the National Flood Insurance Program (44 CFR 59 et seq.) are hereby adopted by reference and made a part hereof. Also incorporated by reference and intended for the guidance of all interested agencies within the township is the final flood elevation determination by the Federal Emergency Management Agency made pursuant to Title 44, Chapter 1, Part 67, Code of Federal Regulations, and the Flood Insurance Rate Map issued by the Federal Emergency Management Agency and as periodically revised.

**§ 157-19. Floodways.**

Located within areas of special flood hazard established in § 157-7 are areas designated as

floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- A. Encroachments are prohibited, including fill, new construction, substantial improvements and other development, unless a technical evaluation demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If Subsection A is satisfied, all new construction and substantial improvements shall comply with applicable flood hazard reduction provisions of §§ 157-17 and 157-18.
- C. The placement of any manufactured homes is prohibited, except in an existing manufactured home park or existing home subdivision. [Amended 3-16-1987 by Ord. No. 1987-5]

## **Chapter 162, GARBAGE, RUBBISH AND REFUSE**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-17-1973 by Ord. No. 1973-19 as Ch. XV of the 1973 Code; amended in its entirety 9-20-1999 by Ord. No. 1999-17. Subsequent amendments noted where applicable.]

### **GENERAL REFERENCES**

- Brush, grass and trash -- See Ch. 103.**
- Littering -- See Ch. 188.**
- Recycling -- See Ch. 227.**

### **§ 162-1. Definitions.**

As used in this chapter, the Following terms shall have the meanings indicated:

**ASHES** -- The residue from fires used for cooking foods and heating buildings, with the exception as set forth in § 162-6, such as floor sweepings as may accumulate in connection with the ordinary daily use of dwellings and stores.

**BRUSH** -- Tree or hedge trimmings not less than two inches nor more than 12 inches in diameter that can be chipped.

**BULK TRASH** -- Refuse and garbage that, due to its size, cannot fit into the automated trash collection container, except materials that can be recycled.

**CONTAINER** -- The automated trash collection container provided by the Township to each resident for the collection of garbage and refuse.

**CONCRETE** -- Items made of cement, clay, sand, gravel and water to form such items as

sidewalks, curbs, walls, bricks, blocks and patios. Brick pavers shall also be included under this definition.

**GARBAGE** -- The meat and vegetable waste solids resulting from the handling, preparation, cooking and consumption of foods.

**HAZARDOUS MATERIALS** -- Paint, solvents, cleaners, stains, thinners, finish removers, acids, bases, gasoline, kerosene, oil, antifreeze, hydraulic fluid, fluorescent lights, batteries, pesticides, herbicides, propane, tank cylinders and all other dangerous, highly volatile or explosive matter, in either liquid, gaseous or solid form.

**LOGS** -- Tree limbs or trunks over 12 inches in diameter

**METAL** -- Ferrous and nonferrous metallic items that are not defined as "cans" under Chapter 227 or "hazardous materials" in this section.

**REFUSE** -- Ashes, rubbish, tires and waste paper.

**RUBBISH** -- Rags, old clothes, leather, rubber, carpets, pressure treated wood, excelsior, sawdust, tree or hedge trimmings other than brush, stumps, any other combustible solids not considered by the Township to be of a highly volatile or explosive nature, metal shavings, crockery and other similar materials that can not be recycled per Chapter 227, but not the wastes resulting from building construction or alteration work. It shall also include any small accumulation of cellar or yard dirt.

**STREET, CURB, SIDEWALK or ALLEY** -- Any accepted street, curb, sidewalk or alley.

**TIRES** -- Rubber used for wheels on cars, trucks and farm equipment up to 48 inches in height and 12 inches or less in width. Not included in this definition is forklift tires or any other industrial-type tire.

**TRADE WASTE** -- All material resulting from the prosecution of any business, trade or industry conducted for profit, and including but not limited to paper, rags, leather, rubber, cartons, boxes, wood, excelsior, sawdust, garbage and other combustible solids, except manure, not considered by the Township to be of a highly volatile or explosive nature, metals, metal shavings, wire, tin cans, cinders, earth and other materials.

**WASTE MATERIAL** -- All or any garbage, refuse, waste paper or ashes, no matter how originating, wastes from building construction or alteration work or cellar or yard dirt.

**WASTE PAPER** -- Waxed paper, plastic or foil-coated paper, envelopes with glassine windows, carbon paper, blueprint paper, food contaminated paper, soiled paper, thermal fax paper and all other paper products that cannot be recycled.

WHITE GOODS -- Includes the following home appliances; refrigerators; freezers; dehumidifiers; air conditioners; washers; dryers; dishwashers; water heaters and stoves.

WOOD -- Lumber (nonpressure treated), logs, plywood, moldings, wooden furniture and particleboard.

**§ 162-2. Removal of waste required; regulations.**

- A. Removal required. All waste material of any nature which shall be made and accumulated in the dwelling houses, hotels, stores, markets and other buildings or premises in the Township shall either be removed by the Township in accordance with the regulations set forth herein or by an authorized private collector, except that waste resulting from building construction or alteration work shall be removed as soon as possible by the owner of the premises or the contractor performing such work.
- B. Accumulation of waste restricted. No person shall accumulate or permit, suffer or allow the accumulation in any building or on any premises owned, occupied or controlled by him of any waste material for a period longer than the period from one collection day to the next ensuing collection day.
- C. Removal by Township.
  - (1) The Township, by its designated agents and employees, will collect and remove at no direct cost to the residents, dwelling house or other buildings in the Township only the waste matter as classified herein when such waste matter is placed into proper containers or bundles and offered for collection in the quantity and matter prescribed herein.
  - (2) Waste material that may be classified as refuse and garbage, as defined in § 162-1, will be collected by the Township on a once-per-week basis, provided that these materials are prepared, held and stored in the manner required in § 162-4 and provided that quantities as set forth in § 162-6 are not exceeded.
  - (3) The Township will collect bulk trash on a monthly basis.
  - (4) The Township will collect properly stickered white goods on the regularly scheduled weekly collection day.
  - (5) Brush resulting from normal property maintenance or storm damage will be collected by township that is less than 10 inches in diameter. Brush resulting from lot clearing for any purpose or that is generated by a contractor hired by the owner shall be the responsibility of the property owner. [Amended 8-15-2005 by Ord. No. 2005-21]
  - (6) The Township shall not be obligated to collect any materials not left in a manner not in

full compliance with the regulations provided herein nor garbage or refuse that is not left in the containers described herein and provided by the Township.

- (7) No municipal employee shall collect any of the items referred to in § 162-4 hereof unless and until such items are prepared for municipal collection and disposal, as referred to and as directed in § 162-4, unless otherwise directed by the Director of Public Works.

D. Items not removed by the Township.

- (1) Asphalt pavement, branches and brush over 10 inches in diameter, block, brick, concrete, decks, fences, masonry, roof shingles, sheds, sod and oversized tires by nature of their weight and size will not be picked up or disposed of by the township. The property owner shall make arrangements with a private company for their disposal. [Amended 8-15-2005 by Ord. No. 2005-21]
- (2) Hazardous materials shall not be placed in a container or set out for collection either by itself or in conjunction with any other material. Residents are required to call the Department of Public Works for proper disposal of hazardous materials.

E. Township collectors not to enter buildings. Township refuse collectors are prohibited from entering upon any privately owned lands, streets, service areas, driveways, alleys or buildings or portions of any such building, such as a vestibule, kitchen, pantry, cellar or boiler room, for the purpose of removing refuse material to the curb for collection except as provided in § 162-9.

F. Only authorized persons to remove. It shall be unlawful for any person, except an employee of the Township in the discharge of his duties or an authorized waste collector, to collect, pick up, rake up or in any way disturb the garbage or other waste material of whatever nature deposited in any receptacle or laid or placed on any street or public place for collection in accordance with the provisions of this section.

G. Recyclable materials are collected curbside by Burlington County in accordance with schedules and regulations set forth by the County's Office of Solid Waste Management.

**§ 162-3. Receptacles.**

A. Duty to provide.

- (1) Residential refuse and garbage shall only be placed in the containers provided by the Township for that purpose. Effective the date of this chapter being adopted, each real property owner within the Township that is presently having his or her solid waste collected by the Township shall receive one automated trash collection container. The

Township shall stock thirty-five-, sixty-five- and ninety-five-gallon size containers for the resident to select from. Each such owner may purchase from the Township one additional container of the above sizes for collection by the Township at the following rates:

- (a) A fee of \$80 shall be charged to any real property owner purchasing an additional ninety-five-gallon container.
  - (b) A fee of \$60 shall be charged to any real property owner purchasing an additional sixty-five-gallon container.
  - (c) A fee of \$40 shall be charged to any real property owner purchasing an additional thirty-five-gallon container.
- (2) Any future residential dwellings constructed or residential properties created by subdivision after the effective date of this chapter shall be required to purchase containers for use with the automated system from the Township at the above rates.
- (3) In industrial buildings, restaurants, businesses, markets, commercial stores or similar establishments, the receptacles shall be procured and maintained by the owner or tenant.
- B. Number required. For the purposes of this section, "sufficient" shall mean at least one container. The Township shall collect no more than two containers from any separate parcel of real property identified in Subsection A(1) above. Properties identified in Subsection A(2) above shall provide as many more receptacles as are necessary to completely contain all waste materials generated or accumulated during the period from one collection day to the next ensuing collection day.
- C. Specifications. For the purposes of this section, "suitable" shall be defined as follows:
- (1) For the properties identified in Subsection A (1) above this shall only be the container provided by the Township.
  - (2) For the properties identified in Subsection A(3), a receptacle of suitable size for its intended purpose, to be weathertight with windproof covers. Such receptacles shall be cleaned and sanitized as needed after emptying, and the contents shall be collected and disposed of by an authorized private collector.
- D. Baskets prohibited. The use of baskets as receptacles for waste materials shall not be permitted.
- E. Damaged containers. The Township shall be responsible for maintenance of those containers identified in Subsections A(1) and A(2) above. All other receptacles shall be maintained by

the owner.

F. Time of placing and removing.

- (1) Weekly collection. It shall be unlawful for any person to place any container on any street, curb, sidewalk, or alley no earlier than 6:00 p.m. on the day before this day fixed for collection and no later than 6:30 a.m. the day of collection. It shall be unlawful for any person to allow or permit any empty container to remain upon such street, curb, sidewalk or alley more than 12 hours after the contents have been collected.
- (2) Bulk collection. It shall be unlawful for any person to place any material for bulk collection on any street, curb, sidewalk or alley no earlier than the Saturday before the day fixed for collection and no later than 6:30 a.m. the day of collection.

G. Placement of receptacles.

- (1) Each container shall be placed for collection just inside the curblineline and at the place designated by the Township for collection, which shall be free from obstruction to the automated collection system operating as designed.
- (2) Containers awaiting collection shall be stored or kept in such place so as not to become a nuisance to the occupants of any building, and at no time shall they be kept under or adjacent to the windows of any such building.

**§ 162-4. Preparation of waste for collection.**

- A. Garbage. Garbage shall be thoroughly drained of all water, wrapped securely in paper or plastic bags and placed in a container as described in § 162-3.
- B. Refuse. Refuse shall be wrapped securely in paper or plastic bags and stored in a container as described in § 162-3 that may be the same container used to contain the wrapped garbage.
- C. Filling of containers. All containers used for the purpose herein described shall not be filled above the top rim of the container so as to prevent the hinged lid from properly closing, and when so filled shall be of such a weight not exceeding 200 pounds.
- D. Bulk trash. Materials of such nature that they cannot be deposited in the automated container due to their size shall be securely and properly tied into bundles or packaged to prevent spilling while being handled by the Township employees or while such bundles or packages are located on the sidewalk awaiting collection. The bundles or packages shall be of a size and weight to permit ease of handling by one man and shall not exceed 50 pounds in weight. These bundles and packages will be collected on the scheduled bulk collection day.



- E. Wood and metal. Wood and metal are recycled by the Township at a lower cost than depositing them in the county landfill. These items will be collected on the regular weekly collection day. They are to be separated from each other and the container and tied into bundles or packaged to prevent spilling while being handled by the Township employees or while such bundles or packages are located on the sidewalk awaiting collection. The bundles or packages shall be of a size and weight to permit ease of handling by one person and shall not exceed 50 pounds in weight.
- F. Brush. Brush shall be stacked near the edge of the roadway with the cut ends all facing in one direction.
- G. Tree twigs, hedge trimmings and similar materials not meeting the definition of brush shall be cut to a length not to exceed four feet and securely tied in bundles not more than two inches thick and will be collected on the scheduled bulk trash collection day. Material that cannot be bundled shall be placed in suitable receptacles and will also be collected on the scheduled bulk collection day.
- H. Leaves. Leaves shall be placed in paper or plastic bags and shall not be placed loose or in piles on the sidewalk, gutters or streets where the same may be dispersed by wind, forces of nature, passersby or traffic, except during the months of November and December. Leaves or other material specified within this chapter shall not be burned in any street, alley, highway or property. Leaves that are bagged shall be collected on the scheduled bulk collection day.
- I. Grass. The Township encourages all residents to utilize mulching mowers to cut their grass and leave it in place. Grass that is collected by the resident for disposal shall be placed in plastic bags and shall not be placed loose. Each bag of collected grass shall weigh no more than 30 pounds. Residents are required to purchase grass collection stickers available at the Municipal Building. The Township shall set the price of grass collection stickers annually. One sticker is required to be placed on each bag of grass. The Township will then collect the bagged grass that has a proper sticker on the weekly scheduled collection day.
- J. White goods. It is required that the residents remove the doors from refrigerators and/or freezers prior to collection by the Township. Residents are required to purchase white goods collection stickers available at the Municipal Building. The Township shall set the price of White Goods Collection Stickers annually. One sticker is required to be placed on each appliance. The Township will then collect the appliance that has a proper sticker on the weekly scheduled collection day.
- K. Tires. Tires meeting the definition under § 162-1 shall be collected and disposed of by the Township on the scheduled bulk collection day. Residents are required to purchase tire collection stickers available at the Municipal Building. The Township shall set the price of tire collection stickers annually. One sticker is required to be placed on each tire. The

Township will then collect the tire that has a proper sticker on the scheduled bulk collection day.

- L. Compressed gas tanks. Compressed gas tanks used for propane, oxygen or any other gas shall be collected and disposed of by the Township on the scheduled bulk collection day. Residents are required to purchase tank collection stickers available at the Municipal Building. The Township shall set the price of tank collection stickers annually. One sticker is required to be placed on each compressed gas tank. The Township will then collect the tank that has a proper sticker on the scheduled bulk collection day.

**§ 162-5. Schedule of collection sticker fees.**

Following are the fees for collection stickers:

<b>Item Description</b>	<b>Individual Sticker Fee</b>
Grass	\$2
Tanks	\$12
Tires	\$5
White goods	\$10

**§ 162-6. Trade waste not collected by Township.**

When trade waste, as defined in § 162-1, exceeds a total of 25 pounds in weight at any one collection, such trade waste shall not be collected by the Township, but the producer thereof shall at his own expense have these materials disposed.

**§ 162-7. Ashes from steam power plants.**

Ashes, as defined in § 162-1 and to be collected by the Township, shall not include the fuel residue from steam power plants. Ashes from boilers heating buildings shall be collected by the Township, but where such boilers are also used for lighting or power purposes, the ashes shall not be collected by the Township if those resulting from light or power generation exceed 10% of

the total ashes produced by the boilers.

**§ 162-8. Interference with Township agents prohibited.**

No person shall prevent or interfere with any agent or employee of the Township in the discharge of his duties in the collection of garbage, ashes or refuse or in the sweeping or cleaning of any street or in the removal therefrom of sweepings, ashes, garbage, rubbish, paper, snow, ice or other refuse material.

**§ 162-9. Adoption of additional rules and regulations; unaccepted areas.**

- A. Power to adopt. To ensure the effective operation of the provisions of this chapter, the Director of Public Works is authorized to make, from time to time, such written rules, regulations or orders as may be necessary or expedient to further implement the provisions of this chapter.
- B. Publication and filing. No rule, regulation or order shall be effective until it has been filed with the Township Clerk and published at least once in the newspaper in which Township ordinances are published.
- C. Violations. No person shall violate any written rule, regulation or order made by the Director of Public Works pursuant to this chapter.
- D. Collection from unaccepted areas. When it shall appear to be more efficient for collection by the Township, the Director of Public Works, in his sole discretion, upon written request or permission by the owner, may authorize and order the Township collectors to enter upon and collect garbage and refuse placed at the curblineline or side line of such unaccepted streets, lanes, alleys, driveways, service areas or other thoroughfare or area as he may designate, subject to such conditions as he may impose. Such collection service shall not be construed to be an acceptance of any such unaccepted thoroughfare or area.

**§ 162-10. Disposal of waste.**

All trash and garbage collected within the Township of Lumberton shall be disposed of by the sanitary landfill or incinerator method in accordance with the standards for the design, operation and maintenance of sanitary landfills and incinerators contained in the State Sanitary Code.

**§ 162-11. Public landfill.**

The public landfill area was closed on December 31, 1991, and is no longer in operation. Any resident leaving any material at this site will be subject to a fine in accordance with § 162-13 of this chapter.

**§ 162-12. Collection of trash from Sunnybrook development.**

- A. Provisions for collection. In addition to the collection of trash on public streets accepted or dedicated for public use by the municipality, trash shall be collected on the undedicated, unaccepted private streets of the development known as "Sunnybrook" by the Township of Lumberton in accordance with a uniform schedule of trash collection established by the Township, provided that all the following criteria for the provision of said collection service shall be met:
- (1) The Sunnybrook Association shall formally request, in writing, the aforesaid trash collection service.
  - (2) The Sunnybrook Association shall execute a written agreement satisfactory to the Township both as to form and content, which agreement shall hold the Township of Lumberton harmless regarding any damage done by the Township's employees or collection vehicles to roadways or any private property in Sunnybrook. The Township of Lumberton shall not be liable for the costs of any necessary maintenance or improvements to the roadways or any property of the Association.
  - (3) A determination is required by the Township that the physical circumstances of the subject streets in Sunnybrook permit:
    - (a) Proper storage of trash so as to avoid the creation of a public health nuisance.
    - (b) Ease and efficiency of collection using existing types of Township equipment.
    - (c) The safe maneuvering of equipment in the collection process.
  - (4) The recipients of the service shall comply with all conditions of service established by the Township. Examples of conditions of service shall include but not be limited to:
    - (a) Physical location of trash containers at time of collection.
    - (b) Type of trash containers consistent with containers required throughout the community.
    - (c) Frequency of pickup consistent with trash collection on accepted public streets.
    - (d) Parking restrictions on streets and courts where necessary, in the discretion of the

Township.

- (5) A formal determination is required by the Township that there exists a sufficient volume of trash generated in the development of Sunnybrook to warrant the expenditures created by the trash collection. The determination shall not affect or require the provision of other types of municipal services on any of the subject streets whatsoever.
- B. Section to supersede contrary provisions. The terms of this section shall supersede whatever contrary provisions exist in any approval granted by the Lumberton Township Planning Board or Zoning Board of Adjustment.
- C. Approval of containers; collection program. Trash placed for collection on nonaccepted private streets of Sunnybrook must be placed in a type of container approved by the Township. The Director of the Public Works Department shall implement a fair and reasonable collection program for the development of Sunnybrook.
- D. Basis for adoption of section. This section is adopted based upon the unique factual circumstances presented by the development of Sunnybrook (constituting individually owned parcels of land) and so recognized by the Township, and this section shall have no application to any other development or apartment complex or to proposed trash collection on any other private property or undedicated and unaccepted roadways in the Township.

**§ 162-13. Violations and penalties.**

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not less than \$100.

## Chapter 168, HOUSING STANDARDS

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-17-1973 by Ord. No. 1973-19 as part of Ch. XII of the 1973 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Uniform construction codes -- See Ch. 121.

#### § 168-1. Adoption of standards by reference.

Pursuant to the provisions of N.J.S.A. 40:49-5.1, or any amendments or supplements thereto, the New Jersey State Housing Code, as approved by the Departments of Health and Conservation and Economic Development and filed in the Secretary of State's office, is hereby accepted, adopted and established as a standard to be used as a guide in determining whether dwellings in the township are safe, sanitary and fit for human habitation and rental. The provisions of this code shall be deemed to be incorporated by reference in this chapter as if set forth at length herein.

#### § 168-2. Copies available.

Three copies of the New Jersey State Housing Code shall be on file in the office of the Township Clerk/Administrator for the use and examination of the public.

#### § 168-3. Conformity to code required.

No person shall occupy as owner-occupant or rent to another for occupancy any dwelling or dwelling unit for the purpose of living therein which does not conform to the provisions of the New Jersey State Housing Code established hereby as the standard to be used in determining whether a dwelling is safe, sanitary and fit for human habitation.

#### § 168-4. Enforcing officer. [Amended 8-21-1989 by Ord. No. 1989-11]

The Burlington County Health Department shall be the officer to exercise the powers prescribed by this chapter, and it shall serve in such capacity without any additional salary.

**§ 168-5. Inspections; right of entry. [Amended 8-21-1989 by Ord. No. 1989-11]**

- A. The Burlington County Health Department is authorized and directed to make inspections to determine the condition of dwellings, dwelling units, rooming units and premises located within the township in order that it may perform its duty of safeguarding the health and safety of the occupants of dwellings and of the general public. For the purpose of making such inspections, Burlington County Health Department is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises.
- B. The owner or occupant of every dwelling, dwelling unit and rooming unit or the person in charge thereof shall give the Burlington County Health Department free access to such dwelling, dwelling unit or rooming unit and its premises at all reasonable times for the purpose of such inspection, examination and survey.
- C. Every occupant of a dwelling or dwelling unit shall give the owner thereof or his agent or employee access to any part of such dwelling or dwelling unit or its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this chapter.

**§ 168-6. Notice of violation. [Amended 8-21-1989 by Ord No. 1989-11]**

- A. Whenever the Burlington County Health Department determines that there are reasonable grounds to believe that there has been a violation of this chapter or any rule or regulation adopted pursuant thereto, it shall give notice of the alleged violation to the person responsible therefor as hereinafter provided.
- B. The notice shall:
  - (1) Be put in writing.
  - (2) Include a statement of the reasons why it is being issued.
  - (3) Allow a reasonable time for the performance of any act it requires.
  - (4) Be served upon the owner, his agent or the occupant, as the case may require, provided that such notice shall be deemed to be properly served upon such owner, agent or occupant if a copy thereof is served upon him personally, if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice or if he is served with such notice by any other method authorized or required under the laws of this state.
- C. The notice may contain an outline of remedial action which, if taken, will affect compliance

with the provisions of this chapter and with rules and regulations adopted pursuant thereto.

**§ 168-7. Hearing. [Amended 8-21-1989 by Ord. No. 1989-11]**

- A. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter or any rule or regulation adopted pursuant thereto may request and shall be granted a hearing on the matter before the Burlington County Health Department, provided that such person shall file in the office of the Township Clerk/Administrator a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within 10 days after the day the notice was served.
- B. Upon receipt of such petition, the Burlington County Health Department shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and show why such notice should be modified or withdrawn.
- C. The hearing shall be commenced not later than 10 days after the day on which the petition was filed, provided that upon application of the petitioner, the Burlington County Health Department may postpone the date of the hearing for a reasonable time beyond the ten-day period if, in its judgment, the petitioner has submitted a good and sufficient reason for such postponement.
- D. After the hearing, the Burlington County Health Department shall sustain, modify or withdraw the notice, depending upon its findings as to whether the provisions of this chapter and of the rules and regulations adopted pursuant thereto have been complied with. If the Burlington County Health Department sustains or modifies the notice, it shall be deemed to be an order.
- E. Any notice served pursuant to this chapter shall automatically become an order if a written petition for a hearing is not filed in the office of the Township Clerk/Administrator within 10 days after such notice is served.
- F. The proceedings at the hearing, including the findings and decision of the Burlington County Health Department, shall be summarized, reduced to writing and entered as a matter of public record in the office of the Township Clerk/Administrator. The record shall also include a copy of every notice or order issued in connection with the matter.
- G. Any person aggrieved by the decision of the Burlington County Health Department may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of the state.



**§ 168-8. Emergency orders. [Amended 8-21-1989 by Ord. No. 1989-11]**

- A. Whenever the Burlington County Health Department finds that an emergency exists which requires immediate action to protect the public health or safety, it may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. Notwithstanding the other provisions of this chapter, such order shall be effective immediately.
- B. Any person to whom such order is directed shall comply therewith immediately but, upon petition to the Burlington County Health Department, shall be afforded a hearing as soon as possible. After such hearing, depending upon its findings as to whether the provisions of this chapter and the rules and regulations adopted pursuant thereto have been complied with, the Burlington County Health Department shall continue such order in effect, modify it or revoke it.

**§ 168-9. Adoption of additional rules and regulations. [Amended 8-21-1989 by Ord. No. 1989-11]**

The Burlington County Health Department is authorized and empowered to make and adopt such written rules and regulations as it may deem necessary for the proper enforcement of the provisions of this chapter, provided that such rules and regulations shall not conflict with the provisions of this chapter nor in any way alter, amend or supersede any of the provisions thereof. The Burlington County Health Department shall file a certified copy of all rules and regulations which it may adopt in its office and in the office of the Township Clerk/ Administrator.

**§ 168-10. Violations and penalties.** <sup>EN(158)</sup>

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in

those instances where state law mandates a minimum penalty to be imposed.

- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

## Chapter 174, JUNKYARDS

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 10-21-1991 as Ord. No. 1991-14. Amendments noted where applicable.]

### GENERAL REFERENCES

- Outdoor burning -- See Ch. 111.  
Garbage, rubbish and refuse -- See Ch. 162.  
Littering -- See Ch. 188.  
Vehicles, abandoned -- See Ch. 263.

### § 174-1. Definitions.

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

JUNKYARD -- Any location, yard, covered or uncovered, or place in the township kept, maintained or used for the purpose of buying and selling, exchanging or storing rags, old metals, old bottles, old vehicles unfit for reconditioning, dismantled old motor vehicles or parts thereof, used motor vehicles or parts thereof, used motor vehicle parts, motor vehicle junk, old glassware, old plumbing fixtures, old lumber, unregistered motor vehicles unfit for reconditioning or any other material commonly called "junk."

### § 174-2. Prohibition.

No person shall operate or maintain or establish a junkyard or engage in the business of keeping a junkyard within the township.

### § 174-3. Exception for existing junkyards.

- A. Any person who shall have continuously operated or maintained a junkyard or who has continuously engaged in the business of keeping junk prior to the enactment of this chapter and who continues said activity without interruption following enactment of this chapter shall be excepted from the provisions of this chapter, provided, however, that in the event anyone so excepted shall cease to continuously operate or maintain a junkyard or engage in the

business of keeping junk shall not thereafter be permitted to reestablish or again operate or maintain said junkyard or to again engage in the business of keeping a junkyard within the township.

- B. The exception provided for herein shall apply without the necessity of obtaining a license as heretofore required so long as the operator of said junkyard has register with the Township Clerk/Administrator and identified the location of the junkyard activity; provided, however, that no business shall be conducted at any junkyard before 7:00 a.m. or after 9:00 p.m. During the time the junkyard is closed, all doors and other openings affording access thereto shall be securely locked.

**§ 174-4. Burning prohibited.**

All burning of junk or other waste matter that may be stored at or otherwise accumulated in connection with any junkyard is prohibited.

**§ 174-5. Health and safety requirements.**

- A. With regard to those junkyards expressly permitted as exceptions, proper precautions shall be taken to prevent rats, mice or other vermin or insects from being harbored or bred in said junkyard.
- B. All junk, particularly old cars, shall be so placed and arranged that fire lanes at least 20 feet wide are always open affording ingress and egress to all areas of the junkyard for fire-fighting equipment.

**§ 174-6. Violations and penalties.** EN(159)

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in

those instances where state law mandates a minimum penalty to be imposed.

- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

## **Chapter 188, LITTERING**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-17-1973 as Ord. No. 1973-16 (part of Ch. IV of the 1973 Code). Amendments noted where applicable.]

### **GENERAL REFERENCES**

**Brush, grass and trash -- See Ch. 103.  
Garbage, rubbish and refuse -- See Ch. 162.**

#### **§ 188-1. Definitions.**

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

**GARBAGE** -- Putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

**LITTER** -- Garbage, refuse and rubbish, as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

**PUBLIC PLACE** -- All streets, sidewalks, boulevards, alleys, beaches or other public ways and all public parks, squares, spaces, docks, grounds and buildings.

**REFUSE** -- All putrescible and nonputrescible solid waste, except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial waste.

**RUBBISH** -- Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

**VEHICLE** -- Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively on stationary rails or tracks.

#### **§ 188-2. Littering prohibited.**

No person shall sweep, throw, deposit or dump litter in or on any property, whether occupied or vacant and whether owned by that person, or upon or in a public place or pond, lake or stream or other body of water within the township, except in public receptacles or in authorized private receptacles for collection.

**§ 188-3. Manner of placement in receptacles.**

Persons placing litter in public receptacles or in authorized private receptacles shall do so in a manner which prevents the litter from being carried or deposited by the elements upon a public place or upon private property.

**§ 188-4. Sweeping or depositing into gutters prohibited.**

No person, including merchants owning or occupying a place of business, shall sweep into or deposit in a gutter, road, right-of-way or other public place within the township the accumulation of litter from a building or lot or from a public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

**§ 188-5. Litter thrown from vehicles.**

No person, while a driver or passenger in a vehicle, shall throw or deposit litter in or upon any public or private property.

**§ 188-6. Litter generated outside of township.**

No person shall bring, cart, remove, transport or collect any litter from outside the township and bring it into the township for the purpose of dumping or disposing thereof. No truck or other vehicle containing litter which has been transported into the township shall be parked or allowed to remain standing on any street in the township or on any public property for a period in excess of two hours.

**§ 188-7. Handbills.**

Advertisements, handbills, circulars and papers may be distributed in the township only if they are so securely placed at each dwelling that they will not be blown away by the wind. Otherwise, no person shall place any advertisement, handbill, circular or paper on or in any public street, sidewalk, building or vehicle within the township.

**§ 188-8. Violations and penalties.** EN(160)

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

## Chapter 192, LOITERING

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-17-1973 as Ord. No. 1973-17 (part of Ch. IV of the 1973 Code). Amendments noted where applicable.]

**§ 192-1. Definitions.**

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

**LOITERING** -- Remaining idle or walking aimlessly about in essentially one location.

**PARENT or GUARDIAN** -- Includes any adult person having care or custody of a minor, whether by reason of blood relationship, the order of any court or otherwise.

**PUBLIC PLACE** -- A place to which the public has access, and shall include any public building and grounds, street, highway, road, alley, boardwalk or sidewalk. It shall also include the front or neighborhood of a store, shop, restaurant, tavern or other place of business and public grounds, areas, parks and marinas, as well as parking lots or other vacant private property not owned by or under the control of the person charged with violating this chapter or, in the case of a minor, not owned or under the control of his parent or guardian.

**§ 192-2. Types of loitering prohibited.**

No person shall loiter in a public place in such a manner as to:

- A. Create or cause to be created a danger of a breach of the peace.
- B. Create or cause to be created any disturbance or annoyance in the comfort and repose of any person,
- C. Obstruct the free passage of pedestrians or vehicles.
- D. Obstruct, molest or interfere with any person lawfully in a public place. This Subsection D shall include the making of unsolicited remarks of an offensive, disgusting or insulting nature or which are calculated to annoy or disturb the person to whom or in whose hearing they are made.

**§ 192-3. Order to move, failure to comply.**

Any person violating the provisions of § 192-2 shall be ordered to move on by a police officer, failing which he shall be guilty of a violation.

**§ 192-4. Minors. [Amended 8-5-1974 by Ord. No. 1974-9]**

No parent or guardian of a minor under the age of 18 years shall knowingly permit that minor to loiter in violation of this chapter. Whenever any minor under the age of 18 years is charged with a violation of this chapter, his parent or guardian shall be notified of this fact by the Chief of Police or any other person designated by the Chief of Police to give such notice. If at any time within 60 days following the giving of notice the minor to whom such notice relates again violates this chapter, it shall be rebuttably presumed that the minor did so with the knowing permission or sufferance of his parent or guardian.

**§ 192-5. Construal of provisions.**

Nothing in this chapter shall be construed so as to limit any right of free speech or assembly guaranteed under the Constitution of the United States or the Constitution of the State of New Jersey.

**§ 192-6. Violations and penalties.** EN(161)

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

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## Chapter 197, MEETINGS, PUBLIC

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Public access to records -- See Ch. 225.

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## ARTICLE I, Still Photography, Videotaping and Audiotaping [Adopted 1-20-1998 by Ord. No. 1998-5]

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**§ 197-1. Definitions.**

As used in this article, the following terms shall have the meaning indicated:

**MUNICIPAL FACILITY** -- Any building owned or leased by the Township of Lumberton in which official municipal business is conducted.

**PUBLIC MEETING** -- Any gathering, whether corporal or by means of communication



equipment, which is attended by or open to all members of a public body, held with the intent, on the part of the members of the body present, to discuss or act as a unit upon the specific public business of that body.

**§ 197-2. Still photography and videotaping at public meetings.**

A. Equipment and personnel.

- (1) Not more than two portable videotape electronic cameras, operated by no more than one person each, shall be permitted at any public meeting of the Township Committee.
- (2) Not more than two still photographers utilizing not more than two lenses for each camera and related equipment for print purposes shall be permitted at any public meeting of the Township Committee.

B. Sound and light criteria.

- (1) Only videotape cameras and audio equipment used in conjunction with the video camera which does not produce distracting sound or light shall be employed to cover public meetings of the Township Committee. Specifically such videotape camera and related audio equipment shall produce no greater sound or light than the equipment designated in Appendix A, annexed hereto,<sup>EN(162)</sup> when the same is in good working order. No artificial lighting device of any kind shall be employed in connection with the use of videotape cameras.
- (2) Only still camera equipment which does not produce distracting sound or light shall be employed to cover public meetings of the Township Committee. Specifically, such still camera equipment shall produce no greater sound or light from a 35mm Luca "M" Services Rangefinder Camera when used alone or in conjunction with a professional sound muffling device, e.g., the Nikon "bEmp." No artificial lighting of any kind shall be employed in connection with a still camera.
- (3) It shall be the affirmative duty of the individual seeking to videotape a public meeting to demonstrate to the Mayor or his designee adequately in advance of any public hearing that the equipment sought to be utilized meets the sound and light criteria enumerated herein. A failure to obtain advance approval for the equipment prior to each public meeting shall preclude its use at any such meeting.

C. Notice.

- (1) Notice shall be given to the Municipal Clerk prior to the close of business of the day the meeting for which an individual is seeking permission to videotape or photograph the

public meeting and, if the meeting occurs on a day when municipal offices are closed, prior to close of business on the last business day preceding the meeting for which permission is sought.

- (2) Permission to videotape or photograph the public meeting shall be granted on a first come, first serve basis subject to compliance with the provisions contained in these guidelines.

D. Location of equipment and personnel.

- (1) Videotape camera(s) shall be placed in an inconspicuous corner of the meeting room toward the rear. The specific location(s) shall be designated by the Township Committee. The area(s) shall provide a generally clear view of the proceedings by the camera. The person videotaping the public meeting shall not move about the meeting room while the public meeting is being held.
- (2) Still camera photographers shall be positioned in an inconspicuous corner of the meeting room toward the rear. The specific location shall be designated by the Township Committee. Still camera photographers shall assume fixed positions within the designated areas, and once the photographers are positioned such photographers shall not be permitted to move about in any way as to attract attention through further movement. Still photographers shall not be permitted to move about in order to photograph the public meeting.

E. Movement of equipment during proceedings. Videotape and related audio equipment and still camera equipment shall not be placed in or removed from the meeting room except prior to commencement and after adjournment of the public meeting or during a recess.

F. Upon the request of a member of the public who desires to discuss a personal matter with the Committee, the Mayor may direct that the audio/videotaping be interrupted when an audio/video recording could be embarrassing or humiliating if played at a later time.

**§ 197-3. Audiotape recording of public meetings.**

In addition to photography and videotape recording of public meetings an individual may tape record a public meeting subject to the restrictions of § 197-4 and with the following conditions:

- A. Notice shall be given to the Municipal Clerk prior to the close of business of the day the meeting for which an individual is seeking permission to videotape or photograph the public meeting and, if the meeting occurs on a day when municipal offices are closed, prior to close of business on the last business day preceding the meeting for which permission is sought.

- B. The recording device shall be unobtrusive, limited to the size category commonly known as hand-held, mini-cassette or standard portable cassette. It shall be placed in an appropriate position and may not be moved in any way as to attract attention.
- C. The recording device shall not produce distracting sound, either from the equipment or its operation. The tape may not be rewound or played back while the meeting is in session.
- D. The Mayor may order that tape recording cease at any time he/she determines that the equipment or its operator is interfering with the proceedings.

**§ 197-4. Prohibitions.**

- A. Meetings or portions of meetings which are permitted by law to be closed to the public shall not be videotaped, photographed or audiotaped.
- B. During the conduct of a public meeting, including with executive session, photographs may be taken and video and/or audiotape recording made in the corridor immediately outside the meeting room only with the express permission of the Township Committee.
- C. To protect the attorney-client privilege, there shall be no audio pickup of conferences which occur at a public meeting or in a public facility between the Township Solicitor or special counsel and any member of the Township Committee, the Municipal Clerk or any officer or employee of the township.
- D. No recording, whether audio or video, may be used in any court proceeding, nor may same be used to contest the accuracy of the official record of the Township Committee. The recording(s) may not be represented as an official transcript in any manner and/or for any purpose.

**§ 197-5. Ceremonial proceedings.**

Permission for all still photography, videotaping and audiotape recording of ceremonial proceedings involving the Township Committee occurring during a public meeting or otherwise must first be obtained from the Township Committee but will be granted routinely subject to compliance with the foregoing guidelines where applicable.

**§ 197-6. Duplication of videotapes and photographs.**

- A. Upon the request of the Township Committee or the Municipal Clerk, the original videotape shall, immediately upon cessation of videotaping of public meetings and/or ceremonial

proceedings, be provided to the Municipal Clerk for the purpose of duplication. A copy of the videotape shall be made, and the original shall be available for pickup at the Municipal Building by the individual who videotaped the public meeting, or portions thereof, within three business days of the meeting. Alternatively, the person making the recording shall have the option of copying the videotape and making same available to the Township Clerk within three business days of the meeting and shall simultaneously execute a voucher for payment by the township of the costs of said reproduction/copying, which costs shall not exceed what the cost would have been had the township copied said tape. The voucher shall be paid within 30 days. Copies of any videotape duplicated on behalf of the Township Committee shall be retained as required by law and made available to the general public upon request subject to payment of the cost of duplication.

- B. If the Mayor or Municipal Clerk does not request the original videotape for duplication, as provided in the preceding subsection, the individual who made the videotape recording shall maintain the original tape for a period of one year and during that time period shall provide a copy of the videotape, certified to be undeleted and unabridged, to the Township Committee or member of the public upon request for the cost of duplication. Copies of any videotape provided to the Township Committee under this subsection shall be retained as required by law and made available to the general public upon request, subject to payment of the cost of duplication.
- C. The photographer at any public meeting shall maintain the negatives of all photographs taken during a public meeting for a period of one year and shall during that time period provide duplicates of the photographs to the Township Committee or member of the public upon request subject to payment of the cost of duplication. In lieu of providing copies, the photographer may provide the negatives of the photographs to the Township Committee. The Township Committee shall retain the photographs as required by law and make available to the general public duplicates of any photographs for which it has either copies or the negatives, subject to payment of the cost of duplication.

**§ 197-7. Still photography, videotaping and audiotaping within public facilities.**

- A. Except as otherwise provided herein with regard to public meetings, no photographs may be taken or audio/videotape recordings made within a public facility of any person, place or event relating to the administration and/or conduct of official municipal business.
- B. No limitations are placed on the taking of photographs or video/audiotape recording on the grounds or environs of the municipal facility or within a municipal facility of persons, places or events which have no relation to, do not arise from and/or are in no way connected with the administration and/or conduct of official municipal business.

**§ 197-8. Coverage of proceedings in Municipal Court.**

Still and television camera and audio coverage of proceedings in the Municipal Court are governed by the Supreme Court guidelines.

**§ 197-9. Violations and penalties.**

- A. Maximum penalty. For violation of any provision of this article, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this article exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a minimal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

**§ 197-10. Enforcement.**

The Lumberton Township Police Department is the enforcement agent of this chapter.

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**Appendix A**

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**TOWNSHIP OF LUMBERTON**

**APPENDIX A**

Videotape Electronic Cameras:

- |     |              |                                      |
|-----|--------------|--------------------------------------|
| 1.  | Kegami       | HL-77, HL-33, HL-35,<br>HL-34, HL-51 |
| 2.  | RCA          | TK76                                 |
| 3.  | Sony         | DXC-1600 Trinicon                    |
| 4.  | ASACA        | ACC-2006                             |
| 5.  | Hitachi      | SK80, SK90                           |
| 6.  | Hitachi      | FP-3030                              |
| 7.  | Philips      | LDK-25                               |
| 8.  | Sony 8VP-200 | ENG Camera                           |
| 9.  | Fernseh      | Video Camera                         |
| 10. | AC-8800u     | ENG Camera                           |
| 11. | AKAL         | CVC-150VTS-150                       |
| 12. | Panasonic    | WV-3685 NV 1085                      |
| 13. | JVC          | GC4800u                              |

Videotape Recorders/used with video cameras:

- |    |        |      |
|----|--------|------|
| 1. | Kagami | 3800 |
|----|--------|------|

2.	Sony	3800
3.	Sony	BVU-100
4.	Impex	Video Recorder
5.	Panasonic	1-inch Video Recorder
6.	JVC	4400
7.	Sony	3800H

## Chapter 199, NEWSRACKS

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 1-18-2000 by Ord. No. 2000-2. EN(163) Amendments noted where applicable.]

### § 199-1. Intent and purpose.

A. Intent and purpose. The provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, morals and general welfare of persons in the Township of Lumberton in their use of private property and public rights-of-way through the regulation of placement, appearance, number, size and servicing of newsracks on private property and the public rights-of-way so as to:

- (1) Provide for pedestrian and driving safety and convenience;
- (2) Ensure no unreasonable interference with the flow of pedestrian or vehicular traffic, including ingress to or egress from any place of business or from the street to the sidewalk;
- (3) Provide reasonable access for the use and maintenance of commercial stores, sidewalks, poles, posts, traffic signs and signals, hydrants, mailboxes and similar appurtenances and access to locations used for public transportation purposes;
- (4) Reduce visual blight on private property and the public rights-of-way, protect the

aesthetics and value of surrounding properties and protect the quiet of residential areas;

- (5) Reduce exposure of the township to personal injury or property damage claims and litigation; and
- (6) Protect the right to distribute information protected by the United States and New Jersey Constitutions through use of newsracks.

B. Preservation of constitutional rights. It is not the intent of this chapter to in any way discriminate against, regulate or interfere with the publication, circulation, distribution or dissemination of any printed material that is constitutionally protected.

**§ 199-2. Definitions.**

As used in this chapter, unless the context otherwise clearly indicates:

**BLOCK** -- One side of a street between two consecutive intersecting streets.

**DISTRIBUTOR** -- The person responsible for placing and maintaining a newsrack on private property or in a public right-of-way.

**NEWSRACK** -- Any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display and sale of newspapers or other news periodicals.

**PARKING LOT** -- Any public or private area, paved or unpaved, designated for the purpose of providing parking to the public.

**PARKWAY** -- The area between the sidewalk and the curb of any street, and where there is no sidewalk, the area between the edge of the roadway and the property line adjacent thereto. Parkway shall also include any area within a roadway that is not open to vehicular travel.

**PERSON** -- Any person or persons or entity, including, but not limited to, a corporation, partnership, unincorporated association or joint venture.

**ROADWAY** -- That portion of a street improved, designed or ordinarily used for vehicular travel, including the shoulders thereto.

**SIDEWALK** -- Any surface provided for the exclusive use of pedestrians, whether public or private.

**STREET** -- All the area dedicated to public use for public street purposes and shall include, but not be limited to, roadways, parkways, alleys and sidewalks.



**§ 199-3. Prohibitions.**

- A. No person shall install, use or maintain any newsrack which projects onto, into or which rests, wholly or in part, upon the roadway of any public street.
- B. No person shall install, use or maintain any newsrack which in whole or in part rests upon, in or over any sidewalk, parking lot, parkway or private property:
  - (1) When such installation, use or maintenance endangers the safety of persons or property;
  - (2) When such site or location is used for public utility purposes, public transportation purposes or other governmental use;
  - (3) When such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including parked or stopped vehicles; the ingress in or egress from any residence or place of business; the use of poles, posts, traffic signs or signals, hydrants, mailboxes or other objects permitted at or near said location;
  - (4) When such newsrack interferes with the cleaning of any sidewalk by the use of mechanical sidewalk cleaning machinery wherein such cleaning is the responsibility of the township; or
  - (5) In any other manner inconsistent with or in violation of the provisions of this chapter.

**§ 199-4. Permit required.**

It shall be unlawful for any person, firm or corporation to erect, place, maintain or operate, on any parking lot, street, sidewalk, private property or any public way or place in the Township of Lumberton any newsrack without first having obtained a permit from the Zoning Officer or such other officer or employee as designated from time to time by the Township Committee specifying the exact location of such newsrack. One permit may be issued to include any number of newsracks and shall be signed by the applicant.

**§ 199-5. Application for permit.**

- A. Application for such permit shall be made, in writing, to the Zoning Officer, or such other officer or employee as designated from time to time by the Township Committee upon such form as shall be provided by him or her and shall contain the name and address of the applicant, the proposed specific location of said newsrack and shall be signed by the applicant.

- B. From the above application information, the Zoning Officer or such other officer or employee as designated from time to time by the Township Committee shall approve the locations. He shall be guided therein solely by the standards and criteria set forth in this chapter. In any case where the Zoning Officer or such other officer or employee as designated from time to time by the Township Committee disapproves of a particular location, such disapproval shall be without prejudice to the registrant designating a different location or locations.

**§ 199-6. Conditions for permit.**

- A. Permits shall be issued for the installation of a newsrack or newsracks, and such newsrack or newsracks and the installation, use or maintenance thereof shall be conditioned upon observance of the provisions of this chapter. Permits shall be issued within three days (excluding Saturday, Sunday and legal holidays) after the application has been filed. A permit fee of \$25 shall be required.
- B. Such permits shall be valid for one year and shall be renewable pursuant to the procedure for original applications referred to in § 199-5 and upon payment of the \$10 permit fee.

**§ 199-7. Hold harmless.**

Every owner of a newsrack who places or maintains a newsrack in a public right-of-way, including on a public parking lot, parkway, sidewalk, roadway or street, in the Township of Lumberton shall file a written statement with the Zoning Officer or such other officer or employee as designated from time to time by the Township Committee in a form satisfactory to the Township Attorney, whereby such owner agrees to indemnify and hold harmless the township, its officers and employees from any loss, liability or damage, including expenses and costs, for bodily or personal injury and for property damage sustained by any person as a result of the installation, use and/or maintenance of a newsrack within the Township of Lumberton.

**§ 199-8. Newsrack identification required.**

Every person who places or maintains a newsrack in a public right-of-way, including on parking lots, parkways, sidewalks, streets or roadways or on private property, in the Township of Lumberton shall have his permit number, name, address and telephone number affixed to the newsrack in a place where such information may be easily seen. Prior to the designation of location by the Zoning Officer or such other officer or employee as designated from time to time by the Township Committee under § 199-9 herein, the registrant shall present evidence of compliance with this section.

**§ 199-9. Location, placement and number of newsracks.**

Any newsrack which rests in whole or in part upon or on any portion of private property or a public right-of-way, including on the parking lots, parkways, sidewalks, streets or roadways, or which projects onto, into or over any part of a public right-of-way shall be located in accordance with the following provisions of this section:

- A. No newsrack shall be used or maintained which projects onto, into or over any part of the roadway of any public street or which rests wholly or in part upon, along or over any portion of the roadway of any public street.
- B. No newsrack shall be chained, bolted or otherwise attached to any fixture located in the public right-of-way, except to other newsracks.
- C. Newsracks may be placed next to each other, provided that no group of newsracks shall extend for a distance of more than eight feet along a curb, sidewalk, parking lot, street, roadway or otherwise, whether on public or private property, and a space of not less than three feet shall separate each group of newsracks.
- D. No newsrack shall be placed, installed, used or maintained:
  - (1) Within five feet of any marked crosswalk.
  - (2) Within 15 feet of the curb return of any unmarked crosswalk.
  - (3) Within five feet of any fire hydrant, fire call box, police call box or other emergency facility.
  - (4) Within five feet of any driveway, whether public or private.
  - (5) Within three feet ahead or 25 feet to the rear of any sign marking a designated bus stop.
  - (6) Within five feet of the outer end of any bus bench.
  - (7) At any location whereby the clear space for the passageway of pedestrians is reduced to less than six feet.
  - (8) Within three feet of or on any public area improved with lawn, flowers, shrubs, trees or other landscaping or within three feet of any display window of any building abutting the sidewalk or parkway or in such a manner as to impede or interfere with the reasonable use of such window for display purposes.
  - (9) Within 100 feet of any other newsrack on the same side of the street in the same block

containing the same issue or edition of the same publication.

(10) On any or within 10 feet of any access ramp for disabled persons and/or parking spot for disabled persons.

(11) Within six feet of any entrance/exit doorway to a commercial establishment, including emergency exits.

E. No more than six newsracks shall be located on private property and/or any public right-of-way within a space of 200 feet in any direction within the same block of the same street. In determining which newsracks shall be permitted to be located or to remain if already in place, the Zoning Officer or such other officer or employee as designated from time to time by the Township Committee shall be guided solely by the following criteria:

(1) First priority shall be daily publications published five or more days per week.

(2) Second priority shall be publications published two to four days per week.

(3) Third priority shall be publications published one day per week.

**§ 199-10. Standards for maintenance and installation.**

Any newsrack which, in whole or in part, rests upon, in or over any public sidewalk or parkway shall comply with the following standards:

A. No newsrack shall exceed four feet in height, 30 inches in width or two feet in thickness.

B. No newsrack shall be used for advertising signs for publicity purposes other than that dealing with the display, sale or purchase of the newspaper or news periodical sold therein.

C. Each newsrack shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event that the person is unable to receive the paid for publication. The coin-return mechanism shall be maintained in good working order.

D. Each newsrack shall have affixed to it in a readily visible place so as to be seen by anyone using the newsrack a notice setting forth the name and address of the distributor and the telephone number of a working telephone service to call to report a malfunction or to secure a refund in the event of a malfunction of the coin-return mechanism or to give the notices provided for in this chapter.

E. Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:

- (1) It is reasonably free of dirt and grease;
- (2) It is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof;
- (3) It is reasonably free of rust and corrosion in the visible unpainted metal areas thereon;
- (4) The clear plastic or glass parts thereof; if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration;
- (5) The paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading; and
- (6) The structural parts thereof are not broken or unduly misshapen.

**§ 199-11. Violations and penalties.**

Upon determination by the Zoning Officer, police officer or such other officer or employee as designated from time to time by the Township Committee that a newsrack has been installed, used or maintained in violation of the provisions of this chapter, an order to correct the offending condition shall be issued to the distributor of the newsrack. Such order shall be telephoned to the distributor and confirmed by mailing a copy of the order by certified mail, return receipt requested. The order shall specifically describe the offending condition, suggest actions necessary to correct the condition and inform the newsrack distributor of the right to appeal. Failure to properly correct the offending condition within 20 days after the mailing date of the order or to appeal the order within 20 days after its receipt shall result in the offending newsrack being summarily removed and processed as unclaimed property. If the offending newsrack is not properly identified as to owner under the provisions of § 199-10 hereof; it shall be removed immediately and processed as unclaimed property. An impound fee, which shall be measured by the township's cost and expense of impounding, shall be assessed against each newsrack summarily removed. The Zoning Officer or such other officer or employee as designated by the Township Committee shall cause inspection to be made of the corrected condition or of a newsrack reinstalled after removal under this section. The distributor of said newsrack shall be charged a twenty-five-dollar inspection fee for each newsrack so inspected. This charge shall be in addition to all other fees and charges required under this chapter.

**§ 199-12. Appeals.**

Any person or entity aggrieved by a finding, determination, notice, order or action taken under the provisions of this chapter may appeal and shall be apprised of his right to appeal to the Lumberton Township Zoning Board of Adjustments. An appeal must be perfected within 20 days

after receipt of notice of any protested decision or action by filing with the Zoning Board of Adjustments a letter of appeal briefly stating therein the basis for such appeal or other such forms as may be provided and required. A hearing shall be held at the next available meeting date, provided that the agenda permits, and the appellant shall be given at least five days' notice of the time and place of the hearing. The Zoning Board of Adjustments shall give the appellant, and any other interested party, a reasonable opportunity to be heard in order to show cause why the determination of the Zoning Officer should not be upheld. At the conclusion of the hearing, the Board shall make a final and conclusive decision. This decision shall be immediately appealable to a court of competent jurisdiction.

**§ 199-13. Abandonment.**

In the event that a newsrack remains empty for a period of 30 continuous days, the same shall be deemed abandoned and may be treated in the manner as provided in § 199-11 for newsracks in violation of the provisions of this chapter.

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## **Chapter 201, NOISE**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-16-1991 by Ord. No. 1991-17. Amendments noted where applicable.]

**§ 201-1. Legislative intent.**

It is the legislative intent of the governing body of the Township of Lumberton to protect the public health and safety, both physical and psychological, of the residents of the Township of Lumberton. Accordingly, loud, unnecessary or unusual noise is deemed to be contrary to the public health, welfare and safety of the citizens of the Township and is contrary to the public policy of the Township's governing body.

**§ 201-2. General prohibitions.**

It shall be unlawful for any person or persons to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health or safety of others within the limits of the Township of Lumberton.

**§ 201-3. Specific prohibitions.**

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but setting forth an enumeration shall not be deemed to be exclusive:

- A. Radios, televisions, stereo systems or amplifiers: the using, operation or permitting to be played, used or operated of any radio receiving set, television, musical instrument, stereo system or amplifier or other machine or device for the production or reproduction of sound in such a manner as to disturb the peace, quiet and comfort of the neighborhood inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, stereo system or amplifier or device between the hours of 11:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of 25 feet from the building, structure or vehicle in which such sounds are emanating shall be prima facie evidence of a violation of this chapter.
- B. Loudspeakers, amplifiers for advertising: the using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, stereo system, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is out upon the public street for the purpose of commercial advertising or for any other purpose.
- C. Yelling, shouting, etc.: yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, store or other commercial establishment, dwelling, apartment or other type of residence or of any persons in the vicinity.
- D. Construction or repairing of buildings: the erection (excluding excavating), demolition, alteration or repair of any building and/or the excavation and opening of any streets, roads or highways, except between the hours of 7:00 a.m. and 6:00 p.m. on weekdays and between 9:00 a.m. and 5:00 p.m. on Saturdays. Where urgent necessity, in the interest of public health, safety and welfare, requires such activities to take place during hours other than those specifically permitted herein, same may be accomplished, but only after a permit from the Township's Construction Official/Building Inspector has been secured. Said permit may be granted for a period not to exceed three days and only while the emergency continues. The permit may be renewed for periods of three days or less while the emergency continues. In addition, if the Township's Code Enforcement Official determines that the public health, safety and welfare will not be impaired by the erection, demolition or repair of any building or the excavation of streets and highways between the hours of 6:00 p.m. and 7:00 a.m. during weekdays and between the hours of 6:00 p.m. Friday and 9:00 a.m. Saturday or after 5:00 p.m. on Saturday and before 7:00 a.m. Monday, and if he shall further determine that substantial loss or inconvenience would be suffered by any party if the ability to engage in such activities was denied, he may grant permission for such work to be done during hours

otherwise prohibited herein upon application being made at the time the permit for said work is awarded or during the progress of the work. Nothing in this subsection shall prevent the occupant or owner of the premises at any time from making or causing to be made minor repairs or improvements to, on or about the premises, provided that the same shall be done without undue noise or disturbance and shall not cause a nuisance or disturb the peace and quiet of the neighborhood. [Amended 9-7-1999 by Ord. No. 1999-14]

- E. Schools, courts, churches and hospitals: the creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same is in use, or adjacent to any hospital, which excessive noise is unreasonable and interferes with the workings of such institution or disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- F. Drums: the use of any drum or other instrument or device for the purpose of attracting attention to any performance, show or sale by the creation of noise.
- G. Hawkers and peddlers: the shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
- H. Pile drivers, hammers, heavy equipment operation: the operation of any pile drivers, power guns, hammering, steam shovels, bulldozers or other earth moving machinery, derricks, steam or electric hoist or other appliances shall be permitted only between the hours of 7:00 a.m. and 6:00 p.m. on weekdays and between the hours of 9:00 am. and 5:00 p.m. on Saturdays. [Amended 9-7-1999 by Ord. No. 1999-14]
- I. Parties and other social gatherings at residences: any party, social gathering or group of persons at any residence in the Township of Lumberton which, either by way of a sound system or by loud voices or other noises, disturbs the quiet, comfort or repose of any person or persons in any dwelling, apartment or other type of residence or of any persons in the vicinity. It shall be the responsibility of the owner, lessee or person in control of said residence or place of gathering to control said persons or groups of persons attending such gatherings to prevent said disturbance.
- J. Musical instruments: the use of any musical instrument, whether for private pleasure or public entertainment, in any dwelling, apartment or commercial establishment with such volume as to disturb the quiet, comfort or repose of any person or persons in any adjacent dwelling, apartment or other type of residence or of any persons in the vicinity.
- K. Engine braking. [Added 4-4-2005 by Ord. No. 2005-11]
  - (1) Prohibition. It shall be unlawful for the driver of any motor vehicle to use or operate or cause to be used or operated, at any time and on any road within the Township of



Lumberton, any mechanical exhaust or decompression device which results in the practice known as "engine braking."

- (2) Definition. "Engine braking" shall mean the use or operation of any mechanical exhaust device designed to aid in the breaking, decompression or deceleration of a motor vehicle, which results in the excessive, loud, unusual or explosive noise from such vehicle in excess of state or federal noise standards for said vehicles.
- (3) Exceptions.
  - (a) The provisions of this subsection shall not apply to the application of unmuffled compression brakes where necessary for the protection of persons and/or property, which cannot be avoided by application of an alternative braking system. Noise caused by the application of engine compression brakes, otherwise known as "engine braking," which is effectively muffled, or if the application is necessary for the health, safety and welfare of the community shall be exempt from the provisions of this subsection.
  - (b) Sounds created by emergency equipment for emergency purposes shall also be exempt.
- (4) Post of signs. The Township is hereby authorized to post at reasonable locations with the Township signs indicating the prohibition of engine braking.

**§ 201-4. Sound equipment.**

- A. Sound equipment prohibited. The use or operation of a sound truck, loudspeaker or amplifying system, either from a stationary position or from a moving vehicle, shall be unlawful within the Township limits for any purpose other than that of a civic nature directly pertinent to activities within the Township of Lumberton or affecting the residents of the Township. Political activities shall be considered as civic in nature under this chapter.
- B. Permit necessary. Prior to the use of such sound equipment for the purposes specified, a permit shall be obtained from the Township Clerk/Administrator. Application forms for this purpose shall be furnished by the Clerk/Administrator and shall require the applicant to disclose:
  - (1) The name and address of all persons and organizations for which such a permit is being sought;
  - (2) The specific purpose of the application;

- (3) The number and type of equipment and vehicles to be used;
  - (4) The projected hours and area of the use of such equipment within the Township;
  - (5) The person or official who shall be in charge of any such activity and who has responsibility for compliance with the terms of this chapter; and
  - (6) In detail, the specific nature of the civic activity to be advertised.
- C. Municipal emergency use. In addition to the allowance of sound devices for civic purposes, the municipality may authorize any device of this nature at any and all times that there may be a municipal emergency, regardless of the provisions of this chapter.
- D. Prohibited hours. The hours of limitation for the operation of sound devices shall be not before 9:00 a.m. or after 7:00 p.m. on any weekday and not at all on Sunday, except for those devices hereinabove mentioned and which apply for emergency use.
- E. Fee. No fee shall be required for making the aforesaid application or for the issuance of a permit.
- F. Type of use prohibited. The use of the aforesaid sound devices shall at no time cause injury to the health of a person or persons nor otherwise be detrimental to the general welfare and dignity of the community, and the use thereof shall at all times be under the control of the governing body and of the Police Department as an agency thereof.

**§ 201-5. Parades.**

Parades may be permitted within the Township limits, provided that a permit is issued for the same. Application shall be made to the Township Clerk/ Administrator, who in turn will refer the same to the Chief of Police for investigation. The application must be made a minimum of 10 days prior to the parade, which application shall indicate the time, approximate number of people in the parade, desired route and the purpose of the parade. The Chief of Police shall have the right to reroute said parade if, in his opinion, it is apt to interfere with the free flow of vehicular traffic or to create a danger to life, limb or property.

**§ 201-6. Exceptions.**

Nothing herein contained shall be construed to apply to church bells or chimes or to prohibit playing by a band or orchestra in a hall.

**§ 201-7. Violations and penalties. [Amended 8-3-1992 by Ord. No. 1992-6]**

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

## **Chapter 209, PARADES AND PUBLIC ASSEMBLIES**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 2-18-1997 by Ord. No. 1997-3. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Noise -- See Ch. 201.  
Vehicles and traffic -- See Ch. 265.

**§ 209-1. Definitions.**

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

**BLOCK PARTIES** -- Any gathering of 25 or more persons which requests road closures that may interfere with the normal flow of pedestrian or vehicular traffic. [Added 10-16-2006 by Ord. No. 2006-16]

**PARADE** -- Any parade, march, ceremony, show, exhibition, pageant, assembly or procession of any kind or any similar display in or upon any street, park or other public place in the township.

**PUBLIC ASSEMBLIES** -- Any meeting, demonstration, picket line, rally or gathering of more than 25 persons for a common purpose as a result of prior planning that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic or occupies any public area in a place open to the general public, regardless of whether an admission fee is charged. [Amended 6-21-1999 by Ord. No. 1999-10; 10-16-2006 by Ord. No. 2006-16]

**§ 209-2. Permit required; exceptions.**

No person shall engage in, participate in, aid, form or start any parade or public assembly unless a permit shall have been first obtained from the Township Clerk. This section shall not apply to funeral processions or wedding processions; students going to and from school classes or participating in education activities under the immediate direction and supervision of the proper school authorities; or a governmental agency acting within the scope of its functions. Also excepted from inclusion in this section are spontaneous events occasioned by news or affairs coming into public knowledge within three days of such public assembly, provided that the organizer thereof gives written notice to the township at least 24 hours prior to such parade or public assembly.

**§ 209-3. Application for permit; contents. [Amended 10-16-2006 by Ord. No. 2006-16]**

A person seeking issuance of a parade, public assembly, or block party permit shall file an application with the office of the Township Clerk not less than 30 nor more than 45 days before the date on which it is proposed to conduct said event. The application shall set forth the following:

- A. The name, address and telephone number of the person seeking to conduct the event.
- B. The name and address of the record owner of the subject property or properties and the nature and interest of the applicant therein; the proposed dates and hours of such assembly; the expected maximum number of persons intended to use the property at one time and collectively; and the purpose of the function, including the nature of activities to be carried on and the admission fee to be charged, if any.
- C. A map showing the size of the property; the zoning district in which it is located; the streets or highways abutting said property; and the size and location of any existing building, buildings or structures or of any proposed building, buildings or structures to be erected for the purpose of the assembly.
- D. A plan or drawing showing the method to be used for the disposal of sanitary sewage.

- E. A plan or drawing showing the layout of any parking area for automobiles and other vehicles and the means of ingress and egress to such parking area. Such parking area shall provide one parking space for every four persons in attendance.
- F. The method of disposing of any garbage, trash, rubbish or other refuse arising therefrom.
- G. If a person other than the person applying for the permit will be engaged in the sale or distribution of food and beverage, the name and address of such person shall be submitted.
- H. A statement specifying whether any private security guards or police will be engaged and, if so, the number thereof and the duties to be performed by such persons.
- I. A statement specifying the precautions to be utilized for fire protection and a map specifying the location of fire lands and water supply for fire control.
- J. A statement specifying the facilities to be available for emergency of any person who might require immediate medical or nursing attention.
- K. The following additional information will be required for a parade permit:
  - (1) The route to be traveled, the starting and termination point.
  - (2) The approximate number of persons who, and vehicles which, will constitute the parade and the description of the type of vehicles.
  - (3) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed.
  - (4) The location, by streets, of any assembly area for the parade.
  - (5) The time at which units of the parade will begin to assemble at the assembly area or areas.
- L. Any additional information which the Township Clerk shall find reasonably necessary to a fair determination as to whether a permit should be issued.

**§ 209-4. Fees. [Amended 10-16-2006 by Ord. No. 2006-16]**

The fee for a parade, public assembly or block party shall be \$50 for those events in excess of 200 people. The fee for events with up to 200 people shall be \$25. Events with less than 100 persons may request a fee waiver from the Township Committee.

**§ 209-5. Public hearing on application.**

- A. Immediately upon the filing of an application for a parade permit, the Township Clerk shall send a notice thereof to the members of the Township Committee, Chief of Police, Fire Official and any other person he/she deems appropriate, including with the notice a copy of the application and the date scheduled for a public hearing on the permit.<sup>EN(164)</sup>

**§ 209-6. Standards for issuance of permit. [Amended 10-16-2006 by Ord. No. 2006-16]**

- A. Upon conclusion of a review of the submitted application, the Township Clerk shall determine, after a consideration of the application and from such other information as may be requested from the applicant, whether or not a permit should be issued, taking into account the following factors:
- (1) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.
  - (2) The public assembly or parade is not of a size or nature that requires the diversion of so great a number of police officers of the township to properly police the line of movement and the areas contiguous thereto that allowing the event would deny reasonable police protection to the township.
  - (3) The conduct of the public assembly or parade will not require the diversion of so great a number of ambulances so as to prevent normal ambulance and emergency squad service to other portions of the township.
  - (4) The concentration of persons or vehicles at assembly points of the public assembly or parade will not unduly interfere with proper fire and police protection of areas contiguous to the assembly areas.
  - (5) The conduct of the public assembly or parade will not interfere with the movement of fire-fighting equipment en route to a fire.
  - (6) The conduct of the public assembly or parade is not reasonably likely to cause injury to persons or property.
  - (7) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.
- B. After considering the above criteria, if the Township Clerk deems the specifics of the application to be inadvisable, then he or she may authorize the conduct of the parade or

public assembly at a date, time, location or route different from that named by the applicant. An applicant desiring to accept the alternate permit shall, within five days after notice of the action of the Township Clerk, file a written notice of acceptance with the Township Clerk.

- C. The Township Clerk shall uniformly consider each application upon its merits and shall not discriminate in granting or denying permits under this section upon political, religious, ethnic, race, disability, sexual orientation or gender-related grounds.

**§ 209-7. Notice of decision; contents of permit. [Amended 10-16-2006 by Ord. No. 2006-16]**

The Township Clerk shall forthwith notify the applicant of his or her decision whether or not to grant a permit. If the permit is to be denied, a written resolution setting forth the reasons for said denial shall be shed to the applicant. If the permit is to be granted, a permit containing the following information shall be forwarded to the applicant:

- A. Starting time.
- B. Minimum speed.
- C. Maximum speed.
- D. Maximum interval of space to be maintained between the units of a parade.
- E. The portions of the street to be traversed that may be occupied by the parade.
- F. The maximum length of the parade in miles or fraction thereof.
- G. The number of persons required to monitor the parade or public assembly.
- H. The number and type of vehicles, if any.
- I. That the permittee advise all participants in the public assembly or parade, either orally or by written notice, of the terms and conditions of the permit prior to the commencement of such parade or public assembly.
- J. Such other requirements as are found to be reasonably necessary for the protection of persons or property.

**§ 209-8. Duty of permittee.**

A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.

**§ 209-9. Posting of bond.**

The Township Committee, at its discretion, may require the posting of a bond at the time of the issuance of a permit in an amount sufficient to cover the costs of any expenses incurred by the Township in regulating the parade or to provide compensation for any anticipated damage caused by the parade or public assembly. Said bond shall be posted in cash.

**§ 209-10. Possession of permit.**

The Chairman or other person heading or leading such activity shall carry the parade permit upon his person during the conduct of the parade or public assembly.

**§ 209-11. Standards of conduct.**

The following standards for conduct shall be enforced by the Chief of Police of Lumberton Township during the parade or public assembly itself:

- A. Interference. No person shall unreasonably hamper, obstruct, impede or interfere with any parade or public assembly or with any person or vehicle participating or used in the parade or public assembly.
- B. Driving through parades. No driver of a vehicle shall drive between the vehicles or persons comprising a parade when these vehicles or persons are in motion and are conspicuously designated as a parade.
- C. Parking. The Chief of Police shall have the authority, when reasonably necessary to prohibit or restrict the parking of vehicles along a parade or public assembly route. Signs shall be posted to that effect and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

**§ 209-12. Revocation of permit.**

The Township Clerk shall have the authority to revoke a permit issued hereunder upon the finding by him/her, without public hearing, that the standards of the permit have been violated by the permittee or when a public emergency arises such that the police resources required for that emergency are such that deployment of police services for the parade or public assembly would have an immediate and adverse effect upon the welfare and safety of persons or property.



**§ 209-13. Prohibitions.**

- A. It shall be unlawful for any person to stage, present or conduct any parade or public assembly without first having obtained a permit as herein provided.
- B. It shall be unlawful for any person to participate in a parade or public assembly for which the person knows a permit has not been granted.
- C. It shall be unlawful for any person in charge of or responsible for the conduct of a duly licensed parade or public assembly to knowingly fail to comply with any condition of the permit.
- D. It shall be unlawful for any person to engage in any parade or public assembly activity that would constitute a substantial hazard to the public safety or that would materially interfere with or endanger the public peace or rights of residents to the quiet and peaceful enjoyment of their property.
- E. It shall be unlawful for any person participating in any parade or public assembly to carry or possess any length of metal, lumber, wood or similar material for purposes of displaying a sign, poster, plaque or notice unless such object is 1/4 inch or less in thickness and two inches or less in width, or if not generally rectangular in shape, such object shall not exceed 3/4 inch in its thickest dimension unless waived by the Chief of Police.
- F. It shall be unlawful for any person to carry any sign, poster, plaque or notice, whether or not mounted on a length of material as specified in Subsection E of this section, unless such sign, poster, plaque or notice is constructed or made of cloth, paper or cardboard material.
- G. It shall be unlawful for any person participating in a parade or public assembly to utilize sound amplification equipment at decibel levels that exceed those limits imposed by Chapter 201 of the Code of the Township of Lumberton;
- H. It shall be unlawful for any person to ride, drive or cause to be ridden or driven any animal or any animal-drawn vehicle in conjunction with any public event or parade upon any public street, unless specifically authorized by permit.

**§ 209-14. Violations and penalties.**

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$ 1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem

appropriate and just.

- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a minimal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

**§ 209-15. Enforcement.**

The Lumberton Township Police Department is the enforcement agent of this chapter.

## **Chapter 211, PARENTAL RESPONSIBILITY**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 2-20-2007 by Ord. No. 2007-2. Amendments noted where applicable.]

**§ 211-1. Findings.**

The Lumberton Township finds and declares that the uncontrolled and unsupervised activities of minor persons within the Township of Lumberton are detrimental to the maintenance of public safety and contrary to the general welfare. It is further found and declared that parental responsibility for the proper control and supervision of minor children is essential to effective law enforcement within the Township.

**§ 211-2. Definitions.**

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

MINOR -- Any unemancipated person under the age of 18 years.

PARENT -- Includes either or both natural parents of a minor, the legal guardians of the minor or any other adult persons who have voluntarily or otherwise assumed the responsibilities of a natural parent with respect to custody, care and control of the minor. For purposes of the enforcement of this chapter, the term "parent" shall not apply to natural parents, legal guardians

or other persons whose responsibility for the custody and control of the minor has been transferred to another person or otherwise terminated by court order or by the emancipation of the minor by marriage, military service or other circumstances. Persons claiming the benefit of such termination or transfer of responsibilities shall bear the burden of establishing the same in any proceedings hereunder.

**VIOLATION OF THE PUBLIC PEACE** -- Any violation of the statutes of New Jersey or the ordinances of the Township of Lumberton, including but not limited to any of the following acts: defacing, damaging or destroying public property or the private property of another within the Township of Lumberton; committing an assault or assault and battery upon another in the Township of Lumberton; robbery, stealing or larceny, including shoplifting; knowingly receiving stolen property; violation of any existing loitering or curfew laws of the Township; breaking and entering or entering without breaking into the property of another with the intent to steal; threatening another with the intent of extorting money or anything of value; possession or use of a controlled dangerous substance, as same shall be defined under N.J.S.A. 24:21-1 et seq., or juvenile delinquency based upon any of the above offenses.

**§ 211-3. Certain acts prohibited.**

- A. It shall be unlawful for any parent to assist, aid, abet, allow, permit, suffer or encourage a minor to commit a violation of the public peace, as defined herein, either by overt act or by lack of supervision and control over such minor. Whenever a minor shall be taken into custody for the commission of any such violation of the public peace within the Township of Lumberton, the parents of such minors shall be notified as promptly as possible by the Police Department of such custody and the reasons therefor and of the responsibility of the parents under this chapter and shall be advised of the availability of counseling services.
- B. If there be such notification, two separate subsequent violations of the public peace by a minor within a one hundred eighty-day period shall create a presumption of parental responsibility which shall constitute a violation of the public peace by the offending minor's parents.
- C. Each separate violation of the public peace by a minor within a twelve-month period shall create a presumption of parental responsibility which shall constitute a violation of the public peace by the offending minor's parents.

**§ 211-4. Violations and penalties.**

Any person who violates the terms of this chapter, upon conviction, shall be subject to a fine of not more than \$1,000. Additionally, if the court finds that there has been a financial loss suffered

by a victim, the court shall determine the amount of such loss and shall order restitution to be made within a prescribed period of time, but not longer than 30 days. Any parent who fails to comply with an order for restitution as hereinabove set forth shall be deemed in violation of this chapter and shall be in contempt of court.

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## **Chapter 213, PARKS AND RECREATION AREAS**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

**Alcoholic beverages -- See Ch. 94.**  
**Firearms -- See Ch. 149.**

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## **ARTICLE I, Rules and Regulations [Adopted 12-17-1979 by Ord. No. 1979-15 (Ch. XX of the 1973 Code)]**

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### **§ 213-1. Definitions.**

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

**PARK CUSTODIAN** -- A person, immediately in charge of any park area and its activities, to whom all park attendants of such area are responsible.

**PARKS** -- Any park, lawn, playground, playing field or vacant land within the limits of the Township which is open to the public, irrespective of whether or not owned by the Township, including its paths, roadways, sidewalk, streets and parking area therein and adjacent thereto.

### **§ 213-2. Purpose.**

This article is enacted to establish rules and regulations for the protection, care and control of the public land, parks and playgrounds in the Township and to regulate the conduct of persons on or within such public land, parks and playgrounds and using the facilities thereof.

### **§ 213-3. Administration and enforcement; agreement with Board of Education.**

A. Limitation of park hours and activities.

- (1) The opening and closing hours for parks within the Township of Lumberton shall be as follows: from 6:00 a.m. to 9:00 p.m. Nothing herein contained shall preclude the Township Committee, from time to time, and based upon special events and/or special needs, from modifying the hours on an as-needed, per event basis by resolution duly adopted by the Township Committee. [Amended 6-21-2004 by Ord. No. 2004-21]
- (2) Any person having knowledge of a determination made, pursuant to this section or who, upon being advised thereof, fails to abide thereby or violates the same shall be guilty of a violation of this chapter. Where notice of the determination is posted in a park area, knowledge thereof shall be presumed.

B. Enforcement.

- (1) The Township Police Department and any designated park custodian shall, in connection with their duties imposed by law, enforce the provisions of this chapter.
- (2) The Police Department and the park custodian shall have the authority to eject from the park area any person or persons acting in violation of this chapter.
- (3) The police and park custodian shall have the authority to seize and confiscate any property, thing or device in the park, or use, in violation of this chapter.
- (4) No person shall interfere with or fail to obey any police officer or park custodian in the proper performance of his duties in any park.

C. Agreement with Board of Education. The Township reserves the right, with respect to any and all of the public park and recreation areas and any facilities located therein, to enter into any agreement with the Board of Education of the Township concerning the control and use thereof. Anything contained in this chapter to the contrary notwithstanding, any use of premises or facilities by the Board of Education pursuant to any agreement with the Township Committee heretofore or hereafter entered into shall be free and exclusive from any control or supervision of or by the Township Committee.

**§ 213-4. Regulated activities.**

- A. General prohibition. No persons shall willfully mark, deface, displace, disfigure, injure, tamper with or remove any trees, shrubs, soil, grass or plant life or any structure, building or playground equipment, walkway, telephone or telephone pole, wires, pipes or appurtenances or any other recreational equipment or facility or any hydrant, storm or sewer drain, pipe, main basin covering, man holes or any appendage or appurtenance thereof or any inscription,

post or monument erected or marked for lawful purpose. No person shall injure or in any way interfere with the operation of any machinery or equipment used under the direction of the Township or any of its departments, agencies or officials or deface, destroy, alter, damage or tamper with any drive, path, walk, bridge, parking area or shelter or take up, remove or carry away any asphalt, concrete, stone, rock, wood, gravel, clay or earth or make any excavation of any kind.

- B. Construction. No person shall construct or erect any building or structure of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon or across such lands, except on special written permit issued hereunder.
- C. Rest rooms. No person shall fail to cooperate in maintaining rest rooms and wash rooms in a neat and sanitary condition. No person over the age of six years shall use the rest rooms and wash rooms designated for the opposite sex.
- D. Animals.
  - (1) No person shall hunt, molest, kill, frighten, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird, nor shall he remove or molest the eggs or young of any animal, reptile or bird except that snakes known to be deadly reptiles may be killed on sight.
  - (2) Tying to trees or shrubs. No person shall tie or hitch an unattended animal to any tree or plant.
  - (3) No person shall ride a horse except on the designated bridle trails and other areas. Where permitted, horses shall be thoroughly broken and properly restrained and ridden with due care and shall not be allowed to graze or go unattended, nor shall they be hitched unattended to any rock, tree or shrub.
- E. Picnicking and camping.
  - (1) Picnics. No person or persons shall picnic or lunch in a place other than that designated for the purpose.
  - (2) Tents. No person shall set up tents, shacks or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in a park after closing hours any movable structure or special vehicle to be used or that could be used for such purpose, such as a house trailer, camp trailer, camp wagon or the like, except in those areas designated by the Township Committee when authorized by a permit for a special event.
  - (3) Fires. No person shall kindle, build or maintain a fire within any park except in such area as may be designated for that purpose, and only charcoal or self-contained stoves may be

used. Fires shall not be left unattended; all fires shall be put out immediately after use.

- (4) Lighted matches; flammable material. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other flammable material within any park or highway or public street abutting or contiguous thereto.

F. Litter.

- (1) Trash and materials. No person shall bring in or dump in, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park or left anywhere on the grounds thereof but shall be placed in the proper receptacles where these are provided; where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and shall be properly disposed of elsewhere.
- (2) Pollution of water or waterways. No person shall cast, lay, drop or discharge or leave in the water or waterways of any park any substance, matter or thing, liquid or solid.

G. Fireworks. No person shall have in his possession or set or otherwise cause to explode or discharge or burn fireworks, torpedo rockets or other fireworks, firecrackers or explosives of inflammable material or discharge them or throw them into any such areas from lands or highways adjacent thereto. This prohibition shall include any substance, compound, mixture or article that, in conjunction with any other substance or compound, would be dangerous from any of the foregoing standpoints.

H. Firearms and weapons. No person shall bring into any park or use in any park any rifle, handgun, shotgun, airgun, slingshot or similar weapon or instrument.

I. Behavior.

- (1) Consumption of alcoholic beverages. No alcoholic beverages shall be sold within any park or brought into the same for consumption and distribution therein, and the possession of any alcoholic beverages therein shall be prohibited unless a permit shall have previously been issued by the Township Committee. Such permits shall be subject to such rules as the Township Committee may deem necessary to preserve and protect the public welfare.
- (2) Disorderly conduct. No person shall conduct himself in a disorderly or loud, boisterous, threatening or abusive manner or commit any indecent act or use profane, indecent, obscene language in any park. No person shall unreasonably interfere with or disturb any other persons occupying any area or participating in any activity under the authority of a permit in any park.

(3) Rough games. The playing of active games shall be restricted to specific areas provided.

J. Traffic and parking.

(1) Certain motor vehicles prohibited. No person shall drive, operate, use or bring into any park area an automobile, motorbike, minibike, motorcycle, motorized bicycle (moped), snowmobile or any other moving vehicle except for vehicles duly licensed and otherwise authorized; no vehicle shall be operated at speeds in excess of 10 miles per hour, and then only in areas designated for the parking or operation of such vehicles. [Amended 11-1-1982 by Ord. No. 1982-8]

(2) Parking. No person shall leave a vehicle unattended or parked in any park, except during park hours, but this provision shall not be intended to apply to adjacent public streets. No person shall park a vehicle other than in an established designated area within the park, and such parking shall be in accordance with the posted directions and the directions of any attendant who might be present. Overnight parking shall be specifically prohibited, except where authorized in conjunction with a special event approved, pursuant to § 213-6. No person shall drive any vehicles in any area except the paved roads or parking areas or such area as may on occasion be specifically designated as temporary areas by the Township Committee.

K. Advertising. No person shall post, exhibit or otherwise display any sign, posters or other advertising material in any park, except where authorized in connection with the issuance of a permit for a special event, pursuant to § 213-6. This provision shall not apply to billboards, posters or programs erected, maintained or sponsored by the Township or any of its departments or agencies.

L. Offerings for sale. No person shall expose or offer for sale any article or thing, nor shall he station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing within the park. An exception shall be made for any concessionaire acting by and under the authority and regulation of a permit previously issued by the Township Committee.

M. Games of chance. No persons shall gamble or participate in or abet any game of chance, except under permit previously issued by the Township Committee.

**§ 213-5. Special events; permits; liability.**

A. Permit required.

(1) A special event shall be any event which is conducted, sponsored or permitted by an organized group of persons and which involves any advanced publicity or advertising by



or with such group, except activities scheduled by the Township Recreation Department.

- (2) No special event shall be held or permitted in any park in the Township unless a permit therefore shall have been previously issued by the Township Committee. There shall be several classes of permits, which shall be set by the Committee from time to time by resolution, which may be issued by the Township Committee upon proper application. Such permits shall be subject to such rules and regulations as the Township Committee shall deem necessary to preserve and protect the public welfare.
- B. Application requirements. A person seeking issuance of a permit shall file an application at least 20 days before the scheduled date of the event with the Township Clerk/Administrator, providing information which the Township Committee shall find reasonably necessary to find a fair determination as to whether a permit should be issued hereunder.
- C. Standards for issuance. Standards for the issuance of a permit by the Township Committee shall include but not be limited to the following findings:
- (1) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public's enjoyment of the park.
  - (2) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
  - (3) That the proposed activity or uses that are reasonably anticipated will not include violence, crime or disorderly conduct.
  - (4) That the proposed activity will not entail extraordinary or burdensome expense of police operation by the Township.
  - (5) That the facilities desired have not been reserved for other use at the date and hour requested in the application.
- D. Liability of permittee; insurance requirements.
- (1) The person or persons to whom a permit is issued under this section shall be liable for any damage or injury sustained to any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued.
  - (2) The Township Committee shall have the right to require any permittee to submit evidence of liability insurance covering injuries to members of the general public arising out of such permitted activities, in such amounts as may be determined by the Committee prior to the commencement of any activity, with the issuance of any permit.
- E. Fee. Upon the issuance of a permit, the permittee may be required to pay a fee to the

Township. Such fee shall be set by the Committee, by resolution, for the use of any park or parks within the Township. Such fee shall be designed to defray the cost of maintenance and operation of any park within the Township.

- F. Permittee to be bound by rules and regulations. A permittee shall be bound by all park rules and regulations and all applicable ordinances as fully as though the same were inserted in the permits.
- G. Revocation of permit. The Township Committee shall have the authority to revoke a permit upon the finding of a violation of any rule or ordinance or upon good cause being shown.

**§ 213-6. Exceptions.**

Nothing contained in any of the foregoing provisions of this chapter shall be understood or construed to apply to Township officers or employees acting within the scope of their duties or any person or persons acting with the specific directions or with specific permission of the Township Committee. Nothing in this exception shall be construed to authorize any act which is prohibited by other applicable ordinances or is otherwise unlawful.

**§ 213-7. Violations and penalties. [Amended 8-3-1992 by Ord. No. 1992-6]**

- A. Maximum penalty. For violation of any provisions of this article, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this article exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

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**ARTICLE II, Fees for Recreational Activities [Adopted 8-7-1995 by Ord. No. 1995-11]**

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**§ 213-8. Establishment of fees; refunds. [Amended 10-2-1995 by Ord. No. 1995-23; 2-2-1998 by Ord. No. 1998-3; 3-2-1998 by Ord. No. 1998-10; 1-19-1999 by Ord. No. 1999-2; 6-21-1999 by Ord. No. 1999-9; 2-7-2000 by Ord. No. 2000-6; 4-17-2000 by Ord. No. 2000-11]**

A. There is hereby established the following registration fee for each person, including children, who desires to participate in the various programs offered by the Township through its Recreation Department. The fee schedule may be amended from time to time by resolution of the Township Committee. [Amended 4-9-2002 by Ord. No. 2002-2; 7-21-2003 by Ord. No. 2003-7; 2-17-2004 by Ord. No. 2004-10; 9-12-2005 by Ord. No. 2005-24]

Activity	Fee Schedule	
	Minimum	Maximum
Aerobic	\$45	\$75
Art programs -drawing, painting	\$30	\$125
Baseball programs	\$30	\$150
Basketball programs	\$30	\$150
Bicycle programs	\$30	\$150
Bus trips	\$30	\$300
Card and games programs	\$30	\$125
Cheerleading programs	\$30	\$125
Chess programs	\$10	\$100
Craft programs	\$30	\$125

<b>Activity</b>	<b>Fee Schedule</b>	
	<b>Minimum</b>	<b>Maximum</b>
Computer programs	\$30	\$175
Dance/ballet program	\$30	\$125
Dog obedience	\$30	\$125
Fitness programs	\$30	\$125
Fishing programs	\$10	\$125
Flea market	\$10	\$125
Golf programs	\$30	\$150
Gymnastics programs	\$30	\$125
Hockey programs	\$30	\$125
Kickboxing	\$30	\$125
Karate programs	\$30	\$125
Preschool program	\$30	\$300
Self defense programs	\$30	\$125
Soccer programs	\$30	\$150
Special event program	\$2	\$ 300
Sport challenge	\$2	\$125
Tennis programs	\$30	\$125
Yoga programs	\$30	\$125
Camps, per week		

<b>Activity</b>	<b>Fee Schedule</b>	
	<b>Minimum</b>	<b>Maximum</b>
Baseball	\$25	\$300
Basketball	\$25	\$300
Craft	\$25	\$300
Dance	\$25	\$300
Drama	\$25	\$300
Hockey	\$25	\$300
Golf	\$25	\$300
Lacrosse	\$25	\$300
Math	\$25	\$300
Reading	\$25	\$300
Science	\$25	\$300
Soccer	\$25	\$300
Softball	\$25	\$300
Summer recreation	\$50	\$450

B. Refund policy for prior withdrawal. Registrants who withdraw prior to the start of a program may be issued a refund only if the Recreation Department is notified in writing at least two weeks prior to the starting date of the program and there is another prospective participant on the waiting list to replace said registrant. No refunds will be granted once a program has begun. A ten-dollar administrative service charge will be imposed for all refunds granted, which sum will be deducted from the refund. [Amended 3-17-2003 by Ord. No. 2003-4; 5-2-2005 by Ord. No. 2005-13]

C. Cancellation policy. The Lumberton Township Recreation Department reserves the right to

cancel any program if there is insufficient enrollment. Dates and times of scheduled programs are subject to change due to circumstances beyond the control of the Recreation Department. Every effort will be made to keep residents informed of all program changes. Information will be posted on the Township's website, RVTV, marquee sign, newsletter and such other available means of communication. Flyers may also be distributed in local schools, and notices may appear in the local newspapers. [Added 5-2-2005 by Ord. No. 2005-13<sup>EN(165)</sup>]

- D. Training requirements. Prior to participating as a coach in any sports program, prospective coaches shall participate in, and successfully complete, the Rutgers Safety Training Course. The Township will assume the costs and fees associated with said course. The refund previously granted to coaches based upon the fee for enrollment of a child in the program they are coaching shall no longer apply; the Township's absorption of the fee associated with the Rutgers Safety Training Course shall take the place of said previous refund policy. [Added 5-2-2005 by Ord. No. 2005-13]
- E. Nonresident adults are charged an additional \$10 for program registration. [Added 4-9-2002 by Ord. No. 2002-2]

### **§ 213-9. Deposit of funds.**

In accordance with state statute and regulations, all moneys collected by the Recreation Committee shall be paid over to the Township immediately and deposited in an approved depository within 48 hours of collection. Said moneys shall be deposited into the Township's General Fund.

## **Chapter 216, PEDDLING AND SOLICITING**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 5-1-2007 by Ord. No. 2007-7.<sup>EN(166)</sup> Amendments noted where applicable.]

### **GENERAL REFERENCES**

Noise -- See Ch. 201.

### **§ 216-1. Definitions.**

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

CHARITABLE -- Includes the words "patriotic," "philanthropic," "social service," "welfare,"

"benevolent," "educational," "civic" and "fraternal," either actual or purported.

**CHIEF OF POLICE** -- Includes the Chief of Police or the commanding officer in charge of the Lumberton Township Police Department in the absence of the Chief of Police.

**CONTRIBUTIONS** -- Includes the words "alms," "food," "clothing," "money," "subscriptions," "property" and "donation" under the guise of a loan or money or property.

**ITINERANT SALESMAN AND VENDOR** -- Includes hawkers, peddlers and salesmen, their agents, servants, employees or representatives, who do not have or own any retail shop or place of business in the Township of Lumberton, who, with or without any form of container, vehicle or other conveyance, shall, on the streets or other public places of said Township or otherwise from door to door or from house to house, sell, cause to be sold, offer for sale or cause to be offered for sale goods, wares or merchandise of any description whatsoever, or who solicit funds or subscriptions of any kind, except as hereinafter excluded.

**PERSON** -- Any individual, firm, association, corporation, partnership, society or organization, or any agent, employee or representative thereof.

**RELIGIOUS and RELIGION** -- Do not include the word "charitable" as herein defined but shall be given their commonly accepted definitions.

**SOLICIT and SOLICITATION** -- The request, directly or indirectly, for money, credit, property, financial assistance or other thing of value on the representation that such money, credit, property, financial assistance or other thing of value will be used for a charitable or religious purpose.

**§ 216-2. Permit required.**

It shall be unlawful for any person, as an itinerant salesman or vendor, to sell, offer for sale or cause to be sold or offered for sale within the corporate limits of the Township of Lumberton any goods, wares or merchandise of any kind whatsoever or to solicit funds, subscriptions or contributions, except as herein particularly allowed, without first having applied for and having obtained a permit for such purpose.

**§ 216-3. Exceptions.**

This chapter is intended to particularly exclude wholesalers who are either licensed by the State of New Jersey or who have been issued a sales tax exemption permit from the State of New Jersey due to their status as wholesalers, holders of special privileges and all of the persons exempted by operation of law. Any person issued a special license pursuant to N.J.S.A. 45:24-9

is specifically exempted from all licensing requirements of this chapter. As permitted by N.J.S.A. 45:24-9, any portion of this chapter regulating hawking, peddling and vending on public streets and highways within the Township of Lumberton is applicable to persons issued a special license.

**§ 216-4. Permit application.**

- A. An application for a permit as required in § 216-2 hereof shall be made to the Chief of Police upon forms provided by the Township Clerk of the Township of Lumberton. Such application shall be sworn to and filed with said Chief of Police and shall contain any and all information which the Chief of Police may deem reasonable and necessary pertaining to the applicant and to the goods, wares and merchandise intended to be sold or offered for sale or to the organization or institution for which any solicitation is to be made. The application shall include the name and address or headquarters or place of business of the person or persons applying for the permit and, if said applicant is not an individual, then the names and addresses of the applicant's principal officers and managers. It shall contain a description of the goods, wares and merchandise to be sold or the purpose for which the solicitation is being made and the time when such solicitation shall be made, giving the dates for the beginning and ending of such solicitation. In addition, the applicant shall submit two letters of recommendation to the Chief of Police concerning the applicant's moral character.
- B. At the time of filing the application, a fee of \$150 shall be paid to the Township Clerk to cover the cost of the investigation of the facts stated therein. If the applicant has previously been investigated by the Lumberton Township Police Department on a previous license application in the same calendar year, and if after said investigation a license was issued to said individual, then and in that event the application fee stated herein shall be reduced to the sum of \$50.
- C. When applicable, prior to the issuance of a permit, the applicant must present proof of a food handler's license issued by the County of Burlington.
- D. Duly established and recognized charitable and religious organizations and institutions shall not be required to pay the aforementioned application fees nor shall they be required to submit two letters of recommendation regarding moral character with their solicitation permit application.

**§ 216-5. Investigation of applicant; issuance or denial of permit.**

- A. Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as



he deems necessary for the protection of the public good.

- B. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same and return said application to the Township Clerk, who shall notify the applicant that his application is disapproved and that no permit and license will be issued.
- C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return said permit, along with the application, to the Township Clerk. The Township Clerk shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative. The Clerk shall keep a permanent record of all licenses issued.
- D. Duly established and recognized charitable and religious institutions shall be exempt from the aforementioned investigation requirements prior to the issuance of a solicitation permit.

**§ 216-6. Issuance and display of badges and ribbons.**

- A. The Township Clerk shall issue to each licensee at the time of delivery of his license a badge which shall contain the words "licensed solicitor" or "peddler," the period for which the license is issued and the number of the license in letters and figures easily discernible from a distance of 10 feet. Such badge shall, during the time such licensee is engaged in soliciting, be worn constantly by the licensee on the front of his outer garment in such a way as to be conspicuous.
- B. In the case of solicitation, the charitable or religious organization shall supply its agents, representatives or employees with a badge or ribbon containing the name and address of such organization. Said badge or ribbon shall be worn and conspicuously displayed on the front of the clothing of such agent, representative or employee. Said badge or ribbon shall be of sufficient size to be easily discernible from a distance of 10 feet.

**§ 216-7. Fees; term of permit; hours of sale.**

- A. For each permit to sell any goods, wares or merchandise, the applicant shall pay to the Township of Lumberton the sum of \$15, and said permit shall expire December 31 next

ensuing the date of issuance.

- B. No such permit shall be effective for more than one person and one vehicle, but duplicate permits may be issued in like manner for an additional fee of \$15 for each additional person who will sell any goods, wares or merchandise and an additional \$15 for each additional vehicle being used in the sale of said goods, wares or merchandise. No rebate shall be allowed from any fee herein specified for a term less than one year.
- C. For each permit to solicit funds or subscriptions for any duly established and recognized charitable or religious organization or institution, the applicant shall not be required to pay, but such permit shall expire not more than 40 days next ensuing the date of issuance.
- D. No selling or soliciting shall be permitted except between the hours of 9:00 a.m. and 9:00 p.m., inclusive, provided that home deliveries of milk, bread and the like shall not be circumscribed hereby and provided, further, that trucks peddling coffee, doughnuts and similar items to work sites shall not be limited to the hours herein provided.

**§ 216-8. Time limit for permit grant or denial; appeals.**

An application for a permit shall be granted or denied within 21 days from the date that said application is submitted to the Chief of Police, and in the event of denial, the Township Clerk shall notify the applicant by certified mail, setting forth the reasons for denial. Within five days thereafter, the applicant may file with the Township Committee a written request for a hearing on said application, together with written exceptions to the findings of fact upon which the Chief of Police based his denial of the application. On the filing of such a request, the Township Committee shall fix a time and place for a hearing and shall notify the applicant thereof, which hearing shall be held within 10 days after the request is filed. Within 10 days after the conclusion of the hearing, the Township Council shall make its decision whether to issue or sustain the denial of said permit.

**§ 216-9. Suspension or revocation of license.**

Any permit which may have been issued under this chapter may be revoked and canceled by the Chief of Police on a showing that there have been continued violations of this chapter or for other good cause. Upon learning that a permit holder has been convicted in Municipal Court of violating provisions of this chapter for a third time in a calendar year, or for other good cause, the Chief of Police shall immediately suspend the permit and give the holder thereof written notice by certified mail of a hearing to be held by him within five days of such suspension to determine whether or not the permit should be revoked and canceled. The notice shall contain a statement of the facts upon which the Chief of Police has acted in suspending the permit. If, after such

hearing, the Chief of Police finds that the chapter has been violated or other good cause exists, he shall, within five days after the hearing, revoke the permit and give the holder thereof written notice of said revocation and the reasons therefor; or in the absence of such finding, the holder shall be notified within five days in writing of the termination of the suspension of the permit. In addition, any permit which may have been issued may be revoked and canceled, for a violation of said chapter or on good cause shown, on a majority vote of the Township Council at any regular or special meeting thereof, after five days' written notice to the permit holder and upon affording said holder an opportunity to be heard with respect to the reasons for such revocation and cancellation.

**§ 216-10. Sales on public roads or rights-of-way.**

- A. No person shall place in the public roads or rights-of-way a stationary vehicle, equipment or other structure for the purposes of selling goods or wares.
- B. This section shall not prohibit a vendor of goods, such as ice cream, hot dogs, etc., who sells such goods from a moving vehicle from parking said vehicle for a sufficient amount of time to allow said individual to service a customer who has stopped said vehicle for the purposes of buying said goods. However, the operator of said vehicle shall remove said vehicle from its parked location once the sale to the consumer has been completed.

**§ 216-11. Sales from private property.**

- A. No person shall place on any private property a stationary vehicle, equipment or other structure for the purposes of selling goods or wares.
- B. This section shall not prohibit a vendor of goods who sells such goods from a moving vehicle from parking said vehicle on private property for a sufficient amount of time to allow said vendor to service a customer who has stopped said vehicle for the purpose of buying said goods, provided that the vendor has obtained the written consent of the private property owner. The vendor must have, in his possession, the written consent of the private property owner and must produce the same upon a request from the Lumberton Township Police Department or any other enforcement officer of the Township of Lumberton. However, the vendor shall remove said vehicle from its parked location once the sale to the consumer has been completed. The vendor cannot leave his vehicle on the private property for the purpose of attracting customers to his stationary vehicle located on private property. This prohibition shall not apply to any person who has received a permit for selling goods or wares from a stationary vehicle, equipment or other such structure on or before the date of adoption of this subsection. All existing permits may be renewed each year, and at such time that said permit is not renewed, it shall be deemed to be terminated and all rights associated with said permit

shall also be terminated. Exempted from the prohibition in this section are all disabled veterans who are residents of the Township of Lumberton for at least a minimum period of 90 days prior to the issuance of the permit.

- C. Failure of the vendor to have obtained the written consent of the private property owner or the failure of the vendor to move the vehicle once the sale to a customer has been completed shall be a violation of this chapter.
- D. The provisions of this section shall not apply to an individual who operates out of a fixed structure and who has obtained all of the necessary permits and/or approvals required by the Township for the operation of a business from a structure located on real property.

**§ 216-12. Violations and penalties; enforcement.**

- A. Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$1,000, by imprisonment for a term not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined by the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.
- C. This chapter shall be enforced by the Police Department, Code Enforcement Officer, Zoning Officer or any other employee designated by the Township Council by resolution to enforce this chapter.

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**Chapter 219, POOLROOMS AND BILLIARD ROOMS**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-17-1973 by Ord. No. 1973-19 as part of Ch. V of the 1973 Code. Amendments noted where applicable.]

**GENERAL REFERENCES**

Amusement parlors and amusement devices -- See Ch. 96.  
Noise -- See Ch. 201.

**§ 219-1. License required.**

No person shall pursue the business or occupation of keeping any billiard room or poolroom in the township until the proprietor thereof shall have first obtained from the Township Committee a license to carry on and conduct the same and shall have paid the required license fee.

**§ 219-2. Application for license.** EN(167)

In addition to any other information required, the application for a pool- or billiard room license shall state the number of tables to be licensed.

**§ 219-3. Granting of licenses, expiration.**

All licenses under this chapter shall be granted by the Township Committee and issued by the Township Clerk/Administrator. All such licenses shall be valid from February 1 of the year in which the license is issued until January 3 of the following year, unless sooner revoked.

**§ 219-4. License fee.** EN(168)

The fee for a license to carry on and conduct any billiard room or poolroom shall be \$50 for each pool or billiard table.

**§ 219-5. Minors.**

A minor under the age of 18 years shall under no circumstances frequent, loiter, go or remain in any hall licensed under this chapter at any time unless he is on some lawful errand and sent under the direction, consent and knowledge of the parent, guardian or other person having lawful custody of him. It shall be unlawful for the proprietor of any hall so licensed to allow or permit any minor to frequent, loiter or remain within the hall in violation of this section.

**§ 219-6. Hours of operation.**

Every place of business licensed under this chapter shall not open before 9:00 a.m. and shall be closed at 1:00 a.m. every day, except Saturday, when it shall close at 12:00 midnight and remain closed until the following Monday morning.

**§ 219-7. Violations and penalties.** EN(169)

A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty,

upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days, or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.

- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

## Chapter 221, PROPERTY MAINTENANCE

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 2-7-2000 by Ord. No. 2000-7. Amendments noted where applicable.]

### GENERAL REFERENCES

- Brush, grass and trash -- See Ch. 103.
- Unfit buildings -- See Ch. 109.
- Development regulations -- See Ch. 130.
- Fire prevention -- See Ch. 152.
- Garbage, rubbish and refuse -- See Ch. 162.
- Housing standards -- See Ch. 168.
- Littering -- See Ch. 188.
- Streets and sidewalks -- See Ch. 250, Art. III.
- Abandoned vehicles -- See Ch. 263.

### § 221-1. Title; repeal of prior regulations.

This chapter shall be known as the "Property Maintenance Code of the Township of Lumberton" and may be referred to in this chapter as this "code." This chapter shall supersede, repeal and replace the heretofore existing Chapter 221, Property Maintenance, of the Code of the Township of Lumberton.

### § 221-2. Findings and declaration of policy; purpose.

- A. Findings. It is hereby found and declared that there exists in the Township of Lumberton structures used for residential and nonresidential use which are, or may become in the future, substandard with respect to structure, equipment or maintenance or further that such conditions, including but not limited to structural deterioration, lack of maintenance and appearance of exterior of premises, infestation, lack of maintenance or upkeep of essential utilities and facilities and/or existence of fire hazards and unsanitary conditions, constitute a menace to the health, safety, welfare and reasonable comforts of the citizens and inhabitants of the Township of Lumberton. It is further found and declared that, by reason of lack of maintenance and progressive deterioration, certain properties have the further effect of creating blighting conditions, and that, if the same are not curtailed and removed, the conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same, and that, by reason of timely regulations and restrictions as herein contained, the growth of blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of residential and nonresidential uses and neighborhoods enhanced and the public health, safety and welfare protected and fostered.
- B. Purpose. The purpose of this code is to protect the public health, safety and welfare by establishing minimum standards governing the maintenance, appearance and condition of residential and nonresidential premises; to establish minimum standards governing utilities, facilities and other physical components and conditions essential to make the aforesaid facilities fit for human habitation, occupancy and use; to fix certain responsibilities and duties upon owners and operators and distinct and separate responsibilities and duties upon occupants; to authorize and establish procedures for the inspection of residential and nonresidential premises; to fix penalties for the violations of this code; and to provide for the repair, maintenance and abatement of nuisances on premises by the Township of Lumberton. This code is hereby declared to be remedial and essential for the public interest, and it is intended that this code be liberally construed to effectuate the purposes as stated herein.

**§ 221-3. Definitions and word usage.**

- A. Whenever the words "accessory structure," "building," "dwelling," "premises" or "structure" are used in this code, they shall be construed, unless expressly stated to the contrary, to include the plurals of these words and as if they were followed by the words "or any part thereof."
- B. The following terms, wherever used herein or referred to in this code, shall have the respective meanings assigned to them unless a different meaning clearly appears from the context:

**ACCESSORY STRUCTURE** -- A structure, the use of which is incidental to that of the main building and which is attached thereto or located on the same premises.

**BASEMENT or CELLAR** -- Any floor, any portion of which is more than 24 inches below the adjacent grade level.

**BUILDING** -- A combination of materials to form a construction adapted to permanent or continuous occupancy or use for public, institutional, residence, business or storage purposes.

**DETERIORATION** -- The condition or appearance of a building or part thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay or neglect, lack of maintenance or excessive use.

**DWELLING** -- Any structure designed for use by human occupants for sleeping and living purposes, whether occupied or vacant, except that the foregoing shall not apply to hotels as defined in N.J.S.A. 29:2-1.

**ENFORCEMENT OFFICERS** -- All officials, officers or employees entrusted with the enforcement of the provisions of this code.

**EXPOSED TO PUBLIC VIEW** -- Any premises or any part thereof or any building or any part thereof which may be lawfully viewed by the public or any member thereof from a sidewalk, street, alleyway, licensed open-air parking lot or from any adjoining or neighboring premises.

**EXTERIOR OF THE PREMISES** -- Those portions of a building that are exposed to public view and the open space of any premises outside of any building erected thereon.

**FIRE HAZARD** -- (See also "nuisance.") Any thing or any act which increases or may cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service of preventing, suppressing or extinguishing fire; or which may obstruct, delay or hinder or may become the cause of an obstruction, a delay, a hazard or a hindrance to the prevention, suppression or extinguishment of fire.

**GARBAGE** -- (See also "refuse" and "rubbish.") Putrescible animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food. Compost piles are excluded from the definition of "garbage." A "compost pile" is a collection of leaves, grass clippings and other similar raw organic materials collected in a pile for the purpose of decomposition. Pine needles may be included as a component of the compost pile. A single compost pile shall not exceed a height of five feet or diameter of 10 feet.

**INFESTATION** -- The presence of insects, rodents, vermin or other pests on the premises, in sufficient numbers to constitute a health hazard.



## NUISANCE

- (1) Any public nuisance known at common law or inequity jurisprudence or as provided by the statutes of the State of New Jersey or the ordinances of the Township of Lumberton.
- (2) Any attractive nuisance which may prove detrimental to the health or safety of persons, whether in a building, on the premises of a building or upon an unoccupied lot. This includes, but is not limited to, abandoned wells, shafts, basements, excavations, abandoned iceboxes or refrigerators or other major appliances, abandoned or junk motor vehicles, any structurally unsound fences or structures, lumber, trash, fences, debris or vegetation such as poison ivy, oak or sumac which may prove a hazard.
- (3) Physical conditions dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist.
- (4) Inadequate or unsanitary sewage or plumbing facilities in violation of township ordinances.
- (5) Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, or whatever creates an unreasonable nuisance through odor or noise so as to deprive adjacent owners of the quiet enjoyment of their property.
- (6) Any structure or building that is in a state of dilapidation, deterioration or decay, faulty construction, overcrowded, open, vacant or abandoned, damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and is dangerous to anyone on or near the premises.
- (7) Unsanitary conditions or anything unreasonably offensive or dangerous to health or safety.
- (8) Any premises which is manifestly capable of being a fire hazard or unsecured as to endanger life, limb or property.

**OCCUPANT** -- Any person living, sleeping, occupying or having actual possession of a premises or a part thereof.

**OPERATOR** -- Any person who has charge, care or control of a premises or a part thereof, whether with or without the knowledge and/or consent of the owner.

**OWNER** -- Any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof, or shall have charge, care or control of any dwelling or dwelling unit as owner or agent of the owner or as fiduciary, including but not limited to executor, executrix, administrator, administratrix, trustee, receiver or guardian of the estate, or as a mortgagee in possession regardless of how such

possession was obtained. Any person who is a lessee subletting or reassigning any part or all of any dwelling or dwelling unit shall be deemed to be a co-owner with the lessor and/or assigned by said lessee.

**PREMISES** -- A lot, plot or parcel of land, including the buildings or structures thereon.

**REFUSE** -- (See also "garbage" and "rubbish.") All putrescible and nonputrescible solid wastes, including but not limited to garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, tires and solid market and industrial wastes.

**REGISTERED MAIL** -- Registered mail or certified mail.

**RUBBISH** -- (See also "garbage" and "refuse.") Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, tin cans, wood, bedding, crockery and similar materials. Firewood shall not be prohibited, provided that it is stacked in an orderly manner within 60 days of being cut or delivered to the property. Firewood on a commercial lot must be stacked at least 15 feet off any residential property line.

**STRUCTURE** -- A combination of any materials, whether fixed or portable, forming a construction, including buildings.

**VENTILATION** -- Supply and removal of air to and from any space by natural or mechanical means.

**WEATHERING** -- Deterioration, decay or damage caused by exposure to the elements.

**§ 221-4. Applicability; compliance with other provisions.**

- A. In general. This code shall be applicable to all buildings, every residential and nonresidential building and the premises on which it is situated in the township, used or intended to be used for dwelling, commercial, business or industrial occupancy, which buildings shall comply with the provisions of this code, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this code, and irrespective of any permits or licenses that shall have been issued for the use or occupancy of the building or for the installation or repair of equipment or facilities prior to enactment of this code. This code shall not apply to farm related buildings located on farmland-assessed property, other than the principal residence. This code establishes minimum standards for the initial and continued occupancy and use of all such buildings and does not replace or modify standards otherwise established for the construction, repair, alteration or use of the building, equipment or facilities contained therein, except as provided in Subsection B.
- B. Higher standard to prevail in case of conflict with other laws or ordinances. In any case where

the provisions of this code impose a higher standard than set forth in any other ordinances of the township or under the laws of the State of New Jersey, then the standards as set forth herein shall prevail, but if the provisions of this code impose a lower standard than any other ordinances of the township or of the laws of the State of New Jersey, then the higher standard contained in any such other ordinance or law shall prevail.

- C. Enforcement of and compliance with other ordinances. Compliance with this code shall not constitute a defense against any violation of any other ordinance of the township applicable to any structure or premises, nor shall any provision herein relieve any owner, operator or occupant from complying with any such other provision, nor any official of the township from enforcing any such other provision.

**§ 221-5. Responsibilities of owner, operator and occupant independent of each other.**

- A. Owner and operator. Owners and operators shall have all the duties and responsibilities as prescribed in this code and the regulations promulgated pursuant thereto, and no owner or operator shall be relieved from any such duty and responsibility nor be entitled to defend against any charge of violation thereof by reason of the fact that the occupant is also responsible therefor and in violation thereof.
- B. Occupant. Occupants shall have all the duties and responsibilities as prescribed in this code and all the regulations promulgated thereto, and the occupant shall not be relieved from any such duty and responsibility nor be entitled to defend against any charge of violation thereof by reason of the fact that the owner or operator is also responsible therefor and in violation thereof.
- C. Contract not to alter responsibilities. Unless expressly provided to the contrary in this code, the respective obligations and responsibilities of the owner and operator on one hand, and the occupant on the other, shall not be altered or affected by any agreement or contract by and between any of the aforesaid or between them and other parties.

**§ 221-6. Duties and responsibilities of owner and operator.**

- A. Maintenance of exterior of premises free of hazards and unsanitary conditions. The exterior of the premises and all structures thereon shall be kept free of all nuisances and any hazards to the safety of occupants, pedestrians and other persons utilizing the premises and free of unsanitary conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator.
- B. It shall be the duty of the owner or operator to keep the premises free of hazards, which

include but are not limited to the enumerations and provisions in the following subsections:

- (1) Refuse. Brush, woods, broken glass, excavated stumps, roots, hazardous growths, filth, garbage, trash, refuse, debris and all other items described under the definition of "nuisance" and all of its subsections. Nothing herein contained, however, should be intended to include items properly placed or gathered for collection and disposal under an authorized municipal and/or county recycling program.
- (2) Natural growth. Dead and dying trees and limbs or other natural growth, including but not limited to brush, weeds, ragweed, stumps, roots and all plant growth which are noxious, dangerous or detrimental to human health and safety, which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to persons in the vicinity thereof. Trees shall be kept pruned, trimmed and maintained in an orderly state to prevent such conditions, including all situations in which such conditions would constitute blighting and/or have a debilitating effect upon surrounding properties, and/or having any negative aesthetic or other impact upon adjoining and nearby property. Open areas shall be graded evenly to eliminate holes, depressions, gullies, mounds, accumulations or debris or other unsightly or unsafe conditions.
- (3) Overhangings. Loose and overhanging objects and accumulations of ice and snow which, by reason of location above ground level, constitute a danger of falling on persons in the vicinity thereof.
- (4) Ground surface hazards or unsanitary conditions. Holes, excavations, breaks, projections, obstructions, broken or missing pavement and excretion of pets and other animals on paths, sidewalks, walkways, driveways, parking lots and parking areas and other parts of the premises which are accessible to and used by persons on the premises. All such holes and excavations shall be filled and repaired, walks and steps replaced and other conditions removed where necessary to eliminate hazards or unsanitary conditions with reasonable dispatch upon their discovery.
- (5) Recurring accumulations of stormwater. Adequate runoff drains shall be provided and maintained to eliminate any recurrent or excessive accumulation of stormwater.
- (6) Sources of infestation. Every owner and operator shall promptly identify all sources of infestation, and every measure shall be taken to immediately abate and eliminate said infestation.
- (7) Abandoned, uncovered or structurally unsound wells, shafts, towers, cellar openings, basement hatchways, foundations or excavations; animal excrement; hidden or uncovered ground or surface hazards such as holes, sudden depressions, sharp or jagged projections or obstructions.

- C. Signs. All signs, pavement markings and printed matter and pictures or illustrations contained thereon, permitted by reasons of other regulations or as a lawful nonconforming use, shall be maintained in good repair. Any sign or billboard which has weathered excessively or faded or the paint on which has excessively peeled or cracked shall, together with its supports, be removed forthwith or put into a state of good repair. All nonoperative or broken electrical signs shall, together with their supports, be repaired or removed forthwith.
- D. Appearance of exterior of premises and structures. The exterior of the premises, the exterior of structures and the conditions of accessory structures shall be maintained so that the appearance of the premises and all buildings thereon shall not constitute a value-depreciating factor for adjoining property owners nor an element leading to the progressive deterioration and downgrading of property values.
- E. Storage of commercial and industrial material. There shall not be stored or used at a location visible from the sidewalk street or other public areas equipment and materials relating to commercial or industrial uses unless permitted under the Zoning Ordinance for the premises.
- F. General maintenance of all structures and accessory structures. The exterior of every structure or accessory structure (including fences) shall be maintained in good repair. Painted fences shall be maintained so that the paint is not peeling or otherwise deteriorating. Unpainted fences shall be maintained so as to avoid rot or deterioration of the fencing materials. The exterior of all structures shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessively peeling paint or other condition reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated and adjoining properties and the neighborhood protected from blighting influences. Roofs shall be maintained or repaired to be structurally sound and free from defects.
- G. Awnings and marquees. Any awning or marquee and its accompanying structural members which extend over any street, sidewalk or other portion of the premises shall be maintained in good repair and shall not constitute a nuisance or a safety hazard. In the event that such awnings or marquees are not properly maintained in accordance with the foregoing, they shall, together with their supports, be removed forthwith. In the event that awnings or marquees are made of cloth, plastic or similar materials, the cloth or plastic, where exposed to public view, shall be maintained in good condition and shall not show evidence of excessive weathering, ripping, tearing or other holes. Nothing herein shall be construed to authorize any encroachment on streets, sidewalks or other parts of the public domain.
- H. Exterior walls, roofs, etc. Exterior walls, roofs, windows, window frames, doors, door frames, foundations and other parts of the structure shall be maintained. Damaged materials must be repaired or replaced promptly; places showing signs of rot, leakage, deterioration or

corrosion are to be restored and protected against weathering or seepage.

- I. Freedom from accumulations and obstructions. No accumulation or obstruction from garbage, refuse or rubbish shall be permitted which is visible from the sidewalk, street or other public areas or a neighboring premises, except that garbage stored in proper containers may be set out for removal.
- J. Landscaping. Lawns, hedges and bushes shall be kept trimmed and maintained so as to keep from becoming overgrown. Specifically, lawns shall be trimmed and maintained at a height no greater than six inches in height. Hedges and bushes shall be trimmed and maintained such that they do not extend over public sidewalks, streets or other rights-of-way.
- K. Windows exposed to public view. All windows exposed to public view shall be kept clean and free of marks, dirt, grime and be unbroken. Except when necessary in the course of changing displays, no storage of materials, stocks or inventory shall be permitted in window display areas ordinarily exposed to public view unless such areas are first screened from view by draperies, venetian blinds or other means. All screening of interiors shall be maintained in a clean and attractive manner and in a good state of repair.
- L. Temporary scaffolding or equipment. No temporary painting scaffold or other temporary equipment used for construction, repair or maintenance shall be permitted to remain in place beyond a period necessary to reasonably complete the purpose for which such equipment was intended to be used.
- M. Storefronts. All storefronts shall be maintained in good repair, and all surfaces thereof shall be kept painted when necessary for purposes of preservation and appearance. In the event that repairs to a portion of a storefront are made, such repairs shall be performed with materials identical or compatible with the materials used in the area not undergoing repair, to the end that the appearance of the storefront shall be uniform and attractive.
- N. Maintenance of sidewalks. Every day that a commercial premises is open for business, the owner and operator shall be responsible for removing litter from the sidewalk or other pedestrian areas, if any, in front of the owner's and/or occupant's commercial premises. The area shall be swept as often as necessary to maintain it free of litter, spillage and other debris.
- O. Access and parking areas.
  - (1) The owners and operators of any accessways and parking areas serving commercial and industrial premises shall be responsible for keeping same free of congestion and open to emergency and service vehicles by:
    - (a) Keeping all accessways and parking areas free of snow and ice.
    - (b) Preventing the continuous or regular use of accessways or parking spaces for any

vehicle which is:

- [1] In such a state of disassembly or disrepair so that it cannot be driven; or
  - [2] Which does not display current license plates and inspection sticker. For purposes of this subsection, "continuous" shall mean the presence on the same tax map lot for a period of 72 consecutive hours and "regular" shall mean being observed at least twice within a twenty-day period on the same tax map lot when on both occasions such vehicle was either in a state of disassembly or disrepair so that it could not be driven or on both occasions did not display current license plates and inspection sticker.
  - [3] This subsection shall not apply with regard to a vehicle on the premises of a business enterprise operated in a lawful place and manner which conforms to the requirements of the Lumberton Township Land Use Ordinance regulating vehicle storage facilities or similar enactments.
- (2) Parking lots or parking areas, including the entrances and exits thereto, shall be kept in a good state of repair. Signage as to ownership and use restrictions shall be maintained in good repair, clearly visible to potential parkers. Striping, where appropriate, shall indicate spaces, directions of flow and entrances and exits and shall be maintained so as to assure visibility.
  - (3) Means of ingress and egress shall be clearly marked by signs.
  - (4) Parking spaces shall be clearly indicated by painted lines.
  - (5) Lanes for the movement of traffic in each direction shall be indicated by arrows indicating one-way traffic, which shall be painted in these lanes at both ends.
  - (6) A trash basket with at least a twenty-gallon capacity shall be provided for each 150 feet of store frontage in any shopping area. These baskets shall be placed in the walking or pedestrian area and shall be provided with covers and shall not be allowed to overflow.
  - (7) Fire zones should be kept clear of all vehicular traffic and parking, as designated by the Bureau of Fire Prevention.

**§ 221-7. Duties and responsibilities of occupants.**

- A. Cleanliness and sanitation. All parts of the premises under the control of the occupant or operator shall be kept in a clean, safe and sanitary condition, and the occupant shall refrain from performing any acts which would render other parts of the premises unclean or unsanitary or which would obstruct the owner or operator from performing any duty required

hereunder or from maintaining the premises in a clean and sanitary condition. All outside premises shall be clear of abandoned iceboxes, refrigerators, heaters, television sets and other similar major appliances.

- B. Landscaping. The landscaping of premises shall be maintained in an orderly state with lawns (where applicable) and bushes trimmed and free from becoming overgrown, littered and unsightly where such would constitute a blighting effect, depreciating adjoining and nearby property. Specifically, lawns shall be trimmed and maintained at a height no greater than six inches in height. Hedges and bushes shall be trimmed and maintained such that they do not extend over public sidewalks, streets or other rights-of-way.
- C. Ground surface hazards, unsanitary conditions, unregistered vehicles and/or vehicles without current license plates.
  - (1) It shall be the duty of the occupant to keep the premises free of holes, excavations and excretions of pets and other animals on paths, sidewalks, walkways, driveways, parking lots and parking areas and other vehicular or pedestrian access routes to the premises. Snow and ice shall be cleared from sidewalks and public access paths or routes or shall be made safely passable within 24 hours of the end of a storm. Holes and excavations shall be filled and repaired and other conditions removed where necessary to eliminate hazards or unsanitary conditions with reasonable dispatch upon their discovery. It shall also be the duty of the occupant to remove any motor vehicle which is unregistered or not registered to the owner or occupant and/or without current license tags or plates from the premises unless the same is properly stored in a closed garage or neatly covered with a protective tarpaulin (subject to a maximum of two such unregistered tarpaulin-covered vehicles), or in the case of nonresidential premises, such motor vehicle is being currently serviced or repaired by a garageman or mechanic in order to meet inspection requirements of the Division of Motor Vehicles of the State of New Jersey. Any such vehicles in residential zones shall be stored either in the driveway or rear yard.
  - (2) No person shall park or permit to be parked any motor vehicle on any street in the township for a period of more than 72 hours unless such motor vehicle is operable and in condition for safe and effective performance of the function for which it is intended; provided, however, that the parking of a car, trailer, motorcycle or boat offered for sale shall be permitted for a maximum period of 30 consecutive days, a maximum of three times per calendar year.
- D. Eliminating infestation. Every occupant of a premises shall be responsible for the elimination of infestation in the premises and on the premises.
- E. Malicious damage. Every occupant shall be responsible for willfully or maliciously caused



damage to any part of the premises.

**§ 221-8. Refuse storage and disposal.**

- A. In general. No person shall accumulate or permit, suffer or allow the accumulation in any premises owned, operated, occupied or controlled by him of any refuse, garbage, rubbish and waste material for a time longer than the period from one collection day to the next ensuing collection day. Such refuse, garbage, rubbish or waste material shall either be removed by the township-contracted services in accordance with regulations made and provided or by an authorized collector.
- B. Nonresidential premises.
- (1) Every owner, operator and occupant of any nonresidential premises shall be responsible for providing suitable containers consisting of waterproofed receptacles, cans or barrels made of a substantial material such as galvanized iron or vinyl/plastic with a tight-fitting cover so constructed as to prevent spillage or leakage of its contents for the receiving and holding of garbage, rubbish, refuse or waste materials.
  - (2) Every owner, operator and occupant of nonresidential premises shall be responsible for providing containers, as described in Subsection B(1), sufficient in number to hold all garbage, rubbish, refuse and waste material in the manner prescribed, from one collection period to the next actual collection. Garbage, rubbish, refuse and waste material shall be placed in the containers aforesaid prior to the time fixed for collections.
  - (3) Every owner, operator and occupant of nonresidential premises shall be responsible for making necessary arrangements for weekly collection of garbage, rubbish, refuse and waste material between the hours of 6:00 a.m. and 8:00 p.m. prevailing time only.
- C. Residential premises.
- (1) Every owner, operator and occupant of residential premises shall be responsible for providing suitable containers for the receiving and holding of garbage, rubbish, refuse and waste materials. All such containers shall prevent trash or garbage from disbursing or spilling into the street and prevent spillage or leakage of their contents.
  - (2) Every owner, operator and occupant of residential premises shall be responsible for providing containers as described in Subsection C(1) sufficient in number to hold all garbage, rubbish, refuse and waste material, in the manner prescribed, from one collection to the next actual collection. Such garbage, rubbish, refuse and waste material shall be placed in the containers aforesaid prior to the time fixed for collection.

- (3) Every owner, operator and occupant of residential premises shall place the containers aforementioned so as not to impede traffic in front of the premises no earlier than 12:00 noon of the day preceding the nearest collection day. Containers shall be retrieved from their collection location no later than 12:00 midnight on the day of collection.
- (4) Discarded newspapers, magazines and the like may be placed in securely tied bundles or paper bags in close proximity to the location of the containers aforesaid for collection in accordance with the Recycling Ordinance<sup>EN(170)</sup> requirements.

**§ 221-9. Inspection; enforcement; notice of violation; order; hearing; emergencies; costs.**

- A. Township Committee to supervise administration of inspections, regulations, enforcements and hearings on violations. The Township Committee is hereby designated to supervise and direct all inspections, regulations, enforcements and hearings on violations of the provisions of this code unless expressly stated to the contrary. The Code Enforcement Officer or his designee shall be and is designated by the Township Committee to perform such duties as may be necessary to the enforcement of this code, including the making of inspections. Any resident of Lumberton Township shall have standing to bring a complaint to the Municipal Court for enforcement of this chapter.
- B. When exterior inspections are to be made. All exteriors of buildings and premises subject to this code are subject to inspection by the enforcing officer of the township based on clearly evident probable cause to believe a violation or unsafe condition may exist. At the time of such inspections, parts of the premises must be available and accessible for such inspections, and the owner, operator and occupant are required to provide the necessary arrangements to facilitate such inspections.
- C. Identification and conduct of inspectors. Enforcement officials and officers shall be supplied with official identification and shall exhibit such identification when requesting access to any part of any premises subject to this code. Inspectors shall conduct themselves so as to avoid intentional embarrassment or inconvenience to occupants.
- D. Where access by enforcing officials is refused. Where the enforcing official or his agent is refused access to the premises or is otherwise impeded or prevented by the owner, occupant or operator from conducting an inspection of the premises, access to the premises shall be gained only by the warrant procedure set forth hereafter.
- E. Issuance of warrant. In addition to the provisions of Subsection D, enforcing officials may, upon affidavit, apply to the Municipal Court Judge of the Township of Lumberton or to the New Jersey Superior Court for a warrant setting forth factually the actual conditions and circumstances that provide a reasonable basis for believing that a nuisance or violation of this

code exists on the premises, and if the Judge is satisfied as to the matter set forth in said affidavit, he may authorize the issuance of a warrant permitting access to and inspection of that part of the premises on which the nuisance or violation exists.

- F. Procedure where violation discovered. Where a violation of this code or the regulations hereunder is found to exist, a written warning notice from the enforcing official shall be served on the person or persons responsible for the correction thereof.
- G. Contents of notice. The notice shall specify the violation or violations committed, what must be done to correct the same, a reasonable period of time not to exceed 30 days to correct or abate the violation, the right of the person served to request a hearing and that the notice shall become an order in 10 days after service unless a hearing is requested pursuant to Subsection I. The notice shall also advise the recipient that, if the violation is not corrected or abated, the municipality or municipal-hired contractor may do the same, the cost of which shall become a lien on the subject property.
- H. Service of notice. Notice may be served personally or by mail with postage prepaid, addressed to the last known address of the person to be served. In case the premises is occupied, notice may be accomplished by posting upon the front door of the structure. Where it is ascertained that the owner does not reside on the premises, the last known address shall be the address of the owner as shown in the office of the Tax Collector. If the last known address cannot be ascertained, service may be accomplished by mailing the notice with postage prepaid to the mortgagee, if there be one, and by posting the notice on the front door of the premises and printing the notice in the official township newspaper at least one time. The enforcing officer shall file and provide notice to any owner, operator or occupant of any violation at any address other than the last known address provided hereunder if such other address is filed with the enforcing officer personally or by certified mail addressed to the enforcing officer. Service upon an owner, operator or occupant may also be attained by service of any notice upon any competent member of the family 18 years old or older of the owner, operator or occupant. Date of service of notice shall be determined where service is by mail as of the third day following the day of mailing for notices to addresses within or outside the township. Where the day of service would fall upon a Sunday or other day where mail is not ordinarily delivered, then the day of service shall be the next regular day.
- I. Notice to become an order unless hearing requested. Within 10 days of the date of service of a notice, the notice shall constitute a final order unless any person affected by the notice requests a hearing thereon by serving a written request within the ten-day period in person or by mail on the Township Clerk. Such request for a hearing shall set forth briefly the grounds or reasons on which the request for a hearing is based and the factual matters contained in the notice of violation which are to be disputed at the hearing. The Township Clerk, upon receipt of the requests, shall within 30 days therefrom and upon five days' notice to the party

aggrieved set the matter down for hearing before the Township Committee.

- J. Determination at hearing. At any hearing provided hereunder the Township Committee shall be vested with all the powers provided by law to compel the attendance of witnesses and parties in interest by issuance and service of subpoena; to require by subpoena the production of books, records or other documents at any such hearing which may be pertinent to matters to be determined by it; and to enforce any such subpoena or secure any order for the enforcement of any such subpoena as provided by law. Determination shall be made within 14 days from the completion of the hearing. The Township Committee shall issue an order either incorporating the determinations and directions contained in the notice, modifying the same or withdrawing the notice.
- K. Extensions of time. The Township Committee may extend the time for correction or abatement of violations for an additional period of time deemed reasonable by the Township Committee beyond the expiration date of the original notice. The enforcing official may also extend the time for correction or abatement, subject to written recommendation by the enforcing official to the Township Committee and approval of the proposed extension by the Committee.
- L. Summary abatement in emergency; notice and hearing not required. Where the violation or condition existing on the premises is of such a nature as to constitute an immediate threat to life and limb unless abated without delay, the Township Committee may either abate the violation or condition immediately or order the owner, operator or occupant to correct the violation or condition within a period of time not to exceed three days, and upon failure to do so, the Township Committee shall abate the condition immediately thereafter.
- M. Cost of any abatement to be a lien against premises. Where abatement of any nuisance as defined herein, correction of a defect in the premises or the maintenance of the premises in a proper condition so as to conform to municipal ordinances or state laws applicable thereto requires expending township moneys therefor, the enforcing officer shall present a report of work proposed to be done to accomplish the foregoing to the Township Committee. The report shall include an estimate of the cost of the work required, along with a summary of the proceedings undertaken by the enforcing officer to secure compliance, including notices served upon the owners, operators, lessors or agents, as the case may be, and hearings and orders of the Township Committee with reference thereto. The Township Committee may thereupon order the abatement of the nuisance, correction of the defect and completion of the work necessary to place the premises in proper condition and in compliance with ordinances of the township and laws of the state. The enforcing officer may thereafter proceed to have the work performed in accordance with the order at township expense not to exceed the amount specified in the order and shall upon completion thereof submit a report of the moneys expended and costs to the Township Committee. After review of the same, the

Township Committee may approve the expenses and costs, whereupon the same shall become a lien against the premises collectible as provided by law. A copy of the resolution approving the expenses and costs shall be certified by the Township Clerk and filed with the Tax Collector of the township, who shall be responsible for the collection thereof, and a copy of the resolution shall be sent by certified and regular mail to the owner.

- N. Extension of time where dispossession action undertaken. Where there exists a violation of this code, an owner or operator, upon receipt of a notice of violation, if unable to eliminate the violation by peaceable means within the period of time specified in said notice, shall commence within such period legal action to dispossess, evict or eject the occupants who caused the violation. No further action hereunder shall then be taken against the owner or operator so long as the action aforesaid is pending in the appropriate court and is prosecuted expeditiously and in good faith.
- O. Where notice and hearing not required prior to court proceedings.
  - (1) No notice shall be required on the enforcement as to the removal of or making safe passage through accumulated snow or ice from sidewalks where such snow or ice remains uncleared within 24 hours after the termination of the storm.
  - (2) Where the Township Committee after hearing shall determine that there was a violation and a notice was served upon the owner, operator or occupant, whether or not said violation was abated prior to the issuance of an order, if thereafter within the space of one year there shall be a second violation by the same owner, operator or occupant of the same provision of this code discovered on the same premises, the offender may be prosecuted on the second violation without the enforcing officer first giving notice and opportunity for a hearing to the owner, operator or occupant by the filing of a complaint by the enforcing officer in the Municipal Court.
- P. Effect of notice on owner. For the purposes of enforcement of this code, the service of a notice on an owner, whether or not the owner is also the operator, shall constitute notice of violations set forth therein until violations are abated in conformity with this code and the other applicable ordinances of the Township of Lumberton.

**§ 221-10. Violations and penalties; lien.**

- A. Fines for violations. A violation of any section or subsection of this code shall be subject, upon conviction, to a fine of up to but not exceeding \$1,000.
- B. Meaning of "each violation." Each violation of a section or subsection of this code shall constitute a separate and distinct violation independent of any other section or subsection or any order issued pursuant to this code. Each day's failure to comply with any such section or

subsection shall constitute a separate violation.

- C. Additional penalty for second violation. Where an owner, operator or occupant has been convicted of a violation of this code and within 12 months thereafter has been found by the Judge of the Municipal Court to be guilty of a second violation, the Court may, if it finds that the second offense was willful and inexcusable, sentence the offender in addition to or in lieu of the fine set forth in Subsection A to imprisonment in the county jail for a period not to exceed 90 days.
- D. Application to officers or agents. Where the defendant is other than a natural person or persons, Subsections B and C shall also apply to any agent, superintendent, officer, member or partner who shall, alone or with others, have charge, care or control of the premises.
- E. Fine as a lien. In the event of the imposition of a fine or penalty by the Municipal Court or any other court of competent jurisdiction against the owner, operator or lessor of any building or structure in the township required to be registered for violation of any township ordinance or any state law applicable to the township, the fine or penalty, if unpaid within 30 days of imposition, shall be collectible as a lien against the premises, in addition to any other remedies provided by law.

**§ 221-11. Existing offenses and violations not discharged.**

The repeal of any provisions of any other ordinances by this code shall not affect any action for prosecution or abatement under any such ordinance or any notice, complaint or order issued by any officer or agency of the township prior to the adoption of this code or concerning which any prosecution or other steps of enforcement have been taken or are being taken within any administrative agency or in the Municipal Court for enforcement thereof.

**§ 221-12. Powers and duties of Township Committee.**

The Township Committee is hereby authorized and empowered to promulgate such written rules and regulations as may be necessary for the proper interpretation and administration of the provisions of this code, provided that such rules and regulations do not conflict with this code and do conform to the general standards prescribed by this code. The Township Committee shall file copies of such rules and regulations with the Township Clerk, which shall be available during regular business hours. Such rules and regulations shall have the same force and effect as the provisions of this code, and the violations thereof shall be enforced as violations of the express provisions of this code, as herein provided.

**§ 221-13. Severability.**

If any part, section, sentence, clause or phrase of this chapter shall be held invalid, unconstitutional or void for any reason, such decision shall not effect the validity of the remaining portions of this chapter.

**§ 221-14. When effective.**

This chapter shall take effect immediately upon its final passage and publication in accordance with the law.

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## **Chapter 225, RECORDS, PUBLIC ACCESS TO**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton 9-4-1990 by Ord. No. 1990-15. Amendments noted where applicable.]

**§ 225-1. Statement of policy.**

It is hereby declared to be the public policy of the township to recognize the public's general right to know pursuant to N.J.S.A. 47:1A-1 et seq., or any amendments or supplements thereto, and all of the public's business in the municipality shall be open to the public unless the public interest, general law or administrative regulations require nondisclosure, and the governing body, in consultation with the Municipal Attorney, shall determine if and when nondisclosure is warranted.

**§ 225-2. Definitions. [Amended 11-14-2005 by Ord. No. 2005-31]**

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

**CUSTODIAN OF RECORDS** -- The Municipal Clerk of the Township of Lumberton.

**PUBLIC RECORDS** -- All records which are required by law to made, maintained or kept on file by the Township Committee or any board, agency, department, commission or official of the Township and as otherwise defined in the Open Public Records Act of 2001, as subsequently amended, and codified at N.J.S.A. 47:1A-1 et seq.

**§ 225-3. Public records: fees for copying; procedure. [Amended 2-7-1994 by Ord. No.**

**1994-1; 11-14-2005 by Ord. No. 2005-31]**

- A. The following fees shall be payable by the requestor to the Township of Lumberton for the discovery required:
- (1) Seventy-five cents per page for each of the first 10 pages photocopied.
  - (2) Fifty cents per page for each of the next 10 pages photocopied.
  - (3) Twenty-five cents per page for each of the pages photocopied thereafter.
  - (4) Actual postage for any discovery or requests sent by mail.
  - (5) Twenty-five cents for the envelope for any discovery or requests sent by mail.
  - (6) Photographs will be photocopied at the rates established herein; if requests are made for duplicate photographs, the actual cost of making the photographs shall be charged.
  - (7) Duplication of videotapes constitutes an extraordinary duplication process and will be charged at the rate of \$5 per videotape.
  - (8) On any item that cannot be photocopied on the Township copy machine or not otherwise provided for in this schedule, the actual costs incurred in making the copy shall be charged.
- B. In addition, the Township shall be entitled to charge and collect a fee for the reproduction of copies of written reports or other police investigation reports of the Township's Police Department in accordance with the costs established under N.J.S.A. 47:1A-2 et seq., as amended; and requests via mail shall be charged up to an additional \$5, regardless of the number of pages, in order to cover postage and handling expenses.
- C. Other various charges for reproduction of public records are as follows, provided that the costs of charges shall not exceed the actual costs borne by the Township, and where copying is done by an outside agency, the Township may request payment directly to that outside agency:
- (1) Photographs (35 mm film or other standard format): up to \$1 per print.
  - (2) Polaroid prints: up to \$2 per print.
  - (3) Videotapes: up to \$27 per video tape.
  - (4) Standard audio cassettes: up to \$5 per cassette tape.
  - (5) Audio cassettes of meeting minutes (requiring reproduction by outside agency): \$60 per



cassette tape.

- (6) Three-and-one-half-inch floppy disk: up to \$4 per disk.
- (7) Township street maps: up to \$6 per map.
- (8) Township Zoning Maps: up to \$6 per map.
- (9) Zoning Ordinance books: up \$37, plus copies of amendments at the rates set forth in Subsection A above.
- (10) Master Plan: up to \$55, plus copies of amendments at the rates set forth in Subsection A above.
- (11) Tax Maps: copies of certain pages or portions of the map at \$4 per sheet, provided that copies for a complete set of tax maps shall be provided by Engineer's office, through the office of the Township Clerk, at a rate of up to \$550.
- (12) Site plans, maps or blueprints: copies at up to \$12 per page.

D. Procedures.

- (1) Any person seeking the reproduction of public records, documents or other information as contemplated by this chapter shall submit his or her request, in writing, on a form prescribed by the Township Clerk. All requests will be handled in accordance with N.J.S.A. 47:1A-1 et seq.
- (2) Prior to commencing with the reproduction of said public records and/or documents, the Township Clerk shall first estimate the number of pages or other formats involved and provide the requesting party with a written estimate of the costs of reproduction. No photocopying of any document shall be undertaken without the requesting party first having provided, by check or cash, the funds so estimated as necessary for that reproduction. In the event that the photocopying or other reproduction charges exceed the amount estimated, the requesting party shall be required to pay the difference.

E. Special provisions for Municipal Court discovery. All requests for discovery in matters pending in the Lumberton Township Municipal Court shall be submitted through the Municipal Prosecutor. A fee of \$25 shall accompany each request and, following the processing of the request, the requestor shall be advised as to the actual amount due. Said amount shall be based upon the schedules set forth in Subsections A and C above. In the event that the actual amount due is less than \$25, the requestor shall be entitled to a refund; in the event the amount due is more than the deposit, than the requestor shall be required to pay same before receiving the discovery.

- F. Alternative procedure for Municipal Court discovery. As an alternative to the submission of a separate sum of money each time a request is made by an attorney for a defendant in Municipal Court matters, defense counsel may, at their discretion, post an account, similar to that maintained by the law firms with the Superior Court of New Jersey for charging the costs of filing of complaints, answers and counterclaims, which charge shall be set up in the Township's Finance Office and tracked to each law firm. The amount of the deposit shall be \$300; at the end of the year, the Township shall provide the law firm with an accounting of the monies charged to the account and the monies remaining. At the law firm's request, if a refund is sought, it shall be provided; otherwise, the law firm can apply that balance to the following year's court cases and shall replenish the difference.

**§ 225-4. Removal of records; reproduction of large amount of documents.**

Under no circumstances shall public records be removed from the municipal building or any other building where they are normally kept. Such records shall not be removed from the office wherein they are normally maintained unless accompanied by the custodian or his or her representative. If the custodian of such records shall find that there is no risk of damage or mutilation of such records and that it would not be incompatible with the economic and efficient operation of the office and the transaction of public business therein, he or she may permit a person seeking to copy more than 100 pages of records to use the person's own photographic process, approved by the custodian, upon the payment of the fee fixed in § 225-3C(2) above.

**§ 225-5. Documents/information not subject to release.**

In addition to any restrictions or limitations established by general law, no records, documents or information of any kind shall be released to the public if the same are not public records, as defined in this section; or if they are not in final form; or if review or action regarding the documents or information is still pending before a body of the municipality; or if the material sought is confidential in nature or an individual citizen's right to privacy outweighs the general public's right to know.

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## **Chapter 227, RECYCLING**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton 11-20-1989 by Ord. No. 1989-12; amended in its entirety 2-21-2006 by Ord. No. 2006-3. Subsequent amendments noted where applicable.]

**GENERAL REFERENCES**

**Brush, grass and trash -- See Ch. 103.**  
**Garbage, rubbish and refuse -- See Ch. 162.**

**§ 227-1. Purpose.**

The Township of Lumberton finds that reducing of the amount of solid waste and conservation of recyclable materials is an important public concern and is necessary to implement the requirements of the SWMA and the county plan. The recycling of certain materials from the residential, commercial and institutional establishments in this municipality will reduce the need for landfills and conserve existing landfill capacity, facilitate the implementation and operation of other forms of resource recovery and conserve natural resources.

**§ 227-2. Statutory authority.**

This chapter is adopted pursuant to Sections 6, 9 and 14 of P.L. 1987, c. 102<sup>EN(171)</sup> (effective April 20, 1987), N.J.S.A. 40:48-2, N.J.S.A. 40:66-1 and N.J.S.A. 40:49-2.1.

**§ 227-3. Definitions.**

A. As used in this chapter, the following definitions shall apply:

**CANS** -- Empty food, beverage and aerosol containers comprised of aluminum, tin, steel or a combination thereof, which formerly contained only nonhazardous substances or such other substances as have been approved for recycling by DSWM .

**CARDBOARD** -- All corrugated cardboard normally used for packing, mailing, shipping or containerizing goods, merchandise or other material, but excluding plastic; foam, wax-coated or soiled corrugated cardboard.

**COMMERCIAL** -- Refers to any person or other entity operating a business, trade, industry or other activity which is carried on for profit.

**COMMINGLED** -- Source-separated, nonputrescible recyclable materials that have been mixed at the source of generation (i.e., placed in the same container).

**CONDOMINIUM COMPLEX** -- As defined in accordance with N.J.S.A. 46:8B1 et seq.

**COUNTY** -- The County of Burlington, State of New Jersey.

**COUNTY PLAN** -- The District Solid Waste Management Plan for Burlington County as approved by the New Jersey Department of Environmental Protection.

**DESIGNATED RECYCLABLE MATERIALS** -- Those recyclable materials to be source-separated in this municipality, including but not limited to antifreeze, cellular telephones, construction and demolition debris consisting of asphalt, concrete and untreated wood waste, electronic waste, metal, glass, lead acid batteries, fluorescent light bulbs and ballasts, leaves, motor oil, paper, plastic bottles, paperboard packaging, corrugated and other cardboard, newspaper, magazines or high-grade office paper, rechargeable batteries, toner and printer cartridges and tires.

**DISPOSITION or DISPOSITION OF DESIGNATED RECYCLABLE MATERIALS** -- The transportation, placement, reuse, sale, donation, transfer or temporary storage for a period not exceeding six months, or for a period of time as mandated by law, of designated recyclable materials for all possible uses except for disposal as solid waste;

**DSWM** -- The Burlington County Division of Solid Waste Management, its successors and assigns.

**ELECTRONIC WASTE** -- Computer hard drives, monitors, keyboards, modems, printers, fax machines, VCR's and cell phones.

**GLASS** -- All clear (flint), green, and brown (amber) colored glass containers. Glass shall not include crystal, ceramics, light bulbs and plate, window, laminated, wired or mirrored glass.

**INSTITUTIONAL** -- Refers to any person or other entity, either public or private, either for profit or nonprofit, who operates for educational, charitable or other public purpose.

**MOBILE HOME PARK** -- Any park, including a trailer park or camp, equipped to handle mobile homes sited on a year-round basis as defined in N.J.S.A. 2A:18-61.7 et seq.

**MULTIFAMILY DWELLING** -- Any building or structure or complex of buildings or structures in which five or more dwelling units are rented or leased or offered for rental or lease for residential purposes except hotels, motels or other guesthouses serving transient or seasonal guests as those terms are defined under subsection (j) of section 3 of the "Hotel and Multiple Dwelling Law," P.L.1967, c. 76 (N.J.S.A. 13A-1 et seq).

**MUNICIPAL DROPOFF** -- Any facility designed and operated by this municipality solely for the receiving and storing of source-separated, nonputrescible metal, glass, paper, plastic containers and cardboard. (The municipality may amend this language to add additional materials or restrict the type of generator that is permitted to utilize the dropoff.)

**MUNICIPALITY** -- The Township of Lumberton located within the County of Burlington, State

of New Jersey.

**PAPER** -- All chipboard, newspaper, fine paper, bond paper, office paper, magazines, paperback books, school paper, catalogs, computer paper, telephone books and similar cellulosic material, whether shredded or whole, but excluding wax paper, plastic or foil-coated paper, thermal fax paper, carbon paper, NCR paper, blueprint paper, food contaminated paper, soiled paper and cardboard.

**PLASTIC BOTTLES** -- All bottles that are labeled as made from polyethylene terephthalate (PET) and coded as No. 1 and high-density polyethylene terephthalate (HDPE) and coded as No. 2. Specifically excluded are bottles that formerly contained hazardous materials, including, but not limited to paint, motor oil and pesticides.

**PERSON** -- Any individual, firm, partnership, corporation, association, cooperative enterprise, trust, municipal authority, federal institution or agency, state institution or agency, municipality, other governmental agency of any other entity or any group of such persons which is recognized by law as the subject of rights and duties. In any provisions of this chapter prescribing a fine, penalty or imprisonment, the term "person" shall include the officers and directors of a corporation or other legal entity having officers and director.

**RECYCLABLE MATERIAL** -- A material which would otherwise become solid waste, which can be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

**RECYCLING** -- Any process by which materials, which would otherwise become solid waste, are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

**RECYCLING DROPOFF** -- Any facility designed and operated solely for the receiving and storing of source-separated, nonputrescible metal, glass, paper, plastic containers and cardboard.

**RESIDENT** -- Any person residing within the municipality on a temporary or permanent basis, but excluding persons residing in hotels or motels.

**SOLID WASTE** -- Garbage, refuse and other discarded materials resulting from industrial, commercial and agricultural operations and from domestic and community activities, and shall include all other waste materials, including liquids, except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms.

**SOURCE-SEPARATE** -- To separate recyclable materials from the solid waste stream at the point of generation.

SWMA -- The New Jersey Solid Waste Management Act, as amended.

- B. All other terms and phrases shall be as defined in the SWMA, regulations promulgated thereunder and the county plan, unless content clearly requires a different meaning.

**§ 227-4. Establishment of curbside program.**

- A. There is hereby established a program ("curbside program") for the separate collection of recyclable material from all non-physically disabled residents of the municipality. Designated recyclables for the curbside program established pursuant to this section shall consist of the following materials: paper, cardboard, glass, cans, plastic bottles and other recyclable materials as designated by the municipality at any time, 30 days after designation and publication of notice in a newspaper of general circulation.
- B. Said curbside program shall not apply to any multifamily complex of 20 or more units, condominium complex of 20 or more units or mobile home park of 20 or more units, or to any commercial or institutional establishment unless approved by DSWM .
- C. Collections of recyclable materials pursuant to this section shall be in accordance with a schedule of recycling collection areas and dates to be publicly advertised by the municipality or county and as approved by the DSWM.
- D. All residents of the municipality within the area serviced by the curbside program established pursuant to this section shall source-separate all designated recyclables and shall place them at the side of the road fronting their residence in the manner designated by § 277-5 of this chapter and on the date specified for collection by the schedule published by the municipality or county and as approved by the DSWM.

**§ 227-5. Requirements applicable to source separation and collection.**

All recyclables placed by residents for collection pursuant to the curbside program established pursuant to § 277-4 of this chapter shall be prepared for collection in accordance with the following:

- A. Cardboard and paper shall be placed in paper bags or tied in bundles not exceeding 35 pounds in weight nor exceeding one foot in thickness.
- B. Glass containers and plastic bottles shall have caps and lids removed.
- C. Glass containers, cans and plastic bottles shall be rinsed free of contaminants.
- D. Cans, glass containers and plastic bottles shall be placed in a recycling container, to be

provided by the municipality. Plastic and/or paper garbage bags shall not be utilized as containers for cans, glass containers and plastic bottles. No material shall be placed at the roadside earlier than the evening of the day preceding a scheduled collection day. Material must be placed at the roadside by 6:00 a.m. on the scheduled collection day.

**§ 227-6. Establishment of public dropoff program.**

- A. There is hereby established a program ("public dropoff program") for the source separation and delivery to a recycling dropoff of paper, cardboard, glass, cans and plastic bottles from all residences located in this municipality, with the exception of multifamily complexes, condominium complexes and mobile home parks.
- B. Other recyclable materials may be designated by the municipality at any time, 30 days after said designation and publication of notice in a newspaper of general circulation.

**§ 227-7. Dropoff program for multifamily complexes, condominium complexes and mobile home parks.**

- A. There is hereby established a program ("private dropoff program") for the source separation and delivery of designated recyclable materials to a recycling dropoff(s), including paper, cardboard, glass, cans and plastic bottles from all residents of multifamily complexes, condominium complexes and mobile home parks comprised of 20 or more units within this municipality.
- B. The owner or manager of every multifamily complex, condominium complex and mobile home park within this municipality shall purchase recycling containers and construct and maintain in a neat and sanitary condition recycling dropoff(s) to receive all designated recyclables generated by residents of the complex or mobile home park pursuant to the guidelines of the DSWM.
- C. In cases where a condominium association exists, the condominium association shall be responsible for purchase of recycling containers and construction and maintenance in a neat and sanitary condition of the recycling dropoff(s) pursuant to the guidelines of the DSWM.
- D. The owner or manager of every multifamily complex, condominium complex and mobile home park who elects not to participate in the Burlington County Regional Recycling Program shall arrange for the collection and recycling of all designated recyclables from said dropoffs (s) at their expense.
- E. The number and design of the recycling dropoffs required by this section for each multifamily complex, condominium complex and mobile home park shall be consistent with guidelines

provided by the DSWM.

- F. The municipality may designate other recyclable materials at any time 30 days after said designation and publication of notice in a newspaper of general circulation.

**§ 227-8. Designated recyclables requirements.**

Designated recyclables required to be placed in recycling dropoffs pursuant to § 227-6 or 227-7 of this chapter shall be consistent with guidelines provided by DSWM.

**§ 227-9. Mandatory commercial and institutional source separation program.**

- A. All persons generating municipal solid waste within this municipality through the operation of a commercial or institutional establishment shall source-separate and arrange for collection of all designated recyclables within 30 days of the effective date of this chapter.
- B. Designated recyclables for the mandatory commercial and institutional source separation program shall consist of the following materials:
  - (1) Antifreeze, batteries (lead acid and rechargeable), cardboard, construction and demolition waste, fluorescent light bulbs and ballasts, electronic waste, glass, plastic bottles, cans, including those generated at convenience stores, leaves, motor oil, paper, toner and printer cartridges.
- C. This municipality may designate other recyclable materials at any time, 30 days after said designation and publication of notice of the designation in a newspaper of general circulation.
- D. The arrangement for collection of designated recyclables for disposition hereunder shall be the responsibility of the individual(s) responsible for the provision of solid waste or recycling services, including the provision for maintenance of litter receptacles located on the property of any commercial or institutional establishment generating designated recyclables.
- E. The management individual(s) responsible for the provision of recycling services as herein defined shall submit to the Municipal Recycling Coordinator by the first day of February of each year documentation verifying the previous year's total recycling (expressed by weight) for each material recycled. Documentation shall take the form of a letter or report issued by the recycling service provider or end market to the generator of the recycled material. Weight slips or paid invoices must be maintained by the generator for inspection if requested by this municipality, county or state for a period not to exceed five years.
- F. Any solid waste or recycling service provider shall submit to the Municipal Recycling Coordinator, by the first day of February of each year, documentation verifying the previous



year's total recycling (expressed by weight) for each material recycled on forms as prescribed by the DSWM.

**§ 227-10. Unlawful activities; nuisance.**

A. It shall be unlawful for:

- (1) Any person, other than those persons authorized, to collect any designated recyclable which has been placed at the roadside for collection or within a recycling dropoff pursuant to this chapter.
- (2) Any person to violate, cause or assist in the violation of any provision of this chapter or any provision of the county plan concerning recycling.
- (3) Any person to place or to cause to be placed any material other than a designated recyclable in or near a recycling dropoff.
- (4) Any person to hinder, obstruct, prevent or interfere with this municipality, the county or any other authorized persons in the performance of any duty under this chapter or in the enforcement of this chapter.
- (5) Any person to offer to collect or knowingly collect designated recyclable materials in any manner except as source-separated recyclable materials as defined herein.

B. All unlawful conduct set forth in Subsection A shall constitute a public nuisance.

**§ 227-11. Refusal to accept nonseparated waste.**

This municipality or any other person collecting solid waste generated within this municipality shall refuse to collect solid waste from any person who has failed to source-separate recyclables designated under any applicable section of this chapter.

**§ 227-12. Other means of disposal.**

Notwithstanding anything herein to the contrary, any resident of the municipality may donate or sell any recyclable to any other person, whether operating for a profit or not for profit; provided, however, that the person receiving the recyclables shall not, under any circumstances, collect the donated or sold material from an established recycling collection route or from a recycling dropoff without prior written permission from this municipality for such collection. Permission for such collection shall not be given for any day other than a Saturday or Sunday and, in no case,

shall such permission be given to collect recyclables from a recycling dropoff.

**§ 227-13. Noninterference with existing contracts.**

- A. Nothing contained in this chapter shall be construed to interfere with or in any way modify the provisions of any existing contract which is consistent with N.J.S.A. 13:1E-29 and in force in the municipality on the effective date of this chapter.
- B. No renewal of any existing contract upon the expiration of the original term thereof and no new contract for the collection, transportation, processing or purchase of solid waste or recyclables shall be entered into after the effective date of this chapter unless such renewal or such contract shall conform to the requirements of this chapter.

**§ 227-14. Enforcement.**

- A. A Municipal Recycling Coordinator and/or the local Code Enforcement Official shall be appointed to serve by the municipality as the enforcement officer for this chapter.
- B. Said Municipal Recycling Coordinator/Code Enforcement Officer shall be responsible, under the direction of the municipality, for enforcement of all recycling requirements of this chapter.
- C. In addition to the Municipal Recycling Coordinator or Code Enforcement Officer, the Burlington County Health Department and the DSWM are hereby appointed as enforcement officer(s) for enforcement of all recycling requirements of this chapter.
- D. Enforcement of this chapter shall be commenced in the Superior Court or in the Municipal Court of the municipality, and penalty or fine shall be collected with costs in a summary civil proceeding. Any penalties or fines collected in an enforcement action shall be paid to the municipality when the municipality brings such action. Any penalties or fines collected in an enforcement action shall be paid to the Treasurer of Burlington County when such action is brought by the Burlington County Health Department or the DSWM.

**§ 227-15. Violations and penalties.**

- A. Any person who violates the provisions of this chapter shall, upon conviction thereof in a proceeding before a court of competent jurisdiction, be subject to the following fines:
  - (1) Residential recycling violation: a fine of not less than \$25 and not more than \$1,000.
  - (2) Commercial or institutional violation: a fine of not less than \$500 and not more than

\$1,000.

- (3) For any person who offers to collect recyclable in any manner except as prescribed within this chapter: a fine of not less than \$1,000 and not more than \$5,000.
- (4) For any solid waste or recycling service provider who fails to report as required within this chapter: a fine of not less than \$500 and not more than \$1,000.

B. Each continuing day of violation of this chapter shall constitute a separate offense.

**§ 227-16. Injunctions; concurrent remedies.**

In addition to any other remedy provided in this chapter, this municipality may institute a suit in equity where unlawful conduct or public nuisance exists as defined in this chapter for an injunction to restrain a violation of this chapter or the county plan. In addition to an injunction, the court may impose penalties as authorized by § 227-15 hereof. The penalties and remedies prescribed by this chapter shall be deemed concurrent. The existence, exercise or any remedy shall not prevent this municipality or the county from exercising any other remedy provided by this chapter or otherwise provided by law or equity.

**§ 227-17. Construal of provisions.**

The terms and provisions of this chapter are to be liberally construed so as best to achieve and to effectuate the goals and purposes hereof. This chapter shall be construed in pari materia with the SWMA and the county plan.

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## **Chapter 230, REDEVELOPMENT PLANS**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton as indicated in article histories. Amendments noted where applicable.]

**GENERAL REFERENCES**

**Economic Development Advisory Committee -- See Ch. 11.**  
**Tax exemptions and abatements -- See Ch. 256.**

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### **ARTICLE I, Route 38 Commercial Corridor [Adopted 4-6-1998 by Ord. No. 1998-14]**

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**§ 230-1. Purpose and intent; background.**

- A. It is the purpose and intent of this article to adopt and expand upon a certain redevelopment plan recommended by the Lumberton Township Planning Board in November 1997. This article is adopted under the authority of N.J.S.A. 40A:12A-1 et seq., the Local Redevelopment and Housing Law. This article, and the redevelopment plan adopted herein, are intended to implement a series of redevelopment strategies to overcome certain obstacles to the comprehensive improvement of the Route 38 commercial corridor in order to improve the quality of life of the residents of Lumberton Township. The primary thrust of these strategies seek to remove barriers to new investment, business and jobs creation; and to deliver a wide-range of community retail services within the Route 38 redevelopment corridor. The Township Committee ultimately hopes to improve not only commercial shopping and industrial opportunities in Lumberton Township, but also housing and employment opportunities and aesthetic improvements to the Route 38 commercial corridor.
- B. By Resolution No. 1997-110, adopted June 16, 1997, the Lumberton Township Committee directed the Township Planning Board to undertake an investigation to make certain determinations regarding the establishment of a redevelopment area within the meaning of the aforementioned Local Redevelopment and Housing Law. On or about October 13, 1997, John J. Lynch, P.P., A.I.C.P., Township Planner, issued Memorandum No. 97-25 entitled "Delineation of Area in Need of Redevelopment." This memorandum was prepared in response to the Township Committee's Resolution No. 1997-110.
- C. On November 13, 1997, the Lumberton Township Planning Board conducted a hearing to consider the creation of a proposed redevelopment area pursuant to the criteria established at N.J.S.A. 40A:12A-1 et seq. Said hearing was conducted pursuant to all notices required by law. On December 9, 1997, the Lumberton Township Planning Board adopted Resolution No. 1997-54, entitled "Resolution Adopting a Redevelopment Plan," which incorporated by reference the Planner's Memorandum No. 97-25 aforementioned. The Lumberton Township Committee has now reviewed said memorandum, as well as a supplemental memorandum from the Township Planner, Memorandum No. 97-31 dated December 11, 1997. As a result, the Township Committee is prepared to adopt this redevelopment plan for the Township of Lumberton in accordance with the aforementioned statutes.

**§ 230-2. Determination of area in need of redevelopment.**

The Township Committee hereby finds and determines that the specifically delineated project area, as shown on the map attached to this article as Schedule A,<sup>EN(172)</sup> is an area in need of redevelopment as defined in N.J.S.A. 40A:12A-5, and further concludes that the Township

Planning Board has met its obligation to follow the criteria set forth in that statute prior to making said recommendation.

- A. The area in need of redevelopment is generally identified as consisting more or less of those lands surrounding that portion of Route 38 lying in the B-1 and B-2 Zoning Districts, and the I-1 Industrial area lying north of Route 38 in the vicinity of Maple Avenue. The area stretches east to west from Eayrestown Road to the Lumberton/Hainesport boundary and is located in the northernmost portion of the municipality.
- B. Those parcels along County Route 541/North Main Street from the bridge traversing the south branch of the Rancocas Creek just north of Edward Street and south of Pointe Street, to that point just south of the intersection of Route 33 and Main Street which is the boundary of the existing redevelopment area; and the area along Route 38 beyond the boundary of the existing redevelopment area to the boundary of Lumberton Township near the Smithville Road area; all as more accurately reflected on the attached Exhibit A<sup>EN(173)</sup> showing the existing redevelopment area and the proposed redevelopment areas. [Added 1-19-1999 by Ord. No. 1999-1]
- C. Those areas along County Route 541, from Route 38 to the County Route 541/Main Street intersection (across from Bobby's Run Boulevard), and specifically, although not by way of limitation, including all the land on both sides of Route 541 between those two terminus points, and generally known as Block 15, Lot 6.01; Block 15.03, Lots 1 and 2; Block 15.04, Lots 1 and 2.01; or as more accurately reflected on the attached Schedule A<sup>EN(174)</sup> showing the existing redevelopment area and the proposed redevelopment areas. [Added 12-6-199 by Ord. No. 199-25]
- D. Block 19.58, Lots 1 and 2; Block 20, Lot 16.04; and Block 20.03, Lot 13. [Added 7-21-2003 by Ord. No. 2003-6]

**§ 230-3. Adoption of redevelopment plan.**

- A. Planning Board recommendations. The Township Committee hereby adopts by reference, and incorporates the same herein as if set forth at length, the Planning Board's Resolution No. 1997-54 and the Township Planner's Memorandum No. 97-25. In adopting said recommendations, the governing body hereby declares and determines that same meet the criteria, guidelines and conditions set forth at N.J.S.A. 40A:12A-7; that they provide realistic opportunities for redevelopment in said area when combined with other initiatives set forth in this article; and that, when combined with the balance of this article, are otherwise in conformance with the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.

B. Supplemental provisions to redevelopment plan.

- (1) Planner's Memorandum 97-31. In addition to the recommendations and comments contained in the Planner's Memorandum No. 97-31, the Township Committee also incorporates the Planner's recommendations in Memorandum No. 97-31, dated December 11, 1997, subject however to the following caveat: the recommendation for the establishment of a special improvement district (SID) is not incorporated into this redevelopment plan. The Township Committee reserves the right at some point in the future, however, to amend this plan to incorporate such a concept.
- (2) Goals and objectives of Route 38 commercial corridor redevelopment area. The Redevelopment and Housing Law provides that no redevelopment project shall be undertaken except in accordance with a redevelopment plan adopted by ordinance. The redevelopment plan is required to indicate its relationship to definite local objectives as to appropriate land uses, density of population and improved traffic and public transportation, public utilities, recreation and community facilities and other public improvements. The following are the goals and objectives of the Route 38 commercial corridor redevelopment area:
  - (a) A broad range and variety of commercial and industrial services should be available to Lumberton Township residents and visitors along the Route 38 commercial corridor, providing essential goods and services locally, rather than relying on commercial services at remote locations.
  - (b) The Route 38 commercial corridor should function as a hub of community activity and as the Township's essential place for shopping, cultural and other leisure activities which will attract visitors and residents to the Route 38 commercial corridor.
  - (c) Aesthetic improvements throughout the redevelopment area should result in an architecturally attractive, physically and visually uncluttered, clean and landscaped environment.
  - (d) Traffic improvement should provide safe, improved access for all modes of travel.
  - (e) Retail development which promotes tourism to the Route 38 commercial corridor redevelopment area is desirable and should be encouraged.
  - (f) The core of business establishments offering basic goods and services should be improved and expanded. Residents' needs for such items as groceries, apparel, household supplies, personal and medical services should be provided in an attractive environment that is clean and safe.

- (g) A unifying architectural theme should be developed to improve the appearance of buildings and surroundings. Facade improvements to existing buildings and the construction of new structures should follow the architectural theme to the greatest extent achievable.
- (h) Standards should provide for attractive signage, consistent with aesthetic and architectural themes. Signage should be scaled to appropriate sizes, heights and placement which complements the Route 38 commercial corridor character and eliminates clutter.
- (i) Roadways, parking areas and sidewalks throughout the Route 38 commercial corridor redevelopment area should be well marked, lit and landscaped to ensure safe, attractive access to the Route 38 commercial corridor.
- (j) A series of pedestrian linkages should be developed which promote safe pedestrian access along roadway corridors and connect with residential, commercial, public and recreational opportunities around the Route 38 commercial corridor. The system should include both conventional sidewalks and a system of pathways which promote safe public access to all ranges of land uses and activities available along the collector roads which service the Route 38 commercial corridor. This plan should not be interpreted to promote pedestrian, bicycle or other nonvehicular traffic along Route 38 itself.

C. Redevelopment plan strategies.

- (1) New development. There are a number of principal vacant and undeveloped portions along the Route 38 commercial corridor which should be a focus for new development. With proper planning and the provision of developer incentives, such as tax abatement, these lands hold the potential to yield millions of dollars in new ratable value as a result of the redevelopment plan.
- (2) Redevelopment. There are a number of parcels of land in the Route 38 commercial corridor for which redevelopment initiatives would provide substantial benefits to both the property owners and to the municipality vis-a-vis increasing ratables and providing better and higher quality commercial opportunities to local residents.
- (3) Redevelopment plan incentives. In preparing the Route 38 commercial corridor redevelopment plan, the Township has identified a series of efforts and commitments which will be brought to this commercial corridor and which are deemed to be particularly useful in implementing the redevelopment plan. They include:
  - (a) Tax abatement. New Jersey's Five-Year Tax Exemption and Abatement Law, N.J.S.A. 40A:21-1 et seq., which will be available to businesses within the

redevelopment area, can attract new business and promote the expansion of existing businesses by reducing and/or freezing the tax liability associated with new development and redevelopment during a five-year period. This technique allows the Township to forgive or abate taxes due on new construction, additions or substantial renovations by limiting the increased assessment on improved value during the subsequent five-year tax period. The redevelopment plan provides for tax abatement for new construction or substantial improvements to existing buildings within the Route 38 commercial corridor redevelopment area.

- (b) Development financing. Below market interest loans to the redevelopment area businesses will be solicited through the Township's Economic Development Committee.<sup>EN(175)</sup> Lumberton Township will approach local banks and lending institutions to provide a loan reserve commitment to create a pool of resources available for new construction and redevelopment pursuant to the Federal Community Reinvestment Act (FCRA), 12 U.S.C. § 2901 et seq. This federal law imposes on regulated financial institutions an affirmative and continuing duty to help meet the credit needs of the local communities in which they are chartered consistent with safe and sound operations.
- (c) Government grants. To the extent possible, and in appropriate circumstances, the Township will assist businesses seeking to develop new construction and/or redevelop existing facilities in securing state and/or federal funding by way of grants. These might either be through the Economic Development Authority or such other sources of funding as might be available.
- (d) Economic Development Committee/redevelopment area association. Redevelopment initiatives stand the greatest chances of success when teamed with community support and acceptance. The existing Economic Development Committee of Lumberton Township, when joined with other entities in the redevelopment area, will serve as an advisory and advocacy group consisting of redevelopment area business operators, banking and real estate interest, employees, residents and representatives of religious organizations and is intended to provide support and advice to the Township Committee in implementing the redevelopment plan.
- (e) Fast-track approval process. This initiative will provide for expedited review and approval of local development proposals within the redevelopment area. Included among the strategies for fast-track approvals are expedited concept plan review, technical advisory committee review and an expedited hearing process, which may involve the scheduling of special Planning Board meetings specifically for review of redevelopment area proposals. Technical assistance to applicants and businesses within the redevelopment area in the formulation of development concepts and



application preparation will also serve to expedite the approval process.

- (f) Architectural themes. An objective of the redevelopment plan will be to improve the visual attractiveness of the built environment and new development. Toward that end, the Planning Board will be required to develop an architectural theme for new development and redevelopment. The Planning Board will need to analyze the Route 38 commercial corridor to include an urban design subplan element, which can utilize the relationships between building height, length, width and roof angles to promote an attractive retail environment. This is intended to advance an architecturally pleasing appearance throughout all developments within the redevelopment area. Similarly, theme lighting, coordinated signage and street furniture should be respectful of and complement the architectural theme.
- (g) Landscape standards. The redevelopment plan will ensure that all new development and redevelopment will be attractively complemented by landscape plantings which enhance the physical appearance of buildings and site development. Landscape plantings should enhance the natural landscape and, wherever possible, flowering shrubs should be used to enhance the appearance to buildings and to provide for seasonal displays of flowering shrubbery. All development should seek to maximize the extent of landscaped areas and minimize excessive lot coverage with paving and other impervious surfaces. Development plans should provide landscaped shade tree plantings along street frontages and locate green spaces where they will provide the greatest visual enhancement.
- (h) Signage regulations. Standards should be developed to improve existing B-1, B-2 and I-1 Zone signage controls. The redevelopment plan seeks to eliminate the proliferation of large imposing signage within the Route 38 commercial corridor redevelopment area. The placement and size of signs should be limited to appropriate heights and dimensions that visually enhance the character and architectural theme of the Route 38 commercial corridor. Additionally, the following specific changes should be made to Route 38 commercial corridor sign regulations:
  - [1] Maximum allowable size of freestanding and attached signs for businesses should be analyzed to determine if they need to be reduced.
  - [2] Setbacks for freestanding signs should be designed to reduce visual clutter within the redevelopment area streetscape and minimize viewshed obstructions.
  - [3] Signs should be constructed of materials and designs that reflect a sensitivity to the architectural theme to be developed in the redevelopment area.
  - [4] Signs attached to buildings should seek to complement and not compete with

interesting architectural building elements.

- (i) Traffic flow. Many of the commercial properties along Route 38 are not laid out according to current standards. Many buildings are located too close to the highway, and others have obsolete parking arrangements. Truck traffic is inadequately accommodated in many of the uses, and there is a general need to encourage reinvestment in the area in order to correct problems associated without modal commercial layouts and substandard and obsolete buildings signs. Future developments and applications for approval will be required to address these specific concerns.
- (4) Master plan relationships.
- (a) State plan. The State Development and Redevelopment Plan Reexamination Report and Preliminary Plan, June 25, 1997, seeks to focus new development and redevelopment efforts in centers. The 1997 Reexamination Report specifically identifies Lumberton Township's status as the first community to adopt a transfer of development rights (TDR) ordinance under the 1989 Burlington County Transfer of Development Rights Demonstration Act, N.J.S.A. 40:55D-113. The TDR program is recognized as a tool to preserve farmland while accommodating development and to potentially define centers. The focus of development and redevelopment along the Route 38 commercial corridor would serve to enhance the state plan by providing a centralized commercial district to service the needs of the residents living in the TDR receiving areas.
  - (b) County plan. Burlington County does not maintain a County Master Plan.
  - (c) Municipal plans. The Route 38 commercial corridor redevelopment area abuts the boundary of Hainesport Township at its westerly boundary and Mount Holly Township at its northerly and easterly boundaries. Mount Holly Township specifically has been recently designated as an urban enterprise zone by the State of New Jersey, and the establishment of this Route 38 commercial corridor as a redevelopment area can only serve to complement the initiatives in Mount Holly Township in creating this area as a destination point for commerce. Hainesport's commercial zone also borders Route 38; thus the redevelopment plan is consistent with Hainesport's master plan.
  - (d) Lumberton Township Master Plan. The Route 38 commercial corridor is described in Lumberton Township's Master Plan as providing opportunities for commercial, industrial and other nonresidential opportunities. As such, the redevelopment plan promotes the objectives of the Master Plan and is designed to effectuate promotion

of commercial and industrial opportunities in this area.

- (5) Code enforcement. Effective enforcement of zoning and property maintenance regulations will play an important role in achieving a revitalized Route 38 commercial corridor. In some cases, unauthorized expansion of structures or conversion to alternate uses has overburdened some parcels. A comparison of existing versus authorized uses and buildings should be undertaken within the Route 38 commercial corridor to assure the public health and safety are protected and that all buildings comply with existing regulations. Unauthorized uses and activities within the redevelopment area should be brought into compliance with applicable regulation.
  - (a) Property maintenance. Property maintenance is also a critical component in a revitalized commercial corridor. The redevelopment area should be the focus of a concerted effort to improve the level of maintenance throughout the Route 38 commercial corridor. Township Code Enforcement Officials and Zoning Officers should conduct bench mark surveys of property maintenance on each property with photographic documentation of existing conditions. This will permit monitoring and evaluation of the progress in improving property maintenance.
  - (b) Informing the public. A public education effort should also be part of any property maintenance improvement effort to advise residents and business owners of ongoing redevelopment efforts and the role of property maintenance. Many, if not most, property owners will respond with voluntary efforts to comply with this important aspect of revitalization. However, where a voluntary compliance is not forthcoming, the Township should be prepared to act quickly and effectively to eliminate conditions which degrade the character of the Route 38 commercial corridor redevelopment area.

**§ 230-4. Powers and authority of municipality in furtherance of redevelopment plan.**

The Township Committee, as the governing body of the Township of Lumberton, shall have and be entitled to, and is hereby vested with, all powers and authority available to it in furtherance of the goals and purposes of said redevelopment plan. The Township Committee is specifically empowered with, and authorized to undertake, all such actions, proceedings and undertakings as set forth at N.J.S.A. 40A:12A-1 et seq., including by way of example and not by way of limitation, those powers set forth at N.J.S.A. 40A:12A-8, 40A:12A-9, 40A:12A-10, 40A:12A-13, 40A:12A-22, 40A:12A-27, 40A:12A-37, 40A:12A-38 and 40A:12A-39 et seq.

**§ 230-5. Annual reports.**

Pursuant to the requirements of N.J.S.A. 40A:12A-43, the Township shall submit an annual report to the Commissioner of the Department of Community Affairs of the State of New Jersey indicating the name, location and size of all projects undertaken in the redevelopment area. In addition, the annual report shall contain such information as the Commissioner shall deem necessary in order to fulfill the reporting requirements of N.J.S.A. 52:27D-3.3.

**§ 230-6. Fees and charges for proposed redevelopment. [Added 2-20-2007 by Ord. No. 2007-3]**

- A. The following fees shall be payable in connection with submittals to the Township Committee of the Township of Lumberton for all projects located within a duly designated Redevelopment Zone of the municipality. Said fee shall be nonrefundable and shall be used solely for purposes of processing said application or review. It shall include all work done in connection with said application or review other than those fees charged for professional services.
- B. The escrow fee charged for review shall be used exclusively for professional reviews by the "architects, engineers, planners and/or attorneys" employed by the municipality. Said escrow fees shall be so segregated for each application so that the fee to be paid shall be utilized only for the particular project. In the event any of the escrow remains unused at the conclusion of the application, said amount that is not utilized shall be returned to the applicant upon written request. If the escrow fee charged is insufficient so as to cover the professional fees applicable to that particular project, then that applicant shall be required to pay all deficiencies within his or her individual account. When it has been determined that an escrow account has been depleted by 2/3 of the original fee, same shall be replenished by an additional 1/3 of the original escrow fee.
- C. Fees.
  - (1) The following fees shall be established for review by the Township Committee for projects within a duly designated redevelopment area.

Type	Application Fee	Escrow Fee
Residential (single lot)	\$350	\$500
Residential (more than one lot)	\$750	\$2,500 + \$100 per lot

Type	Application Fee	Escrow Fee
Commercial	\$1,250	\$5,000

- (2) In addition, any escrow fees remaining on account after the conclusion of review by the Township's redevelopment entity may be utilized for purposes of escrow deposits for applications before the Township's Land Development Board or returned to the applicant at the applicant's option. All such escrow fees shall be maintained in accordance with the provisions of the New Jersey Municipal Land Use Law, N.J.S.A. 40:55d-1 et seq.

**§ 230-7. A-1 Pallet Site Redevelopment Plan. [Added 6-19-2007 by Ord. No. 2007-9]**

- A. The A-1 Pallet Site Redevelopment Plan, dated April 20, 2007, shall govern as the redevelopment plan for Block 16, Lot 1.02 on the Tax Assessment Parcel Maps of the Township of Lumberton, in accordance with N.J.S.A. 40A:12A-7, and shall supersede any more general plan for the redevelopment area adopted under § 230-3.
- B. The redevelopment plan shall supersede Chapter 130, Development Regulations, as governing land use and area, building coverage and yard requirements as set forth in the section of the A-1 Pallet Site Redevelopment Plan entitled, "Relationship of Redevelopment Plan Regulations and Lumberton's Development Regulations Ordinance."

## Chapter 232, RENTAL PROPERTIES

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-16-2002 by Ord. No. 2002-18. Amendments noted where applicable.]

### GENERAL REFERENCES

Uniform construction codes -- See Ch. 121.  
Property maintenance -- See Ch. 221.

### § 232-1. Definitions.

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

**ENFORCEMENT OFFICIAL** -- The Township Construction Code Official, the Township Building Inspector, or any other local official duly authorized and appointed by the Township

Administrator to perform the duties set forth in this chapter.

**OCCUPANT** -- Any person or persons in actual possession of and living in the residential rental unit.

**OWNER** -- Any person who owns, purports to own or is properly authorized to exercise powers of or for an owner of property used as a residential rental unit.

**RENT** -- Includes the leasing, rental or other granting of occupancy for any period of time where title to the residential unit is not transferred to the actual occupant at the time such occupancy commences.

**RESIDENTIAL RENTAL UNIT** -- Any building or part thereof, whether furnished or unfurnished, which is occupied or intended, arranged or designed to be occupied for sleeping or dwelling purposes by one or more persons and shall include all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy thereof.

**§ 232-2. Certificate of inspection required.**

No person shall rent, lease or in any way deliver for occupancy or possession to any occupant or prospective occupant of any residential unit for the purpose of living therein any residential unit until that person has obtained a certificate of occupancy for the premises and has registered the premises as hereinafter provided. A certificate of occupancy for the premises will not be issued for any residential unit which is not safe, clean and fit for human occupancy, which does not comply with and conform to the provisions of the Property Maintenance Code of the State of New Jersey and the Township Maintenance Code for residential dwellings.<sup>EN(176)</sup>

**§ 232-3. Notice of vacation; fee.**

Prior to any residential rental unit becoming occupied or prior to the transfer of occupancy by lease or other rental agreement, the owner shall give written notice thereof to the Township enforcement official. This notice shall contain the name and address of the owner, and if a notice is given by someone on behalf of the owner, it shall include that person's name and address as well. The notice shall describe the residential rental unit and shall be accompanied by a fee of \$35 for the initial inspection for the issuance of the certificate of occupancy. If the unit should fail inspection, a fee of \$25 shall be charged for reinspection of the rental unit.

**§ 232-4. Inspection; issuance of certificate; notice of defect.**

Within 10 working days of receipt of the notice and fee as set forth above, the enforcement

official shall make an investigation of the premises; said inspection shall be made for the purpose of determining the conditions of residential rental units in order that the enforcement official may perform his duties of safekeeping the health and safety of the occupants of the residential rental units. For the purpose of making such inspections, the enforcement official is hereby authorized to enter, examine and survey at all reasonable time all residential rental units and all rooms therein. If the residential rental unit complies with the requirements of § 232-2 above, the enforcement official shall issue a written certificate of occupancy. If the residential rental unit does not comply with the requirements, then no certificate of occupancy shall be issued, but the enforcement official shall issue a written notice of defect specifying the violations of the requirements. Each certificate and notice shall be dated, and a duplicate copy shall be retained by the enforcement official. In the event of a notice of defect, it shall be served upon the owner and the parties in interest, either personally or by leaving a copy thereof at his usual place of abode in the presence of a member of the family, and they shall be informed of the contents thereof or, if not found, by registered or certified mail, return receipt requested, to his last known address or to the address of his agent.

**§ 232-5. Hearing on notice of defect.**

Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter or of any rule or regulation adopted pursuant hereto may request and shall be granted a hearing on the matter before the Township Committee, provided that such person shall file in person or by mail in the office of the Township Clerk a written petition requesting such hearing within 10 days after the notice was served.

- A. Upon receipt of such petition, the Township Clerk shall set a time and place of such hearing within 30 days therefrom and shall give the petitioner and enforcement official five days' written notification thereof. At any hearing held in accordance with this section, the petitioner shall be given an opportunity to be heard and to show cause why such notice should be modified or withdrawn. The Township Committee shall have the power to administer oaths and affirmations in connection with the conduction of any such hearing, and the rules of evidence prevailing then in the courts shall not be controlling in any such hearings.
- B. Order. After hearing, the Township Council shall sustain, modify or withdraw the notice depending upon its findings as to whether the provisions of this chapter and the rules and regulations adopted pursuant hereto have been complied with. If the Township Committee sustains or modifies such notice, it shall be deemed to be an order. The proceedings at such hearings, including the findings and decision of the Township Committee, shall be summarized, reduced to writing and entered as a matter of public record in the office of the Township Clerk. Such record shall also include a copy of every notice or order issued in connection with the matter. Any person aggrieved by the decision of the Township

Committee may seek relief therefrom in any court of competent jurisdiction as provided by the laws of this state.

**§ 232-6. Temporary certificate of occupancy.**

Upon the inspection of any residential rental unit, the Construction Official or Building Inspector, in his discretion, may cause to be issued a temporary certificate of occupancy conditioned upon the owner removing any conditions which violate the standards set forth in § 232-4 above within a reasonable period of time not to exceed 30 days from the issuance of said certificate. Upon removal of the violations by an owner who has received a temporary certificate of occupancy and satisfactory completion of a reinspection, the Construction Official or Building Inspector shall issue a permanent certificate of occupancy.

**§ 232-7. Effectiveness of certificate of occupancy.**

A certificate of occupancy shall remain in effect for as long as the occupant of the residential rental unit for which said certificate has been issued remains unchanged; provided that, but notwithstanding the foregoing, nothing in this chapter shall operate to prevent any other duly authorized official or employee of the Township of Lumberton or State of New Jersey from inspecting any premises for which a certificate of occupancy has been issued and from exercising its power to correct violations of any housing, zoning or building codes or any other applicable laws or ordinances found to exist on such premises and to prosecute any persons for such violations.

**§ 232-8. Failure to inspect.**

If the inspection is not made by the enforcement official and neither a certificate of occupancy nor a notice of violation is issued to the owner within 15 days of the application for a certificate of occupancy, the owner may permit the residential rental unit to be occupied, but subject to the right of the enforcement official to inspect said residential rental unit and, if a violation is found, to require the owner to correct said violation within 30 days of receipt of notice thereof.

**§ 232-9. Registration of rental units.**

A. Every person who lets to another for occupancy as of the date of the adoption of this chapter any residential rental unit shall register the unit with the office of Township Building Inspector which shall maintain a registry thereof. The registration, on forms provided by the



Township Department of Inspections, shall include the following information:

- (1) The name, address and telephone number of the owner.
  - (2) The address of the residential rental unit.
  - (3) The term of the existing or anticipated lease.
  - (4) The name and address of the owner's agent and/or contact person.
- B. The registration shall be renewed two years from the date of the initial registration and every two years thereafter.
- C. When the owner shall no longer let the premises to another for occupancy, the owner shall notify the Department of Inspections, in writing, of such fact. Upon a conveyance of ownership of the residential rental unit, the new owner shall, within 10 days of the date of conveyance, notify the Department of Inspections, in writing, of the change in ownership.
- D. All owners to whom this chapter applies shall register in accordance with this section within 60 days of the date of adoption hereof. A fee of \$35 shall be charged for this initial registration and inspection.

**§ 232-10. Violations and penalties.**

Any person who shall violate any of the provisions of this chapter shall, upon conviction, be subject to a fine not to exceed \$1,000 or a term of community service not to exceed 90 days or a jail term in the Burlington County Jail not to exceed 90 days, at the discretion of the sentencing Judge. Each day that a violation shall continue shall be considered a separate violation of this chapter.

**§ 232-11. Nonliability of Township.**

- A. The Township of Lumberton shall not, by the performance of inspections and reinspections required hereby, become or be considered to be a guarantor to any owner, tenant or other person as to the condition of any building, unit or premises inspected or a participant in any contractual relationship between any persons or parties to the same.
- B. The issuance of a certificate of occupancy indicates that, with the exception of any deficiencies noted, only a general inspection of the visible parts of the rental unit has been made and no imminent hazardous conditions were observed which would preclude the continued legal use of the structure.

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## **Chapter 238, SEWERS AND SEPTIC SYSTEMS**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton: Art. I, 12-17-1973 by Ord. No. 1973-19 as part of Ch. XIV of the 1973 Code; Art. II, 12-17-1973 by Ord. No. 1973-19 as part of Ch. XIV of the 1973 Code. Amendments noted where applicable.]

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### **ARTICLE I, Connections [Adopted 12-17-1973 by Ord. No. 1973-19 as part of Ch. XIV of the 1973 Code]**

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#### **§ 238-1. Required installations.**

The owner of any dwelling or other building occupied by persons, located upon any street in which a sanitary sewer line is constructed or along the line of any sanitary sewer, shall, within 60 days after such sanitary sewer has been connected to an operating sewage treatment system, install a toilet in the dwelling or other building and connect the toilet and dwelling or other building with the sanitary sewer line.

#### **§ 238-2. Installation upon occupancy.**

The owner of any dwelling or other building to be occupied by persons, erected upon any street in which an operating sanitary sewer line is constructed or erected along the line of any operating sanitary sewer, shall, prior to occupancy of such dwelling or other building, install a toilet in the dwelling or other building and connect the toilet and dwelling or other building with the sanitary sewer line.

#### **§ 238-3. Cost of connection as lien.**

If the owner of any property shall fail to make any connection or installation as required by this Article within the time required, the township may proceed to make such connection or installation or cause the same to be made and assess the cost thereof as a lien against such property, pursuant to N.J.S.A. 40:63-52 to 40:63-64, or any amendments or supplements thereto.

#### **§ 238-4. Prohibited connections.**

It shall be unlawful for any owner, tenant or occupant of any dwelling or other building or any

other person to connect any roof drain, surface drain or cellar drain with any sanitary sewer.

**§ 238-5. Violations and penalties.** EN(177)

- A. Maximum penalty. For violation of any provisions of this Article, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this Article exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

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**ARTICLE II, Abandoned Systems [Adopted 12-17-1973 by Ord. No. 1973-19 as part of Ch. XIV of the 1973 Code]**

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**§ 238-6. Filling in required. [Amended 7-5-1988 by Ord. No. 1988-14]**

All septic tanks and cesspools which are abandoned shall be filled in by the owner of the property upon which they are situated in accordance with the standards set forth in § 238-7. In cases of abandonment resulting from connection with the Mount Holly Sewer Authority sewage system, the filling in shall be completed within 18 months of making the connection and, in cases of abandonment resulting from the installation of a new septic tank or cesspool, within 18 months of the place and operation of the new septic tank or cesspool.

**§ 238-7. Filling standards.**

In filling in any septic tank, the following procedures and materials shall be used.

- A. The liquid contents of the septic tank shall first be completely pumped out.
- B. The septic tank shall then be cleaned with hydrated lime at the rate of 10 pounds per cubic yard.
- C. The septic tank shall then be filled with clean borrow fill or bank-run gravel.

**§ 238-8. Violations and penalties.** EN(178)

- A. Maximum penalty. For violation of any provisions of this Article, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this Article exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

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## **Chapter 239, SEX OFFENDERS**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton as indicated in article histories. Amendments noted where applicable.]

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### **ARTICLE I, Residency and Other Limitations [Adopted 10-17-2005 by Ord. No. 2005-27; amended in its entirety 12-12-2006 by Ord. No. 2006-17]**

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**§ 239-1. Residency restrictions.**

- A. No person 18 years of age or older who has been convicted of any crime or offense covered by the provisions of N.J.S.A. § 2C:7-1, commonly known as Megan's Law, as now existing

or hereafter amended, and who is subject to the registration requirements as now or hereafter provided therein, shall reside within 2,500 feet of any public or private primary or secondary school or educational institution, any child-care or child day-care facility or any park or playground now or hereafter existing within the Township of Lumberton except as expressly permitted herein.

- B. The residency restrictions and prohibitions of this article as set forth in § 239-1 hereof shall not apply to any person who purchased a residence with the intent to immediately reside therein prior to residency in such location becoming prohibited by the enactment of this article or the establishment or creation of a new public or private primary or secondary school or educational institution, child-care or child day-care facility or park or playground as to which construction thereof had not been started or planned and of which there was no public notice of such intended construction as of the time of the purchase of such residence.
- C. Any person, other than such persons to whom § 239-1A of this article is applicable, who resides within any location which becomes prohibited by the enactment of this article or the establishment of a new public or private primary or secondary school or educational institution, child-care or child day-care facility, or park or playground which did not previously exist, shall have the longer of: 1) 60 days from the date that such residency would otherwise become prohibited by reason of the effective date of this article and/or the establishment and creation of a new public or private primary or secondary school or educational institution, child-care or child day-care facility or park or playground; or 2) the termination of the current term or the earlier termination of any residential lease entered into by such person prior to such residency otherwise becoming prohibited; provided, however, that in no event shall such residency continue for more than one year from the date such residency would otherwise be deemed prohibited. The failure to discontinue any residency as required by this § 239-1C shall constitute a violation of this article.

**§ 239-2. Facilitating and/or permitting residency in violation of article.**

- A. It shall be a violation of this article for any person, partnership, agency, corporation, company or nonprofit organization to permit, allow or otherwise facilitate any residency or continued residency that is in violation of this article in any residence or dwelling which such person, partnership, agency, corporation, company or nonprofit organization owns, has control over or otherwise has responsibility for the management, sale or renting thereof.

**§ 239-3. Prohibitions of persons in parks frequented by children.**

- A. No person who has been convicted of any crime or offense covered by the provisions of N.J.S.A. § 2C:7-1, as now existing or hereafter amended, and who is subject to the

registration requirements as now or hereafter provided therein, shall be present in or on any public park, park property or sports or recreation complex or grounds owned or maintained by the Township of Lumberton.

- B. No person who has been convicted of any crime or offense covered by the provisions of N.J.S.A. § 2C:7-1, as now existing or hereafter amended, and who is subject to the registration requirements as now or hereafter provided therein, is permitted to knowingly loiter on a public way within 300 feet from a public park, park property or sports or recreation complex or grounds owned or maintained by the Township of Lumberton.
- C. If any law enforcement officer reasonably believes that a person subject to the prohibitions of this section of this article is in an area that is in violation of this section of this article, the officer shall require the person to provide his/her name, address and telephone number and proof of identity. If it is established that the person is on the New Jersey Sex Offender Registry List, the officer shall notify the convicted sex offender that he/she is in violation of this article and otherwise enforce the provisions of this article.

**§ 239-4. Violation and penalties.**

- A. A violation of § 239-1 of this article shall be punishable by a fine not to exceed \$1,250, imprisonment of not more than 90 days, and/or a period of community service not to exceed 90 days. Each day that residency continues in violation of § 239-1 shall constitute a separate punishable offense.
- B. A violation of § 239-2 of this article shall be punishable by a fine not to exceed \$1,250, imprisonment of not more than 90 days, and/or a period of community service not to exceed 90 days. Each day that residency that is in violation of this article is permitted to continue by a person, partnership, agency, corporation, company or nonprofit organization to whom § 239-2 applies and who has control over such continued residency shall constitute a separate punishable offense.
- C. A violation of § 239-3 of this article shall be punishable by a fine not to exceed \$500, imprisonment of not more than 30 days, and/or a period of community service not to exceed 90 days for a first offense and a fine not to exceed \$1,250, imprisonment of not more than 90 days, and/or a period of community service not to exceed 90 days for any subsequent offense.

**§ 239-5. Sex-Offender-Free-Zone Map and designations.**

- A. The municipality shall endeavor to maintain on file in the office of the Municipal Clerk a map delineating the areas that are within the two-thousand-five-hundred-foot residency

restrictions set forth in § 239-1 of this article (the "Sex-Offender-Free-Zone Map"). The Sex-Offender-Free-Zone Map shall, for purposes of enforcement of this article, serve as conclusive evidence that the areas delineated therein are within the two-thousand-five-hundred-foot residency restriction areas provided for in § 239-1 of this article. However, the residency restrictions established by this article shall apply to all areas within the two-thousand-five-hundred-foot residency restriction area established by § 239-1 of this article regardless of whether or not such area appears on the Sex-Offender-Free-Zone Map.

- B. The municipality shall endeavor to delineate on the Sex-Offender-Free-Zone Map maintained in the Office of the Municipal Clerk, such public parks, park properties or sports or recreation complexes or grounds to which § 239-3 of this article applies, together with the areas to which the loitering prohibitions set forth in § 239-3B apply. The failure to maintain a Sex-Offender-Free-Zone Map or accurately reflect therein the public parks, park properties or sports or recreation complexes or grounds to which § 239-3 of this article applies shall not constitute a defense to a violation of § 239-3 of this article.

## Chapter 242, SMOKE DETECTORS

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 8-19-1991 by Ord. No. 1991-11. Amendments noted where applicable.]

### GENERAL REFERENCES

Uniform construction codes -- See Ch. 121.

Fire prevention -- See Ch. 152.

#### § 242-1. Purpose. [Amended 7-9-2004 by Ord. No. 2004-20]

This chapter implements the provisions of P.L. 1991, c. 92,<sup>EN(179)</sup> to require installation of at least one smoke detector on each level of one- and two-family homes when a change of occupancy occurs. It shall further require one carbon monoxide detector to be installed on each floor with a bedroom. The Municipal Fire Official and Fire Prevention Bureau shall have responsibility to enforce the provisions of this chapter.

#### § 242-2. When required; standards. [Amended 7-9-2004 by Ord. No. 2004-20]

A structure used or intended for use for residential purposes by not more than two households shall have a smoke-sensitive alarm device, also known as a "smoke detector," on each level of the structure and outside each separate sleeping area in the immediate vicinity of the bedrooms

and located on or near the ceiling in accordance with National Fire Protection Association Standard No. 74-1984 for the installation, maintenance and use of household fire warning equipment. All detectors must meet the requirements of the construction code at the time of the dwellings' construction; and provided, further, that all smoke-sensitive devices installed pursuant to this chapter must be tested and listed by a product certification agency recognized by the Bureau of Fire Safety of the State of New Jersey. A structure used or intended for use for residential purposes shall have one carbon monoxide detector installed on each floor with a bedroom.

**§ 242-3. Inspections and issuance of certificates.**

Whenever there is a change of occupancy of any building subject to the requirements of this chapter, no owner shall sell, lease or otherwise permit occupancy for residential purposes of that building without first obtaining from the Municipal Fire Official a certificate evidencing compliance with the requirements of this chapter.

**§ 242-4. Compliance with house number standards required.**

When inspecting for compliance with the smoke alarm requirements of this chapter, the Municipal Fire Official shall also determine if house numbers have been properly placed in compliance with Chapter 106, Buildings, Numbering of, and if so, shall indicate the same in his certificate covering the smoke alarm. In the event that there are no house numbers placed on the property or they are not as required by township ordinance, the deficiency must be corrected before the certificate required by this chapter shall be issued,

**§ 242-5. Inspection fee. [Amended 2-2-1998 by Ord. No. 1998-1; 7-9-2004 by Ord. No. 2004-20]**

A. A fee shall be paid to the Municipal Fire Bureau to offset the cost of the inspection and certification required by this chapter. Said fee shall be in addition to any other fees required by other ordinances in connection with inspections and certifications by any other local, county or state agency. The fee schedule shall be as follows:

- (1) For requests received 14 days or more prior to settlement date: \$25.
- (2) For requests received seven to 13 days prior to settlement date: \$50.
- (3) For requests received two to six days prior to settlement date: \$75.



- (4) For requests received with less than 48 hours' notice: \$125.
- B. A reinspection fee will be charged at the same rate of the original inspection fee. If additional reinspections are needed, a fee will be charged based on the fee schedule in this section.

#### **§ 242-6. Violations and penalties.**

An owner who sells, leases, rents or otherwise permits to be occupied for residential purposes any premises subject to the provisions of this chapter when the premises do not comply with the requirements of this chapter or without complying with the inspection and certification requirements hereof shall be subject to a fine of not more than \$500, which may be collected and enforced by the Municipal Fire Bureau by summary proceedings pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq., or any amendments or supplements thereto.

## **Chapter 246, SOIL REMOVAL AND EROSION CONTROL**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-17-1973 by Ord. No. 1973-19 as part of Ch. XVI of the 1973 Code, amended in its entirety 11-2-1987 by Ord. No. 1987-21; Art. II, 12-17-1973 by Ord. No. 1973-19 as part of Ch. XVI of the 1973 Code. Subsequent amendments noted where applicable.]

#### **GENERAL REFERENCES**

**Development regulations -- See Ch. 130.**  
**Flood damage prevention -- See Ch. 157.**

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### **ARTICLE I, Soil Removal [Adopted 12-17-1973 by Ord. No. 1973-19 as part of Ch. XVI of the 1973 Code; amended in its entirety 11-2-1987 by Ord. No. 1987-21]**

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#### **§ 246-1. Findings.**

The Township Committee finds that:

- A. The unregulated and uncontrolled relocation, filling, excavation and removal of soil on a large scale has resulted in conditions detrimental to the public safety, health and general welfare, substantially hampering and deterring the efforts of the township to effectuate the general purpose of municipal planning.

- B. Continuation of the unregulated and uncontrolled relocation, filling, excavation and removal of soil would result in serious and irreparable damage to the public welfare by reason of consequent soil erosion by water and wind, inadequate and improper surface water drainage, the decrease in or destruction of the fertility of soil, the removal of lateral support of abutting streets, lands and premises, the creation of dangerous depressions or pits, the deterioration of property values, the rendering of land unfit or unsuitable to its most appropriate uses and the creation of other factors and elements hampering and deterring the coordinated, adjusted and harmonious physical development of the Township of Lumberton.

**§ 246-2. Definitions.**

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

SOIL -- Includes those portions or components of the earth's surface commonly known as "soil," "topsoil," "dirt," "clay," "marl" or "earth," whether fertile or infertile, sand or gravel, or any combinations of them with each other or with any other common components of the earth's surface, such as rocks, stones, pebbles or other decomposed vegetative or animal matters or mineral components of the earth's surface.

**§ 246-3. Standards. [Amended 8-1-1994 by Ord. No. 1994-15]**

- A. Soil protection. No soil shall be removed from any site. Topsoil moved during the course of construction shall be redistributed over the disturbed areas of the development and shall be stabilized by seeding or planting or another method shown on the approved plan. Subsoil shall be retained on the site and incorporated into the overall regrading and drainage plan. No grading construction or regrading shall be permitted which creates or aggravates water stagnation or adversely impacts drainage areas shown on the approved plan. Excess soil may only be removed from the site or relocated outside the township upon the Township Engineer's recommendation and with the approval of the Township Committee.

**§ 246-4. Application for permission; approval.**

- A. The Township Committee shall not consider any application for the removal of soil from the premises for sale or otherwise unless and until the owner of the premises or the person having charge thereof shall first file with the Township Clerk/Administrator an application requesting such permission on the appropriate form to be obtained from the Township Clerk/Administrator, together with a map of the premises and the payment of the appropriate application fee as set forth in the preceding section. The map shall be clearly and legibly drawn or reproduced at a scale of not less than one inch equals 100 feet. It shall be designed

and drawn by a licensed New Jersey surveyor. The map shall show or be accompanied by the following information:

- (1) A key map showing the entire premises and its relation to surrounding areas.
- (2) The Tax Map sheet, block and lot number, date, graphic scale, reference meridian and the following names and addresses:
  - (a) The name and address of the record owner or owners.
  - (b) The name and address of the person other than the owner who shall be in charge of soil removal.
  - (c) The name and address of the person who prepared the map.
- (3) The acreage of premises to the nearest tenth of an acre.
- (4) Existing contours at five-foot intervals for slopes averaging 10% or greater and at two-foot intervals for land of lesser slope, and the proposed contours resulting from the intended removal of soil in the same scale.
- (5) The location of existing streets, buildings, watercourses, railroads, bridges, culverts, drain pipes and any other natural features, such as wooded areas and rock formations, on the premises and within 200 feet thereof.
- (6) The groundwater elevation as determined by test borings and an evaluation of the elevation of the seasonal high-water table. Borings shall be located over the site of the proposed soil removal in accordance with the following schedule:

<b>Area of Site (acres)</b>	<b>Number of Borings*</b>
Less than 2	2
2 to 3	3
3 to 5	5
5 to 10	8
10 to 40	10

Area of Site (acres)	Number of Borings*
Over 40	16

\*NOTE: Borings shall extend at least six feet below the proposed depth of soil removal.

- (7) Soil types as shown in the Burlington County Soil Survey.
  - (8) Calculations showing the determination of the volume of soil to be removed.
  - (9) Two benchmarks on the premises at locations that will not be disturbed by the proposed soil removal, based on datum of the contours.
- B. No permission for soil removal shall be granted unless the Township Committee, after considering and reviewing the application and accompanying map, is satisfied that the proposed soil removal will not be detrimental to the public health, safety and general welfare of the township inhabitants. In arriving at its decision, it shall be guided and take into consideration the following factors:
- (1) Soil erosion by wind and water.
  - (2) Drainage.
  - (3) Soil fertility.
  - (4) Lateral support slopes and grades of abutting streets and lands.
  - (5) Land values and uses.
  - (6) Such other factors as may bear upon or relate to the coordinated, adjusted and harmonious physical development of the township.<sup>EN(180)</sup>

**§ 246-5. Hearing; notification.**

A hearing on each application shall be held before the Township Committee at a time established by the Committee. The hearing shall be held within 30 days of the date the application is filed,

which time may or may not be a regularly scheduled meeting of the Township Committee. The Township Clerk/Administrator shall notify the applicant, by letter addressed to the address listed on the application form, of the time and place set for the hearing. The applicant, upon receipt of such notice, shall give 10 days' written notice of the hearing to the property owners within 200 feet of the premises involved of the time, place and purpose of such hearing and of their right to attend and be heard. Such notice of hearing shall be in accordance with the procedure established in the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., or any amendments or supplements thereto. Proof that such notice was given to those property owners shall be submitted by the applicant to the Township Committee at the time of the hearing.

**§ 246-6. Fees.**

The following application fees shall be collected by the Township Clerk/Administrator when an application for permission to remove soil is presented:

- A. Two dollars and fifty cents per 100 cubic yards to be removed, with a minimum fee of \$100.  
[Amended 8-1-1994 by Ord. No. 1994-15<sup>EN(181)</sup>

**§ 246-7. Performance guaranty; escrow fund.**

- A. Before any permit or permission for soil removal shall be granted or issued, the owner or applicant shall file with the Township Committee a performance guaranty in a form and with surety acceptable to the township, in such amount as, in the opinion of the Township Committee, shall be sufficient to insure the faithful performance of the work to be undertaken pursuant to the permission granted by the Township Committee in accordance with the provisions of this Article.
- B. The owner or applicant shall also establish an escrow fund in the amount of 6% of the guaranty amount. Said fund shall be used to pay the fees of any professional personnel employed to process, review, inspect and make recommendations with regard to the application. If at any time the escrow fund shall be deemed insufficient by the Township Committee to cover actual or anticipated expenses, said fund shall be subject to increase on demand. Any excess funds in the escrow account at the time of final acceptance will be returned to the owner or applicant upon his request, in writing.
- C. If the soil removal is in relation to a development plan that has received final approval by the approving body, the escrow can be included in an escrow fund established pursuant to Chapter 130, Development Regulations, of this Code.

**§ 246-8. Removal standards.**

- A. If permission to remove the soil is granted, the owner or person in charge shall so conduct the operations that there shall be no sharp declivities, pits or depressions and in such a manner that the area shall be properly leveled off, cleared of debris and graded to conform to the contour lines and grades as approved by the Township Committee.
- B. The soil removal shall be subject to inspection by the Township Engineer, who shall be notified by the owner or applicant at least 24 hours prior to the start or resumption of work. The Township Engineer shall make periodic inspections of the site. The minimum number of inspections and the maximum time between inspections shall be determined for each individual application, based on the volume to be removed and the rate of removal.<sup>EN(182)</sup>

**§ 246-9. Compliance required.**

No excavation shall be made and no soil shall be removed under the provisions of this Article unless all required permits therefor shall have first been obtained as provided for herein, and no excavation shall be made and no soil shall be removed except in conformity with the terms and conditions of permits thus issued and in overall conformity with the provisions of this Article and any other applicable chapters and sections of this Code.

**§ 246-10. Disposition of soil.**

Prior to removing soil as provided for in this Article, the applicant shall first attempt to dispose of the removed soil within this township, whether by sale or exchange, it being the governing body's intent to ensure that needs for soil by other property owners within the township are met as far as practicable by persons seeking to remove soil from any land otherwise situate in this township.

**§ 246-11. Enforcement; violations and penalties. [Amended 8-3-1992 by Ord. No. 1992-6]**

- A. It shall be the duty of the Township Police Department to enforce all provisions of this Article. [Amended 12-21-1992 by Ord. No. 1992-15]
- B. Maximum penalty. For violation of any provisions of this Article, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem

appropriate and just.

- C. Separate violations. Each and every load of soil removed in violation of this Article shall constitute a separate violation. Each and every day in which a violation of any provision of this Article exists shall also constitute a separate violation. [Amended 12-21-1992 by Ord. No. 1992-15]
- D. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- E. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

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**ARTICLE II, Soil Erosion and Sediment Control [Adopted 12-17-1973 by Ord. No. 1973-19 as part of Ch. XVI of the 1973 Code]**

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**§ 246-12. Purpose.**

The purpose of this Article is to control soil erosion and the resulting sedimentation from occurring on developing areas by requiring proper provisions for water disposal and the protection of soil surfaces during and after construction in order to promote the safety, public health, convenience and general welfare of the township.

**§ 246-13. Definitions.**

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

**CERTIFICATION** -- A signed written statement by the designated official that specific constructions, inspections or tests, where required, have been performed and that such comply with the applicable requirements of this Article or regulations adopted.

**CUT or EXCAVATIONS** -- The result of any act by which soil or rock is cut into, excavated, dug, quarried, uncovered, removed, displaced or relocated.

**DEVELOPER** -- Any person or other legal entity commencing proceeding under this Article to effect a subdivision of land or development of a site hereunder for himself or another.

**DIVERSION** -- A channel with or without a supporting ride on the lower side constructed across

or at the bottom of a slope.

**EMBANKMENT OF FILL** -- A man-made deposit of soil, rock or other materials.

**EROSION** -- The wearing away of the land surface by the action of wind, water, ice or gravity.

**EXCAVATION** -- The result of any act by which soil or rock is cut into, excavated, dug, quarried, uncovered, removed, displaced or relocated.

**EXISTING GRADE** -- The vertical location of the existing ground surface prior to cutting or filling.

**FILL** -- A man-made deposit of soil, rock or other materials.

**FINISHED GRADE** -- The final grade or elevation of the ground surface conforming to the proposed design.

**GRADING** -- Any stripping, cutting, filling or stockpiling, or any combination thereof and including the land in its cut or filled condition.

**GRASSED WATERWAY** -- A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, used to conduct surface water from a field, diversion or other site feature.

**LAND DEVELOPMENT PLAN** -- Any and all earth work not included as part of the site plan or subdivision plan.

**MAINTENANCE GUARANTY** -- Any security which may be accepted by the Land Development Board or other approving body after the final acceptance of improvements installed by the developer, including maintenance bonds and other similar collateral or surety agreements. [Amended 1-20-2004 by Ord. No. 2004-1]

**MULCHING** -- The application of plant or other suitable materials on the soil surface to conserve moisture; hold soil in place and aid in establishing plant cover.

**NATURAL GROUND SURFACE** -- The ground surface in its original state before any grading, excavation or filling.

**PERFORMANCE GUARANTY** -- Any security which may be in lieu of a requirement that certain improvements be made before the Land Development Board approves a plate including performance bonds, escrow agreements and other similar collateral or surety agreements. [Amended 1-20-2004 by Ord. No. 2004-1]

**PERMANENT STREAM** -- A stream normally having continuous water flow in any quantity throughout the year.



**REGULATED GRADING** -- Any grading performed with the approval of the Township Engineer and in accordance with criteria established by this Article.

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

**SEDIMENT BASIN** -- A carrier or dam built across a waterway or at other suitable locations to retain rock, sand, gravel or silt or other material.

**SEDIMENT POOL** -- The reservoir space allotted to the accumulation of submerged sediment during the life of the structure.

**SITE** -- Any plot or parcel of land or combination of contiguous lots or parcels of land where grading is performed or permitted.

**SLOPE** -- Degree of deviation of a surface from the horizontal, usually expressed in percent or degree.

**SOIL** -- All unconsolidated mineral and organic material of whatever origin that overlies bedrock which can be readily excavated.

**SOIL EROSION AND SEDIMENT CONTROL PLAN** -- The map indicating the proposed scheduling and construction details for soil erosion and sediment control and meeting the requirements of §§ 246-17 through 246-20.

**STRIPPING** -- Any activity which removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

**TEMPORARY PROTECTION** -- Stabilization of erosive sediment-producing areas.

**VEGETATIVE PROTECTION** -- Stabilization of erosive or sediment-producing areas by covering the soil with:

- A. Permanent seeding, producing long-term vegetative cover.
- B. Short-term seeding, producing temporary vegetative cover.
- C. Sodding, producing areas covered with a turf of perennial sodforming grass.

**WATERCOURSE** -- Any natural or artificial watercourse, stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and which has a definite channel, bed and banks. and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

**§ 246-14. Plans required. [Amended 1-20-2004 by Ord. No. 2004-1]**

- A. Except for single-family dwellings which are not part of a major subdivision; land used for gardening, primarily for home consumption; outbuildings on lots of three acres or more; and agricultural use of land when operated in accordance with a conservation plan approved by the local soil conservation district or when it is determined by the local soil conservation district that such agricultural pursuits will not cause excessive erosion and sedimentation no site plan shall be approved; no street shall be constructed; no changes shall be made in the contour of the land; no grading, excavating or removal or destruction of topsoil, trees or other vegetative cover of the land shall be commenced by any developer until such time as a plan for erosion and sediment control has been processed with and approved by the Township Land Development Board or there has been a determination by the Board that such plans are not necessary.
- B. No subdivision, site plan or land development plan shall be approved unless:
  - (1) There has been a plan approved by the Township Land Development Board that provides for erosion and sediment control consistent with this article and an improvement bond (or other acceptable securities) has been deposited with the Township in one form of an escrow guaranty which will ensure installation and completion of the required improvements in accordance with township specifications; or
  - (2) There has been a determination by the Township Land Development Board that an erosion and sediment control plan is not necessary.

**§ 246-15. Site plans.**

- A. Information required. As part of the site plan review procedure or for any land development plan, a site plan shall be submitted which shows clearly the location of the proposed action on a suitable map, the total area of the development, the total amount of earthwork in cubic yards and any other information so desired by the Site Plan Review Board or the Land Development Board. The Boards shall review the submitted site plan and determine whether or not a soil erosion and sediment control plan is necessary in order to promote the safety, public health, convenience and general welfare of the township. [Amended 1-20-2004 by Ord. No. 2004-1]
- B. Submission of control plan. If the Land Development Board determines that a soil erosion and sediment control plan is required, it shall be submitted in accordance with the provisions of §§ 246-17 through 246-20 and approved by the Township Engineer prior to site plan

approval. [Amended 1-20-2004 by Ord. No. 2004-1]

C. Performance guaranty required. [Amended 1-20-2004 by Ord. No. 2004-1]

- (1) Prior to the issuance of a building permit, the developer shall have filed with the Township a performance guaranty sufficient in amount to cover the cost of all soil erosion and sediment control measures or uncompleted portions thereof as required by the soil erosion and sediment control plan and as estimated by the Township Engineer to assure the installation of such uncompleted soil erosion and sediment control measures on or before an agreed date. The performance guaranty may be in the form of a performance bond which shall be issued by a bonding or surety company approved by the Land Development Board; a certified check, returnable to the developer after full compliance; or any other type of surety approved by the Township Attorney.
- (2) The performance guaranty shall be approved by the Township Attorney as to form, sufficiency and execution. The performance guaranty shall run for a period to be fixed by the Land Development Board, but in no case for a term of more than two years.

D. Inspections. Prior to and during construction, the soil erosion and sediment control measures shall be subject to inspection and approval by the Building Inspector or Township Engineer who shall be notified by the developer at least 48 hours prior to the start of construction. No underground installation shall be covered until inspected and approved.

E. Approval of control measures.

- (1) When all the necessary and appropriate soil erosion and sediment control measures have been completed, the developer shall notify the Land Development Board, in writing, by certified or registered mail, of the completion of the soil erosion and sediment control measures and shall send a copy thereof to the Building Inspector or Township Engineer. The Land Development Board shall direct and authorize the Building Inspector or Engineer to inspect all of the soil erosion and sediment control measures. The Building Inspector or Engineer shall thereupon file a report, in writing, with the Land Development Board. [Amended 1-20-2004 by Ord. No. 2004-1]
- (2) The report shall be detailed and shall indicate either approval, partial approval or rejection. If the soil erosion and sediment control measures or any portion thereof shall not be approved or shall be rejected by the Building Inspector or Engineer, the report shall contain a statement of reasons for such nonapproval or rejection. Where the report indicates partial approval of soil erosion and sediment control measures, it shall indicate the cost of the soil erosion and sediment control measures for which approval is rejected or withheld.
- (3) Where partial approval is granted, the developer may be released from all liability

pursuant to his performance guaranty bond except for the portion adequately sufficient to secure the soil erosion and sediment control measures not yet approved. No approval for occupancy of any building will be granted unless all needed soil erosion control measures have been completed or substantially provided for in accordance with this article. The developer shall bear the final responsibility for the installation and construction of all required soil erosion and sediment control measures according to the provisions of this article.

- F. Maintenance guaranty required. The Township may also require a maintenance guaranty for a period not to exceed two years after final approval of the soil erosion and sediment control measures in an amount not to exceed 15% of the cost of the improvement or of the permanent installation.
- G. Removal of sedimentation. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.
- H. Maintenance of watercourses.
  - (1) Maintenance of all drainage facilities and watercourses within the development is the responsibility of the developer until the final facilities are accepted by the township.
  - (2) It shall be the responsibility of the developer doing any act on or across a communal stream, watercourse or swale or upon the floodplain or right-of-way thereof to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain or right-of-way during the pendency of the activity and to return it to its original or equal condition after such activity is completed.
  - (3) Maintenance of drainage facilities or watercourses including public drainageways originating and completely on private property shall be the responsibility of the landowner to their point of open discharge at the property line or at a communal watercourse within the property.

**§ 246-16. Subdivisions.**

- A. Sketch plat information. As part of the subdivision review procedure, a sketch plat shall be submitted which shows clearly the location of the proposed action on a suitable map, the total area of the development, the total amount of earthwork in cubic yards and any other information so desired by the Land Development Board. The Board shall review the submitted sketch plat and determine whether or not a soil erosion and sediment control plan is necessary in order to promote the safety, public health, convenience and general welfare of

the Township. [Amended 1-20-2004 by Ord. No. 2004-1]

- B. Submission of control plan. If the Land Development Board determines that the soil erosion and sediment control plan is required, it shall be submitted as part of the preliminary plan, in accordance with the provisions of §§ 246-17 through 246-20, and approved by the Township Engineer prior to the submission of any final section of the subdivision. [Amended 1-20-2004 by Ord. No. 2004-1]
- C. Performance guaranty required.
  - (1) Prior to final approval of any sections of the subdivision, the developer shall have filed with the Township a performance guaranty sufficient in amount to cover the cost of all soil erosion and sediment control measures or uncompleted portions thereof as required by the soil erosion and sediment control plan and as estimated by the Township Engineer to assure the installation of such uncompleted soil erosion and sediment control measures on or before an agreed date. The performance guaranty may be in the form of a performance bond which shall be issued by a bonding or surety company approved by the Township Committee; a certified check, returnable to the subdivider after full compliance; or any other type of surety approved by the Township Attorney.
  - (2) The performance guaranty shall be approved by the Township Attorney as to form, sufficiency and execution. The performance guaranty shall run for a period to be fixed by the Township Committee, but in no case for a term of more than two years.
- D. Inspections. Prior to and during construction, all the soil erosion and sediment control measures shall be subject to inspection and approval by the Township Engineer who shall be notified by the developer at least 48 hours prior to the start of construction. No underground installation shall be covered until inspected and approved.
- E. Approval of control measures.
  - (1) When all of the necessary and appropriate soil erosion and sediment control measures have been completed, the developer shall notify the Township Committee, in writing, by certified or registered mail, of the completion of the soil erosion and sediment control measures and shall send a copy thereof to the Township Engineer. The Land Development Board shall direct and authorize the Engineer to inspect all of the soil erosion and sediment control measures. The Engineer shall thereupon file a report, in writing, with the Land Development Board. [Amended 1-20-2004 by Ord. No. 2004-1]
  - (2) The report shall be detailed and shall indicate either approval, partial approval or rejection. If the soil erosion and sediment control measures or any portion thereof shall not be approved or shall be rejected by the Engineer, the report shall contain a statement of reasons for such nonapproval or rejection. Where the report indicates partial approval

of the soil erosion and sediment control measures, it shall indicate the cost of the soil erosion and sediment control measures for which approval is rejected or withheld.

- (3) Where partial approval is granted, the developer may be released from all liability pursuant to his performance guaranty bond except for that portion adequately sufficient to secure the soil erosion and sediment control measures not yet approved. No approval for occupancy of any building shall be granted unless all needed soil erosion control measures have been completed or substantially provided for in accordance with this article. The developer shall bear the final responsibility for the installation and construction of all required soil erosion and sediment control measures according to the provisions of this article.
- F. Maintenance guaranty required. The Township may also require a maintenance guaranty for a period not to exceed two years after final approval of the soil erosion and sediment control measures, in an amount not to exceed 15% of the cost of the improvement or of the permanent installation.
- G. Removal of sedimentation. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.
- H. Maintenance of watercourses.
- (1) Maintenance of all drainage facilities and watercourses within the development shall be the responsibility of the developer until and unless the final facilities are accepted by the township.
  - (2) It shall be the responsibility of the developer doing any act on or across a communal stream, watercourse or swale or upon the floodplain or right-of-way thereof to maintain as nearly as possible in its present state the stream, swale, floodplain or right-of-way during the pendency of the activity and to return it to its original or equal condition after such activity is completed.
  - (3) Maintenance of drainage facilities or watercourses including public drainageways originating and completely on private property shall be the responsibility of the owner to their point of open discharge at the property line or at a communal watercourse within the property.

**§ 246-17. Plan details.**

As a minimum, the soil erosion and sediment control plan shall contain:

- A. Plans and specifications of soil erosion and sediment control measures in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey.
- B. A time schedule indicating the anticipated starting and completion dates of the development sequence and the time of exposure of each area prior to the completion of effective erosion and sediment control measures.

**§ 246-18. Design principles of plan.**

The following principles are effective in minimizing soil erosion and sedimentation and shall be included, where applicable, in the soil erosion and sediment control plan.

- A. Stripping of vegetation, regrading or other development shall be done in such a way that will minimize soil erosion.
- B. Whenever feasible, natural vegetation shall be retained, protected and supplemented.
- C. The disturbed area and the duration of exposure shall be kept to a practical minimum of three months.
- D. Temporary seedings and or mulching shall be used to protect exposed critical areas during development.
- E. Provisions shall be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development.
- F. Sediment in the runoff water shall be trapped until the disturbed area is stabilized by the use of sediment basins or other acceptable methods.
- G. Diversions and sediment basins shall be reconstructed prior to any on-site grading or disturbance of existing surface material.
- H. Banks and beds of temporary and permanent watercourses shall be stabilized.

**§ 246-19. Grading and drainage practices.**

In order to provide more suitable sites for building and other physical features, to improve surface drainage and to control erosion, the following requirements shall be met.

- A. The yards of every structure shall be graded to secure proper drainage away from buildings and dispose of it without ponding, and all land within a development shall be graded to drain

and dispose of surface water without ponding, except where approved by the Board. Minimum two-percent slopes away from structures shall be required.

- B. All drainage provisions shall be of such design so as to collect on-site runoff and to carry surface waters to the nearest practical street, storm drain or natural watercourse. Where drainage swales are used to deliver surface waters away from buildings, the swales shall be sodded or planted as required and shall be of such slope, shape and size to conform to specifications of the township.
- C. Concentration of diffused natural water flow shall only be permitted in swales or watercourses.
- D. No excavation shall be made with a cut face steeper in slope than 1/12 horizontal to one vertical [66%], except as approved by the Township Engineer when handled under special conditions.
- E. No fill shall be placed which creates any exposed surface steeper in slope than two horizontal to one vertical [50%], except as approved by the Township Engineer when handled under special conditions.
- F. Adequate provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surfaces of fills.
- G. Retaining walls or cribbing shall be required where needed to prevent the surface of excavations or fills from exceeding at any point the maximum allowable slope.
- H. Excavations shall not be made so close to property lines as to endanger adjoining property without supporting and protecting the face of the excavation.
- I. No fill shall be made so as to cause settlement, sliding or erosion of the soil.
- J. No fill shall be made or placed adjacent to the bank of a channel so as to create bank failure or sliding.

**§ 246-20. Design standards for plan.**

Standards and specifications for measures used in the soil erosion and sediment control plan shall as a minimum be in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey, as adopted by the Burlington County Soil Conservation District. The Township Engineer shall ensure compliance with the appropriate specifications, copies of which shall be on file at the office of the Burlington County Conservation District and the municipal building of the township.



**§ 246-21. Enforcement.**

The requirements of this Article shall be enforced by the Township Engineer, who shall inspect or require adequate inspection of the work. If the Engineer finds any existing conditions not as stated in any application, he may refuse to approve further work.

**§ 246-22. Fees.**

- A. If submitted as part of the site plan or subdivision review, no additional fees shall be charged under this article. All expenses for legal, engineering or planning work required by the Township in connection herewith shall be authorized and paid and funded out of the escrow accounts set up as part of the fee and escrow structure under the site plan review or subdivision ordinances.<sup>EN(183)</sup>
- B. Any and all other earthwork which is subject to this Article shall pay the fees and escrows in the manner and amount as set forth for site plan review.

**§ 246-23. Reduction of performance guaranty. [Amended 1-20-2004 by Ord. No. 2004-1]**

The amount of any performance guaranties required by § 246-15 or 246-16 may be reduced by the Township Committee by resolution, upon recommendation by the Land Development Board, when partial approval of all necessary and sediment control measures has been given by the Township Engineer.

**§ 246-24. Violations and penalties. [Added 8-3-1992 by Ord. No. 1992-6]**

- A. Maximum penalty. For violation of any provisions of this article, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this article exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in

those instances where state law mandates a minimum penalty to be imposed.

- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

## Chapter 247, STORMWATER CONTROL

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 5-1-2006 by Ord. No. 2006-9. Amendments noted where applicable.]

### GENERAL REFERENCES

**Drainage -- See Ch. 139.**  
**Flood damage prevention -- See Ch. 157.**  
**Stormwater management -- See Ch. 248.**

#### § 247-1. Purpose. EN(184)

- A. Policy statement. Flood control, groundwater recharge and pollutant reduction through nonstructural or low-impact techniques shall be explored before relying on structural BMPs. Structural BMPs should be integrated with nonstructural stormwater management measures and proper maintenance plans. Nonstructural measures include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site. Source control plans should be developed based upon physical site conditions and the origin, nature and the anticipated loading of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity and groundwater recharge.
- B. Purpose. It is the purpose of this chapter to establish minimum stormwater management requirements and controls for major development.
- C. Applicability. This chapter shall be applicable to any site plan or subdivision that requires preliminary or final site plan review.
- D. Compatibility with other permit and ordinance requirements. Development approvals issued pursuant to this chapter are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act or ordinance. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. This chapter is not intended to interfere with, abrogate or annul any other ordinances, rule or regulation, statute or other provision of law except that,

where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation or other provision of law, the more restrictive provisions or higher standards shall control.

**§ 247-2. General standards.**

A. Design and performance standards for stormwater management measures.

- (1) Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity and stormwater runoff quality standards in this section. To the maximum extent feasible, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.
- (2) The standards in this chapter apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or water quality management plan adopted in accordance with Department rules. Such alternative standards shall provide at least as much protection from stormwater-related loss of groundwater recharge, stormwater quantity and water quality impacts of major development projects as would be provided under the standards in this subsection.
- (3) For site improvements regulated under the Residential Site Improvement Standards (RSIS) at N.J.A.C. 5:21, the RSIS shall apply in addition to this section except to the extent the RSIS are superseded by this section or alternative standards applicable under a regional stormwater management plan or water quality management plan adopted in accordance with Department rules.

**§ 247-3. Stormwater management requirements for major development.**

- A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development.
- B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through

13:1B-15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlnebergi* (bog turtle).

- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements at Subsections F and G:
- (1) The construction of an underground utility line, provided that the disturbed areas are revegetated upon completion;
  - (2) The construction of an aboveground utility line, provided that the existing conditions are maintained to the maximum extent practicable; and
  - (3) The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.
- D. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity and stormwater runoff quality requirements at Subsections F and G may be obtained for the enlargement of an existing public roadway or railroad, or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:
- (1) The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
  - (2) The applicant demonstrates through an alternatives analysis that, through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of Subsections F and G to the maximum extent practicable;
  - (3) The applicant demonstrates that, in order to meet the requirements at Subsections F and G, existing structures currently in use such as homes and buildings would need to be condemned; and
  - (4) The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under Subsection D(3) above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate for requirements of Subsections F and G that were not achievable on site.
- E. Nonstructural stormwater management strategies.
- (1) To the maximum extent practicable, the standards in Subsections F and G shall be met by incorporating nonstructural stormwater management strategies at Subsection E into the design. The applicant shall identify the nonstructural measures incorporated into the

design of the project. If the applicant contends that it is not feasible for engineering, environmental or safety reasons to incorporate any nonstructural stormwater management measures identified in Subsection E(2) below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

- (2) Nonstructural stormwater management measures incorporated into site design shall:
- (a) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss.
  - (b) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces.
  - (c) Maximize the protection of natural drainage features and vegetation.
  - (d) Minimize the decrease in the time of concentration from preconstruction to postconstruction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed.
  - (e) Minimize land disturbance, including clearing and grading.
  - (f) Minimize soil compaction.
  - (g) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides.
  - (h) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas.
  - (i) Provide other source controls to prevent or minimize the use or exposure of pollutants at the site in order to prevent or minimize the release of those pollutants into stormwater runoff. These source controls include, but are not limited to:
    - [1] Site design features that help to prevent accumulation of trash and debris in drainage systems;
    - [2] Site design features that help to prevent discharge of trash and debris from drainage systems;
    - [3] Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
    - [4] When establishing vegetation after land disturbance, applying fertilizer in

accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.

- (3) Any land area used as a nonstructural stormwater management measure to meet the performance standards in Subsections F and G shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.
- (4) Guidance for nonstructural stormwater management measures is available in the New Jersey Stormwater Best Management Practices Manual. The manual is available on the Department of Environmental Protection's stormwater web page at <http://www.njstormwater.org>.

F. Erosion control, groundwater recharge and runoff quantity standards.

- (1) This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge and control stormwater runoff quantity impacts of major development.
  - (a) The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.
  - (b) The minimum design and performance standards for groundwater recharge are as follows:
    - [1] The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at § 247-4, either:
      - [a] Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100% of the average annual preconstruction groundwater recharge volume for the site; or
      - [b] Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from preconstruction to postconstruction for the two-year storm is infiltrated.
    - [2] This groundwater recharge requirement does not apply to projects within the urban redevelopment area or projects subject to Subsection F(1)(b)[3] below.
    - [3] The following types of stormwater shall not be recharged:

- [a] Stormwater from areas of high pollutant loading. "High pollutant loading areas" are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored or applied; areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than reportable quantities as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department-approved remedial action work plan or landfill closure plan; and areas with high risks for spills of toxic materials such as gas stations and vehicle maintenance facilities; and
  - [b] Industrial stormwater exposed to source material. "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels; and lubricants, solvents and detergents that are related to process, manufacturing or other industrial activities that are exposed to stormwater.
- [4] The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or downgradient of the groundwater recharge area.
- (c) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § 247-4, complete one of the following:
- [1] Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, postconstruction runoff hydrographs for the two-, ten- and one-hundred-year storm events do not exceed, at any point in time, the preconstruction runoff hydrographs for the same storm events;
  - [2] Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the preconstruction condition, in the peak runoff rates of stormwater leaving the site for the two-, ten- and one-hundred-year storm events and that the increased volume or change in timing of stormwater runoff will not

increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

- [3] Design stormwater management measures so that the postconstruction peak runoff rates for the two-, ten- and one-hundred-year storm events are 50%, 75% and 80%, respectively, of the preconstruction peak runoff rates. The percentages apply only to the postconstruction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to postconstruction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or
  - [4] In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with Subsection F(1)(c)[1], [2] and [3] above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.
- (2) Any application for a new agricultural development that meets the definition of major development at § 247-13 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

G. Stormwater runoff quality standards.

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



calculation of the volume of runoff may take into account the implementation of non-structural and structural stormwater management measures.

**Table 1: Water Quality Design Storm Distribution**

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

- (2) For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in § 247-6, or found on the Department's website at

www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in § 247-6. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, PO Box 418, Trenton, New Jersey 08625-0418.

- (3) If more than one BMP in series is necessary to achieve the required eighty-percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

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

Where

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

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

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

**Table 2: TSS Removal Rates for BMPs**

<b>Best Management Practice</b>	<b>TSS Percent Removal Rate</b>
Bioretention systems	90
Constructed stormwater wetland	90
Extended detention basin	40 to 60
Infiltration structure	80

**Table 2: TSS Removal Rates for BMPs**

<b>Best Management Practice</b>	<b>TSS Percent Removal Rate</b>
Manufactured treatment device	See § 247-5C
Sand filter	80
Vegetative filter strip	60 to 80
Wet pond	50 to 90

- (4) If there is more than one on-site drainage area, the eighty-percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site, in which case the removal rate can be demonstrated through a calculation using a weighted average.
- (5) Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the postconstruction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in Subsections F and G.
- (6) Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in § 247-6.
- (7) In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
- (8) Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:

- (a) The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:
- [1] A three-hundred-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the center line of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.
  - [2] Encroachment within the designated special water resource protection area under Subsection G(8)(a)[1] above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or center line of the waterway where the bank is undefined. All encroachments proposed under this subsection shall be subject to review and approval by the Department.
- (b) All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the standard for off-site stability in the Standards for Soil Erosion and Sediment Control in New Jersey, established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.
- (c) If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the standard for off-site stability in the Standards for Soil Erosion and Sediment Control in New Jersey, established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:
- [1] Stabilization measures shall not be placed within 150 feet of the Category One waterway;
  - [2] Stormwater associated with discharges allowed by this section shall achieve a ninety-five-percent TSS postconstruction removal rate;
  - [3] Temperature shall be addressed to ensure no impact on receiving waterway;
  - [4] The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource

protection area will be maintained to the maximum extent practicable;

- [5] A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and
  - [6] All encroachments proposed under this subsection shall be subject to review and approval by the Department.
- (d) A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to Subsection G(8) has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to Subsection G(8) shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in Subsection G(8)(a)[1] above. In no case shall a stream corridor protection plan allow the reduction of the special water resource protection area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.
- (e) This subsection does not apply to the construction of one individual single-family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before effective date of the stormwater management rules, provided that the construction begins on or before five years from effective date of the stormwater management rules.

**§ 247-4. Calculation of stormwater runoff and groundwater recharge.**

A. Stormwater runoff shall be calculated in accordance with the following:

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

hydrograph computations.

- (2) For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the preconstruction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at Subsection A(1)(a) and the Rational and Modified Rational Methods at Subsection A(1)(b). A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn or park), with good cover (if the land use type is woods) or with good hydrologic condition and conservation treatment (if the land use type is cultivation).
- (3) In computing preconstruction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows or culverts, that may reduce preconstruction stormwater runoff rates and volumes.
- (4) In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release-55, Urban Hydrology for Small Watersheds, and other methods may be employed.
- (5) If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

B. Groundwater recharge may be calculated in accordance with the following:

- (1) The New Jersey Geological Survey Geological Survey Report GSR-32, A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual, at <http://www.state.nj.us/dep/njgs/>, or at New Jersey Geological Survey, 29 Arctic

Parkway, P.O. Box 427, Trenton, New Jersey 08625-0427; (609) 984-6587.

**§ 247-5. Standards for structural stormwater management measures.**

A. Standards for structural stormwater management measures are as follows:

- (1) Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas; wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).
- (2) Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure, as appropriate, and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than 1/3 the width of the diameter of the orifice or 1/3 the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of § 247-7C.
- (3) Structural stormwater management measures shall be designed, constructed and installed to be strong, durable and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 5:21-7.4, and 5:21-7.5 shall be deemed to meet this requirement.
- (4) At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of 2 1/2 inches in diameter.
- (5) Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at § 247-7.

B. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized, provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by this subchapter.

C. Manufactured treatment devices may be used to meet the requirements of this section, provided the pollutant removal rates are verified by the New Jersey Corporation for

Advanced Technology and certified by the Department.

**§ 247-6. Sources for technical guidance.**

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

**§ 247-7. Safety standards for stormwater management basins.**

- A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater



management basin.

B. The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management basins.

C. Requirements for trash racks, overflow grates and escape provisions.

(1) A "trash rack" is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:

(a) The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars.

(b) The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.

(c) The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.

(d) The trash rack shall be constructed and installed to be rigid, durable and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs./ft. sq.

(2) An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:

(a) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.

(b) The overflow grate spacing shall be no less than two inches across the smallest dimension.

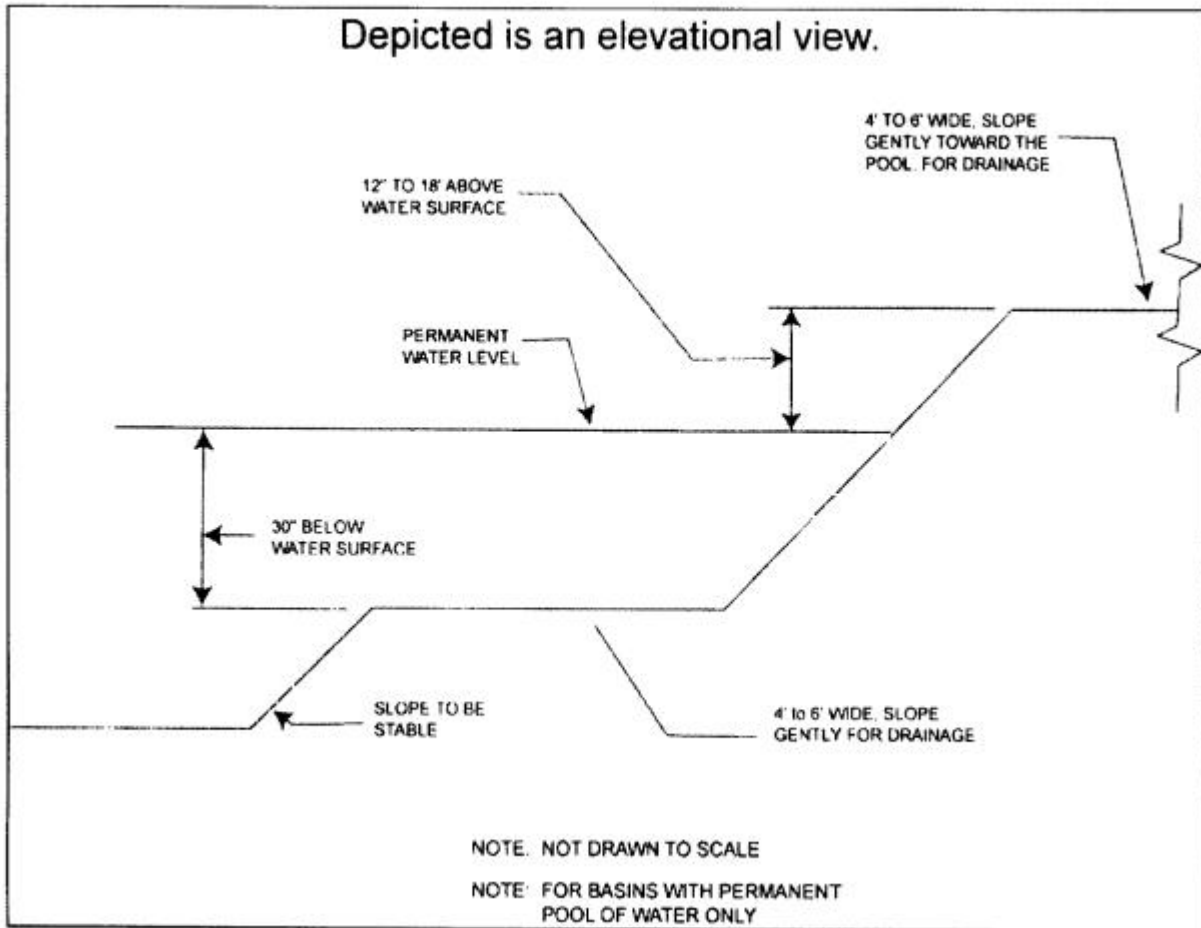
(c) The overflow grate shall be constructed and installed to be rigid, durable and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs./ft. sq.

(3) For purposes of this subsection, "escape provisions" means the permanent installation of ladders, steps, rungs or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:

(a) If a stormwater management basin has an outlet structure, escape provisions shall be

incorporated in or on the structure. With the prior approval of the reviewing agency identified in Subsection D, a freestanding outlet structure may be exempted from this requirement.

- (b) Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than 2 1/2 feet. Such safety ledges shall be comprised of two steps. Each step shall be four feet to six feet in width. One step shall be located approximately 2 1/2 feet below the permanent water surface, and the second step shall be located one foot to 1 1/2 feet above the permanent water surface. See Subsection E for an illustration of safety ledges in a stormwater management basin.
  - (c) In new stormwater management basins, the maximum interior slope for an earthen dam, embankment or berm shall not be steeper than 3 horizontal to 1 vertical.
- D. Variance or exemption from safety standards. A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or Department) that the variance or exemption will not constitute a threat to public safety.
- E. Illustration of safety ledges in a new stormwater management basin.



**§ 247-8. Requirements for site development stormwater plan.**

**A. Submission of site development stormwater plan.**

- (1) Whenever an applicant seeks municipal approval of a development subject to this chapter, the applicant shall submit all of the required components of the checklist for the site development stormwater plan at Subsection C below as part of the submission of the applicant's application for subdivision or site plan approval.
- (2) The applicant shall demonstrate that the project meets the standards set forth in this chapter.
- (3) The applicant shall submit 15 copies of the materials listed in the checklist for site development stormwater plans in accordance with Subsection C of this section.

- B. Site development stormwater plan approval. The applicant's site development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the engineer retained by the Planning and/or Zoning Board (as appropriate) to determine if all the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this chapter.
- C. Checklist requirements. The following information shall be required:
- (1) Topographic base map. The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of one inch equals 200 feet or greater, showing two-foot contour intervals. The map, as appropriate, may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category 1 waters, wetlands and floodplains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines and significant natural and man-made features not otherwise shown.
  - (2) Environmental site analysis. A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual or environmentally sensitive features and to those that provide particular opportunities or constraints for development.
  - (3) Project description and site plan(s). A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.
  - (4) Land use planning and source control plan. This plan shall provide a demonstration of how the goals and standards of §§ 247-2 through 247-5 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.
  - (5) Stormwater management facilities map. The following information, illustrated on a map

of the same scale as the topographic base map, shall be included:

- (a) Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon and details of the proposed plan to control and dispose of stormwater.
  - (b) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.
- (6) Calculations.
- (a) Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in § 247-3 of this chapter.
  - (b) When the proposed stormwater management control measures (e.g., infiltration basins) depends on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.
- (7) Maintenance and repair plan. The design and planning of the stormwater management facility shall meet the maintenance requirements of § 247-9.
- (8) Waiver from submission requirements. The municipal official or board reviewing an application under this chapter may, in consultation with the Municipal Engineer, waive submission of any of the requirements in Subsections C(1) through (6) of this section when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

**§ 247-9. Maintenance and repair.**

- A. Applicability. Projects subject to review as in § 247-1C of this chapter shall comply with the requirements of Subsections B and C.
- B. General maintenance.
  - (1) The design engineer shall prepare a maintenance plan for the stormwater management

measures incorporated into the design of a major development.

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

- (9) The requirements of Subsection B(3) and (4) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
- (10) In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have 14 days to effect maintenance and repair of the facility in a manner that is approved by the Municipal Engineer or his designee. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or county may immediately proceed to do so and shall bill the cost thereof to the responsible person.

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

**§ 247-10. Violations and penalties.**

Any person, firm, corporation, partnership or other business association found guilty of violating any of the provisions of this chapter shall be subject to a fine of not more than \$2,500 for each offense and/or confinement in the Burlington County jail for a period of not more than 30 days. In the case of a continuing violation or violations, a fine of not more than \$500 may be assessed for each day that said violation or violations continue unabated until such time as same are corrected.

**§ 247-11. Definitions.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

**CAFRA PLANNING MAP** -- The geographic depiction of the boundaries for Coastal Planning Areas, CAFRA Centers, CAFRA Cores and CAFRA Nodes pursuant to N.J.A.C. 7:7E-5B.3.

**CAFRA CENTERS, CORES or NODES** -- Those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.

**COMPACTION** -- The increase in soil bulk density.

**CORE** -- A pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

**COUNTY REVIEW AGENCY** -- An agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

- A. A county planning agency; or
- B. A county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve or disapprove municipal stormwater management plans and implementing ordinances.

**DEPARTMENT** -- The New Jersey Department of Environmental Protection.

**DESIGNATED CENTER** -- A state development and redevelopment plan center as designated by the State Planning Commission such as urban, regional, town, village or hamlet.

**DESIGN ENGINEER** -- A person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

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

**DRAINAGE AREA** -- A geographic area within which stormwater, sediments or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

**ENVIRONMENTALLY CONSTRAINED AREA** -- The following areas where the physical alteration of the land is in some way restricted, either through regulation, easement, deed restriction or ownership such as: wetlands, floodplains, threatened and endangered species sites or designated habitats, and parks and preserves. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

**ENVIRONMENTALLY CRITICAL AREAS** -- An area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites;



habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and wellhead protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

**EMPOWERMENT NEIGHBORHOOD** -- A neighborhood designated by the Urban Coordinating Council in consultation and conjunction with the New Jersey Redevelopment Authority pursuant to N.J.S.A 55:19-69.

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

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

**INFILTRATION** -- The process by which water seeps into the soil from precipitation.

**MAJOR DEVELOPMENT** -- Any development that provides for ultimately disturbing one or more acres of land or increasing impervious surface by one-quarter acre or more. "Disturbance," for the purpose of this rule, is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting or removing of vegetation. Projects undertaken by any government agency which otherwise meet the definition of "major development" but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. are also considered major development.

**MUNICIPALITY** -- Any city, borough, town, Township or village.

**NODE** -- An area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

**NUTRIENT** -- A chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

**PERSON** -- Any individual, corporation, company, partnership, firm, association or political subdivision of this state and any state, interstate or federal agency.

**POLLUTANT** -- Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance [except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)], thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural and construction waste or runoff, or other residue discharged directly or indirectly to the land, groundwaters or surface waters of the state or to a domestic treatment works. Pollutant includes both hazardous and nonhazardous

pollutants.

**RECHARGE** -- The amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

**SEDIMENT** -- Solid material, mineral or organic, that is in suspension, is being transported or has been moved from its site of origin by air, water or gravity as a product of erosion.

**SITE** -- The lot or lots upon which a major development is to occur or has occurred.

**SOIL** -- All unconsolidated mineral and organic material of any origin.

**STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA (PA1)** -- An area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state's future redevelopment and revitalization efforts.

**STATE PLAN POLICY MAP** -- The geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.

**STORMWATER** -- Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface or is captured by separate storm sewers or other sewage or drainage facilities.

**STORMWATER MANAGEMENT BASIN** -- An excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

**STORMWATER MANAGEMENT MEASURE** -- Any structural or nonstructural strategy, practice, technology, process, program or other method intended to control or reduce stormwater runoff and associated pollutants or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal nonstormwater discharges into stormwater conveyances.

**STORMWATER RUNOFF** -- Water flow on the surface of the ground or in storm sewers resulting from precipitation.

**TIDAL FLOOD HAZARD AREA** -- A flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.

**URBAN COORDINATING COUNCIL EMPOWERMENT NEIGHBORHOOD** -- A neighborhood given priority access to state resources through the New Jersey Redevelopment

Authority.

URBAN ENTERPRISE ZONES -- A zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq.

URBAN REDEVELOPMENT AREA -- Previously developed portions of areas:

- A. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
- B. Designated as CAFRA Centers, Cores or Nodes;
- C. Designated as Urban Enterprise Zones; and
- D. Designated as Urban Coordinating Council Empowerment Neighborhoods.

WATERS OF THE STATE -- The ocean and its estuaries, all springs, streams, wetlands and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

WETLANDS or WETLAND -- An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

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## Chapter 248, STORMWATER MANAGEMENT

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton 5-2-2005 by Ord. No. 2005-10. Amendments noted where applicable.]

### GENERAL REFERENCES

- Dogs and other animals -- See Ch. 136.
- Sewers and septic systems -- See Ch. 238.
- Stormwater control -- See Ch. 247.

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## ARTICLE I, Improper Disposal of Waste

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### § 248-1. Purpose.

This article is enacted to prohibit the spilling, dumping or disposal of materials other than

stormwater to the municipal separate storm sewer system (MS4) operated by the Township of Lumberton so as to protect public health, safety and welfare and to prescribe penalties for the failure to comply.

**§ 248-2. Definitions.**

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)** -- A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains) that is owned or operated by the Township of Lumberton and is designed and used for collecting and conveying stormwater.

**PERSON** -- Any individual, corporation, company, partnership, firm, association or political subdivision of this state subject to municipal jurisdiction.

**STORMWATER** -- Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities or is conveyed by snow removal equipment.

**§ 248-3. Prohibited conduct.**

The spilling, dumping or disposal of materials, other than stormwater, to the municipal separate storm sewer system operated by the Township of Lumberton is prohibited. The spilling, dumping or disposal of materials other than stormwater in such a manner as to cause the discharge of pollutants to the municipal separate storm sewer system is also prohibited.

**§ 248-4. Exceptions to prohibition.**

The following activities are exempt from the prohibitions in § 248-3:

- A. Waterline flushing and discharges from potable water sources.
- B. Uncontaminated groundwater (e.g., infiltration, crawl space or basement sump pumps, foundation or footing drains, rising ground waters).

- C. Air-conditioning condensation (excluding contact and noncontact cooling water).
- D. Irrigation water (including landscape and lawn watering runoff).
- E. Flows from springs, riparian habitats and wetlands, water reservoir discharges and diverted stream flows.
- F. Noncommercial motor vehicle (including motorcycles, recreational vehicles, boats, personal watercraft and the like), washing water and residential swimming pool discharges.
- G. Wash water from the washing of sidewalks, driveways and streets, houses/decks and deck furniture, sheds, fences and similar power washing activities;
- H. Flows from fire-fighting activities.
- I. Flows from rinsing of the following equipment with clean water:
  - (1) Equipment used in the application of salt and de-icing materials immediately following salt and de-icing material applications. Prior to rinsing with clean water, all residual salt and de-icing materials must be removed from equipment and vehicles to the maximum extent practicable using dry cleaning methods (e.g., shoveling and sweeping). Recovered materials are to be returned to storage for reuse or properly discarded; and
  - (2) Rinsing of equipment, as noted in the above situation is limited to exterior, undercarriage and exposed parts and does not apply to engines or other enclosed machinery.

§ 248-5. (Reserved)

§ 248-6. (Reserved)

§ 248-7. (Reserved)

§ 248-8. (Reserved)

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## ARTICLE II, Wildlife Feeding

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**§ 248-9. Purpose.**

This article shall prohibit the feeding of unconfined wildlife in any public park or on any other property owned or operated by the Township of Lumberton so as to protect public health, safety and welfare and to prescribe penalties for failure to comply.

**§ 248-10. Definitions.**

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

FEED -- To give, place, expose, deposit, distribute or scatter any edible material with the intention of feeding, attracting or enticing wildlife. Feeding does not include baiting in the legal taking of fish and/or game.

PERSON -- Any individual, corporation, company, partnership, firm, association or political subdivision of this state subject to municipal jurisdiction.

WILDLIFE -- All animals that are neither human nor domesticated.

**§ 248-11. Prohibited conduct.**

No person shall feed, in any public park or on any other property owned or operated by the Township of Lumberton, any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks or rehabilitation centers or unconfined wildlife at environmental education centers).

**§ 248-12. (Reserved)**

**§ 248-13. (Reserved)**

**§ 248-14. (Reserved)**

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## **ARTICLE III, Illicit Connections**

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### **§ 248-15. Purpose.**

This article shall prohibit illicit connections to the municipal separate storm sewer system(s) operated by the Township of Lumberton, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

### **§ 248-16. Definitions.**

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The definitions below are the same as or based on corresponding definitions in the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A-1.2.

**DOMESTIC SEWAGE** -- Waste and wastewater from humans or household operations.

**ILLICIT CONNECTION** -- Any physical or nonphysical connection that discharges domestic sewage, noncontact cooling water, process wastewater or other industrial waste (other than stormwater) to the municipal separate storm sewer system operated by the Township of Lumberton, unless that discharge is authorized under a NJPDES permit other than the Tier A Municipal Stormwater General Permit (NJPDES) Permit Number NJ0141852. Nonphysical connections may include, but are not limited to, leaks, flows or overflows into the municipal separate storm sewer system.

**INDUSTRIAL WASTE** -- Nondomestic waste, including, but not limited to, those pollutants regulated under Section 307(a), (b) or (c) of the Federal Clean Water Act [33 U.S.C. § 1317(a), (b) or (c)].

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)** -- A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Township of Lumberton or other public body and is designed and used for collecting and conveying stormwater.

**NJPDES PERMIT** -- A permit issued by the New Jersey Department of Environmental Protection to implement the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A.

**NONCONTACT COOLING WATER** -- Water used to reduce temperature for the purpose of cooling. Such waters do not come into direct contact with any raw material, intermediate product (other than heat) or finished product. Noncontact cooling water may, however, contain algacides or biocides to control fouling of equipment such as heat exchangers, and/or corrosion inhibitors.

**PERSON** -- Any individual, corporation, company, partnership, firm, association or political subdivision of this state subject to municipal jurisdiction.

**PROCESS WASTEWATER** -- Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than noncontact cooling water.

**STORMWATER** -- Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities or is conveyed by snow removal equipment.

**§ 248-17. Prohibited conduct.**

No person shall discharge or cause to be discharged through an illicit connection to the municipal separate storm sewer system operated by the Township of Lumberton any domestic sewage, noncontact cooling water, process wastewater or other industrial waste (other than stormwater).

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**ARTICLE IV, Enforcement and Penalties**

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**§ 248-18. Enforcement.**

This article shall be enforced by Lumberton Township Code Enforcement Officer and by the Lumberton Township Police Department and/or other municipal officials of the Township of Lumberton.

**§ 248-19. Violations and penalties.**

Any person(s) who is found to be in violation of the provisions of this chapter shall be subject to



a fine not to exceed \$500 for each said violation. Each incident and day of violation shall constitute a separate offense.

## Chapter 250, STREETS AND SIDEWALKS

[HISTORY: Adopted by the Township Committee of the Township of Lumberton as indicated in article histories. Amendments noted where applicable.]

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### ARTICLE I, Excavations [Adopted 12-17-1973 by Ord. No. 1973-19 as part of Ch. XI of the 1973 Code]

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#### § 250-1. Permit required.

It shall be unlawful for any person to make any excavation in, tear up, disturb, damage, open or in any way impair the surface of any improved Township road or street for any purpose without first obtaining a written permit from the Construction Official.

#### § 250-2. Application for permit.

Applications for permits shall be made to the Construction Official, in writing, signed by the applicant, and shall contain the following information:

- A. The name and address of the applicant.
- B. The name of the street where the opening is to be made and the street number, if any, of the abutting property.
- C. The Township Tax Map block and lot number of the property for the benefit of which the opening is to be made.
- D. The nature of the surface in which the opening is to be made.
- E. The character and purpose of the work proposed.
- F. The time when the work is to be commenced and complete.
- G. A set of plans in quadruplicate, showing the exact location and dimensions of all openings.
- H. The name and address of the workman or contractor who is to perform the work.

**§ 250-3. Fees and deposits. [Amended 4-16-1984 by Ord. No. 1984-2]**

No permit shall be granted by the Construction Official until the applicant has made the following deposits with the office of the Township Clerk Administrator in cash or by certified check payable to the Treasurer of Lumberton Township.

- A. Application fee, nonrefundable: \$25.
- B. Performance guaranty, refundable upon satisfactory completion of job: \$25 per square yard of surface area of street to be excavated.
- C. Maintenance guaranty, refundable after one year: \$100.

**§ 250-4. Liability. [Amended 4-16-1984 by Ord. No. 1984-2]**

- A. The property owner for whom the street opening is being performed and/or the contractor performing the street opening shall be jointly and severally liable for payment of the above fees and deposits, and both shall be responsible for satisfactory backfilling and street surface restoration. It shall be the responsibility of the Construction Official to estimate the total number of square yards which may be excavated and determine the deposit therefor. Upon completion of the backfilling and surface restoration procedure and a satisfactory inspection thereof by the Superintendent of Public Works, the Construction Official is authorized to release the balance of the performance guaranty held under § 250-3B above. Should the property owner and/or contractor not backfill and resurface the street in a manner deemed satisfactory to the Superintendent of Public Works, the Township may make the necessary repairs to restore the roadway to its original condition and deduct the cost thereof from the performance guaranty funds on deposit and return the balance remaining, if any, to the property owner and/or contractor.
- B. The maintenance guaranty of \$100 under § 250-3C shall be held by the Township in escrow for a one-year period from the date of the backfilling and resurfacing of the street, as a guaranty that any subsequent settling or other surfacing restoration problems will be corrected by the property owner and/or contractor. Should the backfilling and surfacing procedure be determined at any time during the one-year period to be unsatisfactory by the Superintendent of Public Works, the Township shall make the necessary repairs in order to restore the roadway to its original condition and shall cause the cost of such repairs to be charged against the property owner's and/or contractor's maintenance deposit. Upon expiration of the one-year period and inspection by the Superintendent of Public Works and if said backfilling and surfacing restoration procedure is found to be satisfactory, the Construction Official is authorized to release the maintenance deposit under § 250-3C above

to the property owner and/or contractor.

**§ 250-5. Additional payments. [Amended 4-16-1984 by Ord. No. 1984-2]**

If any guaranties on deposit are insufficient to pay for the costs of proper backfilling and resurfacing of the street, the property owner and/or contractor shall be liable for and shall make additional payments to the Township as determined to be necessary by the Construction Official on the recommendation of the Superintendent of Public Works.

**§ 250-6. Fee to drive pipe under street. [Amended 4-16-1984 by Ord. No. 1984-2]**

When it is deemed unnecessary by the Township Engineer to excavate by breaking the surface of the road or street and the result can be obtained by driving pipe under the street, the nonrefundable application fee required above shall be paid. The property owner and/or contractor shall be liable for any damage to the street surface resulting from this procedure.

**§ 250-7. Public utilities.**

A. Bond required.

- (1) In lieu of making the payment of fees required by § 250-3, any public utility, as defined in N.J.S.A. 48:2-13, or any amendments or supplements thereto, may file with the Township Committee a bond to the Township of Lumberton in the sum of \$1,000, conditioned upon the utility restoring to its original condition any street within the Township opened or excavated by the utility and otherwise complying with all provisions of this Article and further conditioned for the payment to the Township of any moneys which the Township is obliged to expend in order to restore such street to its original condition. The bond shall not be considered to be filed unless and until approved by resolution of the Township Committee.
- (2) In the event that, after a proper filing of the bond by the utility as aforesaid, the utility shall fail to abide strictly by the provisions of this Article, the Township Committee may, by resolution, revoke the privileges granted under its bond, return the bond to the utility and require the payments specified in § 250-3 for all future road and street openings made by the utility. Nothing contained in this section shall be construed to relieve the utility of its obligation to obtain the permit provided for by this Article.

B. Permit fee. In the case of applications for permits filed in accordance with Subsection A above, a permit fee of \$3 shall be paid to the Construction Official at the time each

application is filed.

- C. Additional bond required. In the event that the estimated cost of restoring all or any openings for which permit application is made shall, either alone or when combined with the cost of openings not restored to their original condition and accepted, exceed \$1,000, the utilities shall post additional bond to cover such excess openings.

**§ 250-8. Permit conditions.**

- A. Transferability. A permit shall apply only to the person to whom it is issued and shall not be transferable.
- B. Commencement of work. Work under a permit shall commence within 45 days from the date of issuance of the permit. If work is not commenced within that time, the permit shall automatically terminate, unless extended, in writing, by the Construction Official.
- C. Revocation of permit. The Township Committee may revoke a permit for any of the following reasons:
  - (1) Violation of any provision of this Article or any other applicable rules, regulations, law or ordinance.
  - (2) Violation of any condition of the permit issued.
  - (3) Carrying on work under the permit in a manner which endangers life or property or which creates any condition which is unhealthy, unsanitary or declared by provision of this Code to constitute a nuisance.
- D. Modification of permit conditions. In a special case, the Township Committee may by resolution impose special conditions to which the issuance of the permit may be subject or may decide that any provision of this Article shall not apply or shall be altered.

**§ 250-9. Inspections. [Amended 4-16-1984 by Ord. No. 1984-2]**

All applicants for a street opening permit shall notify the Township Superintendent of Public Works 24 hours before a street opening is ready for backfilling, and the Township Superintendent of Public Works or his designated representative shall have the right and it shall be his duty to inspect said street opening and be present to inspect the backfilling and street surface restoration procedure. No backfilling material, base material or surface material shall be placed in the opening until 24 hours after said notice has been given.

**§ 250-10. General rules and regulations.**

All permits issued under this Article shall be subject to the following rules and regulations.

- A. All excavations shall be kept properly barricaded at all times and during the hours of darkness shall be provided with proper warning lights. This regulation shall not excuse the permittee from taking any other precaution reasonably necessary for the protection of persons or property.
- B. All work shall be done in such a manner as to cause a minimum of interference with travel on the street affected. No street shall be closed to traffic unless the closing is approved by the Chief of Police. The Police Department shall be informed of all street closings at least 24 hours in advance, except where the work is of an emergency nature when notice shall be given to the Police Department when work commences.
- C. No excavation or driving under the street shall be allowed to be done where street asphalt, bituminous concrete, bituminous macadam, brick or concrete surface exists except in the presence of the Township Engineer or his authorized agent.
- D. No greater part of any street shall be opened than shall be allowed by the Construction Official.
- E. No person shall place any stone, earth, ashes, boards, tile or other pipe or any other material in or upon any street so as to interfere with the flow of water along the gutters of the street.
- F. If blasting is required to be done in the course of any excavation, it shall be done in strict compliance with all applicable state laws and regulations.

**§ 250-11. Backfilling. [Amended 4-16-1984 by Ord. No. 1984-2]**

The backfilling of trenches shall be performed by the owner and/or contractor making the opening in the following manner and under the supervision of the Township Engineer or Superintendent of Public Works. All excavations shall be completely backfilled by the permittee and shall be compacted by tamping or other suitable means in a manner prescribed by the Township Engineer and Superintendent of Public Works. The trench shall be backfilled to six inches below the road surface with cinder, coal or other materials approved by the Township Engineer or Superintendent of Public Works, which shall be placed in layers not exceeding six inches in depth and thoroughly compacted to a depth of six inches below the level of the street. Cold patch shall complete the backfilling to raise the surface to street level. After 30 days, the permittee shall remove the cold patch and backfill material to a depth of eight inches, fill with six inches of concrete and, after curing of said concrete, apply two inches of FABC to bring the

roadway surface to its original grade.

**§ 250-12. Violations and penalties. [Amended 8-3-1992 by Ord. No. 1992-6]**

- A. Maximum penalty. For violation of any provisions of this Article, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this Article exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

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**ARTICLE II, Removal of Debris From Unaccepted Roads [Adopted 2-18-1992 by Ord. No. 1-1992]**

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**§ 250-13. Authority to remove.**

Authorization is hereby granted to the Township's employees and agents to provide for the removal of snow, ice and other obstruction caused by inclement weather and for the collection of trash and garbage placed at the curb of those streets and roadways identified and described on Schedule A, which is attached hereto and made a part hereof.<sup>EN(185)</sup>

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**ARTICLE III, Snow and Ice Removal [Adopted 3-20-1995 by Ord. No. 1995-1]**

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**§ 250-14. Removal from sidewalks required; exceptions.**

- A. Removal of snow and ice required. The owner or tenant of lands abutting or bordering upon

any sidewalks in the Township of Lumberton shall remove all the snow and ice from the travel portion of said sidewalks within 12 hours of daylight after the same shall fall or be formed thereon.

- B. Exception. In the event that snow and ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the person or entity charged with its removal shall, within the time mentioned in Subsection A above, cause enough sand, salt or other abrasive to be put on the sidewalk to make travel thereon reasonably safe; and shall then, as soon thereafter as weather permits, cause said sidewalk to be thoroughly cleaned.

**§ 250-15. Placement of snow or ice on sidewalks and roadways prohibited.**

It shall be unlawful for any person to remove snow or ice from any private property and place the same onto the sidewalk or roadway of any street.

**§ 250-16. Failure to comply; costs as lien.**

In addition to any penalties herein provided, if the owner or tenant of any such premises shall neglect or refuse to comply with the foregoing provisions of this article, it shall be the duty of the Department of Public Works to forthwith remove such snow and ice. The head of said Department shall thereupon certify to the governing body the costs of such removal, which costs shall be charged against the land abutting or bordering upon such sidewalks, and the amount so charged shall forthwith become a lien upon such land and shall be added to and become part of the taxes next to be assessed and levied upon such lands and shall bear interest at the same rate as taxes and shall be collected and enforced in the same manner as taxes.

**§ 250-17. Violations and penalties.**

Any person, firm or entity found to be in violation of any of the provisions of this Article shall be subject, at the discretion of the Municipal Court Judge, to a fine not to exceed \$100, a jail sentence not to exceed 30 days or a term of community service not to exceed 60 days, or any combination of the same.

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**ARTICLE IV, Street Obstructions [Adopted 2-24-2003 by Ord. No. 2003-2]**

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**§ 250-18. Prohibitions.**

- A. No person shall obstruct or damage any Township street by throwing, putting or placing any article or thing whatsoever upon a Township street which in any way impedes or interferes with the safe, free or unobstructed use of the street by the public.
- B. No person shall place or store any structure, equipment, vehicle or other material or article upon any Township street so as to interfere with the flow of water along the gutters or to interfere with traffic on any such street unless as otherwise provided under § 250-18.
- C. No person shall place or store any solid waste dumpster or other trash receptacle with a capacity greater than 95 gallons in any public street or right-of-way at any time. [Amended 2-7-2005 by Ord. No. 2005-3<sup>EN(186)</sup>]
- D. Construction and/or landscape material and equipment. [Added 2-7-2005 by Ord. No. 2005-3]
  - (1) Time frames permitted on public street or right-of-way.
    - (a) No person shall allow construction and/or landscape material to remain on a public street or right-of-way more than 48 hours from delivery. Notwithstanding permission to allow same to be within the street for a period of 48 hours, if the obstruction is deemed by the Township Police Department or the Code Enforcement Officer to constitute a safety hazard, the material must be removed from the public street or right-of way immediately by the owner or contractor responsible for same. In the event not removed at the direction of the Township Police Department or the Code Enforcement Officer, appropriate citations/summons shall issue.
    - (b) In the event that any construction and/or landscape equipment, including commercial trucks, backhoes and like, does not carry appropriate motor vehicle licenses or tags, said equipment shall be removed from the public street or right-of-way by dusk.
  - (2) During the time frames in which construction/landscape material and construction/landscape equipment is permitted in the public street or right-of-way as set forth above, the contractor and homeowner shall be required to place warning cones around the material and equipment while work is progressing.
- E. Any person who violates or fails to comply with any provision of this article, which violation results in obstruction or damage to any Township street shall, upon notice from the Township Police or Code Enforcement Officer, remove the obstruction. [Amended 2-7-2005 by Ord. No. 2005-3]



**§ 250-19. Liability for obstructing and damaging streets. [Amended 2-7-2005 by Ord. No. 2005-3]**

Any person who violates or fails to comply with any provision of this article which results in damage to or obstruction of any Township street, gutter, storm drain or culvert shall be responsible for all expenses incurred by the Township in repairing said damage or removing said obstruction, in addition to the penalty provided in § 250-20 of the article.

**§ 250-20. Violations and penalties. [Amended 2-7-2005 by Ord. No. 2005-3]**

Any person who violates or fails to comply with any provision of this article or who violates or fails to comply with any order made pursuant to this article shall, upon conviction thereof, be punished for the violation by a fine of not less than \$100 per violation nor more than \$1,250 per violation or by imprisonment for a term not to exceed 90 days or by a period of community service not to exceed 90 days, or any combination thereof. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

**§ 250-21. Enforcement. [Added 2-7-2005 by Ord. No. 2005-3]**

Both this article and this entire chapter shall be enforced by any of the following employees/officials of the Township of Lumberton: The Township Code Enforcement Officer; any member of the Township Police Department; and the Township Director of Public Works; as well as any other municipal employees and/or officials as may be duly appointed, by resolution of the governing body and/or by adoption of an appropriate job description, to enforce the provisions of this article and this chapter.

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## **Chapter 253, SWIMMING POOLS**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton: Art. I, 12-17-1973 by Ord. No. 1973-19 as Ch. XIII of the 1973 Code. Amendments noted where applicable.]

### **GENERAL REFERENCES**

**Water -- See Ch. 271.**

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**ARTICLE I, Private Pools [Adopted 12-17-1973 by Ord. No. 1973-19 as Ch. XIII of the 1973 Code]**

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**§ 253-1. Definitions. [Amended 12-15-1980 by Ord. No. 1980-12]**

As used in this Article, the following terms shall have the meanings indicated: 25301

**SWIMMING POOL** -- Includes fill and draw, flow-through and recirculation pools, outdoor and indoor, which are artificially constructed to provide recreational facilities for swimming, bathing or wading, and shall include only privately owned pools, and shall also include pools served by natural outdoor ponds, rivers or lakes. It shall not include pools constructed for use by the public regulated by the provisions of the Swimming Pool Code of New Jersey or natural outdoor ponds, rivers or lakes.

**§ 253-2. Permit required; application; fee, revocation.**

- A. Permit required. No person shall construct or maintain upon any premises within the township any swimming pool unless he has first applied to the Building Inspector and obtained a permit to do so pursuant to the provisions of this Article and any other applicable ordinance.
- B. Application information. The application for a permit shall be accompanied by duplicate plans, specifications and the plot plan of the property. The plot plan shall show the accurate location of the proposed pool on the property as well as the location, height and type of all existing or proposed fencing, including the type and height of fencing or enclosure required by this Article. The application shall also show the means of filling and emptying the pool, the physical, chemical and bacterial quality of the pool water and the means by which it is to be maintained.
- C. Fee. Applicants shall pay a fee of \$20 to the township for a swimming pool permit, which permit fee shall be exclusive of the permit fee required for erection of any accessory structure to be used in connection with the swimming pool.
- D. Granting of permit. No permit for a swimming pool shall be issued by the Building Inspector unless the plans, specifications and plot comply with this Article and all other applicable ordinances of the township and unless and until the applicant has presented to the Building Inspector a certificate from the Board of Health certifying that the plans for the pool comply

with any ordinances, rules or regulations of the Board of Health then in effect.

E. Suspension; revocation.

- (1) Any swimming pool permit shall be conditioned upon continued compliance by the permittee with all provisions of this Article and other applicable ordinances of the township or of the Board of Health. Any such permit may be suspended for a period not exceeding five days and thereafter revoked following notice and hearing on such suspensions for violations of any of the provisions of this Article or any other applicable ordinance of the township or the Board of Health.
- (2) Upon revocation, the permittee or owner of the ground whereon the pool is located shall forthwith take such effective steps to close the pool and to prevent intentional or accidental access thereto as the Township Committee shall direct. Initial suspension may be by the Building Inspector, but final revocation or suspension after hearing shall be by the Township Committee.

**§ 253-3. Location.**

The location of any swimming pool shall comply with all applicable provisions of the zoning ordinance.<sup>EN(187)</sup> In addition thereto, a swimming pool shall not be constructed, installed, located, maintained or operated within 10 feet of any property line, nor nearer to any street line upon which the property abuts than the existing setback line for structures erected on such property, but in no case less than 15 feet from a street line.

**§ 253-4. Fencing requirements.**

- A. Fence required. Every swimming pool shall be completely surrounded by a fence or wall of suitable construction not less than four feet in height, which shall be so constructed so as not to have openings, holes or gaps larger than two inches in dimension, except for doors and gates. If a picket fence is erected or maintained, the horizontal dimension shall not exceed four inches. A dwelling house or accessory building may be used as part of the enclosure.
- B. Design requirements. The fence or wall enclosure shall be so designed and constructed as to reasonably prevent any person from gaining access beneath, through or over the same and shall be provided with one or more substantial gates or doors of the same height as the fence or wall enclosure.
- C. Gates and doors. Every gate or door opening through the enclosure shall be equipped with a self-closing and self-latching device capable of keeping such gate or door securely closed.

The gate or door shall be locked so as to prevent unauthorized access to the pool.

**§ 253-5. Lights and electrical fixtures.**

- A. Lights used to illuminate any swimming pool or bathing pool shall be so arranged and shaded as to reflect light away from adjoining premises.
- B. Electrical fixtures and the wiring and installation thereof used in connection with the swimming pool shall conform to the standards of the National Board of Fire Underwriters for Electrical Wiring and Apparatus.

**§ 253-6. Sanitation.**

Swimming pools shall be subject to any sanitary regulations provided in Chapter 298, Swimming Pools, of this Code or hereafter enacted by the Board of Health.

**§ 253-7. Violations and penalties.** EN(188)

- A. Maximum penalty. For violation of any provisions of this Article, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this Article exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

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## Chapter 256, TAX EXEMPTIONS AND ABATEMENTS

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton as indicated in article histories. Amendments noted where applicable.]

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**ARTICLE I, Route 38 Commercial Corridor [Adopted 4-6-1998 by Ord. No. 1998-15]**

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**§ 256-1. Authorization to enter into tax abatement/exemption agreements.**

The Township of Lumberton may enter into agreements with property owners and/or developers for tax abatement and/or exemptions on commercial and industrial improvements or projects, pursuant to the provision of P.L. 1991, c. 441,<sup>EN(189)</sup> as amended, for periods not to exceed five years.

**§ 256-2. Definitions.**

The following definitions shall govern agreements for tax abatement and/or exemption entered into by the Township of Lumberton and developers:

A. Words and terms defined. The following words shall have the following meanings, consistent with the provisions of N.J.S.A. 40A:21-3:

**ABATEMENT** -- That portion of the assessed value of a property as it existed prior to construction or improvement of a building or structure thereon, which is exempted from taxation pursuant to this Act.<sup>EN(190)</sup>

**COMPLETION** -- Substantially ready for the intended use for which a building or structure is constructed or improved.

**CONSTRUCTION** -- The provision of a new commercial or industrial structure or the enlargement of the volume of an existing commercial or industrial structure by more than 30%, but shall not mean the conversion of an existing building or structure to another use.

**EXEMPTION** -- That portion of the Assessor's full and true value of any improvement or construction not regarded as increasing the taxable value of a property pursuant to this article and the Five-Year Exemption and Abatement Law, L. 1991, c. 441, as amended.<sup>EN(191)</sup>

**IMPROVEMENT** -- A modernization, rehabilitation, renovation, alteration or repair which produces a physical change in an existing building or structure that improves the safety, sanitation, decency or attractiveness of the building or structure as a place for human habitation or work and which does not change its permitted use. In no case shall it include the repair of fire or other damage to a property for which payment of a claim was received by any person from an insurance company at any time during the three-year period immediately preceding the filing of

an application pursuant to this Act.<sup>EN(192)</sup>

**§ 256-3. Procedures.**

The following procedures shall be followed in applying for the benefits authorized by this article:

- A. All improvements and construction, as defined above, shall be exempt from local real property taxes, if approved by the Township Committee after proper application has been made pursuant to L. 1991, c. 441, to both the Committee and the Tax Assessor. Application shall be made upon the forms prescribed by the Director of the Division of Taxation in the Department of the Treasury.
- B. Applicants shall be encouraged to apply for tax exemption and/or abatement on improvements and construction prior to the commencement of construction of the improvement or construction, provided that the applicant must file a proper application with the Township Committee and Tax Assessor within 30 days of the completion of the improvement or construction in order to be eligible for tax exemption thereon. The Tax Assessor will simultaneously file with the Mayor and Township Clerk copies of the application.
- C. Every properly completed application for exemption of one or more improvements or construction projects, which is filed within 30 days of the completion of the improvement or construction project, shall be considered by the Committee and Assessor to the degree that the application is consistent with the provisions of the adopting ordinance or the tax agreement, provided that the improvement, conversion, alteration or construction for which the application is made qualifies as an improvement, a conversion, alteration or construction pursuant to the provisions of the Five-Year Exemption and Abatement Law, L. 1991, c. 441 (N.J.S.A. 40A:21-1 et seq.), and the tax agreement, if any. The granting of an exemption, or exemption and abatement or tax agreement shall be recorded and made a permanent part of the official tax records of the municipality, which records shall contain a notice of determination date thereof.
- D. New construction. Applicants for tax exemption and abatement for new construction of commercial or industrial structures shall provide the municipal governing body with an application setting forth:
  - (1) A general description of the project for which exemption and abatement is sought.
  - (2) A legal description of all real estate necessary for the project.
  - (3) Plans, drawings and other documents as may be required for the Township of Lumberton

to demonstrate the structure and design of the project.

- (4) A description of the number, classes and types of employees to be employed at the project site within two years of completion of the project.
  - (5) A statement of the reasons for seeking tax abatement on the project, and a description of the benefits to be realized by the applicant if a tax agreement is granted.
  - (6) Estimates of the cost of completing such project.
  - (7) A statement showing the real property taxes currently being assessed at the project site; the estimated tax payments that would be made annually by the applicant on the project during the period of the agreement; and the estimated tax payments that would be made by the applicant on the project during the first full year following the termination of the tax agreement.
  - (8) A description of any lease agreements between the applicant and proposed users of the project, and a history and description of the user's business.
  - (9) Such other pertinent information as the Township Committee may require, which shall simultaneously be filed with the Tax Assessor and Township Clerk.
- E. Determination of value. In determining the value of property, the township shall regard up to the Assessor's full and true value of the improvements as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements are made is increased thereby. During this exemption period, the assessment on the property shall not be less than the assessment thereon existing immediately prior to the improvements, unless there is damage to the structure through action of the elements sufficient to warrant a reduction. Notwithstanding anything else herein contained in this article to the contrary, it is specifically provided that any exemption for improvements shall be authorized on an individual basis as to review, evaluation and approval of each application by the governing body.
- F. Tax agreements. Upon adoption of this article, and upon its reaching its effective date as provided for in Article V, Section C below,<sup>EN(193)</sup> the governing body may enter into a written agreement with the applicant for the exemption and abatement of local real property taxes. The agreement shall provide for the applicant to pay to the municipality in lieu of full property tax payments an amount annually to be computed by one, but in no case a combination, of the following formulas:
- (1) Cost basis. The agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments an amount equal to 2% of the cost of the project. For the purposes of the agreement, "the cost of the project" means only the cost or fair

market value of direct labor and all materials used in the construction, expansion or rehabilitation of all buildings, structures and facilities at the project site, including the costs, if any, of land acquisition and land preparation, provision of access roads, utilities, drainage facilities and parking facilities, together with architectural, engineering, legal, surveying, testing and contractors' fees associated with the project; which the applicant shall cause to be certified and verified to the governing body by an independent and qualified architect, following the completion of the project.

- (2) Gross revenue basis. The agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments an amount annually equal to 15% of the annual gross revenues from the project. For purposes of the agreement, "annual gross revenue" means the total annual gross rental and other income payable to the owner from the project. If, in any leasing, any real estate taxes or assessments on property included in the project, any premiums for fire or other insurance on or concerning property included in the project or any operating or maintenance expenses ordinarily paid by the landlord are to be paid by the tenant, then those payments shall be computed and deemed to be part of the rent and shall be included in the annual gross revenue. The tax agreement shall establish the method of computing the revenues and may establish a method of arbitration by which either the landlord or tenant may dispute the amount of payments so included in the annual gross revenue.
- (3) Tax phase-in basis. The agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments an amount equal to a percentage of taxes otherwise due according to the following schedule:
  - (a) In the first full year after completion: no payment in lieu of taxes otherwise due.
  - (b) In the second tax year: an amount not less than 20% of taxes otherwise due.
  - (c) In the third tax year: an amount not less than 40% of taxes otherwise due.
  - (d) In the fourth tax year: an amount not less than 60% of taxes otherwise due.
  - (e) In the fifth tax year: an amount not less than 80% of taxes otherwise due.

**§ 256-4. Nonpayment of taxes; disqualification from exemption or abatement.**

No exemption or abatement shall be granted or tax agreement entered into, pursuant to this article or the statute authorizing this article, with respect to any property for which property taxes are delinquent or remain unpaid, or for which penalties for nonpayment of taxes are due, or for which other municipal charges (water, sewer, land use escrow fees, etc.) are due.



- A. All tax agreements entered into by the township pursuant to this article shall be in effect for no more than five full tax years next following the date of completion of the project.
- B. Any agreement entered into pursuant to this article shall be subject to the condition that all taxes and other municipal charges (water, sewer, land use escrow fees, etc.) shall be kept current to the extent same are assessed. In the event that taxes and charges go unpaid for more than six months beyond the date upon which they become due, then the agreement shall become null and void, and the abatement/exemption agreed to therein shall expire and be lost to the property owner and/or developer; and the property shall be restored to full assessment. This condition shall be binding and effective notwithstanding the absence of any reference to same in the tax abatement/exemption agreement with the owner/developer.

## Chapter 258, TAXICABS

[HISTORY: Adopted by the Township Committee of the Township of Lumberton during codification; see Ch. 1, General Provisions, Art. II. Amendments noted where applicable.]

### GENERAL REFERENCES

Vehicles and traffic -- See Ch. 265.

#### § 258-1. Definitions.

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

**OPERATION OF TAXICAB** -- Consists of transporting in a taxicab one or more persons for hire. Accepting a passenger to be transported for hire from a point of departure within the township to a destination within or without the township shall be considered "operation of a taxicab" within the township. The operation of a taxicab by one other than the owner shall be deemed operation by the owner as well as by the person actually driving the taxi. The transportation of any person other than the owner or driver in any motor vehicle bearing a sign using the words "taxi," "taxicab," "cab" or "hack" shall be prima facie evidence of operation.

**OWNER** -- Any person in whose name title to any taxicab is registered with the New Jersey Division of Motor Vehicles or who appears in the Division's records to be a conditional vendee or lessee or has any other proprietary interest in a taxicab.

**TAXICAB or TAXI** -- A motor vehicle used to transport passengers for hire which does not operate over a fixed route and is not hired by the day or hour.

**§ 258-2. License required.**

No person shall operate a taxicab as owner or operator from a point within the township without first obtaining a license.

**§ 258-3. Application for license.**

- A. An application for a license shall be filed with the Township Clerk/Administrator and shall show the name of the applicant, his post office address and business address, the name, address and age of each driver; a description of the vehicle to be licensed, the maximum number of persons each such vehicle shall carry, a schedule of rates of fare, and such other information as the Township Committee shall deem necessary or proper.
- B. Each applicant for a taxi driver's license must be at least 18 years of age, must hold a driver's license issued by the state, must be of sound physical health and good moral character and shall have satisfied all the other requirements of this chapter, including the payment of the required fee.
- C. All applications for a taxicab driver's license shall be made in writing, in triplicate, to the Township Clerk/Administrator on forms supplied by the Clerk/Administrator, shall be signed by the applicant and shall contain the following information: the full name and address of the applicant, the residence of the applicant for the past year, his age, the number of his state driver's license, the details of any service in the armed forces, together with the date and nature of discharge therefrom, and the recommendation of two residents of the state who have known him for at least one year prior to the date of making such application.
- D. Each application for a taxi driver's license shall be accompanied by two recent photographs of the applicant of a size two inches by two inches. All applications for a taxi driver's license shall state the owner for whom the applicant intends to drive, and such owner shall endorse the application.
- E. Each application shall contain a statement as to whether or not the applicant has been convicted of a crime in this or any other state and, if so, the nature of the offense, where convicted and the date of such conviction.
- F. Each application shall contain a statement as to whether or not the applicant has been convicted of any traffic violations during the previous five-year period and, if so, the nature of the offense, where convicted and the date of such conviction.
- G. An applicant for a taxicab driver's license shall cause himself to be examined by a physician licensed to practice medicine in the state and shall file with his application for issuance or

renewal of a taxi driver's license a certificate of such physician, dated within 30 days of such filing, showing that the applicant is in good general health, free from any communicable disease and has no past history of epilepsy, coronary thrombosis, cerebral hemorrhage or other affliction which might cause loss of control of the taxicab. The applicant shall also cause his vision to be examined by an ophthalmologist, and his certificate shall state corrective glasses required, if any. Such physician's certificate and ophthalmologists certificate shall be filed each year upon application for renewal of the taxi driver's license.

H. Prerequisites. After completing and submitting the application as aforesaid, the following prerequisites shall be required before a license may be issued:

- (1) Fingerprinting. Every application for a taxi driver's license shall be fingerprinted by the Police Department. Upon refusal of such applicant to be fingerprinted, the Township Clerk/Administrator shall refuse to license the driver.
- (2) Every applicant shall have no more than two moving violations during the prior three years.
- (3) Every applicant shall have no convictions for reckless driving, leaving the scene of an accident or operation of a motor vehicle under the influence of alcohol or a controlled dangerous substance during the prior five years.
- (4) Every applicant shall have no convictions of a crime involving moral turpitude, violence or threat of violence in this state or any other state or territory of the United States.
- (5) Every applicant shall have a satisfactory certificate from the physician and ophthalmologist required as aforesaid.
- (6) Every applicant shall exhibit compliance with all other provisions of this chapter.

**§ 258-4. Issuance, revocation and appeal of license, form and content.**

A. A taxicab driver's license or any renewal thereof shall be issued by the Township Clerk/Administrator. No approval by the Township Council shall be required. The Clerk/Administrator shall refuse to issue such license under the following circumstances:

- (1) The applicant has more than two moving traffic violations in the prior three years.
- (2) There is evidence of a conviction of a motor vehicle offense during the prior five years, involving reckless driving, leaving the scene of an accident or operation of a motor vehicle under the influence of alcohol or a controlled dangerous substance.
- (3) The certificate from the physician or ophthalmologist is not satisfactory.

- (4) There is evidence of conviction of a crime involving moral turpitude, violence or threat of violence.
  - (5) There is evidence that the application contains any materially false statements.
  - (6) There is failure to comply with any other provisions of this chapter,
- B. In the event that the application for a taxicab drive(s) license is refused by the Town Clerk/Administrator or revoked by the Clerk/Administrator as provided herein, the applicant shall have the right to appeal to the Township Committee for review. Such appeal shall be in writing and set forth the basis therefor and shall be made within 60 days of such refusal.
- C. Form and content of license. The license shall be in writing, numbered, in triplicate and signed by the Township Clerk/Administrator on a form provided by the Township Clerk/Administrator and shall contain the following information: name, address, taxicab owner by whom employed, state driver's license number and badge number.

**§ 258-5. Display and contents of license.**

Every person or corporation licensed under this chapter shall cause such license to be conspicuously displayed on the inside of each licensed vehicle. The license shall state the name of the person or corporation licensed, the names of the drivers authorized to operate the licensed vehicle, the number of the license and a schedule of the rates of fare.

**§ 258-6. License issued in name of owner, expiration.**

The license required by this chapter shall be issued to and in the name of the owner of the taxicab and shall be issued for one year from the first day of January of the year of such issuance.

**§ 258-7. License fee.**

The license fee shall be \$50 for each taxicab, payable with the filing of the application.

**§ 258-8. Insurance requirements.**

No taxicab license shall be issued until the owner of the vehicle shall have filed with the Township Clerk/Administrator a public liability and property damage insurance policy in standard form which shall comply with the following requirements:

- A. An insurance policy issued by an accredited insurance company authorized to transact the

business of casualty insurance in the state and acceptable to the town, covering each vehicle, shall be required, which policy shall cover the period included in the license to be issued by the township. Each such policy shall run concurrently with the fiscal year for which a license has been issued.

- B. Such insurance policy shall insure the owner and driver of such vehicle with a minimum limit for each accident for bodily injury of \$100,000 to any one individual or total of \$300,000 for all persons injured with a property damage loss in the minimum amount of \$50,000. If said policy is a single-limit policy, this single limit shall not be less than \$300,000.
- C. Each such insurance policy shall contain a provision to the effect that the same cannot be canceled, except on at least 30 days' notice, in writing, by the insurance company to the Township Clerk/Administrator of the intention of such insurance company to cancel the same.
- D. No insurance policy shall be acceptable if the insurance coverage is for private livery only, unless such policy expressly contains a waiver by the insurance company that if the vehicle insured is operated in violation of the coverage intended, the company will not claim such violation to avoid liability thereunder.
- E. In the event that any insurance policy covering any such vehicle used for the transportation of passengers for hire shall lapse or shall be canceled by the issuing company, then the taxicab license issued by the town shall thereupon become void, and the owner of such vehicle shall be required to immediately turn such license in to the Township Clerk/Administrator.

**§ 258-9. Automatic revocation of license.**

The Township Committee may, upon notice and hearing, revoke the license of any licensee issued under the provisions of this chapter if he shall fail or neglect to operate a taxicab for a period of 30 days and may revoke any such license for cause after notice and hearing.

**§ 258-10. Conduct of driver.**

Every licensed taxicab driver shall obey the following rules and regulations:

- A. When engaged by passengers in the operation of the taxicab, all taxicab drivers shall be neat in appearance and clean of body and shall refrain from smoking and using profane, abusive or insulting language.
- B. A driver shall not consume any intoxicating liquor or any controlled dangerous substance while operating the vehicle, and a driver shall not operate a vehicle while under the influence

of a controlled dangerous substance or intoxicating liquor to any degree.

- C. No driver shall convey more passengers at any one time than the seating capacity of the taxicab.
- D. A driver shall not solicit patronage or passengers at any locations except those provided for in this chapter.
- E. A driver shall thoroughly search the interior of the vehicle immediately after the termination of each trip and note if the passenger has left any article therein. Any property so found shall be taken to police headquarters and turned into the officer in charge within 24 hours.
- F. A driver shall not refuse service to any person unless he has previously been engaged or unless the person seeking service is disorderly or under the influence of intoxicating drugs or liquors. When serving more than one passenger, the driver must serve the passenger requesting service first, unless mutually agreed with the first passenger to do otherwise.
- G. If the driver carries an AM or FM radio or tape player in the cab, as permanent equipment or otherwise, it shall not be played while conveying passengers unless the passenger requests that it be played.

**§ 258-11. Nontransferability of license.**

No license issued under the provisions of this chapter may be transferred.

**§ 258-12. Restricted areas of operation.**

No one may operate a taxicab from a Residence A Zone.

**§ 258-13. Violations and penalties.**

Except as provided in N.J.S.A. 48:16-1 et seq., or any amendments or supplements thereto, the following penalties shall apply:

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter

exists shall constitute a separate violation.

- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

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## Chapter 260, TOBACCO PRODUCTS

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

- Police Department -- See Ch. 51.
- Drug-free zones -- See Ch. 141.

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## ARTICLE I, Sales to Minors [Adopted 12-6-1999 by Ord. No. 1999-28]

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### § 260-1. Rationale; purpose.

- A. There exists conclusive evidence that tobacco smoke causes cancer, respiratory diseases, cardiovascular disease, negative birth outcomes, as well as irritations to the eyes, nose and throat. Both smokers and those exposed to secondhand smoke are at risk. It is the opinion of the Township Committee that nonsmokers should not be involuntarily exposed to tobacco smoke.
- B. Statistics reflect that more than 90% of all smokers begin smoking before the age of 18 (the legal age to purchase cigarettes in the state) and an estimated 3,000 minors begin smoking every day in the United States. There is, therefore, an important health need to reduce easy access to tobacco products by youths through strict enforcement of the state law prohibiting sales to minors.

### § 260-2. Definitions.

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

**MUNICIPAL BUILDING** -- All municipal offices, police station, fire stations, schools and school administration, water treatment plants, Department of Public Works, emergency squad building, library and any and all facilities owned and/or operated by the Township of Lumberton.

**PURCHASER** -- Any individual, partnership, cooperative, association or corporation, personal or representative, receiver, trustee, assignee or any other legal entity.

**TOBACCO** -- Any product made from the tobacco plant for the purpose of smoking, chewing, inhaling or any other use, including cigars, chewing tobacco, pipe tobacco, snuff and cigarettes in any form.

**TOBACCO RETAILER** -- Any person or entity that operates a store, stand, booth, concession or place at which sales of tobacco are made to the purchaser for the consumption or use. It shall also mean a person or entity which owns, operates or uses a vending machine and/or a vending machine location.

**VENDING MACHINE** -- Any automatic, self-service device which, upon the insertion of money, tokens or any other form of payment dispenses cigarettes or other tobacco products.

**§ 260-3. Sale to and purchase and use by minors.**

- A. It shall be unlawful to sell or otherwise provide tobacco or tobacco products to a person under 18 years of age, which person shall be considered a minor for purposes of this chapter.
- B. It shall be unlawful for any person to purchase tobacco with funds furnished by a minor or with the intent to sell or give such a product to a minor.
- C. It shall be unlawful to offer for sale or to sell tobacco products from self-service displays. Tobacco products are to be stored for sale in such a manner that only a sales clerk has physical access to same, and said sales clerk shall manually obtain same upon customer request.
- D. Sign requirements. The following six-inch-by-eight-inch sign shall be posted in a conspicuous place near each cash register in all retail establishments in which tobacco products are sold.

**THE SALE OF TOBACCO PRODUCTS TO MINORS UNDER THE AGE OF**



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EIGHTEEN IS PROHIBITED BY LAW. Legal Proof of Age must Be Shown. A person who sells or offers to sell a tobacco product to a person under 18 years of age may be prosecuted in accordance with State and Local Ordinances.

- F. It shall be unlawful for any person under the age of 18 years to smoke or use a tobacco product in any public place or to possess in open view a cigarette or tobacco product, an unopened cigarette pack, opened carton or other opened container (as evidenced by a broken seal) holding a tobacco product.
- G. The Drug-Free Zone Map produced by Richard A. Alaimo Associates, Municipal Engineers, adopted by Lumberton Township Ordinance No. 1998-27, as referenced in Chapter 141 of the Township Code, is hereby amended to include Tobacco-Free School and Property Zone whereby it shall be unlawful for anyone to sell, give, or permit to be sold or given to a person under 18 years of age tobacco in any form within the areas on or within 1,000 feet of such property. It shall also be unlawful for a person under 18 years of age to smoke or use a tobacco product or to possess in open view a cigarette or tobacco product, an opened cigarette pack, opened carton or other opened container (as evidenced by a broken seal) holding tobacco product in and/or on property as referenced in the Tobacco-Free/Drug-Free School and Property Zone Map.
- H. It shall be unlawful for a parent, legal guardian or other person acting in place of a parent or legal guardian or person who is responsible for the care and welfare of a minor under the age of 18 years to allow that minor to possess any cigarettes made of tobacco or of any other substance which can be smoked, any cigarette paper or tobacco in any form, including but not limited to smokeless tobacco.

**§ 260-4. Prohibition on smoking in public places.**

Smoking and the use of other tobacco products shall not be permitted in any municipal building in Lumberton Township.

**§ 260-5. Enforcement; violations and penalties.**

- A. Unless otherwise provided by law, a minor charged under this section as a first offense with the use or purchase of a tobacco product shall be served with a written warning which shall inform the minor of subsequent penalties. A copy of said warning shall be sent to the minor's parents.
- B. Unless otherwise provided by law, statute or ordinance, as to repeat minor offenders who use, purchase or possess tobacco products, and as to any adult person violating any of the provisions contained within this chapter, any person found to be in violation shall, upon conviction thereof, pay a penalty of not less than \$100 or more than \$500 for each offense.
- C. Each sale or provision of tobacco to a minor shall constitute a separate violation.

- D. Each day in which a vending machine is owned or operated, rented or permitted on a premises subsequent to the effective date of this chapter, shall constitute a separate violation.
- E. It shall primarily be the responsibility of the Police Department to monitor and/or enforce this chapter, which shall do so through periodic inspections or other legal means.

## **Chapter 261, TOWING AND STORAGE**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 2-16-2002 by Ord. No. 2002-16. Amendments noted where applicable.]

### **§ 261-1. Purpose.**

The purpose of this chapter is to provide standards, regulations and rates for police-requested, nonpreferential towing and storage services without competitive bidding, in accordance with N.J.S.A.40:48-2.49 et seq. and N.J.S.A. 40A:11-5(u), under the supervision of the Township Administrator and the Police Department of the Township.

### **§ 261-2. Definitions.**

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

**AUTOMOBILE** -- A motor vehicle of a private passenger, sport utility or station wagon type that is owned or leased and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pickup body or a delivery sedan, a van or a panel truck or a camper-type vehicle used for recreational purposes owned by an individual or by husband and wife who are residents of the same household, not customarily used in occupation, profession or business by the owner.

**BASIC TOWING SERVICE** -- The removal and transportation of an automobile from a highway, street or other public or private road or a parking area or from a storage facility and other services normally incident thereto, but does not include recovery of an automobile from a position beyond the right-of-way or berm or from being impaled upon any other object within the right-of-way or berm.

**INSIDE BUILDING** -- A vehicle storage facility that is completely indoors, having one or more openings in the walls for storage and removal of vehicles and that is secured by a locking device on each opening.

**LICENSEE** -- A towing operator licensed hereunder.

**MOTOR VEHICLE ACCIDENT** -- An occurrence in which a private passenger automobile comes in contact with any other object for which the private passenger automobile must be towed or removed for placement in a storage facility. This includes all situations which are accident as to the insured even if they were caused by the intentional acts of a perpetrator where the perpetrator was not the insured or not otherwise involved with the insured.

**OUTSIDE SECURED** -- An automobile storage facility that is not indoor and is secured by a fence, wall or other man-made barrier that is at least six feet high and is installed with a passive alarm system or a similar on-site security measure. The facility is to be lighted at night.

**OUTSIDE UNSECURED** -- An automobile facility that is not indoor and is not secured by a fence, wall or other man-made barrier and storage facilities not defined above as inside a building or outside secured.

**POLICE** -- The Township Police Department, state police, county police or such other police department that may have jurisdiction upon the roadways in the Township.

**STORAGE CHARGES FOR THE TWENTY-FOUR-HOUR PERIOD** -- The maximum allowable amount to be charged by a storage facility for a twenty-four-hour period or fraction thereof. A new twenty-four-hour period begins at 12:01 a.m.

**TOWING OPERATOR** -- A person, corporation or other form of business entity engaged in the business of providing a basic towing service to the general public and storage facilities for vehicles towed.

**TOWING OPERATOR'S BASE OF SERVICE** -- The towing operator's principal place of business where the tow trucks are stationed when not in use.

**TOW TRUCK** -- Those vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under-reach equipment specifically designed by its manufacturer for the removal or transport of motor vehicles.

**§ 261-3. Unlimited number of licenses; rotation of list.**

- A. All towing operators who meet the standards set forth in this chapter shall be issued a license.
- B. Each such licensed towing operator shall be put on a rotational list compiled by the Chief of Police of the Township and shall be called to respond to the needs of the police on a rotating basis.

**§ 261-4. Licensing procedure.**

- A. Except for the occasional solicited towing incident allowed under § 261-8 hereof, no towing operator shall operate within the Township without obtaining a license in accordance with the provisions of this chapter.
- B. Every applicant for a license shall complete, sign and verify a written application in the manner and on forms furnished by the Township Clerk. The application shall include:
  - (1) Name, business address, residential address and telephone numbers (residence and business) of the towing operator and principal owners thereof.
  - (2) Locations of outside secured and unsecured storage areas for tow trucks, towed vehicles and all other vehicles used in the towing operator's business.
  - (3) The application shall be accompanied by the following supporting documentation:
    - (a) Zoning certification (issued by the Township Zoning Officer/Construction Official) and fire subcode certification (issued by Fire Official).
    - (b) Deed of ownership or lease agreement for storage locations.
    - (c) Access to second heavy-duty wrecker.
    - (d) Roster of employees (by name and address).
    - (e) Roster of tow trucks and other vehicles (by registration number and serial number).
    - (f) Certificates of liability and personal injury insurance, workers compensation insurance, garagekeeper's liability insurance and general liability insurance.
    - (g) Affirmative action certification.
    - (h) Stockholder's certification (if applicable).
    - (i) Names and addresses of three references from businesses, companies and/or municipalities with whom applicant is or has provided towing recovery and storage services.
    - (j) Certification that applicant will be available for service on business premises 24 hours per day, seven days per week and that applicant will comply with the fees and procedures contained in or referenced in this chapter.
    - (k) A current fee schedule.
    - (l) Such other information as the Chief of Police may reasonably prescribe.
- C. Licenses shall expire on February 1 of each year, subject to annual renewal. Applications

shall be filed with the Township Police Department on or after January 1 and no later than January 31 of each year, together with the appropriate license and application fee, as established by the general fee ordinance of the Township.

- D. No more than one license shall be granted any applicant. No license shall have any interest, direct or indirect, in any other license.
- E. Any license, once issued, is not transferable.
- F. The Chief of Police of the Township is charged with the responsibility of investigating new and renewal licensees on an annual basis. Upon completion of an investigation, the Chief of Police shall report his recommendation to the Township Clerk. A recommendation of approval shall be predicated upon the Police Chief's determination that:
  - (1) The applicant is financially capable of sustaining the business of a towing operator in the Township.
  - (2) The applicant is of good moral character and meets the general standards of this chapter, as hereinafter set forth. The applicant shall authorize a personal background check, commercial, credit and personal references and such other investigative checks as the Chief of Police may require.
  - (3) If a previous licensee, the applicant has met the performance standards of this chapter, as hereinafter set forth.
  - (4) The applicant demonstrates the adequacy of equipment and facilities, availability and adequate response time and the security of the vehicles towed or stored, all as specified in the standards of this chapter, hereinafter set forth.
- G. The Township Clerk shall issue a license to any applicant recommended for approval by the Chief of Police.
- H. On or about February 1 of each year, the Township Clerk shall furnish the list of licensees for that year to the Chief of Police and to all applicants, whether or not approved.
- I. The applicant not so approved may appeal to the Township Administrator. Any such appeal shall be filed within 10 days after receipt of the list of licensees from the Township Clerk. The Administrator shall undertake a review of the reasons for rejection by the Chief of Police and shall make an independent determination based upon the standards and criteria of this chapter and the investigative file developed by the police.

**§ 261-5. Revocation and suspension of license.**

- A. The Township Administrator may revoke any license issued under this chapter for good cause, upon the recommendation of the Chief of Police. As used herein, "good cause" shall mean that the licensee has, after notice and the opportunity to cure or otherwise explain the deficiency as hereinafter set forth:
  - (1) Failed to meet the performance standards and/or failed to meet the licensing standards relating to equipment, insurance and/or the general standards of this chapter;
  - (2) Supplied fraudulent or inaccurate information on the application; or
  - (3) Violated municipal or state regulations which relate specifically to performance hereunder.
- B. Written notice of the pendency of a revocation action, together with the basis thereof, shall be given to the licensee. Within 10 days of receipt of said notice, the licensee may request a meeting with the Township Administrator, who shall thereupon schedule same. Upon good cause shown, the Administrator may grant to the licensee 30 days to cure any deficiency. If the Administrator, after meeting with the licensee, determines that the licensee should be suspended, the licensee shall be given notice of final action.
- C. Revocation by the Township Administrator may be appealed to the Township Committee by written notice to the Township Clerk within 10 days of receipt by the licensee of notice of final action of revocation. The Committee shall schedule and conduct a hearing thereon, at which time the licensee shall be given the opportunity to present and cross-examine witnesses and may be represented by counsel. The Committee shall decide the appeal no later than 30 days after receipt of notice of appeal by the Township Clerk and shall render its decision by a written resolution, stating its findings and conclusions.
- D. If a license has been revoked, the towing operator shall be disqualified from reapplying for two successive licensing periods.
- E. The Chief of Police may temporarily suspend a license for just cause, including conviction of crime or disorderly persons offense involving moral turpitude.

**§ 261-6. Responsibility of licensees; minimum standards of performance.**

- A. Responsibilities. Licensee shall:
  - (1) Be capable of providing towing on a twenty-four-hour, seven-days-a-week basis, including holidays.
  - (2) Be capable of responding to a call for service from the police within 20 minutes after

notification by the police.

- (3) Have a minimum of:
  - (a) One medium-duty tow truck with wheel lift;
  - (b) Two medium-duty flatbed (roll back) trucks; and
  - (c) One heavy-duty wrecker with a minimum of 30,000 pounds gross vehicle weight rating. In lieu of owning and/or leasing the heavy-duty wrecker in its own name, the licensee may subcontract for heavy-duty service, provided the licensee submits with its license application a certification from the subcontractor that the subcontractor will maintain and make available for use a heavy-duty wrecker as specified herein in accordance with the terms of this chapter.
- (4) Maintain its towing operator's base of service within the geographical limits of the Township or within a four-mile radius of the Township Municipal Building.
- (5) Maintain a storage area within the geographical limits of the Township which shall include adequate storage space for at least 50 vehicles, 25 of which spaces shall be dedicated exclusively to the storage of vehicles that were removed under the provisions of this chapter. The storage area shall be open a minimum of eight hours per day (9:00 a.m. to 5:00 p.m.), Monday through Friday, except legal holidays, for reclaiming automobiles. All such storage facilities must be maintained in compliance with local, state and federal laws and regulations, and vehicles must be stored in compliance with all applicable ordinances and only on premises approved by the Township unless otherwise authorized by the owner of the vehicle.
- (6) Maintain insurance covering personal injury, worker's compensation, garagekeeper's liability and general liability, in accordance with the standards hereinafter set forth.
- (7) Not have been convicted of a crime of the fourth degree or higher within the past five years, unless waived for good cause.
- (8) Require their tow truck operators to register with the Chief of Police. Registrations shall be a precondition to the operator driving a tow truck for the licensee in the Township. The initial registration shall expire when the license expires, and each renewal of the license shall require reregistration of the operator with the Police Chief. Termination of the operator's employment by the licensee shall also be reported by the licensee to the Chief of Police as soon after termination as reasonably possible.
- (9) Train their tow truck operators in the use of all required equipment and the performance standards of this chapter.



- (10) Require their tow truck operators to have a personal driver's license with no restrictions or conditional endorsements, except if prescription glasses are required; and to have a commercial driver's license, if required by law; to be of good moral character and mentally alert and present a neat appearance at all times.
- (11) Have at least one year of continuous experience in emergency towing, recovery and storage of motor vehicles for law enforcement agencies. Such experience shall be verifiable and proven to the satisfaction of the police at the time of application for license.
- (12) Maintain written records for at least six years from the date of the service of all tows performed and all signed acknowledgments of receipt of vehicles by owners or authorized agents.

**B. Insurance requirements.**

- (1) All licensees shall maintain the following insurance coverages:
  - (a) Garagekeeper's liability insurance, covering fire, theft and explosion, in the minimum amount of \$1,000,000, combined single limit.
  - (b) Automobile liability insurance for claims arising from owned, hired and nonowned vehicles with limits of not less than \$1,000,000 any one person and \$2,000,000 any one accident for bodily injury and \$500,000 each accident for property damage.
  - (c) General liability insurance covering the operation of the licensee's business, equipment and vehicles in the minimum amounts of \$1,000,000 bodily injury and property damage in any one occurrence.
  - (d) Worker's compensation and employer's liability insurance in accordance with statutory requirements for all employees to be engaged in work subject of this chapter; in case of any such work being sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the contractor's insurance coverage.
- (2) Each policy required herein shall contain an endorsement providing for 20 days' notice to the Township in the event of any change or cancellation and shall be with insurance companies acceptable to the Township and operating on an admitted basis in the State of New Jersey.
- (3) Each policy required herein shall name the Township as an additional insured.

C. Minimum equipment requirements.

- (1) Equipment to be carried on all tow trucks shall include the following: a universal towing sling, except flatbeds; J-hooks and chains; one snatch block for three-eighths-inch to one-half-inch cable; two high-test safety chains; an auxiliary safety light kit to place on the rear of a towed vehicle; four-lamp or three-lamp revolving amber light or lamp bars; a tool box with assortment of hand tools; rear working lights and rear marker lights; cab lights; body clearing lights located to clear a towed vehicle; blocking choke for the tow truck while working; safety cones; shovels and broom; a steering wheel lock or tie down; and a two-way radio communication system.
- (2) In addition, every tow truck shall be equipped with safety tools to remove disabled or locked vehicles.
- (3) All tow trucks shall be properly lettered on both sides, as required by law.

D. Performance standards. A licensee shall:

- (1) When on call, provide towing on a twenty-four-hour, seven-days-a-week basis, including holidays.
- (2) Dispatch a tow truck or trucks, as circumstances warrant, when requested by the police to respond, in such a manner that the tow truck arrives at the scene within 15 minutes under normal and reasonable circumstances.
- (3) Maintain and operate all tow trucks in accordance with all existing traffic regulations and in a safe and prudent manner.
- (4) Not stop at any accident scene unless directed by the police, except to notify the police of an unattended accident and advise accident victims that the police have contacted the licensee on rotation; and not solicit or attempt to divert patrons of another towing operator, whether or not licensed under this section, or solicit prospective patrons of a given repair service to any other repair service.
- (5) Not respond to the scene of an accident except upon notification by the police.
- (6) Not tow vehicles without proper authorization from the police at the scene or the owner or driver at the scene. Upon such authorization and if not accompanied by the owner or driver of the towed vehicle, the licensee shall disclose in writing the location of the storage facility.
- (7) Not release any vehicle impounded or confiscated without proper authorization from the police.

- (8) Notify the police on a weekly basis of unclaimed vehicles.
- (9) Be responsible for all vehicles and their contents after towing. If the vehicle is unattended, the licensee shall make an inventory of any apparent valuable contents at the accident scene and maintain said inventory at least until the disposition of the vehicle.
- (10) Cooperate with other towing operators in the case of emergency services at the scene of accidents and/or disasters.
- (11) Comply with police instructions at the scene, even if it means countermanding towing requests by the owners or drivers of disabled vehicles.
- (12) Prior to departure from the accident scene, clean and clear streets of any debris resulting from any accident, and toward that end carry the necessary equipment to perform such cleaning services.
- (13) Report any dispute between towing operators and/or persons at the scene to the police; and report to the police any observed disabled vehicles, accidents or any other activities that may require police attention.
- (14) Not use flashing lights or sirens except as permitted by the police pursuant to law.
- (15) Not tow a vehicle for illegal parking until a summons has been issued.
- (16) Accept at least one major credit card for towing services.
- (17) Immediately notify the police in the event that the licensee is not operational due to mechanical failure, personnel deficiency or other incapacitating cause.
- (18) Post hours of operation on storage facilities so that the public may be informed as to when the facilities are open for recovery of motor vehicles.
- (19) Maintain the public portions of storage facilities as a clean and safe environment for public invitees.
- (20) Not park or store an impounded vehicle on any public street or sidewalk or any unsecured area.
- (21) Not employ any Township employee or allow any Township employee to have a financial interest, direct or indirect, in the towing operator's business.
- (22) Clear accident areas of debris upon arrival on the scene.
- (23) If called as a backup, tow the vehicle to the yard of the operator on call.
- (24) Display fees on cards, conspicuously indicating the maximum rates for towing and

storage charges, in each tow truck, and present a card to the driver of the disabled vehicle to be towed. Such a fee card shall also be conspicuously posted at every storage facility and location where the vehicle is to be retrieved.

**§ 261-7. Fee schedule.**

A. Maximum fees.

- (1) No person shall be liable to any tow operator who tows or stores an automobile, including but not limited to any automobile which was damaged in an accident or recovered after being reported stolen, for fees in excess of the following:
  - (a) Basic towing service fee: \$75.
  - (b) Storage fee: \$25 per calendar day.
- (2) In no event shall any tow operator charge a towing or storage fee for passenger vehicles damaged in an accident or recovered after being stolen in excess of the fees established by the Department of Insurance as set forth N.J.A.C. 11:3-38.1 et seq. or any amendments or supplements thereto. It shall be the responsibility of the tow operator to comply with all applicable rules and regulations. Current fee schedules shall be submitted for approval on an annual basis at the time of application for tow operator's license renewal, which schedule shall be subject to the review and approval of the Township Committee.

B. Tow vehicles transporting multiple vehicles at one time may charge the applicable fee for each vehicle transported.

C. Prior to hookup or flatbedding, the tow operator shall present a copy of its fee schedule to the owner or operator of the vehicle to be towed. The fee schedule shall also contain the name, address and telephone number of the tow operator and a statement of the hours when the motor vehicle may be claimed. In the case of an unattended vehicle, the fee schedule shall be left in a conspicuous area of the vehicle.

D. The tow operator shall prepare a written bill for the charges pertaining to the towing and/or storage services and present it to the claimant of the vehicle when reclaimed. The bill shall be itemized in detail as to actual services rendered. Should the Township conduct an auction of unclaimed vehicles pursuant to N.J.S.A. 39:10A-1, the operator's charges for towing and storage shall be paid from the proceeds of such auction. Each vehicle auctioned off shall be a separate item or purpose of this section, the Township shall not be liable for fees in excess of the bid price of the vehicle. The cost of title fees which the Township must pay to the State of New Jersey for title certificates and the auction fees shall be passed onto the purchaser at the

time of the auction, even if the tow operator is purchasing party, and shall be in addition to the bid price of each vehicle.

**§ 261-8. Operation by other tow truck operators.**

This chapter shall not prevent the occasional operation at the scene of an accident, upon the request of an owner or driver of a vehicle, of a tow truck which is owned by a person not a licensee hereunder.

**§ 261-9. Implementation.**

Upon the adoption of this chapter, the Township Clerk shall give 30 days' public notice by newspaper publication of the necessity of making application for a license to engage in the business of basic towing service as a licensee of the Township. In addition, the Chief of Police shall give notice to all towing operators known to have engaged in basic towing service in the Township for the year last past.

**§ 261-10. Regulations and procedures.**

The Chief of Police shall promulgate such rules, regulations and procedures, not inconsistent with this chapter, as may be reasonable and necessary to carry out the provisions of this chapter. Copies thereof shall be provided to all licensed tow operators and shall be made available to the public, along with copies of current fee schedules, during normal business hours. Failure to comply with applicable rules, regulations and procedures may be the cause of revocation of a tow operator's license.

**§ 261-11. Enforcement.**

The Chief of Police is hereby designated to enforce the provisions of this chapter and any applicable rules and regulations.

**§ 261-12. Violations and penalties.**

Any person, firm or corporation violating the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not more than \$1,000 or to imprisonment for not more than 90 days or a period of community service not to exceed 90 days, or any combination thereof; and each day any such violation shall continue shall be deemed to be a separate and distinct offense.

## Chapter 263, VEHICLES, ABANDONED

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 12-17-1973 by Ord. No. 1973-19 as part of Ch. IV of the 1973 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

**Junkyards -- See Ch. 174.**  
**Vehicles and traffic -- See Ch. 265.**

#### § 263-1. Definitions.

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

**ABANDONED MOTOR VEHICLE** -- Any vehicle propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks, found in any public street, highway or lands and not bearing current registration plates, remaining stationary and unused for more than 14 days consecutively on public streets, highways or lands or 30 days upon any private lands or premises.

**JUNK AUTOMOBILE** or **JUNK AUTOMOBILE BODY** -- Any automobile which is no longer in actual use as a motor vehicle, which is wholly unfit without rebuilding or reconditioning for use for highway transportation or which has been discarded for use as a motor vehicle.

#### § 263-2. Storage or abandonment prohibited; exceptions.

No person shall place, abandon or leave, keep or store or suffer or permit the placing, abandoning, leaving, keeping or storage of any inoperable or abandoned vehicle out of doors upon any public or private land in the township or upon any street or highway within the township. Nothing herein contained shall be deemed to prohibit the placing, keeping or storage of any such vehicle in an enclosed garage, barn or other building nor shall this section apply to lawfully licensed junkyards.

#### § 263-3. Presumption.

No owner or occupier of any private lands or premises shall permit or suffer any inoperable or abandoned motor vehicle to be parked, left, stored or maintained on his lands for more than 30 days. It shall be presumed after 30 days that the owner or tenant in possession of the land left, placed, kept or stored the vehicle there or permitted or suffered it to be left, placed, kept or stored

there.

**§ 263-4. Junkyards and repair shops excluded.**

It shall be unlawful for any person to place, keep, store or maintain a junk automobile or automobile body or, separately, the parts of an automobile, which are exposed outside of an enclosed building on any tract of land within the township unless the person is the holder of a junkyard license or unless such junk automobile bodies and parts are kept temporarily in the operation of a full-time business primarily conducted for the sale or repair of automobiles.

**§ 263-5. Notice of violation; abatement.**

- A. Whenever it shall appear to any member of the Police Department of the township that this chapter is being violated and that the land on which the violation exists is privately owned, he shall, in writing, notify the owner or tenant in possession of the land on which the violation exists to abate the violation by removing the article constituting the violation from the township or into an enclosed garage, barn or other building within 10 days of the service of the notice. The notice shall be served upon such owner or tenant if he resides in the township personally or by leaving it at his usual place of abode with some member of his household over the age of 14 years; and if he resides outside the township, by registered or certified mail addressed to him at his usual residence if ascertainable, otherwise by notice published in the local newspaper.
- B. The owner or tenant shall abate the violation within the time fixed by the notice.

**§ 263-6. Failure to comply, remedy.**

- A. In the event that the owner or occupant of the lands shall refuse or neglect to abate or remedy the violation complained of after expiration of the time set forth in the notice, the Police Department shall cause the violation to be abated and remedied and shall certify the cost thereof to the Township Committee, which shall examine the certificate and, if found correct, shall cause the cost as shown thereon to be charged against the lands. The amount so charged shall forthwith become a lien upon such lands and shall be added to and become and form a part of the taxes next to be assessed and levied upon the lands, the same to bear interest at the same rate as taxes and to be collected and enforced by the same officers and in the same manner as taxes. Costs shall be in addition to any penalty imposed for a violation of this chapter.
- B. Where removal is made of items, in accordance with Subsection A above, belonging to a

possessor or tenant of the lands other than the title holder of the lands and premises, the possessor or tenant shall be subject to the penalty set forth in § 263-9, and the cost of removal shall be included as court costs.

**§ 263-7. Abandonment on public property.**

Whenever a violation of this chapter exists upon public lands, streets or highways, the vehicle shall be taken in possession by the Police Department which shall direct its removal to a storage place.

**§ 263-8. Sale of abandoned vehicle.**

Upon the taking into possession of an abandoned inoperable or junk motor vehicle, the Police Department shall follow the procedures established by N.J.S.A. 39:10A-1 et seq., or any amendments or supplements thereto, to sell such vehicle at public auction.

**§ 263-9. Violations and penalties.** EN(194)

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

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**Chapter 265, VEHICLES AND TRAFFIC**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton: Part 1,



6-15-1992 as Ord. No. 1992-5; Part 2, 12-21-1992 as Ord. No. 1992-13. Amendments note where applicable.]

#### GENERAL REFERENCES

Abandoned vehicles -- See Ch. 263.  
Recreational vehicles -- See Ch. 267.

## Part 1, Private and Semipublic Property [Adopted 6-15-1992 as Ord. No. 1992-5]

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### ARTICLE I, Word Usage

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#### § 265-1. Word usage.

Whenever any words and phrases are used in this Part 1, the meanings respectively ascribed to them in Subtitle 1 of Title 39 of the Revised Statutes of New Jersey shall be deemed to apply to such words and phrases used herein.

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### ARTICLE II, Traffic Regulations

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#### § 265-2. Establishment of regulations.

Chapter IX of the Revised General Ordinances of the Township of Lumberton, 1973,<sup>EN(195)</sup> is hereby amended and supplemented by providing for the establishment of various speed limits, stop intersection designations, parking restrictions, etc., along semipublic or private roads, streets, driveways, terraces, parking areas or other roadways located within the Township of Lumberton, pursuant to the authority vested in the municipality under N.J.S.A. 39:5A-1; said sections to be numbered and otherwise designated to conform to the current designations and numbering as found in this chapter.

#### § 265-3. Commercial and industrial establishments.

A. The provisions of N.J.S.A. 39:1-1 et seq., and the provisions of Chapter IX, Traffic,<sup>EN(196)</sup> shall be applicable to the semipublic or private roads, streets, driveways, terraces, parking

areas or other roadways located within the Township of Lumberton, as set forth below, that are open to or used by the public, residents, tenants, customers, students and employees for purposes of vehicular traffic and shall be enforceable by those officers, agencies and individuals authorized to enforce the same under the laws of the State of New Jersey pursuant to N.J.S.A. 39:5A-1. The maximum speed limit on any such roadways, parking lots or thoroughfares intended for the passage of motor vehicle traffic shall be 10 miles per hour and shall be so posted as authorized by the State of New Jersey, Department of Transportation. In addition, all vehicles must be parked only in designated areas and between the lines provided. Stop intersections, if any, shall be as designated in Schedule VI,<sup>EN(197)</sup> and parking restrictions shall exist as contained in N.J.S.A. 39:1-1 et seq., and/or as set forth in this chapter.

Amherst Commons

Amherst Pharmacy

Buttonwood School

Crossroads Plaza, Route 38, Block 15-03, Lots 1, 2, and 6.03 [Added 12-18-2001 by Ord. No. 2001-19]

Florence L. Walther School

Flower Junction

Foodtown Plaza

Lumberton Middle School (except that the speed limit for both directions of traffic in the parking lots shall be 15 miles per hour, and the speed limit for both directions of travel on all roadways within the complex shall be 25 miles per hour their entire length) [Added 10-2-1995 by Ord. No. 1995-22]

Lumberton Professional Building

Madison Plaza

Midway School

Peppermint Tree Daycare Center

Timart

Summary

- B. The provisions of N.J.S.A. 39:1-1 et seq., and the provisions of Chapter IX, Traffic,<sup>EN(198)</sup> shall be applicable to the semipublic or private roads, streets, driveways, terraces, parking areas or other roadways located within the following commercial or school sites that are open to or used by the public, residents, tenants, customers, students and employees for purposes of vehicular traffic and shall be enforceable by those officers, agencies and individuals authorized to enforce the same under the laws of the State of New Jersey pursuant to N.J.S.A. 39:5A-1. Regulatory and warning signs shall be erected and maintained to effect the designated speed limit set forth herein and as authorized by the State of New Jersey, Department of Transportation. Stop intersections, if any, shall be as designated in Schedule VI,<sup>EN(199)</sup> and parking shall be in designated areas, and in which all vehicles must park between the lines provided.
- (1) Evergreen Plaza: 15 miles per hour in each direction of travel. In addition to all the regulations herein provided for, any vehicle parked or standing so as to obstruct or impede a normal flow of traffic or blocking entrances or exitways, loading zones, oil fills or on any grass area, pedestrian walkway or presenting in any other way a safety or traffic hazard may be removed by towing said vehicle at the owner's or operator's expense.
  - (2) Whitesell Corporate Complex (Mark Stevens CVS).
    - (a) Speed limits:
      - [1] The speed limits for both directions of traffic in the parking lot shall be 10 miles per hour.
      - [2] The speed limits for both directions of traffic on Berry Drive is 25 miles per hour along its entire length.
    - (b) Vehicles must park only in designated areas and between the lines provided.
    - (c) Stop intersections, if any, shall be designated in Schedule VI.<sup>EN(200)</sup>

**§ 265-4. Government offices, complexes and community centers.**

The provisions of N.J.S.A. 39:1-1 et seq., and the provisions of Chapter IX, Traffic,<sup>EN(201)</sup> shall be applicable to the semipublic or private roads, streets, driveways, terraces, parking areas or the roadways located within the following governmental or municipal or community complexes or community centers, that are open to or used by the public, residents, officers, officials or

employees for purposes of vehicular traffic and shall be enforceable by those officers, agencies and individuals authorized to enforce the same under the laws of the State of New Jersey pursuant to N.J.S.A. 39:5A-1. The maximum speed limits on any such roadway or thoroughfare intended for the passage of motor vehicle traffic shall be 10 miles per hour and shall be so posted with regulatory warning signs as authorized by the State of New Jersey, Department of Transportation. All vehicles must park only in designated areas and between the lines provided. Stop intersections, if any, shall be as designated in Schedule VI.<sup>EN(202)</sup>

Lumberton Emergency Squad

Lumberton Fire Company

Lumberton Township Municipal Building

Ridgeway Gaun Building

United States Post Office Complex

Village Green

**§ 265-5. Apartment complexes and residential developments.**

The provisions of N.J.S.A. 39:1-1 et seq., and the provisions of Chapter IX, Traffic,<sup>EN(203)</sup> shall be applicable to the semipublic or private roads, streets, driveways, terraces, parking areas or the roadways located within the following apartment complexes/residential developments, that are open to or used by the public, residents, tenants, guests, etc., for purposes of vehicular traffic and shall be enforceable by those officers, agencies and individuals authorized to enforce the same under the laws of the State of New Jersey pursuant to N.J.S.A. 39:5A-1. Regulatory and warning signs shall be erected and maintained to effect the designated speed limits set forth herein and as authorized by the State of New Jersey, Department of Transportation. Stop intersections, if any, shall be as designated in Schedule VI,<sup>EN(204)</sup> and parking shall be in designated areas, and in which all vehicles must park between the lines provided.

- A. Apartment complexes. The maximum speed limits for the following roadways or thoroughfares in the following complexes/developments intended for the passage of motor vehicle traffic shall be as follows:

- (1) Dorado Garden Apartments: 10 miles per hour in each direction of travel.
- (2) Lumberton Apartments:
  - (a) Wind Mill Way: 10 miles per hour, each direction of traffic, the entire length.
  - (b) All other roadways: 10 miles per hour, each direction of traffic, the entire length.
- (3) Whitehall Apartments: 10 miles per hour in each direction of travel.

**B. Residential developments.**

- (1) Country Estates:
  - (a) All Spice Way: 25 miles per hour, each direction of travel, the entire length.
  - (b) Coriander Drive: 20 miles per hour, each direction of travel, the entire length.
  - (c) Ginger Drive: 20 miles per hour, each direction of travel, the entire length.
  - (d) Savory Way: 25 miles per hour, each direction of travel, the entire length.
  - (e) All other roadways: 10 miles per hour, each direction of travel, their entire lengths.
- (2) Country Village: 25 miles per hour for all roads, for each direction of travel, the entire length.
- (3) Evergreen Gardens: 10 miles per hour for each direction of travel, the entire length.
- (4) Hunters Crossing: 25 miles per hour for each direction of travel, the entire length.
- (5) Maple Grove Estates: 25 miles per hour for each direction of travel, the entire length of each road.
- (6) Marriott Farms: 25 miles per hour for each direction of travel, the entire length of each roadway.
- (7) Orchard View Estates: 25 miles per hour for each direction of travel, the entire length of each roadway.
- (8) Stonegate: 25 miles per hour for each direction of travel, the entire length.
- (9) Woodlands at Lumberton: 25 miles per hour for each direction of travel, the entire length of each roadway.

**§ 265-6. Additional stop intersections.**

Schedule IV of Chapter IX is hereby amended by adding to the listing of stop intersections already contained in said Schedule the following stop intersections.<sup>EN(205)</sup>

**§ 265-7. Yield intersections.**

Schedule \_\_\_\_\_ of Chapter IX, Traffic, is hereby amended by adding to the list of yield intersections already contained in said schedule the following new yield intersections.<sup>EN(206)</sup>

**§ 265-8. Tow away authorization.**

Any vehicle parked or standing in a fashion which obstructs or impedes the normal flow of traffic, which blocks entrances or exits or blocks loading zones, oil fills or any grass area or pedestrian walkway or presents, in any way, a safety or traffic hazard, as so determined in the opinion of a municipal police officer, may be removed by having the vehicle towed at the owner's or operator's expense.

**§ 265-9. Violations and penalties.**

Should any owner, operator, driver or person violate any of the provisions of this Part 1, or of the ordinance and code sections to which this Part 1 is amendatory and supplementary, and should said person be convicted of any such violations, said person shall be liable for a penalty of not more than \$50 for each offense or imprisonment for a term not exceeding 15 days, or both, unless some other penalty is expressly provided for by a New Jersey statute.

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**ARTICLE IIA, Deer Run Estates [Added 12-16-2002 by Ord. No. 2002-14]**

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**§ 265-9.1. Applicability of Title 39.**

A. Declarations.

- (1) Deer Run Estates Homeowners' Association, 1150 West St. George Avenue, Linden, New Jersey (07036) has filed a written consent with the Township of Lumberton, County of Burlington, that the provisions of Subtitle One of Title 39 of the revised statutes of New Jersey be made applicable to the semipublic roads, streets, driveways and parking lots at Deer Run Estates (Fawn Court) located in the Township of Lumberton, County of Burlington and that certain regulations shall be enforceable.

(2) The Township Committee has reviewed said written consent and desires to act favorably with respect thereto.

B. Regulations. The Township Committee hereby declares that the following regulations and provisions shall apply to the Deer Run Estates Homeowners' Association:

(1) General parking.

- (a) All vehicles must park in designated areas and between the lines provided.
- (b) No person shall stop or stand a vehicle upon any of the streets or parts of streets described below, except in areas covered by other parking restrictions.

<b>Name of Street</b>	<b>Sides</b>	<b>Hours</b>	<b>Location</b>
Fawn Court	Both	All	As indicated on site plan <sup>EN(207)</sup>

(c) Handicapped parking. All stalls shall be 12 feet wide as shown on the attached site plan and signed with the R7-8 and R7-8P (reserved parking sign and penalty plate), in the designated parking areas for persons who have been issued the handicapped parking permit by the Division of Motor Vehicles.

(2) Through streets; stop intersections.

(a) Through streets. The following streets or parts of streets are designated as through streets. Stop signs shall be installed on the near right side of each street intersecting the through street except where yield signs are provided for the in the designation.

<b>Name of Street</b>	<b>Limits</b>
Fawn Court	Entire length

(b) Stop intersections. The following described intersections are hereby designated as stop intersections. Stop signs shall be installed as provided therein.

stop intersections. Stop signs shall be installed as provided therein.

**Intersection**

**Stop Sign(s) on:**

Fawn Court and Deer Run

Fawn Court Northerly intersect

Fawn Court and Deer Run

Fawn Court Southerly intersect



(3) Speed limits.

(a) The speed limit for both directions of travel on the following roadways are:

<b>Name of Roadway</b>	<b>Speed Limit (mph)</b>	<b>Limits</b>
Fawn Court	25	Entire length
Aisle A	15	Entire length
Aisle B	15	Entire length

(b) Regulatory and warning signs shall be erected and maintained to effect the above-designated limits authorized by the Department of Transportation.

(4) Tow-away zones. Any vehicle parked or standing as to obstruct or impede a normal flow of traffic, block entrances or exitways, loading zones, oil fills, any grassy area, pedestrian walkway or present in any way a safety or traffic hazard may be removed by towing the vehicle at the owner's or operator's expense.

(5) Unless another penalty is expressly provided for by the New Jersey statute, every person convicted of a violation of this article or any supplement thereto shall be liable to a penalty of not more than \$50 or imprisonment for a term not exceeding 15 days, or both.

C. This article shall take effect upon final passage and publication according to law and upon approval by the New Jersey Department of Transportation.

Part 2, General Traffic Regulations [Adopted 12-21-1992 by Ord. No. 1992-13]

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**ARTICLE III, General Provisions**

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**§ 265-10. Establishment of regulations; codification.**

There are hereby established within the Township of Lumberton the following rules, regulations and laws governing vehicles and traffic within the Township of Lumberton. This Part 2 shall be codified in the Code of the Township of Lumberton in a chapter entitled "Vehicles and Traffic."

**§ 265-11. Definitions.**

Whenever any words and phrases are used in this Part 2, the meanings respectively ascribed to them in Subtitle 1 of Title 39 of the New Jersey Statutes Annotated shall be deemed to apply to such words and phrases used herein.

**§ 265-12. Violations and penalties.**

Unless another penalty is expressly provided by New Jersey statute, every person convicted of a violation of a provision of this Part 2 or any supplement thereto shall be liable to a penalty of not more than \$50 for each offense or imprisonment for a term not exceeding 15 days, or both.

**§ 265-13. Official time standard.**

Whenever certain hours are named in this Part 2, they shall mean either Eastern standard time or Eastern daylight saving time, as may be in current use in the Township.

**§ 265-14. Provisions saved from repeal.**

Ordinance No. 1992-5,<sup>EN(208)</sup> adopted by the Township Committee of the Township of Lumberton on June 15, 1992, is expressly saved from repeal by the adoption of this Part 2.

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**ARTICLE IV, Traffic Regulations**

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**§ 265-15. Traffic control signals.**

A. Traffic control signals shall be installed and operated at the intersection of those streets described in Schedule I (Article X), attached to and made a part of this Part 2.

- B. The traffic signal installation shall be in accordance with the provisions of an Act Concerning Motor Vehicles and Traffic Regulations, Subtitle 1 of Title 39 of the New Jersey Statutes Annotated, and shall conform to the design and shall be maintained in operation as authorized by the Department of Transportation of the State of New Jersey.

**§ 265-16. Speed limits.**

- A. The speed limit for both directions of traffic along the streets or parts thereof described in Article X, Schedule II, attached to and made a part of this Part 2, is hereby established at the rate of speed indicated.
- B. Regulatory and warning signs shall be erected and maintained to effect the above-designated speed limits.

**§ 265-17. One-way streets.**

The streets or parts of streets described in Article X, Schedule III, attached to and made a part of this Part 2, are hereby designated as one-way streets in the direction indicated.

**§ 265-18. U-turns.**

No person shall make a U-turn on any of the streets or parts of streets described Article X, Schedule IV, attached to and made a part of this Part 2.

**§ 265-19. Prohibited turns at intersections.**

No person shall make a turn of the kind designated (left, right, all) at any of the locations described in Article X, Schedule V, attached to and made a part of this Part 2.

**§ 265-20. Prohibited right turns on red signal.**

No person shall make a right turn when facing a steady red signal (stop indication) at any of the locations described in Article X, Schedule VI, attached to and made a part of this Part 2.

**§ 265-21. Through streets.**

The streets or parts of streets described in Article X, Schedule VII, attached to and made a part of

this Part 2, are hereby designated as through streets. Stop signs shall be installed on the near right side of each street intersecting the through street except where yield signs are provided for in the designations.

**§ 265-22. Stop intersections.**

The intersections described in Article X, Schedule VIII, attached to and made a part of this Part 2, are hereby designated as stop intersections. Stop signs shall be installed as provided therein.

**§ 265-23. Yield intersections.**

The intersections described in Article X, Schedule IX, attached to and made a part of this Part 2, are hereby designated as yield intersection. Yield signs shall be installed as provided therein.

**§ 265-24. Lane use reservations.**

The lane locations described in Article X, Schedule X, attached to and made a part of this Part 2, are hereby designated as lane use reservations, and traffic shall move only as indicated.

**§ 265-25. No-passing zones.**

No-passing zones are hereby established and shall be maintained along those streets or parts of streets described in Article X, Schedule XI, attached to and made a part of this Part 2, as authorized by the New Jersey Department of Transportation in accordance with the sketch dated and numbered as indicated.

**§ 265-26. Trucks over certain weights excluded.**

Trucks in excess of the gross weights indicated are hereby excluded from the streets or parts of streets described in Article X, Schedule XII, attached to and made a part of this Part 2, except for the pickup and delivery of materials on such streets.

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**ARTICLE V, Parking, Standing and Stopping**

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**§ 265-27. Regulations not exclusive.**

The provisions of this Article imposing a time limit on parking shall not relieve any person of the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles as set forth in N.J.S.A. 39:4-138, any other New Jersey statute or as hereinafter provided.

**§ 265-28. Parking vehicles over certain weight.**

- A. Parking prohibited. No person shall park any truck, bus, trailer or tractor, the gross registered weight of which exceeds 8,000 pounds, upon any street or portions thereof within any residential zone within the Township; nor shall any person park any truck, bus, trailer or tractor, the gross registered weight of which exceeds 8,000 pounds, upon any municipal parking lot within the Township.
- B. Exceptions. Nothing within this section shall be construed as preventing vehicles exceeding a gross registered weight of four tons from making deliveries of merchandise within a residential zone or as prohibiting any vehicle exceeding a gross registered weight of four tons, used by any public utility company in connection with the construction, installation, operation or maintenance of public utility facilities, from parking while being used for those purposes; neither shall this section be construed as preventing vehicles exceeding a gross registered weight of four tons from being used in cases of emergencies within a residential zone of the Township in order to preserve and protect persons and property within the residential zone.

**§ 265-29. Parking prohibited at all times.**

No person shall park a vehicle at any time upon any of the streets or parts thereof described in Article X, Schedule XIII, attached to and made a part of this Part 2.

**§ 265-30. No stopping or standing.**

No person shall stop or stand a vehicle upon any of the streets or parts of streets described in Article X, Schedule XIV, attached to and made a part of this Part 2.

**§ 265-31. Parking prohibited certain hours.**

No person shall park a vehicle between the hours specified in Article X, Schedule XV, of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said schedule, attached to and made a part of this Part 2.

**§ 265-32. No stopping or standing certain hours.**

No person shall stop or stand a vehicle during the times specified in Article X, Schedule XVI, of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said schedule, attached to and made a part of this Part 2.

**§ 265-33. Time limit parking.**

No person shall park a vehicle for longer than the time limit shown in Article X, Schedule XVII, at any time between the hours listed in said schedule of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said schedule, attached to and made a part of this Part 2.

**§ 265-34. Seasonal parking restrictions.**

From December 1 to March 15 of any year, it shall be unlawful to park any vehicle between the hours of 2:00 a.m. and 5:00 p.m. upon any of the public streets in the Township.

**§ 265-35. Angle parking.**

No person shall park a vehicle upon any of the streets or parts thereof described in Article X, Schedule XVIII, attached to and made a part of this Part 2, except at the angle designated and only within the painted white stall lines.

**§ 265-36. Loading zones.**

The locations described in Article X, Schedule XIX, attached to and made a part of this Part 2, are hereby designated as loading zones.

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**ARTICLE VI, Emergency No Parking**

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**§ 265-37. Posting of signs.**

- A. Upon the declaration of an emergency, there shall be no parking upon streets or parts of streets where temporary emergency no-parking signs are displayed. The Chief of Police or, in his absence, the ranking subordinate is authorized to declare an emergency and to direct the posting of said emergency no-parking signs when weather conditions, accidents, fires, public works construction or cleaning or public celebrations dictate or require the avoidance of hazards or other conditions which interfere with the free flow of traffic.
- B. Notification that the emergency no-parking signs are being or will be posted shall be given to the operator or owner of any vehicle which has been parked prior to the posting of the signs.

**§ 265-38. Removal of vehicles.**

Any unoccupied vehicle parked or standing in violation of this Article shall be deemed a nuisance and a menace to the safe and proper regulation of traffic, and any police officer may provide for the removal of such vehicle. The owner shall pay the reasonable costs of the removal and storage which may result from such removal before regaining possession of the vehicle.

**§ 265-39. Effectiveness of provisions.**

The effectiveness of this Article is contingent upon signs being erected as required by law.

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**ARTICLE VII, Public Parking Areas**

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**§ 265-40. Statutory authority.**

This Article is adopted pursuant to the regulatory powers conferred upon municipalities with respect to traffic and parking regulations at parking yards, parking places and areas open to the public or to which the public is invited, as set forth in N.J.S.A. 40:48-2.46.

**§ 265-41. Definitions.**

As used in this Article, the following words shall have the meanings indicated:

ACCESS LANE -- The lanes provided for access to the parking spaces.

DIRECTIONAL ARROW -- Arrows painted on the surface of the parking lot or depicted on signs indicating the permitted direction of movement of traffic in the access lanes.

ESTABLISHMENT -- All public, private or commercial establishments, including Township and public buildings and lots, schools, churches, theaters, apartment houses, retail and wholesale stores and shopping centers, providing or required to provide off-street parking for the use of visitors, parishioners, students, teachers, customers, patrons, tenants or employees or others parking their cars while having business at or attending the establishment.

FIRE LANE -- A ten-foot-wide lane abutting and parallel to the curbline in front of and along the rear and side of the buildings comprising the establishment and the access to and from them from the public roads or streets bounding the parking lot for the use of firefighting and other emergency equipment, provided that where it is impractical to so locate the "fire lane," it shall mean such substitute "fire lane" for such purpose designated by the Township Fire Marshal.

PARKING LOT or ESTABLISHMENT PARKING LOT -- The entire area so provided by the establishment for off-street parking, including the means of access thereto by vehicle or on foot from public streets, the buildings or other areas comprising the establishment, including all parking spaces, access lanes, turnarounds and fire lanes.

PARKING SPACE -- The space indicated on the surface of the parking lot for parking a single vehicle.

**§ 265-42. Parking spaces and traffic direction to be indicated.**

The owners of a parking lot serving an establishment shall clearly delineate with painted lines on the surface of the parking lot each parking space, the permitted direction of traffic by directional arrows and the fire lanes by a painted line and the phrase "fire lane" or "fire lane -- no parking." Where the surface is such that painting is impractical, there shall be substituted concrete or other markers and/or signs.

**§ 265-43. Reserved areas.**

In the case of parking lots having a portion reserved for parking or standing of cars of officials or employees or for school buses or for loading or unloading areas or other purposes, the permitted parking area so reserved shall be clearly marked and the restriction painted on the surface or marked by a sign. No person shall park a car in such a reserved area except in compliance with the reservation.



**§ 265-44. Parking regulations.**

- A. No person shall park a motor vehicle in any place in a parking lot except within the lines of a designated parking space and particularly shall not park in a fire lane.
- B. No person shall drive a motor vehicle to or from any parking space or over any part of a parking lot except in the access lanes.
- C. No person shall drive a motor vehicle in any parking lot along an access lane except in the direction indicated by the directional arrows and on the driver's right-hand side of such lane.
- D. No person shall operate a motor vehicle in a parking lot at a speed greater than 15 miles per hour (mph).
- E. The operator of a motor vehicle being driven from a public parking lot to a public road shall bring the vehicle to a complete stop at the exit to the public road and shall yield to all traffic approaching from on the public road.
- F. The operator of a motor vehicle entering an access lane from an intersecting access lane shall yield the right-of-way to any vehicle in the intersecting access lane approaching from the driver's right.
- G. Any vehicle parked in a parking lot in violation of the terms of this Article may be hauled away to a garage at the owner's or operator's expense.
- H. No vehicle and no person whether in a vehicle or on foot shall enter or remain in such parking lot without express or implied invitation from the owner or from the proprietor or a tenant of one of the establishments served by the parking lot. An invitation, express or implied, shall be deemed to have been extended to the owners, proprietors, tenants and employees of the establishment served by the parking lot.

**§ 265-45. Access to parking lot.**

The following persons shall have access to the parking lot:

- A. Police, emergency, utility or other persons or vehicles necessarily entering the parking lot in discharge of their necessary functions in connection therewith at any time.
- B. Visitors, parishioners, students, customers or shoppers during the time any of the establishments served by the parking lot are open.

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**ARTICLE VIII, Traffic Controls for Street and Highway Construction and Maintenance Operations**

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**§ 265-46. Adoption of standards; compliance required.**

- A. The Township Committee of the Township of Lumberton, County of Burlington and State of New Jersey, does hereby adopt Part VI, entitled "Traffic Control Controls for Street and Highway Construction and Maintenance Operations," from the current Manual on Uniform Traffic Control Devices and its revisions, as it controls and regulates whenever construction maintenance operations of utility work obstructs the normal flow of traffic. [Amended 8-16-1993 by Ord. No. 1993-16]
- B. Any person, firm or corporation who fails to comply with the provisions of Part IV of the Manual on Uniform Traffic Control Devices while performing such work is in violation of this Article.

**§ 265-47. Preconstruction meetings.**

It shall be the responsibility of the person, firm or corporation wishing to conduct work on, above or below any roadway to contact the Chief of Police or his designee and the Township Engineer or his designee in order to arrange a preconstruction meeting and to submit plans at the meeting pertinent to working hours, flagmen and the safe movement of traffic during such periods of construction work. Any person, firm or corporation who fails to comply with this section prior to the start of work is in violation of this Article.

**§ 265-48. Emergency contact telephone numbers.**

- A. The person, firm or corporation conducting such work shall provide the Police Department at the preconstruction meeting with a minimum of two emergency contact telephone numbers to be called in case of emergency problems at the construction or maintenance site prior to the start of any work.
- B. If, for any reason, emergency contacts cannot be reached or if the emergency contact person fails to respond to a call from the Police Department to correct a hazardous condition, the Township will respond to correct the hazard. The reasonable cost, if any, for such emergency service by the Township shall be charged to the person, firm or corporation responsible for

the construction or maintenance project.

**§ 265-49. Road closings and detours.**

Road closings and/or detours shall not be permitted unless approved by the Chief of Police or his designee.

**§ 265-50. Flagmen.**

Flagmen shall be posted at all construction and maintenance sites when determined by the Chief of Police or his designee that the same is necessary for the safe and expeditious movement of traffic. Flagmen shall be properly equipped and trained prior to directing traffic at the construction or maintenance site, and the expense of posting flagmen shall be the responsibility of the person, firm or corporation performing the work.

**§ 265-51. Stop-work orders.**

The Chief of Police or his designee shall have the authority to stop work, including the removal of equipment and vehicles, stored materials within the street right-of-way, backfilling of open excavations and/or other related work, in order to abate nuisances and/or safety hazards or from any violation of this Article. Any expense resulting from a stop-work order shall be the responsibility of the person, firm or corporation performing the work without any charges or liens accruing against the Township.

**§ 265-52. Violations and penalties.**

Any person, firm or corporation that shall violate any of the provisions of this Article shall be subject to the same penalties as provided in Article III of this Part 2. A separate violation shall be deemed committed on each day during or which a violation occurs or continues.

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**ARTICLE IX, Private and Semipublic Property** EN(209)

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**§ 265-53. Applicability of other provisions; speed limits; stop intersections; parking restrictions.**

The provisions of N.J.S.A. 39:1-1 et seq., and the provisions of this Part 2 shall be applicable to the following private and/or semipublic roads, streets, driveways, terraces, parking areas or other roadways within the Township of Lumberton and shall be enforceable by those officers, agencies and individuals authorized to enforce the same under the laws of the State of New Jersey, pursuant to N.J.S.A. 39:5A-1. The maximum speed limit on any such roadway intended for the passage of motor vehicle traffic shall be 10 miles per hour and shall be so posted. Stop intersections shall be as designated in Article X, § 265-61, Schedule VIII, Stop Intersections, pursuant to a plan devised and approved by the Department of Transportation, dated November 5, 1984, and incorporated herein by reference. Parking restrictions shall exist as contained in N.J.S.A. 39:1-1 et seq., and/or as set forth in this Part 2.

Lumberton Plaza Shopping Center

Sunnybrook

Concord Motel and Restaurant

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## **ARTICLE X, Schedules**

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### **§ 265-54. Schedule I: Traffic Control Signals.**

In accordance with the provisions of Article IV, § 265-15, traffic signals shall be installed at the following described intersections:

#### **Intersection**

County Road 541 (Main Street) and Landing Street

### **§ 265-55. Schedule II: Speed Limits.**

In accordance with the provisions of Article IV, § 265-16, speed limits are hereby established

upon the following described streets or parts thereof:

<b>Name of Street</b>	<b>Speed limit (mph)</b>	<b>Location</b>
Bella Road	40	Between Main Street (County Road 541) and intersection of Bridge Road
Berry Drive	25	Between Chestnut Street and County Road 541 Bypass
Bobby's Run Boulevard [Added 9-5-1995 by Ord. No. 1195-16]	35	Between Falmouth Drive and Eayrestown Road (CR 612)
Bobby's Run Boulevard [Added 9-5-1995 by Ord. No. 1995-16]	35	Between Lumberton Road (CR 541) and the westerly curbline of Falmouth Drive
Creek Road (County Route 640) (Zone 1) [Added 1-16-1996 by Ord. No. 1996-2]	40	From State Highway Route 38 to 820 feet east of Brandywine Drive
Creek Road (Zone 2) [Added 1-16-1996 by Ord. No. 1996-2]	45	From a point 820 feet east of Brandywine Drive to Main Street (County Route 541)
Falmouth Drive [Added 9-5-1995 by Ord. No. 1995-16]	25	Between Bobby's Run Boulevard and the property line of the middle school
Fostertown Road	45	From Medford Township - Lumberton Township corporate line to Medford Mt. Holly Road (corner of Route 541)
Landing Street	25	Between Main Street (County Road 541) and Municipal Drive

<b>Name of Street</b>	<b>Speed limit (mph)</b>	<b>Location</b>
Maple Grove Boulevard [Added 9-5-1995 by Ord. No. 1995-16]	30	Entire length
Maple Grove Estates development, all interior streets [Added 9-5-1995 by Ord. No. 1995-16]	25	Entire length
Municipal Drive	35	Between Landing Street and 2,430 feet east of Landing Street
Municipal Drive	45	From 2,430 feet east of Landing Street to Eayrestown-Mt. Holly Road
Municipal Drive	25	Through Midway School Zone during recess when presence of children is clearly visible from roadway or while children are going or leaving school during opening and closing hours

**§ 265-56. Schedule III: One-Way Streets.**

In accordance with the provisions of Article IV, § 265-17, the following described streets or parts thereof are hereby designated as one-way streets in the direction indicated:

<b>Name of Street</b>	<b>Direction of Travel</b>	<b>Limits</b>
Easlick Avenue	South	From State Highway Route No. 38 to Ellis Avenue
Middle School circle [Added 10-2-1995 by Ord. No. 1995-22]	One-way, counter-clockwise	Entire length

<b>Name of Street</b>	<b>Direction of Travel</b>	<b>Limits</b>
Parking Lot B [Added 10-2-1995 by Ord. No. 1995-22]	One-way, counter-clockwise	Entire length
Sunnybrook Drive entrance	West	From Eayrestown Road into Sunnybrook Drive
Sunnybrook Drive exit	East	From Sunnybrook Drive out onto Eayrestown Road

**§ 265-57. Schedule IV: U-Turns.**

In accordance with the provisions of Article IV, § 265-18, no person shall make a U-turn at any of the following locations:

<b>Name of Street</b>	<b>Location</b>
Main Street	From a point 208 feet south of Landing Street to a point 394 feet south of Landing Street, being near the entrance of the Lumberton Fire Company

**§ 265-58. Schedule V: Prohibited Turns at Intersections.**

In accordance with the provisions of Article IV, § 265-19, no person shall make a turn of the kind designated below at any of the following intersections:

<b>Name of Street</b>	<b>Direction of Travel</b>	<b>Prohibited Turn</b>	<b>Hours</b>	<b>At Intersection of</b>
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<b>Name of Street</b>	<b>Direction of Travel</b>	<b>Prohibited Turn</b>	<b>Hours</b>	<b>At Intersection of</b>
Berry Drive and delivery exit of CVS Warehouse [Added 5-15-2000 by Ord. No. 2000-12]	West	Left	--	Westbound on Berry Drive

**§ 265-59. Schedule VI: Prohibited Right Turns on Red Signal.**

In accordance with the provisions of Article IV, § 265-20, no person shall make a right turn when facing a steady red signal (stop indication) at any of the following locations:

<b>Intersection</b>	<b>Right Turn Prohibited</b>	<b>Time Limit</b>
Main Street (CR 541) and East/West Landing Street (CR 641) [Amended 8-16-1993 by Ord. No. 1993-16]	Northbound on Main Street (CR 541) to eastbound on East Landing Street (CR 641)	All hours
Main Street (CR 541) and East/West Landing Street (CR 641) [Amended 8-16-1993 by Ord. No. 1993-16]	Southbound on Main Street (CR 541) to westbound on West Landing Street (CR 641)	All hours

**§ 265-60. Schedule VII: Through Streets.**

In accordance with the provisions of Article IV, § 265-21, the following described streets or parts thereof are hereby designated as through streets. Stop signs shall be installed on the near right side of each street intersecting the through street, except where yield signs are provided for in the designation.

<b>Name of Street</b>	<b>Limits</b>
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<b>Name of Street</b>	<b>Limits</b>
All Spice Way [Added 8-16-1993 by Ord. No. 1993-16]	Between Eayrestown Road and the most northerly curbline of Caraway Court
Bobby's Run Boulevard [Added 9-5-1995 by Ord. No. 1995-16]	From Lumberton Road (CR 541) to westerly curbline of Falmouth Drive
Coriander Drive (Country Estates)	Between 50 feet north of Coriander Way and 50 feet south of Margoran Drive
Ginger Drive (Country Estates)	Between 50 feet of Peppercorn Drive and 50 feet west of Ginger Way
Hamilton Avenue [Added 9-5-1995 by Ord. No. 1995-16]	Entire length
Harrogate Drive [Added 9-5-1995 by Ord. No. 1995-16]	From westerly intersection with Bobby's Run Boulevard to easterly intersection with Bobby's Run Boulevard
Henderson Road [Added 9-5-1995 by Ord. No. 1995-16]	From Maple Grove Boulevard to 100 feet south of Walden Way
Kings Bridge Drive [Added 9-5-1995 by Ord. No. 1995-16]	Entire length
Maple Grove Boulevard [Added 9-5-1995 by Ord. No. 1995-16]	Entire length
White Haven Drive [Added 9-5-1995 by Ord. No. 1995-16]	From northerly intersection with Harrogate Drive to southerly intersection with Harrogate Drive

**§ 265-61. Schedule VIII: Stop Intersections. [Amended 8-16-1993 by Ord. No. 1993-16]**

In accordance with the provisions of Article IV, § 265-22, the following described intersections are hereby designated as stop intersections, and stop signs shall be installed as follows:

are hereby designated as stop intersections, and stop signs shall be installed as follows:

<b>Stop Sign on</b>	<b>At Intersection of</b>
Ark Road	Stacy Haines Road
Ashley Lane (easterly intersection) [Amended 9-5-1995 by Ord. No. 1995-16]	Rambling Road (easterly intersection)
Ashley Lane (westerly intersection) [Amended 9-5-1995 by Ord. No. 1995-16]	Rambling Road (westerly intersection)
Bella Road	Bridge Road
Bridge Road	Red Lion Road
Chambers Street	Moore Street
Country Club Way	Bridge Road
Country Way (Marriott Farms)	Fenimore Road
Estate Road	Glenwood Road
Estate Road	Hemsing Drive
Estate Road	Nassau Road
Hemsing Drive	Nassau Road
Holland Place, South (Lumberton Apartments)	Stuyvesant Drive
Holly Brook Avenue	Oaklanding Road
Holly Brook Avenue	Rockland Terrace
Indian Queen Lane	Nassau Road

<b>Stop Sign on</b>	<b>At Intersection of</b>
Junction Lot (Flower Junction)	Nassau Road
Kings Bridge Drive [Added 9-5-1995 by Ord. No. 1995-16]	Gates Head Drive
Landing Street	Municipal Drive
Mark Steven Service Entrance (CVS)	Chestnut Street
Middletown Drive [Added 9-5-1995 by Ord. No. 1995-16]	Watney Lane
Nassau Road	Rockland Terrace
Oaklanding Road	Hemsing Drive
Parking Lot A (northerly exit) [Added 10-2-1995 by Ord. No. 1995-22]	Middle School circle at Parking Lot A (northerly exit)
Parking Lot A (southerly exit) [Added 10-2-1995 by Ord. No. 1995-22]	Middle School circle at Parking Lot A (southerly exit)
Patricia Court (Marriott Farms)	Marriott Drive
Rockland Terrace	Hemsing Drive
Rockland Terrace	Nassau Road
Rye Gateway [Added 9-5-1995 by Ord. No. 1995-16]	Middletown Drive
Rye Gateway [Added 9-5-1995 by Ord. No. 1995-16]	Wexford Drive
Sheffield Terrace	Nassau Road
Stacey Haines Road (formerly known as "Mount Laurel-Eayrestown Road")	Fostertown Road
Stuyvesant Drive	Amsterdam Drive

<b>Stop Sign on</b>	<b>At Intersection of</b>
Walnut Street	Morris Street
Walnut Street	Ridgeway Street
Watney Lane [Added 9-5-1995 by Ord. No. 1995-16]	Wexford Drive
Whitehall Apartments Entrance/Exit Drive No. 2	Rear Drive

**§ 265-62. Schedule IX: Yield Intersections.**

In accordance with the provisions of Article IV, § 265-23, the following described intersections are hereby designated as yield intersections, and yield signs shall be installed as follows:

<b>Yield Sign on</b>	<b>At Intersection of</b>
Entrance/Exit No. 1 (Dorado Garden Apartments)	Front Drive
Entrance/Exit No. 2 (Dorado Garden Apartments)	Front Drive
Front Drive (both sides) (Whitehall Apartments)	Entrance/Exit Drive No. 1
Front Drive (north side) (Whitehall Apartments)	Entrance/Exit Drive No. 2
Roadway from Parking Lot B [Added 10-2-1995 by Ord. No. 1995-22]	Middle School circle at roadway from Parking Lot B

**§ 265-63. Schedule X: Lane Use Reservations.**

In accordance with the provisions of Article IV, § 265-24, all vehicles shall move as described below:

<b>Intersection (Location)</b>	<b>Lane Reserved</b>	<b>Purpose</b>
	(Reserved)	

**§ 265-64. Schedule XI: No-Passing Zones.**

In accordance with the provisions of Article IV, § 265-25, no-passing zones are hereby established and shall be maintained upon the following described streets or parts thereof:

<b>Name of Street</b>	<b>Sketch Dated</b>	<b>Sketch Number</b>
	(Reserved)	

**§ 265-65. Schedule XII: Trucks Over Certain Weights Excluded. [Amended 12-16-1996 by Ord. No. 1996-16]**

In accordance with the provisions of Article IV, § 265-26, trucks in excess of the gross weights indicated are hereby excluded from the following streets or parts thereof, except for the pickup and delivery of materials on such streets:

<b>Name of Street</b>	<b>Weight Limit (pounds)</b>	<b>Location</b>
Any and all other internal roadways constructed in any and all residential developments in the Township of Lumberton	8,000	All streets within development

<b>Name of Street</b>	<b>Weight Limit (pounds)</b>	<b>Location</b>
Bobby's Run (all sections) [Amended 12-18-2006 by Ord. No. 2006-18]	12,000	All streets within development
Chestnut Street from (CR 641) Moore Street south to Landing Street	8,000	All streets within development
Country Estates	8,000	All streets within development
Country Village	8,000	All streets within development
County Route 641, also known as Chestnut Street, also known as Lumberton Road [Added 5-15-2000 by Ord. No. 2000-12]	8,000	From the Hainesport Township/ Lumberton Township corporate line south to Landing Street
Dorado Gardens	8,000	All streets within development
Evergreen Apartments	8,000	All streets within development
Hollybrook/Glenwood	8,000	All streets within development
Lumberton Apartments	8,000	All streets within development
Maple Grove Estates	8,000	All streets within development
Marriott Farms	8,000	All streets within development
Orchard View Estates	8,000	All streets within development
Sterling Chase	8,000	All streets within development
Sunnybrook	8,000	All streets within development
Waverly Subdivision	8,000	All streets within development
Whitehall Apartments	8,000	All streets within development

**§ 265-66. Schedule XIII: Parking Prohibited at All Times.**

In accordance with the provisions of Article V, § 265-29, no person shall park a vehicle at any time upon any of the following described streets or parts thereof:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Maple Avenue [Added 2-7-2005 by Ord. No. 2005-5]	East	From a point 388 feet north of the intersection of Maple Avenue and Route 38 to a point 655 feet north of said intersection, said distance representing the frontage of property currently known as "Allen's Transfer"
Maple Grove Boulevard [Added 11-17-2003 by Ord. No. 2003-10]	Both	From its intersection with Route 38 to Burgundy Circle
Pershing Avenue	South	From its intersection with County Route 541 to Roosevelt Avenue
Sheffield Terrace, south end [Added 2-20-2007 by Ord. No. 2007-4 <sup>EN(210)</sup> ]		In the roadway 120 feet south of the intersection with Glenwood Road

**§ 265-67. Schedule XIV: No Stopping or Standing.**

In accordance with the provisions of Article V, § 265-30, no person shall stop or stand a vehicle upon any of the following described streets or parts thereof:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Chestnut Street	Both	From Ross Street to a point 1,300 feet north thereof

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Chestnut Street [Amended 3-20-1995 by Ord. No. 1995-2]	East	Entire length
Chestnut Street [Added 3-20-1995 by Ord. No. 1995-2]	West	From Morris Street to the end of Chestnut Street at its terminus on the Hainesport-Lumberton border
Fox Run	East	From Newbolds Corner Road to cul-de-sac at its terminus
Landing Street	Both	Between Main Street and Municipal Drive
Landing Street	South	Beginning at the intersection of Second Street and Landing Street, extending 365 feet east
Landing Street	West	Beginning 911 feet south of Municipal Drive extending 230 feet south thereof
Main Street	Both	Between a point 70 feet north of East and West Landing Street
Main Street	Both	From East Landing Street the bridge over the south branch of the Rancocas Creek south for a distance of 835 feet
Main Street (CR 691) [Added 5-15-2000 by Ord. No. 2000-12]	East	From the intersection of Bobby's Run Boulevard to a point 2,055 feet north thereof
Main Street	East	From its intersection with the south branch of Rancocas Creek 325 feet north thereof
Mount Holly-Lumberton Road	Both	Between Madison Avenue and a point 150 feet north thereof
Mount Holly-Lumberton Road	Both	Between State Highway Route No. 38 and a point 150 feet south thereof
Pershing Avenue	South	From its intersection with County Road 541 to Roosevelt Avenue



<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Richmond Avenue	West	Beginning at the entrance to Extended Care Center to the end of Richmond Avenue
West Landing Street	Both	Between Main Street and Chestnut Street

**§ 265-68. Schedule XV: Parking Prohibited Certain Hours.**

In accordance with the provisions of Article V, § 265-31, no person shall park a vehicle between the times specified upon any of the following described streets or parts thereof:

<b>Name of Street</b>	<b>Side</b>	<b>Hours/Days</b>	<b>Location</b>
		(Reserved)	

**§ 265-69. Schedule XVI: No Stopping or Standing Certain Hours.**

In accordance with the provisions of Article V, § 265-32, no person shall stop or stand a vehicle between the times specified upon any of the following described streets or parts thereof:

<b>Name of Street</b>	<b>Side</b>	<b>Hours/Days</b>	<b>Location</b>
		(Reserved)	

**§ 265-70. Schedule XVII: Time Limit Parking.**

In accordance with the provisions of Article V, § 265-33, no person shall park a vehicle for longer than the time limit specified upon any of the following described streets or parts thereof:

<b>Name of Street</b>	<b>Side</b>	<b>Time Limit; Hours/Days</b>	<b>Location</b>
		(Reserved)	

**§ 265-71. Schedule XVIII: Angle Parking.**

In accordance with the provisions of Article V, § 265-35, no person shall park a vehicle upon any of the streets or parts thereof described below, except at the angle designated:

<b>Name of Street</b>	<b>Side</b>	<b>Angle (degrees)</b>	<b>Location</b>
		(Reserved)	

**§ 265-72. Schedule XIX: Loading Zones.**

In accordance with the provisions of Article V, § 265-36, the following described locations are hereby designated as loading zones:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
		(Reserved)

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**ARTICLE XI, Closing of Roadways or Streets to Traffic [Added 3-1-1993 by Ord. No. 1993-3]**

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**§ 265-73. Safety problem at public or private schools.**

The Mayor and/or Township Administrator are hereby authorized and permitted, if he or they shall find that a safety problem exists for ingress and egress to any public or private school or for the provision of recreational facilities for children attending such school or both due to lack of a suitable area surrounding the school, to close any portion of any street within the block upon which such school is located to the use of through traffic during such time as he or they shall determine. Said time of closure shall not exceed one hour between the hours of 7:30 a.m. and 10:00 a.m., two hours between 11:00 a.m. and 2:00 p.m. and one hour between 2:30 p.m. and 4:30 p.m. on any day upon which such school is in session. In exercising said authority, the Mayor and/or Administrator shall permit the use of said portion of said streets so closed during said hours for ingress and egress to such school and for the use by the pupils of such school for recreational purposes, under proper supervision; and the Mayor and/or Administrator shall provide adequate police facilities for such supervision and for the control of traffic upon such portion of such street so closed.

**§ 265-74. Preservation of public safety, health and welfare.**

The Mayor and/or Township Administrator are hereby authorized and permitted to provide for the closing of any street or portion thereof to motor vehicle traffic on any day or days or during specific hours on any day or days whenever he or they find that such closing is necessary for the preservation of the public safety, health or welfare.

**§ 265-75. Posting of notice/warning signs.**

In the event that the Mayor and/or Township Administrator determine that the implementation of the closing of streets and/or roadways as described in the foregoing section is warranted, the Mayor and/or Township Administrator shall provide for the posting of proper warning signs of such closing on any street or portion thereof during the time that the same is closed in pursuance of this Article. Said warning signs shall include, but not necessarily be limited to, a notice of the closing posted at the beginning and ending points of the closed section of the roadway or street so closed, with the erection of a barricade at said point as well.

**§ 265-76. Violations and penalties.**

Where a municipal roadway or street is declared closed to traffic for any lawful purpose pursuant to this Article, and a notice of the closing has been posted at the beginning and ending points of

the closed section of the highway, road or street and the barricade erected at those points, any person who without the permission of the Mayor or Township Administrator of the Township of Lumberton mutilates or removes the notice or damages, destroys or removes any warning sign or signal or removes the barricade placed or posted by the Mayor or Township Administrator at any point along the highway, road or street in connection with or relating to the closed portion thereof; drives a vehicle over or upon the closed section of the highway, road or street which he knows or should have reason to know has been closed to traffic; or violates any rule or regulation for the use of the highway, road or street duly made by the Mayor, Township Administrator or governing body shall be subject to a fine of not more than \$100 per violation.

## Chapter 267, VEHICLES, RECREATIONAL

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 7-15-1974 as Ord. No. 1974-7 (part of Ch. IV of the 1973 Code). Amendments noted where applicable.]

### GENERAL REFERENCES

Noise -- See Ch. 201.

Vehicles and traffic -- See Ch. 265.

#### § 267-1. Prohibited operation. EN(211)

It shall be unlawful to operate any type of unlicensed motor-driven vehicle or conveyance, including but not necessarily limited to snowmobiles, two-wheel motor vehicles known as "mini bicycles," "trail bicycles" and "motor scooters" and four-wheel motor vehicles known as "go-carts" and "all-terrain vehicles" under the following circumstances:

- A. On private property of another without the express written permission to do so by the owner of that property. The driver of such a vehicle will be required to furnish a copy of the written permission upon request by authorized persons.
- B. On any public street located within the township.
- C. On public grounds without express provisions or permission to do so by the property public authority.
- D. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.
- E. In a careless, reckless or negligent manner so as to endanger or be likely to endanger the safety of any person or the property of any other person.

**§ 267-2. Exceptions.**

- A. This chapter shall not apply to police and emergency vehicles.
- B. This chapter shall not be applied to any recognized organization which has applied to the Township Committee for specific use privileges to specified township-owned lands and premises for the purpose of having organized and supervised activities, so long as an insurance policy is filed with the Township Clerk/Administrator for which the Township Committee has given its specific approval and for which the township shall be held harmless for any such use of its lands and premises.

**§ 267-3. Violations and penalties.**

The police shall immediately confiscate the unlicensed motor-driven vehicle operated in the prohibited areas or in the prohibited manner described in § 267-1. The unlicensed motor-driven vehicle shall be returned upon payment of the fine or upon direction of the court. This shall be in addition to any other penalty provided by law or ordinance.

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## **Chapter 271, WATER**

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[HISTORY: Adopted by the Township Committee of the Township of Lumberton: Art. 1, 12-18-1989 as Ord. No. 1989-13. Amendments noted where applicable.]

**GENERAL REFERENCES**  
Swimming pools -- See Ch. 253.

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### **ARTICLE I, Emergency Use Restrictions [Adopted 12-18-1989 as Ord. No. 1989-13]**

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**§ 271-1. Declaration of emergency.**

Whenever the governing body shall be satisfied and finds that a water emergency exists in the township, it may adopt a resolution declaring that a water emergency exists in the township. Such resolution shall be adopted by the governing body at any regular, special, adjourned or emergency public meeting of the Township Committee. Such resolution shall identify that portion of the municipality affected by the water emergency, which may include the entire

municipality, and shall specify which of the water use regulations contained in § 271-2 is being imposed as well as any exemptions as may be authorized. Such resolution shall be effective immediately upon publication according to law and shall continue in effect for 90 days, unless extended or repealed as set forth in § 271-3. For the purpose of this section, a "water emergency" shall exist if, for any of the following reasons:

- A. The public utility providing water service to all of the municipality has adopted water use restrictions and has notified the municipality, the New Jersey Board of Public Utilities and the New Jersey Department of Environmental Protection, as well as any other state, county or local agency entitled to notice of such restrictions, and such restrictions are not overruled or declared invalid by any state, county or local agency having jurisdiction and power to do so; or
- B. The governing body is otherwise satisfied that a water emergency exists in the municipality.

**§ 271-2. Use restrictions enumerated.**

- A. Upon adoption by the governing body of a resolution declaring that a water emergency exists in Lumberton Township in accordance with § 271-1, all citizens shall be urged to observe voluntary indoor conservation measures, and any of the following water use restrictions shall be imposed and shall be applicable to all residents and tenants except where a bona fide health emergency exists and to exempt businesses, as specified herein during the water emergency;
  - (1) The complete ban and prohibition of outside water usage, including the watering of lawns and plants, the filling of pools and the washing of cars.
  - (2) Outside water usage on alternate days allowing outside water usage by persons or businesses having even house or box numbers on even days and those having odd house or box numbers on odd days outside water usage being completely banned and prohibited on the thirty-first day of any month during the water emergency.
  - (3) Any other water use restrictions specified by the governing body in the resolution required by § 271-1 which is reasonable under the circumstances considering the nature and extent of the water emergency.
- B. Any water restriction imposed pursuant to this section shall be limited in application to that portion of the municipality, which may include the entire municipality, identified as being affected by the water emergency in the resolution of the governing body adopted in accordance with § 271-1.

**§ 271-3. Duration of restrictions.**

The resolution of the governing body required by § 271-1 shall, in addition to complying with that section, provide a period of time during which the water use restrictions imposed shall be applicable and which shall be no longer than reasonably necessary to abate the water emergency under the circumstances, considering the nature and extent of the water emergency. At the expiration of the time period specified in the resolution, the water use restriction shall lapse and be inapplicable and unenforceable. If the governing body shall be satisfied that the water emergency has been abated prior to the expiration of the time period specified in the resolution, it shall adopt a resolution declaring the water emergency ended and the water use restrictions inapplicable. If, at the expiration of the time period specified in the resolution, the governing body shall be satisfied that the water emergency continues to exist, the governing body may adopt a resolution in accordance with the requirements of this Article continuing the water use restrictions.

**§ 271-4. Enforcement.**

The water use restrictions imposed pursuant to this Article shall be enforced during a water emergency by the local authorized official, who shall be identified in the resolution declaring a water emergency. Whenever the local authorized official shall find a violation of the water use restrictions, he or she shall give the violator a written warning and explain the penalties for a second and third offense as provided by § 271-5. The local authorized official shall keep whatever records may be reasonable and necessary for the purpose of determining those persons and businesses who have been warned upon a first offense. The local authorized official is hereby empowered to write summonses for the violations of the water use restrictions imposed pursuant to this Article.

**§ 271-5. Violations and penalties.**

For a first offense, a warning will be issued by the local authorized official. For a second offense, upon conviction, the offender shall be subject to a fine of not more than \$500 or imprisonment in the county jail for a period of 10 days, or both. For a third and subsequent offense, upon conviction, the offender shall be subject to a fine of not less than \$500 nor more than \$1,000 or imprisonment in the county jail for a period of not more than 30 days, or both.

**§ 271-6. Immunity from liability for property damage. [Added 2-20-1990 by Ord. No.**

**1990-5]**

The township and its agents, officers, employees, servants or representatives and any volunteers acting in good faith to carry out, comply with or attempt to comply with any order, rule or regulation promulgated pursuant to the provisions of this Article or performing any authorized service in connection therewith shall be immune from any liability for injury or death to persons or damage to property as the result of any such activity.

## **PART III BOARD OF HEALTH LEGISLATION**

### **Chapter 281, GENERAL PROVISIONS, BOARD OF HEALTH**

[HISTORY: Adopted by the Board of Health of the Township of Lumberton: Art. I, 5-1-1995 as Ord. No. BH-1-1995. Amendments noted where applicable.]

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#### **ARTICLE I, Adoption of Code by Board of Health [Adopted 5-1-1995 as Ord. No. BH-1-1995]**

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##### **§ 281-1. Adoption of Code.**

Pursuant to N.J.S.A. 40:49-4 and N.J.S.A. 26:3-66, the ordinances of the Board of Health of the Township of Lumberton of a general and permanent nature, as revised, codified and consolidated into chapters and sections by General Code Publishers Corp. and consisting of Chapters 281 through 298, are hereby approved, adopted, ordained and enacted as Part III of the Code of the Township of Lumberton, hereinafter known and referred to as the "Code."

##### **§ 281-2. Code supersedes prior ordinances.**

This ordinance and the Code shall supersede all other general and permanent ordinances of the Board of Health enacted prior to the enactment of this Code, except such ordinances as are expressly saved from repeal or continued in force and effect hereinafter.



**§ 281-3. When effective.**

All provisions of this ordinance and the Code shall take effect 30 days after the date of the first publication.

**§ 281-4. Copy of Code on file.**

A copy of the Code in loose-leaf form has been filed in the office of the Secretary of the Board of Health and shall remain there for use and examination by the public until final action is taken on this ordinance; and if this ordinance shall be adopted, such copy shall be certified as provided by law, and such certified copy shall remain on file in the office of the Secretary of the Board of Health, to be made available to persons desiring to examine the same during all times while said Code is in effect.

**§ 281-5. Amendments to Code.**

Any and all additions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intent of the Board of Health to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Township of Lumberton" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code, as amendments and supplements thereto.

**§ 281-6. Publication; filing.**

The Secretary of the Board of Health, pursuant to law, shall cause to be published, in the manner required, a copy of this adopting ordinance in a newspaper of general circulation in the township. Sufficient copies of the Code shall be maintained in the office of the Secretary for inspection by the public at all times during regular office hours. The enactment and publication of this adopting ordinance, coupled with availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

**§ 281-7. Code book to be kept up-to-date.**

It shall be the duty of the Secretary, or someone authorized and directed by the Secretary, to keep

up-to-date the certified copy of the book containing the Code required to be filed in the Secretary's office for the use of the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification, which shall be adopted specifically as parts of the Code, shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

**§ 281-8. Altering or tampering with Code; violations and penalties.**

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Board of Health to be misrepresented thereby. Anyone violating this section of this ordinance shall be subject, upon conviction, to a fine of not less than \$5 nor more than \$500.

**§ 281-9. Severability of Code provisions.**

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or parts thereof.

**§ 281-10. Severability of ordinance provisions.**

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or parts thereof.

**§ 281-11. Repeal of ordinances.**

All ordinances of a general and permanent nature adopted by the Board of Health and in force on the date of the adoption of this ordinance and not contained in the Code, or referenced in § 281-1 hereof, are hereby repealed as of the effective date of this adopting ordinance, except as hereinafter provided.

**§ 281-12. Ordinances saved from repeal.**

The adoption of this Code and the repeal of ordinances provided for in § 281-11 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinances of the Board of Health adopted subsequent to May 30, 1991.
- B. Any right of liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance, or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision, or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending, or any judgment rendered, prior to the effective date of this ordinance, brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- G. Any provisions of an ordinance or resolution of the Board of Health creating employments, positions or offices and fixing salaries and duties therefor which are not provided in the Code hereby adopted and which are not in conflict or inconsistent therewith, or any ordinance pertaining to the salaries and compensation of Board of Health officers and employees.

**§ 281-13. Changes in previously adopted ordinances.**

- A. In compiling and preparing the ordinances of the Board of Health for adoption and revision as part of the Code pursuant to N.J.S.A. 40:49-4, certain grammatical changes and other minor changes were made in one or more of said ordinances. It is the intention of the Board of Health that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.
- B. In addition, the following changes, amendments or revisions are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)<sup>EN(212)</sup>
- C. In addition, the following nomenclature changes are made throughout the Code:
  - (1) After all specific statutory references, the following words are added: "...or any

amendments or supplements thereto."

- (2) All references to "Deputy Treasurer" are changed to "Financial Administrative Assistant."
- (3) All references to "Township Treasurer" are changed to "Chief Financial Officer."

## Chapter 283, ADMINISTRATION

[HISTORY: Adopted by the Board of Health of the Township of Lumberton 12-17-1973 as Ch. BH-II of the 1973 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

General provisions, Board of Health -- See Ch. 281.

#### § 283-1. Title.

This chapter shall be known and may be cited as the "Administrative Code of the Board of Health of the Township of Lumberton" and is herein referred to as the "code."

#### § 283-2. President; appointment and term.

There shall be a President of the Board of Health who shall preside at all its meetings. The President shall be appointed by the Board of Health from among its members for a term of one year.

#### § 283-3. Secretary; appointment and term.

There shall be a Secretary of the Board of Health who shall be responsible to the Board and who shall issue all licenses authorized by the Board. The Secretary shall be appointed by the Board for a term of one year.

#### § 283-4. Special health reporting officers.

There shall be, when appointed by the Board, special health reporting officers of the Board of Health who shall promptly report to the Board every violation of health ordinances, rules and regulations which may come within their observation or knowledge. The police and fire officers of the township may be designated special health reporting officers of the Board of

Health.EN(213)

**§ 283-5. Additional personnel.**

The Board may employ such other personnel as it may deem necessary, including technicians, inspectors and others necessary to carry out the powers vested in the Board by law and by this code. All such personnel shall, where required, be appropriately licensed.

**§ 283-6. Emergency powers.**

Whenever the Board of Health finds that the public safety will not permit delay, it may exercise one or more of the following powers without having to resort to legal proceedings and without the necessity of giving notice or holding any hearing which would otherwise be required under any provision of this code.

- A. Power to prevent sale of food. The Board of health may prohibit the importation into the township or sale of any food, drink or other item intended for human consumption or use from a source suspected of being infected, contaminated, unsanitary, unhealthy or dangerous.
- B. Power to seize and destroy unwholesome food. The Board of Health may order the seizure and destruction of any food, drink or other item intended for human consumption which is unwholesome or dangerous or likely to cause sickness or injury to the persons who consume it.

**§ 283-7. Right of entry.**

- A. Inspection of premises. The Board of Health, its agents and employees shall have the right to inspect any premises in the township if they have reason to believe that any Board of Health provision of this Code is being violated or as part of a regular program of inspection.
- B. Search warrant. If the owner or occupant of any premises refuses to permit entry for the purpose of inspection, the Board of Health may apply to the Township Judge for a search warrant. The application shall be based upon a affidavit setting forth that the inspection is part of a regular program of inspection or that conditions and circumstances provide a reasonable basis for believing that a nuisance or unsanitary or unhealthy condition exists on the premises. If the Judge is satisfied as to the matters set forth in the affidavit, he shall authorize the issuance of a search warrant permitting access to and inspection of the premises.

**§ 283-8. Abatement of nuisances.**

A. Notice to abate.

- (1) Whenever anything declared by these Board of Health provisions of this Code to be a nuisance or any unsanitary or unhealthy condition is found on any premises within the township, notice shall be given to the owner or person in control of the premises to remove or abate it within the time specified, not less than five days from the date of service in the notice.
- (2) Whenever anything declared by the Board of Health provisions of this Code to be a nuisance or any unsanitary or unhealthy condition is found on any public property, highway or other public premises or place, notice shall be given to the person in charge to remove or abate the same within the time specified. If that person fails to comply with the notice within the time specified, the Board of Health or its agents or employees may remove or abate such nuisance or condition in the manner provided for a like condition existing on a private premises or place.

B. Abatement by Board of Health. If the owner or person in control of the premises, upon being notified as provided by Subsection A, does not comply with the notice within the time specified and fails to remove or abate the nuisance or condition, the Board of Health or its agents or employees shall proceed to abate the nuisance or condition or may cause it to be removed or abated in a summary manner by such means as shall be deemed proper.

C. Recovery of costs. Whenever any cost or expense is incurred by the township as a result of the Board of Health, its agents or employees abating or removing or causing to be abated or removed any nuisance or unsanitary or unhealthy condition, such costs and expense may be recovered in the following manner: In all cases where practical and permitted by law, such costs shall be certified to the tax assessment authority and shall be a part of the taxes next assessed against the premises upon which the nuisance or unsanitary or unhealthy condition was located.

**§ 283-9. Violations and penalties.** EN(214)

A. Maximum penalty. Any person violating any of the provisions of this chapter shall, upon conviction thereof, pay a penalty of not less than \$5 nor more than \$500 for each offense. Complaint shall be made in the Municipal Court or before another judicial officer having authority under the laws of the State of New Jersey. The Court shall have the power to impose the other and additional penalties provided by N.J.S.A. 26:3-77 and N.J.S.A. 26:3-78,

or any amendments or supplements thereto.

- B. Separate violation. Except as otherwise provided, each and every day in which a violation exists shall constitute a separate violation.

## Chapter 289, NUISANCES, PUBLIC HEALTH

[HISTORY: Adopted by the Board of Health of the Township of Lumberton 5-30-1991 as Ord. No. BH:1991-1. Amendments noted where applicable.]

### § 289-1. Adoption of standards.

Public Health Nuisance Code (1953) established and adopted. A code defining and prohibiting certain matters, things, conditions or acts and each of them as a nuisance, prohibiting certain noises or sounds, requiring the proper heating of apartments, prohibiting lease or rental of certain buildings, prohibiting spitting in or upon public buildings, conveyances or sidewalks, authorizing the inspection of premises by an enforcing official, providing for the removal or abatement of certain nuisances and recovery of expenses incurred by the Board of Health in removing or abating such nuisances and prescribing penalties for violations is hereby established pursuant to Chapter 188 of the Laws of 1950.<sup>EN(215)</sup> A copy of said code is annexed hereto and made a part hereof without including herein the entire text thereof.

### § 289-2. Title.

Said code established and adopted by this chapter is described and commonly known as the "Public Health Nuisance Code of New Jersey (1953)."

### § 289-3. Copies on file.

Three copies of said Public Health Nuisance Code of New Jersey (1953) have been placed on file in the office of the Health Officer and Secretary of this Local Board of Health upon the introduction of this chapter and will remain in file there for the use and examination of the public.

### § 289-4. Violations and penalties.

Any person who violates or neglects to comply with any provision of this chapter or the notice issued pursuant hereto shall, upon conviction thereof, be subject to a fine not exceeding \$1,000

or to imprisonment in the county jail for a term not exceeding 90 days or to a period of community service not exceeding 90 days, or to such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just; and each violation of any of the provisions of this chapter and each day the same is violated shall be deemed a separate and distinct offense.

## Chapter 294, RETAIL FOOD ESTABLISHMENTS

[HISTORY: Adopted by the Board of Health of the Township of Lumberton 5-1-1995 by Ord. No. BH-2-1995. Amendments noted where applicable.]

### § 294-1. Adoption of standards; title.

A code regulating retail food establishments and food and beverage vending machines, providing for the inspection of such establishments and machines and fixing penalties for violations is hereby established pursuant to N.J.S.A. 26:3-69.1 et seq. A copy of said code is annexed hereto and made a part hereof by way of reference and without need for inclusion of the entire text of the same republished herein. Said code established and adopted by this chapter is described and commonly known as the "Retail Food Establishments and Food and Beverage Vending Machines Code of New Jersey (1988)."

### § 294-2. Copies on file.

Three copies of said Retail Food Establishments and Food and Beverage Vending Machines Code have been placed on file in the office of the Secretary of the Lumberton Township Board of Health, upon the introduction of this chapter, and will remain on file there for the use and examination of the public.

### § 294-3. Permit requirements; fee; itinerant vendors; suspension or revocation.

- A. No person shall operate a retail food establishment unless a permit or approval of an existing permit to operate the same shall have been issued by this Board of Health. Such permit or approval of an existing permit shall be posted in a conspicuous place in such establishment.
- B. There shall be a charge of \$20 for such permit or approval of an existing permit except that there shall be no charge for such permit or approval of an existing permit to nonprofit organizations, associations or corporations.
- C. Permits issued or approved under the provisions of this chapter shall expire annually on the



last day of May of each year, and application for renewal thereof shall be submitted together with the required fee prior to the third Monday of April of each year.

- D. A person conducting an itinerant or mobile retail food establishment shall be required to secure a permit from this Board of Health even where such person is the holder of a permit issued by a Board of Health of another jurisdiction, and the fee for the securing of the Lumberton Township permit shall be \$20 for such approval.
- E. A permit or approval of a permit may be suspended or revoked for a violation by the holder of any provision of this chapter or the code referred to herein, after an opportunity for a hearing by the Board of Health or its authorized representative. Nothing herein contained, however, shall preclude this Board of Health from exercising the authority to immediately close any establishment which, in the opinion of the Board of Health, is suspected of being a source of food-borne infection in accordance with the provisions of N.J.A.C. 8:24-9.6.
- F. A permit or approval of a permit issued by another Board of Health is not transferable to the Township of Lumberton.

**§ 294-4. Food handling regulations. [Added 6-21-2004 by Ord. No. 2004-18<sup>EN(216)</sup>].**

- A. Administrative authority. The Burlington County Health Department shall be the administrative authority to exercise the powers prescribed by this chapter.
- B. Adoption of standards. Pursuant to the authority contained in N.J.S.A 26:3-69 through 26:3-69.6, the Board of Health of Lumberton Township does hereby adopt the new rules and standards governing food manager training as an ordinance operative within the Township, regulating training for managers of potentially hazardous food-handling establishments.
- C. Intent and purpose. The provisions hereinafter contained and enacted are in pursuance of and for the purpose of:
  - (1) Protecting and promoting the public health and general welfare of persons in the Township of Lumberton; and
  - (2) Preventing food-borne illness in food establishments due to improper food handling, sanitation and safety.

**§ 294-5. Definitions. [Added 6-21-2004 by Ord. No. 2004-18]**

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

FOOD -- Any food, food product, drink or drink product, wholly or partially prepared, meant for

human consumption.

**FOOD MANAGER** -- Any person who owns or is employed by a wholesale or retail food establishment who directs, oversees and supervises the procedures used by the establishment to prepare and store food that is served and/or purchased by the general public.

**POTENTIALLY HAZARDOUS FOODS** -- Foods which could cause serious health problems or illness if not stored, processed and prepared properly.

**RETAIL FOOD ESTABLISHMENT** -- A business, store, restaurant or any retail establishment that wholly or partially is involved in the preparation of food that is sold directly to the general public. This includes leased and subleased establishments, food vendors and kiosks that prepare food, as well as wholesale food businesses where the products are purchased and put directly for sale to the public. This does not include private or public schools, associations, nonprofit organizations, or civic groups that prepare and/or sell food on an occasional basis for fundraising purposes. Notwithstanding this exemption, such organizations are nevertheless encouraged to comply with the provisions of this chapter.

**§ 294-6. Requirements of retail food establishments. [Added 6-21-2004 by Ord. No. 2004-18]**

- A. Every retail food establishment shall be required to have at least one food manager with food sanitation and safety training, to supervise food preparation on the premises. Food establishments that do not have any on-site preparation of potentially hazardous foods are exempt from this requirement.
- B. Upon request, the owner/manager of a retail food establishment shall provide to the Burlington County Health Department and/or local Board of Health satisfactory proof that, at a minimum, the manager of the establishment shall have taken and passed an approved course in food sanitation and safety.

**§ 294-7. Food manager training. [Added 6-21-2004 by Ord. No. 2004-18]**

- A. The training course must be a minimum of eight hours and must be approved by the Burlington County Health Department. The following are also acceptable:
  - (1) A course in food safety and sanitation approved by the New Jersey Department of Health and Senior Services; or
  - (2) A current valid food manager's certification issued by the Educational Testing Service.

- B. Food managers shall satisfactorily complete a refresher course, approved by the Burlington County Department of Health, in food safety and sanitation every three years.
- C. The food manager certification shall be prominently posted on the premises.

**§ 294-8. Enforcement, violations, and penalties. [Added 6-21-2004 by Ord. No. 2004-18]**

- A. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not less than \$100.
- B. Maximum penalty. For violations of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000.
- C. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- D. It shall be the responsibility of the Burlington County Health Department (as the authorized agent of the local Board of Health) to enforce this chapter.
- E. If a facility does not meet the requirements of this chapter, the Burlington County Health Department, with the consent of the local Board of Health, can grant a temporary waiver of six months, provided immediate action is taken to ensure compliance with this chapter.

## **Chapter 297, SEWAGE DISPOSAL SYSTEMS, INDIVIDUAL**

[HISTORY: Adopted by the Board of Health of Township of Lumberton 12-18-1989 as Ord. No. 1989-15. Amendments noted where applicable.]

### **GENERAL REFERENCES**

**Sewers and septic systems -- See Ch. 238.**

### **§ 297-1. Adoption of standards.**

Pursuant to the authority contained in N.J.S.A. 26:3-69 through 26:3-69.6, or any amendments or supplements thereto, the Board of Health of this township does hereby adopt the new rules and standards governing individual subsurface sewage disposal systems set forth in N.J.A.C. 7:9A, et seq., as an ordinance operative within the Township of Lumberton regulating construction and use of individual subsurface sewage disposal systems within this township. A copy of the code is annexed hereto and made a part hereof by reference without full inclusion of the text thereof herein.

**§ 297-2. Title.**

The code established and adopted by this chapter is described and commonly known as the "Standards for Individual Subsurface Sewage Disposal Systems" (N.J.A.C. 7:9A-1 et seq.) and is adopted in full.

**§ 297-3. Copies on file.**

Three copies of the Standards for Individual Subsurface Sewage Disposal Systems have been placed on file in the office of the Township Clerk/Administrator, upon introduction of this chapter, and will remain on file there for use and examination of the public, including any future amendments or supplements thereto.

**§ 297-4. Violations and penalties.** EN(217)

Any person who violates or fails to comply with any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not less than \$25 nor more than \$500 or to a period of community service not exceeding 90 days, or both.

## **Chapter 298, SWIMMING POOLS, SANITATION OF**

[Swimming pools in the Township of Lumberton are subject to the provisions of the State Sanitary Code.]

### **GENERAL REFERENCES**

**Private swimming pools -- See Ch. 253.**

## **APPENDIX**

### **Chapter A301, CABLE TELEVISION FRANCHISE**

[HISTORY: Adopted by the Township Committee of the Township of Lumberton 4-20-1998 by Ord. No. 1998-19. Amendments noted where applicable.]

**§ A301-1. Definitions and word usage.**

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Such meaning or definition of terms is supplemental to those definitions of the Federal Communications Commission, FCC Rules and Regulations, 47 CFR Subsection 76.1, et seq., and the Cable Communications Policy Act, 47 USC 521 et seq., as amended, and the Cable Television Act, N.J.S.A. 48:5A-1 et seq., and shall in no way be construed to broaden, alter or conflict with the federal or state definitions.

A. Definitions. As used in this ordinance, the following terms shall have the meanings indicated:

ACT or CABLE TELEVISION ACT -- Chapter 186 of the General Laws of New Jersey 1972 and subsequent amendments thereto (N.J.S.A. 48:5A-1 et seq.).

ADVISORY COMMITTEE -- The Lumberton Township Cable Television Advisory Committee established by this ordinance.

COMPANY -- The grantee of rights under this ordinance and is known as Garden State Cablevision, L.P.

TOWNSHIP -- The Township of Lumberton, County of Burlington, State of New Jersey.

B. Word usage. The terms "Board," "Office," "Director," "cable television reception service," "cable communications system," "highway" and "certificate" shall have those meanings as defined and set forth in the Cable Television Act, as amended or supplemented.

**§ A301-2. Statements of findings.**

A public hearing concerning the consent herein granted to the company was held after proper public notice pursuant to the terms and conditions of the Act. Said hearing having been held as above stated and said hearing having been fully open to the public, and the township having received at said hearing all comments regarding the qualification of the company to receive this consent, the township hereby finds that:

- A. The company possesses the necessary legal, technical, character, financial and other qualifications and that the company's operating and construction arrangements are adequate and feasible.
- B. During the course of the hearing, and during the course of the efforts to renegotiate this franchise, certain allegations of violations by the company or its predecessor of the terms and conditions of the original consent were brought to the attention of the Township Committee. Many of these instances are adequately discussed in the document entitled "Municipal Report

of the Township of Lumberton: Review of Past Performance of Garden State Cable Television, and Assessment of Future Cable-Related Needs of the Municipality," which document has been submitted to both the company and to the Office of Cable Television (OCT), and which document is incorporated herein by reference. Nevertheless, despite these allegations, the Township Committee is equally aware of the presumption of renewal contained in the New Jersey Cable Television Act, and specifically found at N.J.S.A. 48:5A-19. In balancing, therefore, the statutory presumption of renewal with the nature of the allegations, complaints and concerns brought to the Committee's attention, the Committee finds and determines that the company has generally complied with its obligations under the consent and applicable law, and has provided generally satisfactory service, and, as otherwise provided herein, the township is hopeful that in the future the company will comply with its obligations under a renewal of the franchise and under applicable law.

- C. If the company undertakes the commitments and performs thereunder, such shall provide a reasonable assurance of meeting the township's future cable-related needs.

**§ A301-3. Purpose.**

The township hereby consents to a renewal of the franchise, subject to the terms and conditions of this ordinance and upon the condition that the company accept the provisions of this ordinance and confirm, in writing, that it shall comply with all of the commitments.

**§ A301-4. Municipal consent to renewal of franchise.**

At the time this municipal consent becomes effective, the township shall renew and continue to give the company its consent to place, in, upon, along, across, above, over and under the highways, streets, alleys, sidewalks, public ways and public places in the township, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the township of a cable television system.

**§ A301-5. Duration of consent.**

- A. The consent herein granted shall expire fifteen years from the date of the adoption of this ordinance.
- B. Where the municipality determines after notice and a public hearing that the municipality believes the company has failed to meet the commitments set forth in this ordinance and in the application previously filed by the company, within a reasonable time period, or has engaged in a pattern of noncompliance, it shall request that the Board take action to

determine whether the company has materially breached the terms and conditions of the franchise.

- C. The consent granted herein shall be subject to a ten-year renewal only after review of the performance of the company and the adequacy of the terms of the consent herein granted in a full public proceeding in accordance with the then applicable law.

**§ A301-6. Franchise territory.**

The consent granted under this ordinance to the renewal at the franchise shall apply to the entirety of the township and any property annexed hereto.

**§ A301-7. Franchise fee.**

The company shall, during each year of operation under the consent granted herein, pay to the township 2% of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers to its cable television reception service within the franchise territory or any amount otherwise allowed by law. It is acknowledged that the current law in New Jersey limits the franchise fee to 2% of the gross revenues from all recurring charges in the nature of subscription fees received by the company as described above. In the event that applicable law hereafter permits a larger franchise fee to be collected, the township shall be entitled to the larger franchise fee.

**§ A301-8. Line extension policy; nonstandard installation.**

- A. Line extension. The company shall be required to proffer service along any public right-of-way to any person's residence or business located in the township, in accordance with the proposal for the provision of services as described in the application. Any additional extension of the system which is necessary in the future but not contemplated in the application shall be made in accordance with the Office of Cable Television line extension policy now or hereafter promulgated, except as otherwise provided in this ordinance. The company will provide service to residences in existing presently wired commercial areas. Commercial areas which are currently not served and residential units located in those areas will be provided service based on the company's tariffed rates for installation and extension.
- B. Nonstandard installation. The company currently employs a nonstandard installation policy which is on file with, and has been approved by, the Office of Cable Television. However, in consideration for the renewal of this franchise, and in recognition of the rural nature of much of Lumberton township, the company agrees that it will modify its nonstandard installation

policy in the following fashion: Those potential customers who are considered as "nonstandard installation" will be allowed the option of performing some of the work themselves, such as the trenching, and thus avoid the costs that the customer would otherwise be required to incur for that portion of the installation. The customer will agree to follow the company's specifications for the trenching, which generally requires that the trench be 12 inches at the top and bottom and that it be 36 inches deep and free of rocks or other obstructions. The customer would be responsible for the safety of the trench and be required to follow the law with respect to the "one call service," which shall be made available by Garden State Cable.

**§ A301-9. Commitments by company.**

The township's consent to the renewal of the franchise is subject to, and expressly contingent upon the company's written undertaking (which may be expressed by means of an amendment to the application, by any separate proposal for renewal or by the company's written statement that it accepts the provisions of this ordinance) as to the following:

**A. Facilities and equipment.**

- (1) In transmitting its television signals to subscribers in the township, the company shall provide a quality of signal that is at least as good as that customarily provided under prevailing industry standards, and the company shall comply with any requirements imposed by the federal regulations and federal pronouncements and (to the extent not preempted by federal law) any state pronouncements relating to technical standards for the transmission of television signals, transmission quality or facilities and equipment.
- (2) The company shall provide for the expansion of the existing system from a 38-channel capacity to a 78-channel capacity. Construction for such expansion shall be completed by July 31, 1998.

**B. Customer service.**

- (1) In order to maintain its level of telephone accessibility for calls relating to maintenance and repairs ("service"), and to improve it for calls relating to installation, addition or deletion of programming services, and other customer inquiries ("business"), the company shall comply with any and all requirements of the OCT or other regulatory bodies with respect to telephone accessibility, facilities and personnel and shall use its best efforts to comply with any OCT guidelines relating to the foregoing. Nothing herein shall impair the right of any subscriber or the township to express any comment or complaint with respect to telephone accessibility to the Complaint Officer or impair the right of the Complaint Officer to take any action which is appropriate under law.



- (2) During the term of this franchise, and any renewal hereof, the company shall maintain a local business office or agent for the purpose of receiving, investigating and resolving all complaints regarding the quality of service, equipment malfunction and similar matters. Such local business office shall be open during normal business hours and in no event less than 9:00 a.m. to 5:00 p.m., Monday through Friday.
- (3) In the event that the company requires the converter or other equipment provided to a subscriber to be exchanged in order for such subscriber to maintain his or her current level of service, or in the event that the customer needs to purchase or have equipment repaired, the company shall either cause such exchange to be effected by delivery of the equipment to the subscriber's home (and to the extent necessary), in the evening or on a weekend, at no cost to the subscriber, or allow customer pickup of the equipment at a designated location of the company.

**§ A301-10. Construction requirements.**

- A. Restoration. In the event that the company or its agents shall disturb any public or private pavement, street surfaces, curbs, gutters, sidewalks, driveways, landscaping, trees, shrubs or other surfaces in the natural topography, the company shall, at its sole expense, restore and replace such places or things so disturbed in not less than as good condition as existed prior to the commencement of said work.
- B. Relocation. If at any time during the period of this consent the township shall alter or change the grade of any street, alley or other way or place, the company, upon reasonable notice by the township, shall at its own expense remove, re-lay and relocate its equipment.
- C. Temporary removal of cables. The company shall, upon request of the township, at the company's expense, temporarily raise, lower or remove its cables and associated facilities in order to facilitate the moving of buildings, equipment, vehicles and machinery and to accommodate other like circumstances. When such activity is for a private purpose, the person necessitating such action shall pay the company the cost no later than 48 hours in advance of the action.
- D. Removal and/or trimming of trees. During the exercise of its rights and privileges under this franchise, the company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of a municipality so as to prevent the branches of such trees from coming in contact with the wires and cables of the company. Such trimming shall be only to the extent necessary and to maintain proper clearance for the company's wires and cables. All work is to be in compliance with ANZJ standard SZ133.1, "Tree Care Operations for Safety," as may be subsequently amended, and the National Arborist Association Standards for Pruning and Removal. If the tree is privately owned, the company must give

reasonable notice to the owner and make every effort to protect the owner's interest in the tree. Nothing herein contained shall be construed to mean that the township is allowing the company to trespass upon private property, and in the event that the private property owner seeks damages for the company's actions, the company shall be solely liable for same and shall hold the township harmless and indemnify it against any such claims.

**§ A301-11. Municipal Complaint Officer.**

The Office of Cable Television is hereby designated as the Complaint Officer for Lumberton Township pursuant to N.J.A.C. 48:5A-26(b). All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.

**§ A301-12. Cable Television Advisory Committee.**

There is hereby established a Cable Television Advisory Committee which shall serve as an Advisory Board to the Township Committee with respect to cable television matters. The members of the Cable Television Advisory Committee shall be residents of the Township of Lumberton.

- A. There shall be five members of the Cable Television Advisory Committee, who shall be appointed by the Township Committee to serve terms of three years. All terms shall expire on December 31 at the appropriate year. Of those members first appointed, two shall be appointed for a term of three years, two shall be appointed for a term of two years, and one shall be appointed for a term at one year; all appointments shall thereafter be for a full term of three years, except that any vacancy occurring during a term of appointment shall be filled for the balance of the unexpired term.
- B. The Mayor and all members of the Committee shall also serve as "ex officio" members of the Cable Television Advisory Committee.
- C. The Cable Television Advisory Committee shall meet at least two times each calendar year and shall render advice to the Township Committee in the following areas:
  - (1) To assess on an ongoing basis the future cable-related community needs and interests of the township.
  - (2) To review on an ongoing basis the present and past performance of the company.
  - (3) To make recommendations for the development and presentation of programming to be provided on the local access channel(s) for the purpose of utilizing the channel to the fullest extent in the public interest of the township, maximizing its potential as

community resource, and encouraging widespread viewership.

- (4) To ascertain the opinions and desires of the township residents and subscribers on all aspects of the cable television system.
  - (5) To serve as liaison on cable television matters between the township and the company.
  - (6) To furnish such other information and advice as may be requested by the Township Committee.
- D. The failure of the Township Committee to appoint this Cable Television Advisory Committee shall not in any way affect the validity of this ordinance or the enforcement powers of the municipality under same.

**§ A301-13. Programming.**

- A. Although notifying herein shall require the company to carry or transmit any particular television stations or programming source, the company shall provide the subscribers in the township with at least the same broad categories of programming as are now provided, and which appear in the Application.
- B. Weather channel. The company and the municipality are aware of the importance of weather information. The company will continue the carriage of the Weather Channel until such time as it is no longer feasible or permissible due to cost, regulatory or contract considerations. In the event that the company ceases to carry the Weather Channel it will either work with the municipality in seeking to obtain replacement programming which could be placed on the municipality's local access channel, or the company will provide some form of weather information on one of its channels.
- C. The company shall comply with any state law or regulation and shall use its best efforts to comply with any guideline with respect to maintaining space for a statewide interconnect channel.
- D. Basic service. The basic service includes those channels which the company is required to carry by FCC rules and any channel which the company has previously agreed to carry without a separate or additional charge or which the company currently carries without a separate or additional charge.
- E. Change in programming to be preceded by notification. The company shall precede any change in programming with the notification procedures established by the Office of Cable Television in its then current rules and regulations.

**§ A301-14. Performance bond.**

- A. During the life of the franchise the company shall give a bond to the Township of Lumberton, which bond shall be in the amount of \$25,000.
- B. Such bond shall be to insure the faithful performance of all undertakings of the company as represented in its application for municipal consent incorporated herein.
- C. Said bond shall be in a form acceptable to the Township Solicitor and the Township Committee.

**§ A301-15. Rate regulation.**

The township shall have the maximum authority with respect to regulation of rates permitted by law.

**§ A301-16. Free service.**

- A. The company shall provide the standard installation of one outlet and basic monthly service to each school, public or private, and library in the township free of charge. In addition, the company shall provide for the free standard installation and basic monthly service, without charge, of one outlet to the Lumberton Township Municipal Building. Said installation shall be completed within 90 days after the adoption of this ordinance or after the request for the installation, whichever is later.
- B. In addition to providing an immediate standard installation to the existing Municipal Building, Garden State has been advised that the township intends to construct a new municipal building some time in the next few years. Garden State agrees that it will provide free installation to said building, once same is constructed, and that it will also provide basic monthly service, without charge, to one outlet in same. Similarly, the township agrees to communicate with Garden State during the course of its construction planning and to coordinate the trenching, cable installation and all construction with Garden State so that installation is made as convenient as possible to both parties.
- C. In addition, the company shall provide, within the technical limits of available signal strength, multiple connections to serve as many television sets as possible in each of the Lumberton township public schools. The municipality and/or the Board of Education shall inform the company of the specific requirements for service in the schools prior to construction/installation by the company. The company will inform the municipality or Board

of Education of the costs necessary to be able to meet those specifications, if they are beyond one outlet to be installed free by the company. In order to be able to provide maximum signal strength for multiple outlets within the schools, the company must know in advance the information it will need to develop the plans and cost estimates for acceptance by the Board of Education.

- D. Any internal wiring shall be constructed by the company, at cost, provided that the municipality and/or Board of Education, as appropriate, installs any necessary conduit and performs other make-ready work required to provide a clear path for the cable. Construction of new schools, libraries or municipal building at a different location than the existing structures shall have the benefit of this section at that time; however, in the event that the installation to the schools and/or libraries is a nonstandard installation, the company shall bear the first \$2,000 in installation costs, with the public entity bearing the balance of the cost. The public entity shall also be permitted to take advantage of the cost reduction offer where the entity agrees to perform some of the work itself in accordance with the company's specifications.
- E. The company will also provide, if same has not already been provided, free standard installation to each fire and rescue/emergency squad and fire company located within the municipality. In the event of nonstandard installation, these facilities are entitled to participate in the cost reduction offer by performing some of the self-trenching installation work in accordance with the company's specifications. Basic service to these facilities will be at residential rates.

**§ A301-17. Emergency uses.**

The company shall maintain an emergency audio override capability to permit the broadcasting of emergency messages by the State Office of Emergency Management.

**§ A301-18. Two-way interactive services.**

- A. Currently public educational and governmental (PEG) access is provided on Channel 14 and is shared by several communities, including the municipality. The origination point at the present time is at Burlington County College, Pemberton Township. This channel will become the channel that is referred to hereinafter once the operating procedures have been developed by the participants.
- B. Within six months after completion of the upgrade and the approval from the school, the company will provide a return carrier between Rancocas Valley High School and the company's headend. This return carrier will be connected to a video switching device which

will be provided by the company. This switcher will enable public educational and governmental (PEG) programming originating from the high school to be available to the company's customers in Lumberton, Hainesport, Mount Holly, Eastampton and Westampton (being the current high school sending districts). Currently it would be available to customers on Channel 14.

- C. The use of the return path is limited to qualified, prerecorded video material and live real time programming originating within the high school or property (including athletic fields) immediately surrounding the high school. No physical, electronic or other interconnection may be made by anyone or any entity which would allow for insertion of programming other than in the manner and location as above stated.
- D. It is intended that the return carrier and PEG channel will be operated on a shared basis by a committee which includes representation from each of the sending school districts, the governing bodies in each of these municipalities, and the public. The school and each municipality will need to agree to share the channel equitably with each other and the public through operating procedures developed and adopted by the participants.
- E. The switching device located at the company's headend will have the ability to connect to other access channels served from the company's headend, including Burlington County College. Therefore, importing and exporting PEG programming to and from other school districts or Burlington County College will be possible. This means the schools may engage in its own distance learning should the schools and/or the sending districts wish to invest in the studio, origination equipment and programming needed.
- F. Interconnecting Rancocas Valley High School PEG channel to other schools' PEG channels requires coordination and the cooperation of the communities served by the PEG channels involved. Should the need arise to import and export programming, the schools and/or the municipalities involved will need to coordinate the interconnection, which includes scheduling time with the other PEG channels and programming the switcher with the company.
- G. The company will not be required to cover any costs associated with reconfiguring its plant if the sending districts are changed.
- H. A camcorder and microphone shall be made available by the company for shared use in noncommercial access programming.

**§ A301-19. Liability insurance.**

The company agrees to maintain and keep in full force and effect, at its sole expense, at all times during the term of this consent, sufficient liability insurance naming the Township of Lumberton

as an insured and insuring against loss by any such claim, suit, judgment, execution or demand in the minimum amounts of \$250,000 per person for any one claim and \$500,000 as to any accident or occurrence; and in the minimum amount of \$100,000 for property damage as to any one accident or occurrence. Additionally the company shall maintain and keep in full force and effect an umbrella policy with limits of not less than \$1,000,000.

**§ A301-20. Indemnity.**

The company shall hold and save the township harmless from and indemnify and defend the township against every claim, loss and liability of every kind arising in any and every way, directly and indirectly, immediately and consequentially, arising from the grant and/or use of this municipal consent.

**§ A301-21. Incorporation of application.**

Except as modified by this ordinance, all of the statements and commitments contained in the application of Garden State Cablevision, Ltd., L.P., for renewal of municipal consent filed with the township, together with all of the statements, representations, and/or commitments made by the company on the record during the municipal consent renewal proceedings, or in correspondence and other documents entered into the record of those proceedings, and/or received by the township, are hereby incorporated by reference in this ordinance and shall be binding upon the company as terms and conditions of this consent, whether annexed hereto or not. However, any portions of the application which are in conflict with the provisions of the Cable Television Act, N.J.S.A. 48:5A-1 et seq., the Cable Communications Policy Act, 47 USC 521 et seq., and/or FCC rules and regulations, as amended, are not to be construed as effective under the terms of this ordinance.

**§ A301-22. Amendments.**

Subject to the requirements of the Federal Act and approval by the Board, the township reserves the ability to amend any portion of this ordinance as it relates to its police powers after public hearing.

**§ A301-23. Severability.**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding

shall not affect the validity of the remaining portions thereof.

**§ A301-24. Consistency with future federal and state statutes, regulations, rules and orders.**

Should any of the federal or state statutes, regulations or pronouncements applicable to the regulation of cable television be modified in any way, such modifications, to the extent that they embody required terms and conditions and meaningfully can be incorporated into this ordinance, shall be so incorporated, consistent with any applicable effective dates specified in such modification. To the extent that any such modification places limits on permissible terms and conditions, and any provision of this ordinance becomes invalid by virtue of such modification, then preceding § A301-23 shall apply.

**§ A301-25. Notification required.**

The company shall comply with OCTV requirements with respect to notices to the municipality and to subscribers to the service of rate and channel changes.

**§ A301-26. Franchise to be nonexclusive.**

The franchise herein granted shall be nonexclusive.

**§ A301-27. Underground installation of cable lines.**

The company agrees that any future cable lines installed or constructed shall be installed underground to the extent that other utilities are also constructing their facilities underground. Moreover, the company agrees that during the course of its efforts to upgrade the channel capacity pursuant to § A301-9A(2) hereof, it will undertake to place all cable lines underground, to the same extent as other utilities have installed underground lines. In the event that the company is unable to install underground lines in a certain area, the company will so advise the township, and the parties agree to discuss the reasonableness of the physical inability of the company to install those lines underground. Nothing herein contained, however, shall permit the company to install its lines underground simply because other utilities do the same, where those lines are installed in violation of local zoning or other ordinances.

**§ A301-28. Repealer.**



All ordinances or parts thereof which are inconsistent with this ordinance are hereby repealed to the extent of such inconsistency; specifically repealed herein and replaced hereby is Ordinance No. 1994-17.<sup>EN(218)</sup>

**§ A301-29. When effective.**

This ordinance shall take effect upon final passage and publication according to law.

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## **Chapter A302, (RESERVED)**

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[Former Ch. A302, Employee Handbook, adopted 6-17-1991 by Ord. No. 1991-5, was deleted from the Appendix of the Code 8-7-2006 by Ord. No. 2006-15. The official master copy of the Employee Handbook is maintained on file in the office of the Township Administrator.]

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## **Disciplinary Guidelines Schedule**

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### **Disciplinary Guidelines Schedule**

#### **Township of Lumberton**

A. Penalties.

- (1) The progressive degrees of discipline shall be as follows:
  - (a) Counseling. When an infraction occurs, the supervisor should counsel the employee in private and advise him/her of the seriousness of the offense, the adverse effect that it has on the operation and morale of the unit and the importance of correcting such actions in the future.
  - (b) Written warning. A written report by the department head, supervisor

and/or Clerk/Administrator which becomes part of the employee's file.

- (c) Official reprimand. A written official notice, signed by the department head and/or Clerk/Administrator, indicating that the employee has violated a township ordinance or rule and regulation. The reprimand must be preceded by an individual conference and a written summary of the conference with all the supporting data. An official reprimand differs from a written warning in that a copy is forwarded to the members of the Township Committee and the Clerk/Administrator and becomes a part of the employee's official record.
  - (d) Suspension. The temporary separation from employment, for cause, with loss of pay, for a period which cannot exceed six months.
  - (e) Fine. Requires the payment of money as restitution. Substitution of vacation leave or compensatory time may be used in lieu of fine but cannot be done without the written consent of the employee.
  - (f) Demotion. A lowering in rank or range.
  - (g) Discharge or removal. Separation from employment for cause.
- (2) Application. These guidelines shall apply to all employees of the township, including police.

B. Guidelines for discipline are as follows:

CODE:    C        = Counseling                    d = Number of working days suspension

WW = Written warning      D = Demotion  
OR = Official                R = Removal

<b>Type of Offense</b>	<b>First</b>		<b>Second</b>		<b>Third</b>	
	<b>Infraction</b>		<b>Infraction</b>		<b>Infraction</b>	
	<b>M</b>	<b>M</b>	<b>M</b>	<b>M</b>	<b>M</b>	<b>M</b>
	<b>in</b>	<b>a</b>	<b>in</b>	<b>a</b>	<b>in</b>	<b>a</b>
	<b>i</b>	<b>xi</b>	<b>i</b>	<b>xi</b>	<b>i</b>	<b>xi</b>
	<b>m</b>	<b>m</b>	<b>m</b>	<b>m</b>	<b>m</b>	<b>m</b>
	<b>u</b>	<b>u</b>	<b>u</b>	<b>u</b>	<b>u</b>	<b>u</b>
	<b>m</b>	<b>m</b>	<b>m</b>	<b>m</b>	<b>m</b>	<b>m</b>
<b>Attendance</b>						
Unauthorized absence:						
Unexcused absence or absence on scheduled work day without permission	C	1d	1d	3d	5d	R
Absence without permission for 2 consecutive workdays	R	--	--	--	--	--
Chronic or excessive absenteeism	OR	5d	5d	10d	10d	R
Leaving job or post						
Leaving job or post without permission	C	2d	2d	10d	10d	R
Desertion of post causing critical situation or danger to life or property	10d	R	R	--	--	--
Unexcused tardiness	C	3d	3d	5d	5d	R
Use of sick leave under false pretenses	3d	5d	10d	R	R	--
Failure to report to overtime without good reason after having been scheduled to work; warranted refusal of overtime	WW	1d	1d	3d	3d	10d
Refusal to perform overtime or emergency duty as designated by the department head and/or supervisor	OR	3d	3d	10d	10d	R
<b>Performance of Duty</b>						
Loafing, idleness or willful failure to devote attention to tasks	C	OR	OR	3d	5d	R

Type of Offense	First		Second		Third	
	Infraction		Infraction		Infraction	
	M in i m u m	M a xi m u m	M in i m u m	M a xi m u m	M in i m u m	M a xi m u m
Negligence in performing tasks resulting in injury or damage to property	OR	5d	10d	R	R	--
Sleeping during regular tour of duty	C	1d	3d	10d	10d	R
Failure or excessive delay in carrying out orders	C	1d	OR	5d	5d	R
Incompetency or inefficiency	WW	1d	OR	3d	3d	R
Serious mistakes due to carelessness	C	3d	3d	10d	D	R
<b>Personal Conduct</b>						
Consuming alcoholic beverages or using controlled dangerous substances during performance of duties	5d	R	10d	R	R	--
Unwarranted possession of alcoholic beverages or controlled dangerous substances	R	--	--	--	--	--
Gambling/unlawful betting or gambling or promotion thereof on premises	OR	5d	3d	10d	5d	R
Falsification/intentional misstatement of material fact in connection with work, employment, application or attendance or in any record report, investigation or other proceeding	3d	R	5d	R	R	--
Insubordination/intentional disobedience or failure to accept reasonable order; assaulting or resisting authority; disrespect or use of insulting or abusive language to supervisor or other employee	3d	R	3d	R	10d	R
Divulging confidential information without proper authority	2d	R	R	--	--	--
Conduct unbecoming a public employee	1d	5d	5d	10d	R	--
Use of obscene language or gestures	1d	3d	3d	5d	10d	R
Theft: actual or attempted theft of Township property or equipment or the property of other employees	3d	R	R	--	--	--
Malicious injury	10d	R	R	--	--	--
Negligence and/or willful damage to Township property or the property of other employees	1d	R	5d	R	R	--

Type of Offense	First		Second		Third	
	Infraction		Infraction		Infraction	
	M	M	M	M	M	M
	in	a	in	a	in	a
	i	xi	i	xi	i	xi
	m	m	m	m	m	m
	u	u	u	u	u	u
	m	m	m	m	m	m
Creating a disturbance on premises	1d	3d	5d	10d	R	--
Unhygienic personal habits which annoy or jeopardize the health of coworkers; unacceptable personal appearance	C	OR	1d	5d	5d	R
Misappropriation of funds	R	--	--	--	--	--
Arrest for criminal offense	No action minimum; R if found guilty					
Conviction of criminal offense	R	--	--	--	--	--
Discourtesy to public visitors	1d	3d	3d	5d	R	--
Vending, soliciting or collecting of contributions on premises without authorization	WW	5d	5d	R	R	--
Distribution of written or printed matter on premises without authorization	OR	5d	3d	10d	R	--
Threatening, intimidating, coercing or interfering with fellow employees on premises	1d	3d	3d	10d	R	--
Engaging in any form of political activity during working hours	2d	5d	10d	R	R	--
The use of or attempt to use one's position to obtain personal gain	1d	3d	3d	R	R	--
The use or attempted use of one's authority or official influence to control or modify the political view of any person	5d	R	R	--	--	--
Misuses of Township equipment and/or Township property	C	3d	5d	10d	R	--
<b>Safety and Security Provisions</b>						
Physical abuse (fighting)	2d	5d	2d	R	R	--
Failure to report loss of hazardous tools, equipment or articles on premises	1d	10d	10d	R	R	--
Unlawful possession of firearms or other weapon on premises	5d	R	R	--	--	--

Type of Offense	First		Second		Third	
	Infraction		Infraction		Infraction	
	M in i m u m	M a xi m u m	M in i m u m	M a xi m u m	M in i m u m	M a xi m u m
Failure to report serious injury, accident or communicable disease	1d	5d	3d	R	10d	R
<b>Operation of township-owned motor vehicle</b>						
Serious violation of traffic laws	5d	10d	R	--	--	--
Use of vehicle for unauthorized or unofficial purposes	1d	3d	3d	10d	10d	R
Use of Township vehicle after consuming any amount of alcoholic beverages or using any controlled dangerous substance	R	--	--	--	--	--
Engaging in horseplay, running, scuffing or throwing things	OR	1d	3d	5d	5d	R
Engaging in sabotage or espionage	R	--	--	--	--	--

## DISPOSITION LIST

The following is a chronological listing of all of the legislation of the Township of Lumberton adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the original publication of the Code was Ord. No. 1992-1. A complete list of all legislation reviewed in conjunction with the original publication of the Code and its disposition is on file in the Township Clerk/Administrator's office.

### § DL-1. Disposition of legislation.

**§ DL-1. Disposition of legislation.**

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
1992-2	4-22-1992	Salaries and compensation	NCM
1992-3	7-20-1992	Development regulations amendment	Ch. 130
1992-4	6-1-1992	Uniform construction codes amendment	Ch. 121
1992-5	6-15-1992	Vehicles and traffic	Ch. 265, Part 1
1992-6	8-3-1992	Adoption of Code by Township Committee	Ch. 1, Art. I
1992-7	8-17-1992	Hearing Officer	Ch. 41, Art. IX
1992-8	9-8-1992	Police Department	Ch. 51
1992-9			Not adopted
1992-10		Salary	NCM
1992-11			Not adopted
1992-12			Not adopted
1992-13	12-21-1992	Vehicles and traffic	Ch. 265, Part 2
1992-14			Not adopted
1992-15	12-31-1992	Soil removal amendment	Ch. 246, Art. I
1993-1	3-1-1993	Recreation Advisory Committee	Ch. 60
1993-2	3-1-1993	Fire prevention amendment	Ch. 152

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
1993-5	3-15-1993	Relocate drainage easement	NCM
1993-6	5-3-1993	Cap increase	NCM
1993-7	5-17-1993	Agreement	NCM
1993-8	5-3-1993	Uniform construction codes amendment	Ch. 121
1993-9	5-17-1993	Development regulations amendment	Ch. 130
1993-10	6-7-1993	Salary amendment	NCM
1993-11	7-19-1993	Bond	NCM
1993-12	10-4-1993	Development regulations amendment	Ch. 130
1993-13	7-19-1993	Salary amendment	NCM
1993-14	7-19-1993	Bond amendment	NCM
1993-15	8-2-1993	Drug-free school zones amendment	Ch. 141
1993-16 1994-1	8-16-1993 2-7-1994	Vehicles and traffic amendment Public access to records amendment	Ch. 265, Part 2 Ch. 225
1994-2	3-21-1994	Development regulations amendment	Ch. 130
1994-3	4-18-1994	Development regulations amendment	Ch. 130
1994-4	2-22-1994	Public Defender	Ch. 41, Art. X



<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
1994-5	3-21-1994	Streets and sidewalks amendment	NCM, schedule amendment only
1994-6	4-4-1994	Uniform construction codes amendment	Ch. 121
1994-7	4-18-1994	Development regulations amendment	Ch. 130
1994-8	4-18-1994	Appropriation	NCM
1994-9			NCM
1994-10			NCM
1994-11			NCM
1994-12	5-16-1994	Property maintenance	Ch. 221
1994-13			NCM
1994-14			NCM
1994-15	8-1-1994	Soil removal amendment	Ch. 246, Art. I
1994-16			NCM
1994-17	11-21-1994	Cable television franchise	Ch. A301
1994-18	9-6-1994	Recycling amendment	Ch. 227
1994-19			NCM
1994-20	11-21-1994	Development regulations amendment	Ch. 130
1995-1	3-20-1995	Snow and ice removal	Ch. 250, Art. III
1995-2	3-20-1995	Vehicles and traffic amendment	Ch. 265, Part 2

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
1995-3			NCM
1995-4	4-3-1995	Development regulations amendment	Ch. 130
1995-5			NCM
1995-6			NCM
BH-1-1995	5-1-1995	Adoption of Code by Board of Health	Ch. 281, Art. I
BH-2-1995	5-1-1995	Retail food establishments	Ch. 294
1995-7	6-19-1995	Uniform Construction Codes amendment	Ch. 121
1995-8	6-19-1995	Economic Development Advisory Committee	Repealed by Ord. No. 2005-19
1995-9			NCM
1995-10	7-17-1995	Development regulations amendment	Ch. 130
1995-11	8-7-1995	Fees for recreational activities	Ch. 213, Art. II
1995-12			NCM
1995-13			NCM
1995-14	8-21-1995	Development regulations amendment	Ch. 130
1995-15			NCM
1995-16	9-5-1995	Vehicles and traffic amendment	Ch. 265

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
1995-17	9-5-1995	Development regulations amendment	Ch. 130
1995-18	9-5-1995	Recycling amendment	Ch. 227
1995-19	9-5-1995	Development regulations amendment	Ch. 130
1995-20			NCM
1995-21	10-2-1995	Development regulations amendment	Ch. 130
1995-22	10-2-1995	Vehicles and traffic amendment	Ch. 265
1995-23	10-2-1995	Fees for recreational activities amendment	Ch. 213, Art. II
1995-24	10-16-1995	Uniform Construction Codes amendment	Ch. 121
1995-25	12-4-1995	Streets and sidewalks, Schedule A amendment	NCM
1995-26	12-18-1995	Acquisition of land	NCM
1996-1	1-16-1996	Fire insurance claims	Ch. 149
1996-2	1-16-1996	Vehicles and traffic amendment	Ch. 265, Part 2
1996-3	3-21-1996	Development regulations amendment	Ch. 130
1996-4	2-20-1996	Recreation Advisory Committee amendment	Ch. 60
1996-5			Not adopted

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
1996-6	4-15-1996	Police Department amendment	Ch. 51
1996-7	5-6-1996	Development regulations amendment	Ch. 130
1996-8		Salaries	NCM
1996-9	6-17-1996	Uniform construction codes amendment	Ch. 121
1996-10		Bond	NCM
1996-11		Salaries	NCM
1996-12	9-16-1996	Development regulations amendment	Ch. 130
1996-13			Not adopted
1996-14	12-2-1996	Affordable housing, affirmative marketing	Ch. 90, Art. II
1996-15	12-2-1996	Affordable housing, fair share obligation	Ch. 90, Art. I
1996-16	12-16-1996	Vehicles and traffic amendment	Ch. 265, Part 2
1997-1	1-21-1997	Development regulations amendment	Ch. 130
1997-2		Salary	NCM
1997-3	2-18-1997	Parades and public assemblies	Ch. 209
1997-4		Capital improvement	NCM
1997-5	3-12-1997	Affordable housing, affirmative marketing amendment	Ch. 90, Art. II

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
1997-6		Acquisition of land	NCM
1997-7			Not adopted
1997-8	4-7-1997	Police Department amendment	Ch. 51
1997-9			Not adopted
1997-10		Salary amendment	NCM
1997-11		Acquisition of land	NCM
1997-12	6-16-1997	Unfit buildings amendment	Ch. 109
1997-13	6-16-1997	Development regulations amendment	Ch. 130
1997-14	7-21-1997	Development regulations amendment	Ch. 130
1997-15	7-21-1997	Development regulations amendment	Ch. 130
1997-16	8-4-1997	Clerk and Deputy Clerk amendment	Ch. 41, Art. I
1997-17	8-18-1997	Development regulations amendment	Ch. 130
1997-18	9-2-1997	Uniform construction codes amendment	Ch. 121
1997-19	9-2-1997	Property maintenance amendment	Ch. 221
1997-20		Land acquisition	NCM

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
1997-21	10-6-1997	Bingo, raffles and amusement games	Ch. 100
1997-22		Bond amendment	NCM
1997-23	11-17-1997	Public defender amendment	Ch. 41, Art. X
1998-1	2-2-1998	Smoke detectors amendment	Ch. 242
1998-2		Salary amendment	NCM
1998-3	2-2-1998	Parks and recreation areas: fees for recreational activities amendment	Ch. 213, Art. II
1998-4	1-20-1998	Development regulations amendment	Ch. 130
1998-5	1-20-1998	Public meetings: still photography, videotaping and audiotaping	Ch. 197, Art. I
1998-6	1-20-1998	Unfit buildings amendment	Ch. 109
1998-7	1-20-1998	Uniform construction codes amendment	Ch. 121
1998-8		Bond	NCM
1998-9	2-17-1998	Recreation Advisory Committee repealer	Ch. 60 (footnote only)
1998-10	3-2-1998	Parks and recreation area: fees for recreational activities amendment	Ch. 213, Art. II
1998-11	4-6-1998	Development regulations amendment	Ch. 130

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
1998-12		Salary	NCM
1998-13	4-6-1998	Dogs and other animals amendment	Ch. 136, Art. I
1998-14	4-6-1998	Redevelopment plans: Route 38 commercial corridor	Ch. 230
1998-15	4-6-1998	Tax exemptions and abatements: Route 38 commercial corridor	Ch. 256, Art. I
1998-16	4-20-1998	Recycling amendment	Ch. 227
1998-17	4-20-1998	Development regulations amendment	Ch. 130
1998-18	5-4-1998	Uniform construction codes amendment	Ch. 121
1998-19	4-20-1998	Cable television franchise	Ch. A301
1998-20	5-18-1998	Development regulations amendment	Ch. 130
1998-21	6-24-1998	Officers and employees: Department of Engineering and Public Works	Ch. 41, Art. V
1998-22	7-20-1998	Salary	NCM
1998-23	7-20-1998	Uniform construction codes amendment	Ch. 121
1998-24	7-20-1998	Development regulations amendment	Ch. 130
1998-25	8-3-1998	Salary amendment	NCM

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
1998-26	9-8-1998	Roadway solicitations	Ch. 216, Art. III
1998-27	9-21-1998	Drug-free zones	Ch. 141
1998-28	10-19-1998	Development regulations amendment	Ch. 130
1998-29	10-19-1998	Vehicles and traffic	Hold pending DOT approval
1998-30	10-19-1998	Salary amendment	NCM
1998-31	10-19-1998	Disbursement of moneys; payment of claims	Ch. 10A
1998-32		Bikepath Maintenance Fund	Tabled
1998-33		Sidewalk Maintenance Fund	Tabled
1998-34	12-21-1998	Salary amendment	NCM
1998-35	12-21-1998	Development regulations amendment	Ch. 130
1999-1	1-19-1999	Redevelopment plans: Route 8 commercial corridor amendment	Ch. 230
1999-2	1-19-1999	Parks and recreation areas: fees for recreational activities	Ch. 213 Art. II
1999-3	1-19-1999	Development regulations amendment	Ch. 130
1999-4	2-1-1999	Development regulations amendment	Ch.130
1999-5	4-5-1999	Development regulations amendment	Ch. 130



<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
1999-6		Bond	NCM
1999-7	4-5-1999	Development regulations amendment	Ch. 130
1999-8		Salaries	NCM
1999-9	6-21-1999	Parks and recreation areas: fees for recreational activities	Ch. 213, Art. II
1999-10	6-21-1999	Parades and public assemblies amendment	Ch. 209
1999-11	6-21-1999	Development regulations amendment	Ch. 130
1999-12	6-21-1999	Development regulations amendment	Ch. 130
1999-13	8-16-1999	Code of Ethics amendment	Ch. 14
1999-14	9-7-1999	Noise amendment	Ch. 201
1999-15		Salaries	NCM
1999-16	9-20-1999	Uniform construction codes amendment	Ch. 121
1999-17	9-20-1999	Garbage, rubbish and refuse amendment	Ch. 162
1999-18	10-18-1999	Salaries	NCM
1999-19	10-4-1999	Newsracks	Ch. 199
1999-20	11-15-1999	Development regulations amendment	Ch. 130

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
1999-21	11-15-1999	Development regulations amendment	Ch. 130
1999-22	12-6-1999	Property maintenance amendment	Ch. 221
1999-23	12-6-1999	Development regulations amendment	Ch. 130
1999-24	12-6-1999	Development regulations amendment	Ch. 130
1999-25	12-6-1999	Redevelopment plans: Route 38 commercial corridor amendment	Ch. 230
1999-26	12-6-1999	Development regulations amendment	Ch. 130
1999-27		Capital improvement	NCM
1999-28	12-6-1999	Tobacco: sales to minors	Ch. 260, Art. I
2000-1	1-18-2000	Development regulations amendment	Ch. 130
2000-2	1-18-2000	Newsracks amendment	Ch. 199
2000-3	1-18-2000	Development regulations amendment	Ch. 130
2000-4			Not adopted
2000-5	3-6-2000	Development regulations amendment	Ch. 130
2000-6	2-7-2000	Fees for recreational activities amendment	Ch. 213, Art. II

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
2000-7	2-7-2000	Property maintenance amendment	Ch. 221
2000-8		Salaries amendment	NCM
2000-9	4-3-2000	Dogs and other animals: general provisions amendment	Ch. 136. Art. I
2000-10			Not adopted
2000-11	4-17-2000	Fees for recreational activities amendment	Ch. 213, Art. II
2000-12	5-15-2000	General traffic regulations amendment	Ch. 265. Part 3
2000-13		Appropriation	NCM
2000-14		Salaries amendment	NCM
2000-15	7-17-2000	Development regulations amendment	Ch. 130
2000-16	7-17-2000	Development regulations amendment	Ch. 130
2000-17			Not adopted
2000-18	8-21-2000	Uniform construction codes amendment	Ch. 121
2000-19	9-5-2000	Peddlers, hawkers and vendors amendment; solicitors and canvassers amendment; background checks	Ch. 216, Arts. I, II and IV
2000-20	10-16-2000	Development regulations amendment	Ch. 130

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
2000-21	10-16-2000	Development regulations amendment	Ch. 130
2000-22	10-16-2000	Development regulations amendment	Ch. 130
2000-23		Acquisition of ambulance	NCM
2000-24		Salaries amendment	NCM
2000-25			Not adopted
2000-26			Not adopted
2001-1		Bond	NCM
2001-2	6-19-2001	Environmental Commission	Repealed by Ord. No. 2004-2
2001-3	5-15-2001	Uniform construction codes amendment	Ch. 121
2001-4	7-17-2001	Salaries amendment	NCM
2001-5		Termination of TDR program	Not adopted
2001-6		Emergency appropriations	NCM
2001-7	10-2-2001	Salaries amendment	NCM
2001-8		Land use regulations	Not adopted
2001-9	12-18-2001	Vehicles and traffic amendment	Ch. 265
2002-1	2-12-2002	Salaries amendment	NCM
2002-2	4-9-2002	Fees for recreational activities amendment	Ch. 213, Art. II

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
2002-3	4-9-2002	Salaries amendment	NCM
2002-4	5-14-2002	Development regulations amendment	Ch. 130
2002-5	5-14-2002	Development regulations amendment	Ch. 130
2002-6	6-11-2002	Construction contractors	Ch. 122
2002-7	6-11-2002	Development regulations amendment	Ch. 130
2002-8	8-19-2002	Development regulations amendment	Ch. 130
2002-9	8-19-2002	Zoning Map amendment	NCM
2002-10	7-9-2002	Salaries amendment	NCM
2002-11	9-16-2002	Uniform construction codes amendment	Ch. 121
2002-12	10-21-2002	Bond	NCM
2002-13	10-21-2002	Appropriation	NCM
2002-14	12-16-2002	Vehicles and traffic: private and semipublic property amendment	Ch. 265, Part 1
2002-15	12-16-2002	Dogs and other animals: general provisions amendment	Ch. 136, Art. I
2002-16	12-16-2002	Towing and storage	Ch. 261
2002-17	12-16-2002	Construction contractors amendment	Ch. 122

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
2002-18	12-16-2002	Rental properties	Ch. 232
2002-19	12-16-2002	Salaries amendment	NCM
2002-20	12-16-2002	Street vacation	NCM
2003-1		Salary amendment	NCM
2003-2	2-24-2003	Street obstructions	Ch. 250, Art. IV
2003-3	3-17-2003	Open Space Advisory Committee	Repealed by Ord. No. 2004-2
2003-4	3-17-2003	Parks and recreation areas fees amendment	Ch. 213, Art. II
2003-5		Salaries amendment	NCM
2003-6	7-21-2003	Redevelopment plans amendment	Ch. 230
2003-7	7-21-2003	Parks and recreation areas fees amendment	Ch. 213, Art. II
2003-8	10-20-2003	Easement	NCM
2003-9	11-17-2003	Recreation Advisory Committee	Ch. 63
2003-10	11-17-2003	Vehicles and traffic amendment	Ch. 265, Art. X
2003-11		Development regulations amendment	Tabled
2003-12		Salaries amendment	NCM
2004-1	1-20-2004	Land Development Board	Ch. 29

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
2004-2	2-2-2004	Environmental preservation; Environmental Commission and Open Space Advisory Board abolished	Ch. 13; Ch. 43, Editor's Note only
2004-3			
2004-4	2-17-2004	Development regulations amendment	Ch. 130
2004-5	2-2-2004	Land Development Board amendment	Ch. 29
2004-6	2-2-2004	Environmental preservation amendment	Ch. 13
2004-7	2-17-2004	Right to farm	Ch. 147, Art. I
2004-8	2-17-2004	Development regulations amendment	Ch. 130
2004-9			NCM
2004-10	2-17-2004	Parks and recreation areas amendment	Ch. 213
2004-11	4-5-2004	Township Engineer and Director of Public Works amendment	Ch. 41, Art. V
2004-12	4-5-2005	Development regulations amendment	Ch. 130
2004-13	4-5-2005	Development regulations amendment	Ch. 130
2004-14			NCM

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
2004-15			NCM
2004-16	5-3-2004	Police Department amendment	Ch. 51
2004-17	5-3-2004	Parks and recreation areas amendment	Ch. 213
2004-18	6-21-2004	Retail food establishments amendment	Ch. 294
2004-19	6-21-2004	Disbursement of moneys; payment of claims amendment	Ch. 10A
2004-20	7-9-2004	Fire prevention and smoke detectors amendment	Chs. 152 and 242
2004-21	6-21-2004	Parks and recreation areas amendment	Ch. 213
2004-22			NCM
2004-23			NCM
2004-24	7-6-2004	Development regulations amendment	Ch. 130
2004-25	7-6-2004	Development regulations amendment	Ch. 130
2004-26			NCM
2004-27			NCM
2004-28			NCM
2004-29			NCM
2005-1	1-08-2005	Drug-Free Zones amendment	Ch. 141



<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
2005-2	1-18-2005	Agricultural Advisory Board	Ch. 3
2005-3	2-7-2005	Street obstructions amendment	Ch. 250, Art. IV
2005-4			NCM
2005-5	2-7-2005	Vehicles and traffic amendment	Ch. 265
2005-6			NCM
2005-7	4-4-2005	Disbursement of moneys; payment of claims amendment	Ch. 10A
2005-8			NCM
2005-9			NCM
2005-10	5-2-2005	Stormwater management	Ch. 248
2005-11	4-4-2005	Noise amendment	Ch. 201
2005-12	4-4-2005	Interlocal agreement for open space property	Ch. 25, Art. II
2005-13	5-2-2005	Parks and recreation areas amendment	Ch. 213
2005-14	5-15-2005	Open Space Encroachments Mediation Committee	Ch. 43
2005-15			NCM
2005-16			NCM
2005-17			NCM
2005-18			NCM

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
2005-19	7-5-2005	Economic Development Advisory Committee abolished	Ch. 11, Editor's Note only
2005-20	8-1-2005	Development regulations amendment	Ch. 130
2005-21	8-15-2005	Garbage, rubbish and refuse amendment	Ch. 162
2005-22			NCM
2005-23			NCM
2005-24	9-12-2005	Parks and recreation areas amendment	Ch. 213
2005-25			NCM
2005-26	10-17-2005	Development regulations	Ch. 130
2005-27	10-17-2005	Sex offenders	Ch. 239
2005-28	10-17-2005	Development regulations amendment	Ch. 130
2005-29	11-14-2005	Development regulations amendment	Ch. 130
2005-30	11-14-2005	Affordable housing development fees amendment	Ch. 90, Art. I
2005-31	11-14-2005	Public access to records amendment	Ch. 225
2006-1			NCM
2006-2	2-6-2006	Alcoholic beverages amendment	Ch. 94

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
2006-3	2-21-2006	Recycling	Ch. 227
2006-4			NCM
2006-5	3-20-2006	Development regulations amendment	Ch. 130
2006-6	3-20-2006	Uniform construction codes amendment	Ch. 121
2006-7	4-28-2006	Board of Recreation Commissioners	Ch. 65
2006-8	4-17-2006	Development regulations amendment	Ch. 130
2006-9	5-1-2006	Stormwater management	Ch. 248
2006-10			NCM
2006-11	8-7-2006	Alcoholic beverages amendment	Ch. 94
2006-12	8-21-2006	Development regulations amendment	Ch. 130
2006-13	8-21-2006	Clothing bins	Ch. 119
2006-14	9-5-2006	Development regulations amendment	Ch. 130
2006-15	8-7-2006	Personnel policies: general provisions amendment	Ch. 46, Art. I
2006-16	10-16-2006	Parades and public assemblies amendment	Ch. 209

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
2006-17	12-12-2006	Sex offenders: residency and other limitations amendment	Ch. 239, Art. I
2006-18	12-18-2006	Vehicles and traffic: general traffic regulations amendment	Ch. 265, Part 2
2006-19	12-18-2006	Purchasing procedures amendment	Ch. 54
2006-20	12-18-2006	Development regulations amendment	Ch. 130
2006-21	12-18-2006	Development regulations amendment	Ch. 130
2007-2	2-20-2007	Parental responsibility	Ch. 211
2007-3	2-20-2007	Redevelopment plans amendment	Ch. 230
2007-4	2-20-2007	Vehicles and traffic: general traffic regulations amendment	Ch. 265, Part 2
2007-5	4-3-2007	Development regulations amendment	Ch. 130
2007-6	6-19-2007	Development regulations amendment	Ch. 130
2007-7	5-1-2007	Peddling and soliciting	Ch. 216
2007-8	5-1-2007	Alcoholic beverages amendment	Ch. 94
2007-9	6-19-2007	Redevelopment plans amendment	Ch. 230

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
2007-10	7-10-2007	Stormwater management plan	Ch. 247 (editor's note only)
2007-11	7-10-2007	Development regulations amendment	Ch. 130
2007-12	7-10-2007	Flood damage prevention amendment	Ch. 157
2007-14	7-10-2007	Police Department amendment	Ch. 51

## **Endnotes**

### **1 (Popup - Popup)**

Editor's Note: See also § 1-17, Word usage.

### **2 (Popup - Popup)**

Editor's Note: See also § 1-4, Definitions.

### **3 (Popup - Popup)**

Editor's Note: Original provisions regarding the meaning of "chapter," "section," "subsection" and "paragraph," which immediately follow this subsection, were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

### **4 (Popup - Popup)**

Editor's Note: See N.J.S.A. 40A:9-22.1 et seq.

### **5 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code, see Ch. 1, General Provisions, Art. 1.

### **6 (Popup - Popup)**

Editor's Note: See N.J.S.A. 40:9-22.1 et seq.

### **7 (Popup - Popup)**

Editor's Note: This ordinance also renumbered former Subsection B, Exception, as Subsection C, which follows.

### **8 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code, see Ch. 1, General Provisions, Art. I.

### **9 (Popup - Popup)**

Editor's Note: Said map is on file at the township offices.

### **10 (Popup - Popup)**

Editor's Note: See N.J.S.A. 40A:9-22.1 et seq.

### **11 (Popup - Popup)**

Editor's Note: See N.J.S.A. 40A:9-22.1 et seq.

**12 (Popup - Popup)**

Editor's Note: See N.J.S.A. 40A:9-22.1 et seq.

**13 (Popup - Popup)**

Editor's Note: This ordinance superseded former Art. I, Clerk and Deputy Clerk, adopted 12-17-1973 by Ord. No. 1973-19 as part of Ch. II of the 1973 Code, as amended.

**14 (Popup - Popup)**

Editor's Note: This ordinance also repealed former Art. V, Township Engineer, adopted 12-17-1973 by Ord. No. 1973-19, and former Art. VI, Superintendent of Public Works, adopted 12-6-1976 by Ord. No. 1976-7.

**15 (Popup - Popup)**

Editor's Note: See Ch. A302, Employee Handbook.

**16 (Popup - Popup)**

Editor's Note: Original Section 2-1C.4b, regarding residency requirements, which immediately followed this section, was deleted 8-3-1992 by Ord. No. 1992-6

**17 (Popup - Popup)**

Editor's Note: Original Section 2-1C.5a, regarding supervision of administration, which immediately preceded this subsection, was deleted 8-3-1992 by Ord. No. 1992-6.

**18 (Popup - Popup)**

Editor's Note: Former Ch. 43, Open Space Advisory Committee, adopted 3-17-2003 by Ord. No. 2003-3, was repealed 1-20-2004 by Ord. No. 2004-2. See Ch. 13, Environmental Preservation, for current provisions pertaining to the Open Space and Environmental Preservation Council.

**19 (Popup - Popup)**

Editor's Note: Former Art. II, Health Benefit Coverage, adopted 6-3-1991 as Ord. No. 1991-9, was repealed 3-1-1993 by Ord. No. 1993-4. Said ordinance provided that it be implemented and effective retroactive to its first reading and that any retired employee currently receiving benefits under the repealed ordinance shall continue to receive such benefits.

**20 (Popup - Popup)**

Editor's Note: This ordinance also provided for the renumbering of former Subsection B(11) as Subsection B(12).

**21 (Popup - Popup)**

Editor's Note: See N.J.S.A. 10:4-6 et seq.

**22 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**23 (Popup - Popup)**

Editor's Note: See N.J.S.A. 52:27D-301 et seq.

**24 (Popup - Popup)**

Editor's Note: See N.J.S.A. 52:27D-314b.

**25 (Popup - Popup)**

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**26 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**27 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**28 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**29 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**30 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**31 (Popup - Popup)**

Editor's Note: Original Section 5A-7.2, Failure to deactivate alarm, and Section 5A-7.3, Failure to pay charges, which immediately followed this section, were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**32 (Popup - Popup)**



Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**33 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**34 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**35 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**36 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**37 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**38 (Popup - Popup)**

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**39 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**40 (Popup - Popup)**

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**41 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**42 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**43 (Popup - Popup)**

Editor's Note: This ordinance also repealed the former definition of "dwelling."

**44 (Popup - Popup)**

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**45 (Popup - Popup)**

Editor's Note: See Ch. 130, Development Regulations.

**46 (Popup - Popup)**

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**47 (Popup - Popup)**

Editor's Note: Former § 121-4A(6)(c), which immediately followed this subsection and provided that the fee for a certificate of approval is a flat fee, was repealed 6-17-1996 by Ord. No. 1996-9.

**48 (Popup - Popup)**

Editor's Note: Former Subsection A(9), regarding a surcharge fee for all new construction, as amended, was repealed 3-20-2006 by Ord. No. 2006-6. See § 121-6.

**49 (Popup - Popup)**

Editor's Note: Former Subsections B(6)(g), (h) and (i), which provided fees for pools, hot tubs, spas and light standards, amended 10-21-1991 by Ord. No. 1991-13, which immediately followed this subsection, were deleted 5-3-1993 by Ord. No. 1993-8.

**50 (Popup - Popup)**

Editor's Note: Former Subsection B(10), Fence fees, as amended, was repealed 8-21-2000 by Ord. No. 2000-18.

**51 (Popup - Popup)**

Editor's Note: Former Subsection B(11)(c), which provided a fee for modular structures, was deleted 5-3-1993 by Ord. No. 1993-8.

**52 (Popup - Popup)**

Editor's Note: Former Subsection B(11)(d), which provided fees for tents and membrane structures, was deleted 5-3-1993 by Ord. No. 1993-8.

**53 (Popup - Popup)**

Editor's Note: Former § 121-4C(1)(e), which contained a fee for a certificate of approval, added 6-19-1995 by Ord. No. 1995-7, was repealed 6-17-1996 by Ord. No. 1996-9.

**54 (Popup - Popup)**

Editor's Note: See N.J.S.A. 52:27D-119 et seq.

**55 (Popup - Popup)**

Editor's Note: See N.J.S.A. 52:27D-119 et seq.

**56 (Popup - Popup)**

Editor's Note: Former § 121-8, Rough inspections, added 4-4-1994 by Ord. No. 1994-6, which immediately followed this section, was repealed 9-20-1999 by Ord. No. 1999-16.

**57 (Popup - Popup)**

Editor's Note: See Ch. 121, Construction Codes, Uniform.

**58 (Popup - Popup)**

Editor's Note: See Ch. 121, Construction Codes, Uniform.

**59 (Popup - Popup)**

Editor's Note: See N.J.S.A. 40:55D-1 et seq.

**60 (Popup - Popup)**

Editor's Note: See Art. VI, Zoning.

**61 (Popup - Popup)**

Editor's Note: The original definition of "lot depth," which immediately followed this definition, was deleted 8-3-1992 by Ord. No. 1992-6.

**62 (Popup - Popup)**

Editor's Note: The original definition of "mobile home," which immediately followed this definition, was deleted 8-3-1992 by Ord. No. 1992-6.

**63 (Popup - Popup)**

Editor's Note: The TDR easement form is on file in the office of the Township Clerk.

**64 (Popup - Popup)**

Editor's Note: See Art. VI, Zoning.

**65 (Popup - Popup)**

Editor's Note: See Ch. 121, Construction Codes, Uniform.

**66 (Popup - Popup)**

Editor's Note: This ordinance also repealed former Subsection J, Itemized bills, and Subsection K, Use of performance bonds, and provided for the relettering of former Subsection L as Subsection J.

**67 (Popup - Popup)**

Editor's Note: See N.J.S.A. 40:55D-1 et seq.

**68 (Popup - Popup)**

Editor's Note: This ordinance also repealed former Subsection J, Maintenance guaranty, which immediately followed this subsection.

**69 (Popup - Popup)**

Editor's Note: See Ch. 121, Construction Codes, Uniform.

**70 (Popup - Popup)**

Editor's Note: See N.J.S.A. 40:55D-1 et seq.

**71 (Popup - Popup)**

Editor's Note: See N.J.S.A. 40:55D-1 et seq.

**72 (Popup - Popup)**

Editor's Note: See Ch. 221, Property Maintenance.

**73 (Popup - Popup)**

Editor's Note: See N.J.S.A. 40:55D-1 et seq.

**74 (Popup - Popup)**

Editor's Note: See N.J.S.A. 4:24-39 et seq.

**75 (Popup - Popup)**

Editor's Note: See N.J.S.A. 4:24-39 et seq.

**76 (Popup - Popup)**

Editor's Note: See N.J.S.A. 40:55D-1 et seq.

**77 (Popup - Popup)**

Editor's Note: Original Section 18-5c.13, regarding monuments, which immediately followed this subsection, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**78 (Popup - Popup)**

Editor's Note: See § 130-26, Buffers.

**79 (Popup - Popup)**

Editor's Note: Former Subsection D, pertaining to satellite dish receiving antennas, which immediately followed this subsection, was repealed 7-6-2004 by Ord. No. 2004-24 and subsequent subsections were renumbered respectively.

**80 (Popup - Popup)**

Editor's Note: Said Schedule is included at the end of this chapter.

**81 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**82 (Popup - Popup)**

Editor's Note: See Ch. 246, Soil Removal and Erosion Control.

**83 (Popup - Popup)**

Editor's Note: See N.J.S.A. 40:55D-1 et seq.

**84 (Popup - Popup)**

Editor's Note: Former § 130-40, Low- and moderate-income housing, was repealed 1-21-1997 by Ord. No. 1997-1.

**85 (Popup - Popup)**

Editor's Note: Original Section 18-6.20, Mobile Home Park, which immediately preceded this section, was deleted 8-3-1992 by Ord. No. 1992-6.

**86 (Popup - Popup)**

Editor's Note: See § 130-25, Bicycles paths.

**87 (Popup - Popup)**

Editor's Note: See Ch. 121, Construction Codes, Uniform.

**88 (Popup - Popup)**

Editor's Note: See Subsection C(4) below.

**89 (Popup - Popup)**

Editor's Note: See Ch. 121, Construction Codes, Uniform.

**90 (Popup - Popup)**

Editor's Note: See Ch. 201, Noise.

**91 (Popup - Popup)**

Editor's Note: This ordinance also contained a sunset provision, which stated: "The provisions of this ordinance which seek to enact a Voluntary Transfer Development Rights program shall automatically be repealed unless the goals provided within N.J.S.A. 40:55D-124 are met within the six- and twelve-year periods specified unless the Township Committee takes the action called for within N.J.S.A. 40:55D-124, Subdivision b. "N.J.S.A. 40:55D-124 requires that, within six years of the date that this ordinance becomes effective, at least 30% of the development potential available on the market has to have been transferred. This statute further provides that, at the end of 12 years, 60% of the development potential has to have been transferred. The development potential available on the market refers to those credits created by enrollment in the program. It does not refer to development potential which may enroll in the program. "However, the repeal of the regulations cited shall not rescind or otherwise affect the restrictions imposed by the TDR easement or the validity of any land development utilizing credits transferred, except as otherwise provided by the enabling statute."

**92 (Popup - Popup)**

Editor's Note: The allocation plan (Exhibit No. 3 of Ord. No. 1995-17, as amended) is on file in the office of the Township Clerk.

**93 (Popup - Popup)**

Editor's Note: The allocation plan (Exhibit No. 3 of Ord. No. 1995-17, as amended) is on file in the office of the Township Clerk.

**94 (Popup - Popup)**

Editor's Note: This ordinance provided that it would take effect and be retroactive to 4-1-1998.

**95 (Popup - Popup)**

Editor's Note: Plate L1, Native Vegetation, is on file in the office of the Township Clerk.

**96 (Popup - Popup)**

Editor's Note: Plate L2, Nonnative Drought Tolerant, is on file in the office of the Township Clerk.

**97 (Popup - Popup)**

Editor's Note: Plate L3, Prohibited Vegetation, is on file in the office of the Township Clerk.

**98 (Popup - Popup)**

Editor's Note: Plate L4, Replacement of Trees, is on file in the office of the Township Clerk.

**99 (Popup - Popup)**

Editor's Note: Plate L1, Native Vegetation, is on file in the office of the Township Clerk.

**100 (Popup - Popup)**

Editor's Note: Plate L5, Recommended Street Trees, is on file in the office of the Township Clerk.

**101 (Popup - Popup)**

Editor's Note: Plate L1, Native Vegetation, Plate L2, Nonnative Vegetation and Plate L3, Prohibited Vegetation, are on file in the office of the Township Clerk.

**102 (Popup - Popup)**

Editor's Note: Plate L6, Hedgerow Vegetation, is on file in the office of the Township Clerk.

**103 (Popup - Popup)**

Editor's Note: Plate L7, Typical Buffer Planting Plan, is on file in the office of the Township Clerk.

**104 (Popup - Popup)**

Editor's Note: Plate L2, Nonnative Drought Tolerant, is on file in the office of the Township Clerk.

**105 (Popup - Popup)**

Editor's Note: Plate L8, Aquatic Vegetation, is on file in the office of the Township Clerk.

**106 (Popup - Popup)**

Editor's Note: Plate L1, Native Vegetation, is on file in the office of the Township Clerk.

**107 (Popup - Popup)**

Editor's Note: Plates A1 and A2 are on file in the office of the Township Clerk.

**108 (Popup - Popup)**

Editor's Note: Plate A3, Permitted Stone Patterns for Facades, is on file in the office of the Township Clerk.

**109 (Popup - Popup)**

Editor's Note: Plate A1, Architectural Styles, is on file in the office of the Township Clerk.

**110 (Popup - Popup)**

Editor's Note: Plate A2, Architectural Considerations, is on file in the office of the Township Clerk.

**111 (Popup - Popup)**

Editor's Note: Former Subsection E(4)(e)[3], Active recreation, was repealed 4-17-2006 by Ord. No. 2006-8.

**112 (Popup - Popup)**

Editor's Note: Former Subsection E(6)(c), which provided that commercial uses shall front along the extension of Bobby's Run Boulevard only, was repealed 4-17-2006 by Ord. No. 2006-8.

**113 (Popup - Popup)**

Editor's Note: Said Schedule is included at the end of this chapter.

**114 (Popup - Popup)**

Editor's Note: Said Schedule is included at the end of this chapter.

**115 (Popup - Popup)**

Editor's Note: A copy of the Zoning Map is included at the end of this Code.

**116 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.



**117 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**118 (Popup - Popup)**

Editor's Note: Former Subsection C, RA/R-1 TDR Receiving Area District, was repealed 4-17-2006 by Ord. No. 2006-8.

**119 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**120 (Popup - Popup)**

Editor's Note: This ordinance also repealed former Subsection E, RA/R-3 TDR Receiving Area District.

**121 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**122 (Popup - Popup)**

Editor's Note: Former Subsection F, RA/R-4 TDR Receiving Area District, was repealed 4-17-2006 by Ord. No. 2006-8.

**123 (Popup - Popup)**

Editor's Note: Former Subsection G, RA/R-5 TDR Receiving Area District, was repealed 4-17-2006 by Ord. No. 2006-8.

**124 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**125 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**126 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**127 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**128 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**129 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**130 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**131 (Popup - Popup)**

Editor's Note: Former Subsection N(2)(e), regarding farm-related equipment and machinery, added 6-16-1997 by Ord. No. 1997-13, which subsection immediately followed this subsection, was repealed 7-21-1997 by Ord. No. 1997-14.

**132 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**133 (Popup - Popup)**

Editor's Note: Former Subsection O(2)(p), regarding permitted uses in the R-12 Residential Apartments District, was repealed 1-21-1997 by Ord. No. 1997-1.

**134 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**135 (Popup - Popup)**

This ordinance provided that: "Subject to the provisions of N.J.S.A. 40:55D-66.6, and the applicable standards of the zoning districts affected, child-care centers for which, upon completion, a license is required from the Department of Human Services (N.J.S.A. 30:5B-1 et seq.) shall be a permitted use in all nonresidential districts of the municipality."

**136 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**137 (Popup - Popup)**

Editor's Note: This ordinance provided that: "Subject to the provisions of N.J.S.A. 40:55D-66.6, and the applicable standards of the zoning districts affected, child-care centers for which, upon completion, a license is required from the Department of Human Services (N.J.S.A. 30:5B-1 et

seq.) shall be a permitted use in all nonresidential districts of the municipality."

**138 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**139 (Popup - Popup)**

Editor's Note: This ordinance also deleted former Subsection R, I-3 Airport Industrial District.

**140 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**141 (Popup - Popup)**

Editor's Note: This ordinance also provided for the redesignation of former Subsection S and Subsection T.

**142 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**143 (Popup - Popup)**

Editor's Note: The Schedule of Limitations is included at the end of this chapter.

**144 (Popup - Popup)**

Editor's Note: Ordinance No. 2000-15, adopted 7-17-2000, provided in part as follows: Be it ordained and enacted by the Township Committee of the Township of Lumberton, County of Burlington and State of New Jersey, that the air safety zone required to be established by the Township of Lumberton pursuant to the New Jersey Air Safety and Hazardous Zoning Act of 1983, N.J.S.A. 6:1-80 et seq., be and is hereby amended insofar as same relates to the South Jersey Regional Airport (SJRA) to return said zone to parameters established and in place in 1993 before discussions with the Township began, relating to the expansion of the runway at the SJRA; Be it further ordained and enacted by the Township Committee of the Township of Lumberton that the Township hereby expresses its refusal to modify, now and in the future, the airport safety zone surrounding the SJRA to accommodate either Alternatives 1, 2 or 3 outlined in the Draft Environmental Assessment for the South Jersey Regional Airport, dated February 2000, prepared by Clough Harbour and Associates, LLP, and currently under consideration by both the State of New Jersey Department of Transportation, Division of Aeronautics, and by the State of New Jersey Department of Environmental Protection.

**145 (Popup - Popup)**

Editor's Note: See N.J.S.A. 6:1-80 et seq.

**146 (Popup - Popup)**

<sup>1</sup> Subject to the provisions of N.J.S.A. 40:55D-66.6, and the applicable standards of the zoning districts affected, child-care centers for which, upon completion, a license is required from the Department of Human Services (N.J.S.A. 30:5B-1 et seq.) shall be a permitted use in all nonresidential districts of the municipality.

**147 (Popup - Popup)**

Editor's Note: The original definition of "vicious dog," which immediately followed this definition, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I. See now Art. II of this chapter.

**148 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**149 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**150 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**151 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**152 (Popup - Popup)**

Editor's Note: These provisions were originally Sec. 7.8 of Art. I of this chapter.

**153 (Popup - Popup)**

Editor's Note: Said disclosure form is on file in the Township offices.

**154 (Popup - Popup)**

Editor's Note: See N.J.S.A. 54:5-65 et seq.

**155 (Popup - Popup)**

Editor's Note: See N.J.S.A. 52:27D-192 et seq.

**156 (Popup - Popup)**

Editor's Note: See N.J.S.A. 52:27D-192 et seq.

**157 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**158 (Popup - Popup)**

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**159 (Popup - Popup)**

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**160 (Popup - Popup)**

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**161 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**162 (Popup - Popup)**

Editor's Note: Appendix A is included at the end of this article.

**163 (Popup - Popup)**

Editor's Note: This ordinance also supersedes former Ch. 199, Newsracks, adopted 10-4-1999 by Ord. No. 1999-19.

**164 (Popup - Popup)**

Editor's Note: Former Subsections B and C, pertaining to public hearing conditions, which immediately followed this subsection, were deleted 10-16-2006 by Ord. No. 2006-16.

**165 (Popup - Popup)**

Editor's Note: This ordinance also provided for the redesignation of former Subsection C as Subsection E.

**166 (Popup - Popup)**

Editor's Note: This ordinance also repealed former Ch. 216, Peddling and Soliciting: Art. I, Peddlers, Hawkers and Vendors, adopted 12-17-1973 by Ord. No. 1973-19 as part of Ch. V (§ 5-2) of the 1973 Code, as amended; Art. II, Solicitors and Canvassers, adopted 12-17-1973 by Ord. No. 1973-19 as part of Ch. V (§ 5-3) of the 1973 Code, as amended; Art. III, Roadway Solicitations, adopted 9-8-1998 by Ord. No. 1998-26; and Art. IV, Background Checks, adopted

9-5-2000 by Ord. No. 2000-19.

**167 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**168 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**169 (Popup - Popup)**

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**170 (Popup - Popup)**

Editor's Note: See Ch. 227, Recycling.

**171 (Popup - Popup)**

Editor's Note: See N.J.S.A. 13:1E-99.16, N.J.S.A. 13:1E-99.17; and N.J.S.A. 13:1E-99.22, respectively.

**172 (Popup - Popup)**

Editor's Note: Said Schedule A is on file in the Township offices.

**173 (Popup - Popup)**

Editor's Note: Said Schedule A is on file in the Township offices.

**174 (Popup - Popup)**

Editor's Note: Said Schedule A is on file in the Township offices.

**175 (Popup - Popup)**

Editor's Note: See Ch. 11, Economic Development Advisory Committee.

**176 (Popup - Popup)**

Editor's Note: See Ch. 221, Property Maintenance.

**177 (Popup - Popup)**

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**178 (Popup - Popup)**

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**179 (Popup - Popup)**

Editor's Note: See N.J.S.A. 52:27D-192 et seq.

**180 (Popup - Popup)**

Editor's Note: Former Subsection C, regarding public health, safety and welfare, was repealed 8-1-1994 by Ord. No. 1994-15.

**181 (Popup - Popup)**

Editor's Note: This ordinance also repealed Subsections B and C, regarding fees for removing soil over 5,000 cubic yards and 100,000 cubic yards, respectively.

**182 (Popup - Popup)**

Editor's Note: Former Subsection C, regarding removal of top layers of soil, was repealed 8-1-1994 by Ord. No. 1994-15.

**183 (Popup - Popup)**

Editor's Note: See Ch. 130, Development Regulations.

**184 (Popup - Popup)**

Editor's Note: Ord. No. 2007-10, adopted 7-10-2007, adopted the Township Stormwater Management Plan. Said plan is on file in the Township offices.

**185 (Popup - Popup)**

Editor's Note: Schedule A is on file in the Township offices.

**186 (Popup - Popup)**

Editor's Note: This ordinance also provided for the redesignation of former Subsection C as Subsection E.

**187 (Popup - Popup)**

Editor's Note: See Ch. 130, Development Regulations.

**188 (Popup - Popup)**

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**189 (Popup - Popup)**

Editor's Note: See N.J.S.A. 40A:21-1 et seq.

**190 (Popup - Popup)**

Editor's Note: "This Act" refers to N.J.S.A. 40A:21-1 et seq.

**191 (Popup - Popup)**

Editor's Note: See N.J.S.A. 40A:21-1 et seq.

**192 (Popup - Popup)**

Editor's Note: "This Act" refers to N.J.S.A. 40A:21-1 et seq.

**193 (Popup - Popup)**

Editor's Note: Original Article V, Section C, stated that this article (Ord. No. 1998-15 which comprises this article) would take effect after proper passage in accordance with law.

**194 (Popup - Popup)**

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**195 (Popup - Popup)**

Editor's Note: Said Chapter IX has been superseded by Ord. No. 1992-13, adopted 12-21-1992. See now Part 2, General Traffic Regulations, of this chapter.

**196 (Popup - Popup)**

Editor's Note: See now Part 2, General Traffic Regulations, of this chapter.

**197 (Popup - Popup)**

Editor's Note: See now § 265-61, Schedule VIII: Stop Intersections.

**198 (Popup - Popup)**

Editor's Note: See now Part 2, General Traffic Regulations, of this chapter.

**199 (Popup - Popup)**

Editor's Note: See now § 265-61, Schedule VIII: Stop Intersections.

**200 (Popup - Popup)**



Editor's Note: See now § 265-61, Schedule VIII: Stop Intersections.

**201 (Popup - Popup)**

Editor's Note: See now Part 2, General Traffic Regulations, of this chapter.

**202 (Popup - Popup)**

Editor's Note: See now § 265-61, Schedule VIII: Stop Intersections.

**203 (Popup - Popup)**

Editor's Note: See now Part 2, General Traffic Regulations, of this chapter.

**204 (Popup - Popup)**

Editor's Note: See now § 265-61, Schedule VIII: Stop Intersections.

**205 (Popup - Popup)**

Editor's Note: See now § 265-61, Schedule VIII: Stop Intersections.

**206 (Popup - Popup)**

Editor's Note: See now § 265-62, Schedule IX: Yield Intersections.

**207 (Popup - Popup)**

Editor's Note: Said site plan is on file in the Township offices.

**208 (Popup - Popup)**

Editor's Note: See Part 1, Private and Semipublic Property, of this chapter.

**209 (Popup - Popup)**

Editor's Note: See also Part 1, Private and Semipublic Property, of this chapter.

**210 (Popup - Popup)**

Editor's Note: This ordinance also provided that no person shall park a vehicle unless it is parked in a legally prescribed manner at the curb, pursuant to N.J.S.A. 39:4-135.

**211 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**212 (Popup - Popup)**

Editor's Note: Pursuant to § 281-13B, the following sections were amended or added: §§ 283-9; 297-3; 297-4. In addition, the following original sections were deleted: Original Section BH:2-5, Plumbing Inspector. A complete description of these changes is on file in the office of the Secretary of the Board of Health.

**213 (Popup - Popup)**

Editor's Note: Original Section BH:2-5, Plumbing Inspector, which immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**214 (Popup - Popup)**

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**215 (Popup - Popup)**

Editor's Note: See N.J.S.A. 26:3-69.1 et seq.

**216 (Popup - Popup)**

Editor's Note: This ordinance, adopted by the Township Committee, also repealed former § 294-4, Violations and penalties.

**217 (Popup - Popup)**

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**218 (Popup - Popup)**

Editor's Note: Ordinance No. 1994-17, adopted 11-21-1994, comprised former Ch. A301, Cable Television Franchise.