TOWN
OF
HACKETTSTOWN

Warren County
New Jersey

Land Development Ordinance

Adopted by the Town Council

August 9 1999

Updated and Codified Through December 31, 2015
By: Maser Consulting P.A.

LAND DEVELOPMENT ORDINANCE
OF THE
TOWN OF HACKETTSTOWN

TABLE OF CONTENTS

100.	**TITLE AND PURPOSE**	**Page**
	Short Title	100-1
	Purpose	100-1
	Interpretation of Standards	100-2
	Prohibited Uses	100-2
	Compliance	100-2
200.	**DEFINITIONS AND DESCRIPTIONS**	
	Definitions	200-1
300.	**ZONING DISTRICTS AND ZONING MAP**	
	Zoning Districts	300-1
	Optional Development Alternatives	300-1
	Zoning Map	300-1
	Interpretation of Boundaries	300-2
	Principal Buildings Per Lot	300-2
400.	**DISTRICT REGULATIONS**	
	General District Regulations	400-1
	"C" Conservation 4	400-1
	"R-30" Single-Family Residential	
	"R-15" Single-Family Residential	
	"R-12.5" Single-Family Residential	400-2
	"R-12.5/OFF" Single-Family/Office	400-4
	"APT" Apartments	400-6
	"TCC" Town Center Commercial	400-8
	"CC" Community Commercial	
	"HC" Highway Commercial.	400-13
	"LM" Limited Manufacturing	400-19
	"HF" Health Facilities.	400-24
	"PMU" Planned Mixed Use Downtown Development	400-28
500.	**GENERAL PROVISIONS AND DESIGN STANDARDS**	
	Accessory Buildings and Structures	500-1
	Drainage	500-2
	Fences, Walls and Sight Triangles	500-18
	Lighting	500-19
	Lot Configuration	500-20
	Natural Features	500-21
	Non-Conforming Lots, Structures and Uses	500-23
	Off-Street Parking, Loading Areas and Driveways	500-24
	Performance Standards for All Uses	500-29
	Principal Use	500-31
	Public Utilities	500-32
	Sanitary Sewers	500-32
	Signs	500-33

	Streets, Curbs and Sidewalks	500-39
	Swimming Pools	500-44
	Water Supply	500-45
	Appearance of Buildings	500-46
	Property Abutting Railroad Right-Of-Way	500-46
	Grading	500-46
	Easements	500-47
	Guiderails	500-48
	Retaining Walls	500-48
	Landscaping Standards	500-48
	Morris Canal	500-50
	Stormwater Control	500-51
	Soil Remediation	500-76
600.	**EXCEPTIONS, MODIFICATIONS, DEVELOPMENT ALTERNATIVES AND AFFORDABLE HOUSING PROVISIONS**	**Page**
	Conditional Uses	600-1
	General Exceptions and Modifications	600-12
	Townhouses and Apartments	600-13
	Flood Plain Areas	600-14
	Planned Developments	600-23
	Affordable Housing Provisions	600-36
	Affordable Housing Requirements	600-62
700.	**ZONING BOARD OF ADJUSTMENT,PLANNING BOARD AND HISTORIC PRESERVATION COMMISSION**	
	Establishment of the Board of Adjustment	700-1
	Powers and Jurisdiction of the Zoning Board of Adjustment	700-2
	Appeals and Applications to the Zoning Board of Adjustment	700-5
	Establishment of the Planning Board	700-6
	Powers and Jurisdiction of the Planning Board	700-9
	Provisions Applicable to Both the Planning Board and the Zoning Board of Adjustment	700-10
	Appeal of Use Variance Approval Decision	700-16
	Notice of Planning Board and Zoning Board of Adjustment Decisions	700-17
	Establishment of the Historic Preservation Commission	700-18
	Powers and Jurisdiction of the Historic Preservation Commission	700-20
800.	**DEVELOPMENT APPLICATION REVIEW PROCEDURES**	
	Jurisdiction of Responsibility During Development Application Review	800-1
	Application of Requirements	800-2
	Submission of Minor Subdivision Plats and Minor Site Plans	800-3
	Submission of Preliminary Major Subdivision Plats and Preliminary Major Site Plans.	800-9
	Submission of Final Major Subdivision Plats and Final Major Site Plans	800-23
	Historic Preservation	800-28

900.	**FEES, GUARANTEES, INSPECTIONS AND IMPROVEMENTS**	
	Fees	900-1
	Guarantees and Inspections	900-9
	Off-Tract Improvements	900-15
1000.	**ADMINISTRATION, WAIVERS, ENFORCEMENT, VIOLATIONS AND PENALTIES**	
	Administration	1000-1
	Enforcement	1000-1
	Subdivision Approval Certificates	1000-8
	Penalties	1000-9
	Selling Land Before Final Subdivision Appeal	1000-10
	Waivers	1000-10
1100.	**DISTRICT CHANGES AND ORDINANCE AMENDMENTS**	1100/1400-1
1200.	**VALIDITY OF ORDINANCE**	1100/1400-1
1300.	**REPEALER**	1100/1400-1
1400.	**EFFECTIVE DATE**	1100/1400-1

SECTION 100

TITLE AND PURPOSE

SECTION 100

100 TITLE AND PURPOSE

101 Title.

A comprehensive Ordinance regulating and limiting the uses of land and the uses and locations of buildings and structures; regulating and restricting the height and bulk of buildings and structures and determining the area of yards and other open spaces; regulating and restricting the density of population; dividing the Town of Hackettstown into districts for such purposes; adopting a map of said Town showing boundaries and the classification of such districts; establishing rules, regulations and standards governing the subdivision and development of land within the Town; establishing a Planning Board and a Zoning Board of Adjustment; and prescribing penalties for the violation of its provisions.

102 Short Title.

The short form by which this chapter may be known shall be "THE LAND DEVELOPMENT ORDINANCE OF THE TOWN OF HACKETTSTOWN".

103 Purpose.

The chapter is adopted pursuant to N.J.S.A. *40:55D-l,* et seq., in order to promote and protect the public health, safety, morals, and general welfare, and in furtherance of the following related and more specific objectives:

- To secure safety from fire, flood, panic, and other natural and manmade disasters;
- To provide adequate light, air and open space;
- To ensure that the development of the Town of Hackettstown does not conflict with the development and general welfare of neighboring municipalities, the county and State as a whole;
- To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, and preservation of the environment;
- To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;

- To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational and commercial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;

- To encourage the location and design of transportation routes which will permit the free flow of traffic while discouraging location of such facilities and routes which will result in congestion or blight;

- To provide a desirable visual environment through creative development techniques and good civic design and arrangements;

- To promote the conservation of open space and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land;

- To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial and recreational development to the particular site;

- To encourage senior citizen community housing construction;

- To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;

- To promote the conservation of energy through the use of planning practices designed to reduce energy consumption and to provide for maximum utilization of renewable energy sources.

- To further the goals and policies of the Master Plan of the Town of Hackettstown.

104 Interpretation of Standards.

The provisions of this Ordinance shall be held to be the minimum requirements. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules, regulations or resolutions, the provisions of this Ordinance shall control. Where other laws, rules, regulations or resolutions require greater restrictions than are imposed by this Ordinance, the provisions of such other laws, rules, regulations or restrictions shall control.

105 Prohibited Uses.

All uses not expressly permitted in this Ordinance are prohibited. Additionally, no more than one (1) principal building shall be situated on any lot unless specifically permitted by this Ordinance.

106 <u>Compliance</u>.

All applicable requirements shall be met at the time of construction, enlargement, alteration, moving or change in the use of a structure or structures and shall apply to the entire structure or structures, whether or not the entire structure or structures were involved in the construction, enlargement, alteration, moving or change in use.

In all instances, the Planning Board or Zoning Board of Adjustment, as the case may be, shall exercise the application of the requirements of the Ordinance in a reasonable manner, considering both the existing and proposed development of the subject site.

SECTION 200

DEFINITIONS & DESCRIPTIONS

SECTION 200

200 **DEFINITIONS AND DESCRIPTIONS**

For the purpose of this section, certain phrases and words are herein defined as follows: words used in the present tense include the future; words used in the singular number include the plural number and vice versa; the word “used” shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used; the word “lot” includes the word “plot” and “premises”; the word “building” includes the words “structure”, “dwelling” or “residence”; the word “shall” is mandatory and not discretionary; and the word “may” is discretionary and not mandatory. Any word or term not defined herein shall be used with a meaning as defined in Webster’s New International Dictionary of the English Language, unabridged and latest edition. Moreover, whenever a term is used in this chapter which is defined in N.J.S.A. 40:55D-1, et seq., and is not defined in this Ordinance, such term is intended to have the meaning as defined in N.J.S.A. 40:55D-1 et seq.

Accessory Building, Structure or Use: A building, structure or use which is customarily associated with and is subordinate and incidental to the principal building, structure or use and which is located on the same lot therewith, including, but not limited to, garages, carports, barns, kennels, sheds, non-portable swimming pools, guest houses and all roofed structures. Any accessory building attached to the principal building shall be considered part of the principal building.

Administrative Officer: The Clerk of the Planning Board or the Clerk of the Zoning Board of Adjustment, whichever the case may be, of the Town of Hackettstown, Warren County, New Jersey, unless a different municipal official is designated by this Ordinance to administer certain of the responsibilities and authorities specified for the administrative officer in N.J.S.A. 40:55D-1 et seq.

Adverse Effect: Conditions or situations created by a proposed development that impose, aggravate or lead to impractical, unsafe or unsatisfactory conditions on surrounding properties including, but not limited to, inadequate drainage facilities, unsuitable street grades, street locations that fail to compose a convenient system, and failure to provide or make future allowance for access to the interior portion of adjoining lots or for other facilities required by this Ordinance.

Alterations, or Additions, Structural: Any change in or additions to the supporting members of a building such as walls, columns, beams, girders, posts or tiers.

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

Application for Development: The application or appeal forms and all accompanying documents required by this Ordinance for approval of a subdivision plat, site planned development, conditional use, zoning variance or direction for issuance of a permit pursuant to N.J.S.A. 40:55D-34 or N.J.S.A. 40-55D-36.

Auction House: Any premises on which are conducted at periodic times indoor auction sales of merchandise or other personal property. Specifically excluded are other retail sales, flea markets and garage sales.

Basement: That portion of a building partly below and partly above grade, where the ceiling averages four feet or more than four feet above the finished grade where such grade meets the outside walls of the building. A basement shall be considered a "story" above grade when the distance from grade to the finished surface of the floor above the basement is more than six feet (6') for more than fifty percent *(50%)* of the total perimeter or more than twelve feet (12') at any point.

Bed and Breakfast Residence: A private single-family residence, used and owner occupied as a single-family residence, which provides overnight lodging for transient guests as a subordinate use and provides breakfast for registered guests before noon, each day.

Bed and Breakfast Inn: Formerly a single family dwelling or Inn, which provides overnight lodging for transient guests and may provide breakfast and other meals to registered guests and the public.

Bedroom: A room planned, used or designed primarily for sleeping.

Billboard: Any structure or portion thereof on which lettered or pictorial matter is displayed for advertising purposes which structure is located on a site other than the site to which the advertising relates.

Building: Any structure or extension thereof or addition thereto having a roof supported by such things as columns, posts, piers, walls or air and intended for the shelter, business, housing or enclosing of persons, animals or property.

Building Height: The vertical distance measured to the highest point from a mean elevation of the finished grade at the foundation along the side(s) of the building facing a street or to the street line if the street line is within ten feet distance from the foundation. In all cases where this Ordinance provides for height limitations by reference to a specified height and a specified number of stories, the intent is to limit height to the specified maximum footage and the specified number of stories within said footage.

Cartway: The hard or paved surface portion of a street customarily used for vehicles in the regular course of travel. Where there are curbs, the cartway is that portion between the curbs. Where there are no curbs, the cartway is that portion between the edges of the paved or graded width.

Cellar: That portion of a building partly or wholly below grade, where the ceiling averages less than four feet above the finished grade where such grade meets the outside walls of the building.

Club, Social: A private organization for social purposes in which the principal use is in enclosed buildings; accessory facilities may be included such as, but not limited to, tennis courts, pools and incidental eating and social facilities.

Common Open Space: An open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complimentary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

Community Residence For The Developmentally Disabled: Any community residential facility licensed pursuant to P.L. 1977, c.448 (N.J.S.A. 30:11B-1 et. seq.) providing food, shelter and personal guidance, under such supervision as required, to not more than fifteen (15) developmentally disabled or mentally ill persons, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, half-way houses, intermediate care facilities, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility, within the meaning of the "Health Care Facilities Planning Act", P.L. 1971, c.136 (N.J.S.A. 26:2H-1 et seq.). In the case of a community residence housing mentally ill persons, such residence shall have been approved for a purchase of service contract or an affiliate agreement pursuant to such procedures as shall be established by regulation of the Division of Mental Health and Hospitals of the Department of Human Services. "Developmentally Disabled Person" means a person who is developmentally disabled as defined in Section 2 of P.L. 1971, c.136 (N.J.S.A. 26:2H-l et seq.). In the case of a community residence housing mentally ill persons, such residence shall have been approved for a purchase of service contract or an affiliate agreement pursuant to such procedures as shall be established by regulation of the Division of Mental Health and Hospitals of the Department of Human Services. "Developmentally Disabled Person" means a person who is developmentally disabled as defined in Section 2 of P.L. 1977, c.488 (N.J.S.A. 30:11B-2). "Mentally Ill Person" means a person who is afflicted with a mental illness as defined in N.J.S.A. 30:4-23, but shall not include a person who has been committed after having been found guilty of a criminal offense by reason of insanity or having been found unfit to be tried on a criminal charge.

Community Shelter For Victims Of Domestic Violence: Any shelter approved for a purchase of a service contract and certified pursuant to standards and procedures established by regulation of the Department of Human Services pursuant to P.L. 1979, c.337 (N.J.S.A. 30:40-1-14) providing food, shelter, medical care, legal assistance, personal guidance, and other services to not more than fifteen *(15)* persons who have been victims of domestic violence, including any children of such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

Complete Application: An application form completed as specified by this Ordinance and the rules and regulations of the Town of Hackettstown and all accompanying documents required by this Ordinance for approval of the particular application for development as specified in Section 800 of

this Ordinance; provided that the municipal agency may require such additional information not specified in this Ordinance or revisions to 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 such additional information or any revisions to the accompanying documents so required by the municipal agency.

Conditional Use: A use permitted in a particular zoning district only upon showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as specified in this Ordinance.

Conservation Easement: An interest in land less than fee simple absolute, stated in the form of a right, restriction, easement, covenant or condition, in any deed, will or other instrument (other than a lease), executed by or on behalf of the owner of the land, including, but not limited to, an assessment appropriate to retaining land or water areas predominantly in their natural scenic or wooded condition; or for conservation of soil or wildlife or for outdoor recreation or park use; or as suitable habitat for fish or wildlife, and to forbid or limit any or all inappropriate uses.

Construction Official: An individual designated by the Town of Hackettstown and duly licensed by the New Jersey State Department of Community Affairs to serve as the construction official.

Coverage, Building: The aggregate square footage or other area measurement by which all buildings occupy a lot as measured in a horizontal plane around the periphery of the facades and including the area under the roof of any structure supported by columns, but not having walls, as measured around the outside of the outermost extremities of the roof above the columns.

Coverage, Lot: The aggregate square footage or other area measurement by which all buildings and impervious surfaces cover a lot as measured in a horizontal plane to the limits of the impervious area(s). All surfaced parking areas and all required parking areas which are permitted to remain unsurfaced shall be included in the computation of lot coverage.

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 other structure, or any mining, excavation or landfill, and any use or change in use of any building or other structure or land or extension of use of land, for which permission may be required.

Distribution Center: Any building or premises in which the principal use involves the immediate handling and distribution of wholesale goods to others, but not for resale to the general public or individual members of wholesale clubs.

Drainage and Utility Right-of-Way: The lands required for the installation and maintenance of storm water and sanitary sewers, water pipes or drainage ditches and other utilities, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

Dwelling Unit: A room or series of connected rooms designed for permanent residency containing living, cooking, sleeping and sanitary facilities for one housekeeping unit. The dwelling unit shall be self-contained and shall not require passing through another dwelling unit or other indirect route(s) to get to any other portion of the dwelling unit, nor shall there be shared facilities with another housekeeping unit.

> **Detached Single - Family:** A building physically detached from other buildings or portions of buildings which is occupied or intended to be occupied for residence purposes by one house-keeping unit and which has its own sleeping, sanitary and general living facilities.
>
> **Apartment:** A building containing a minimum of three dwelling units and not exceeding three and one-half (3-1/2) stories and forty feet (40') in height.
>
> **Semi-Detached Single-Family:** Two buildings on two adjacent lots joined by a party wall, each containing one dwelling unit with its own sleeping, cooking and sanitary facilities, and which is occupied or intended to be occupied for residence purposes by one housekeeping unit.
>
> **Two-Family**: A building on one lot containing two dwelling units only, each having entrances on the first floor, intended for the residential occupancy by two housekeeping units, each living independently of each other and each unit with its own sleeping, cooking and sanitary facilities. The dwelling units shall be entirely separated from one another by vertical walls or horizontal floors except for access to the outside or to a common basement.
>
> **Townhouse:** One building containing at least three (3) connected dwelling units, where each dwelling unit is compatibly designed in relation to all other units, but is distinct by such design features as width, setback, roof design, color, exterior materials, and other features, singularly or in combination. Each dwelling unit may be a maximum of three and one-half (3-1/2) stories and forty feet (40') in height, but nothing in the definition shall be construed to allow one dwelling unit over another.

Easement: A use or burden imposed on real estate by deed or other legal means to permit the use of land by the municipality, public, a corporation, or particular persons for specific uses.

Family Day Care Home: Any private residence approved by the Division of Youth and Family Services or an organization with which the Division contracts for family day care in which child care services are regularly provided to no less than three (3) and no more than five (5) children for no less than fifteen (15) hours per week. A child being cared for under the following circumstances is not included in the total number of children receiving child care services:

a. A child being cared for is legally related to the provider; or

b. The child is being cared for as part of a cooperative agreement between parents for the care of their children by one (1) or more of the parents, where no payment for the care is being provided.

Financial Service Center: A non-bank entity that does not accept deposits or make loans like traditional banks or financial institutions but that provides monetary services that include the sale or redemption of travelers checks or money orders, money wire transfers, check cashing and current exchange.

Flood Plain: The relatively flat area adjoining a water channel which has been or may be covered by flood water of the channel, including the following components:

Floodway: The river or other watercourse and the adjacent land area that must be reserved in order to discharge the design flood without cummulatively increasing the water surface elevation more than two-tenths (0.2) of a foot.

Flood Hazard Area: Land in the flood plain subject to a one percent or greater chance of flood in any given year.

Flood Fringe Area: That portion of the flood hazard area outside of the floodway.

Floor Area, Gross (G.F.A.): The plane projection of all roofed areas on a lot multiplied by the number of full stories under each roof section provided that the area under any roof overhang of four feet or less and/or any under roof parking area shall not be included in the G.F.A. calculation. Basements which satisfy applicable construction definitions of habitable space are included in the G.F.A.

Floor Area, Net Habitable (N.H.F.A.): The finished and heated area fully enclosed by the inside surfaces of walls, windows, doors and partitions and having a headroom of at least six and one-half feet including working, living, eating, cooking, sleeping, stair, hall, service and storage areas, but excluding garages, carports, parking spaces, cellars, utility (heating and cooling) rooms, half-stories and unfinished attics and basements.

Floor Area Ratio (F.A.R.): The ratio of the gross floor area to the area of the lot or tract.

Front Façade: That portion of a building 12 feet in height and the width of the building.

Grade: The slope of a road, path, driveway, swale or other surface or the average finished ground elevation adjoining a building at project completion.

Guest Room: A room which is occupied, arranged or designed to be occupied by no more than four (4) guests, and which contains no cooking facilities.

Historic Structure. Any building or structure which has been formally designated as a contributing resource in the Periodic Re-examination Report compiled by Dennis N. Bertland and made part of the "Historic Preservation Plan Element" of the Town's Master Plan.

Home Occupation: Any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit. Home occupation shall be prohibited in all residential zones except as otherwise permitted for home-office occupation. This definition shall not apply to those occupations that do not impact abutting properties. Impacting abutting properties shall be defined for purposes of this definition as activities that will generate no additional pedestrian or vehicular traffic by employees, customers, clients, deliveries, or the like, outside that which is needed for household purposes, and will have no alterations, additions, modifications, or identifications to the business on the outside of the structure."

Home Office Occupation: The professional occupation of a certified public accountant, public accountant, registered municipal accountant, public school accountant, architect, attorney at law, beautician, dentist, landscape architect, professional engineer, land surveyor, medical doctor, doctor of osteopathy, doctor of podiatry, doctor of chiropractic, professional nurse, licensed practical nurse, optometrist, certified shorthand reporter, professional planner, psychologist, marriage counselor, physical therapist, audiologist, or special language pathologist licensed by components of the State of New Jersey, Department of Law and Public Safety, Division of Consumer Affairs, and conducted in a dwelling unit, subordinate to its residential use, provided that:

a. No person other than members of the household residing on the premises plus one secretary or other assistant shall be engaged in such occupation.

b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to the use of the property for residential purposes by its residents, and not more than twenty percent (20%) of the floor area of the dwelling unit shall be used in the conduct of the home office occupation.

c. There shall be no exterior evidence of the home office occupation other than one (1) unlighted name plate identifying the home office occupation, not exceeding four (4) square feet in area, either attached or free-standing and set back at least fifteen feet (15') from all street rights-of-way and property lines.

d. The home office occupation shall not necessitate the need to park two (2) vehicles at any time in addition to those ordinarily used by the residents of the home. Said vehicles shall be limited to automobiles and

must be parked off-street.

e. The applicant shall have applied for and received “minor” site plan approval from the Planning Board in accordance with the applicable requirements of this Ordinance.

f. Family Day Care Homes shall be deemed to be a “Home Office Occupation” in any residential district in which home office occupations are a permitted accessory use and shall be subject to the same restrictions applicable to all other home office occupations stated hereinabove.

Hotels and Motels: A building or group of buildings consisting of individual sleeping units designed for transient travelers and not for permanent residency, except that up to three percent (3%) of the total units may be provided for the sole use of resident employees.

Housekeeping Unit: One or more persons living together in one dwelling unit on a non-seasonal basis and sharing living, sleeping, cooking and sanitary facilities on a non-profit basis.

Interior Lot: A lot other than a corner lot.

Junk Yard: Any space, whether inside or outside a building, used for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition, salvage, resale or abandonment of automobiles or other vehicles or machinery or parts thereof. “Junk yards” are not permitted on any lands within the Town.

Limited Manufacturing: A land use involving the fabricating or the assembling of standardized parts as contrasted to a processing activity which would involve a physical or chemical process that would change the nature or character of the product or raw material.

Limited Manufacturing Park: A tract comprehensively planned for permitted uses whether or not the buildings are erected in one development stage or over a period of time, but where the streets, utilities and lots are set forth and approved by the Planning Board for the entire tract prior to construction of any portion of the tract.

Loading Space: An off-street parking space or berth on the same lot with a building or group of buildings for the temporary parking of a commercial vehicle while loading or unloading.

Lot: Any parcel of land separated from other parcels or portions as by a subdivision plat or deed record, survey map or by metes and bounds, except that for purposes of this section, contiguous under sized lots under one ownership shall be considered one lot and, further, that no portion of an existing street shall be included in calculating a lot boundary or lot area.

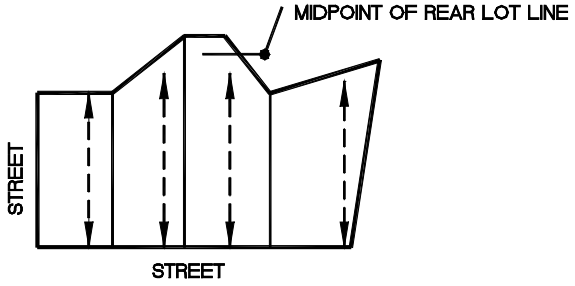
Lot Area: The area contained within the lot lines of a lot, not including any portion of a street right-of-way.

Lot Corner: A lot on the junction of land abutting two or more

intersecting streets where the interior angle of intersection does not exceed 135 degrees. Each corner lot shall have two front yards, one side and one rear yard, the side and rear yards to be designated at the time of application for a construction permit; along with an access road to be designated at the time of application for subdivision approval.

Lot Depth: The shortest horizontal distance between the front lot line and a line drawn parallel to the front lot line through the mid-point of the rear lot line.

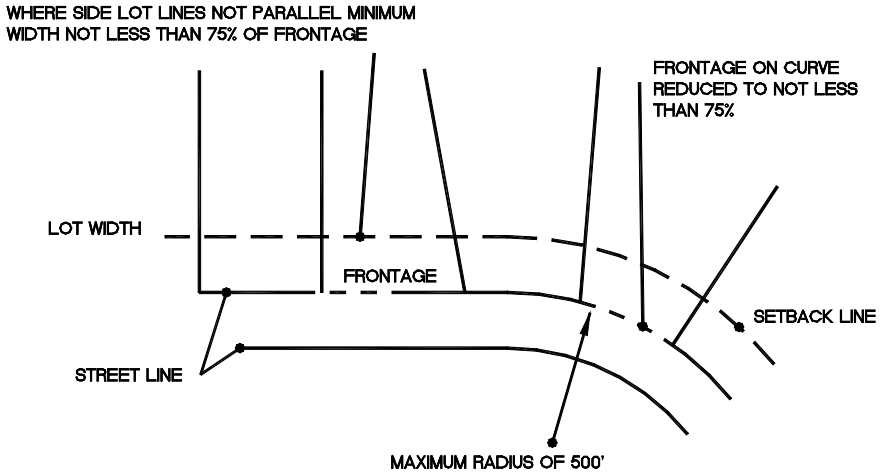
LOT DEPTH



Lot Frontage: The horizontal 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 alignments with an outside radius of less than 500 feet measured from the centerline of the street, the minimum distance between the side lot lines measured at the street line shall not be less than 75 percent of the required minimum lot width unless a lesser frontage is specified in this Ordinance. In the case of a corner lot, either street frontage which meets the required frontage for that zone may be considered the lot frontage.

Lot Width: The straight and horizontal distance between the side lot lines at setback points on each side lot line measured an equal distance from the street line. The minimum lot width shall be measured at the minimum required building setback line. When side lot lines are not parallel, the minimum lot width at the setback line shall not be less than 75 percent of the minimum lot frontage for the zoning district in which the lot is located unless a lesser width is specified in this Ordinance.

LOT FRONTAGE
LOT WIDTH



Maintenance Bond: Any security acceptable to the governing body to assure the maintenance of duly approved improvements installed by the developer after the final inspection of the improvements and in accordance with this Ordinance.

Master Plan: A composite of the mapped and written plans recommending the physical development of the municipality which shall have been adopted by the Planning Board.

Mean Elevation: The average of the ground level measurements computed at the four extreme corner points of any proposed or existing building.

Municipal Agency: The Planning Board, Board of Adjustment, or Town Council, or any agency created by or responsible to one or more municipalities when acting pursuant to N.J.S.A. 40:55D-l et seq.

Non-Conforming Building or Structures: A building or structure which in its location upon a lot or in its size, does not conform to the regulations of this Ordinance for the zone in which it is located.

Non-Conforming Lot: A lot of record which does not have the minimum size, width, frontage or depth or contain the minimum area for the zone in which it is located.

Non-Conforming Use: A use occupying a building, structure or lot which does not conform with the use regulations for the zone in which it is located.

Off-Site: Located outside the lot lines of the property in question but within the property (of which the lot is a part) which is the subject of a development application, or on a contiguous portion of the street right-of-way.

Off-Tract: Not located on the property which is the subject of a development application or on a contiguous portion of a street right-of-way or drainage or utility easement.

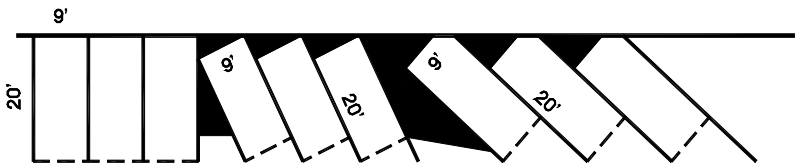
On-Site: Located on the lot in question.

On-Tract: Located on the property which is the subject of a development application or on a contiguous portion of a street right-of -way.

Open Space: Any parcel or land area or water, essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, streets, off-street parking and other improvements that are designed to be incidental to the natural openess of the land, and provided further that no portion of the required open space shall include any yard or setback distance stipulated in this Ordinance and any street right-of-way.

Parking Space: Any area of not less than nine feet wide by twenty feet in length (9' X 20'), either within a structure or in the open, for the parking of motor vehicles, exclusive of driveways, access drives, fire lanes and public rights-of-way, except that the length of a parking space may be reduced to eighteen feet (18') in length, subject to the approval of the Board in those instances where a two foot (2') overhang area exists beyond a curb and where such overhang does not interfere with any proposed and/or required landscaping. Notwithstanding any other provision of this Ordinance, nothing shall prohibit private driveways for detached dwelling units from being considered off-street parking areas, except that no portion of such private driveway within the right-of-way line of the street intersected by such driveway shall be considered off-street parking areas. The width and length of each space shall be measured perpendicular to each other regardless of the angle of the parking space to the access aisle or driveway.

PARKING SPACE



Performance Guarantee: Any security, in accordance with the requirements of this Ordinance, which may be accepted in lieu of a requirement that certain improvements be completed prior to final approval of a development application, including performance bonds, escrow agreements and other similar collateral or surety agreements.

Permitted Use: Any use of land or buildings as permitted by this Ordinance.

Personal Services: Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.

Planned Development Organization: An incorporated, non-profit organization operating in a Planned Development under recorded land agreement through which: (a) each occupied dwelling unit is automatically a member; (b) each occupied dwelling unit is automatically subject to a charge for proportionate share of expenses for the organization's activities and maintenance, including any maintenance costs levied against the organization by the Town; and (c) each owner and tenant has the right to use the common property.

Revised 1/09

Planned Developments:

Residential Cluster: An area to be developed as a single entity according to a plan containing residential housing units which have a common or public open space area as an appurtenance; i.e., a multi-unit residential development in which structures are grouped closer to each other than would otherwise be permitted, and in which the open space so saved remains an integral element of the development.

Planned Residential Development: An area to be developed as a single entity according to a plan containing residential clusters and including appropriate public or quasi-public uses, all primarily for the benefit of the development.

Principal Use: The primary purpose for which a lot or building is used.

Public Purpose Uses: The use of land or buildings by the governing body of the Town or any officially created authority or agency thereof.

Restaurant: Any establishment, however designated, at which food is sold primarily for consumption on the premises. However, a snack bar or refreshment stand at a public or community swimming pool, playground, playfield or park, operated solely by the agency or group operating the recreational facility and for the convenience of patrons of the facility, shall not be deemed a restaurant.

Restaurant, Drive-In and/or Fast Food: Any restaurant, refreshment stand, snack bar, dairy bar, hamburger stand or hot dog stand where food is served in disposable containers and/or served primarily for consumption at counters, stools or bars outside the building or primarily for consumption in automobiles, whether brought to said automobiles by the customer or by an employee of the restaurant either inside or outside the restaurant or through a drive-up window, regardless of whether or not additional seats or other accommodations are provided for customers inside the building.

Retail Sales: Establishments engaged in the selling or rental of goods or merchandise (usually to the general public for personal use or household consumption, although they may also serve business and institutional clients) and in rendering services incidental to the sale of such goods.

Retail Services: Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use, including eating and drinking places; hotels and motels; finance, real estate and insurance offices; personal services; theaters; amusement and recreation services; health, educational, and social services; museums; and galleries.

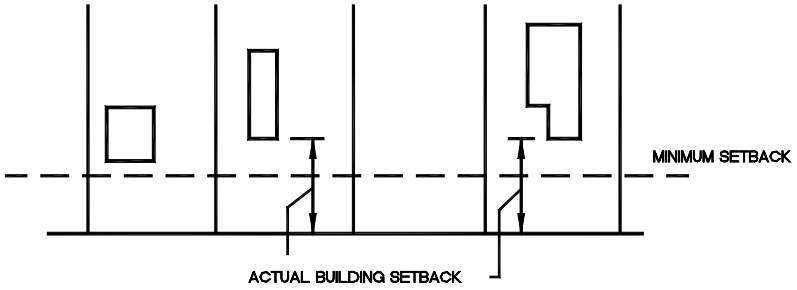
Satellite Dish Antenna: Any apparatus or structure constructed or installed out of doors with the purpose of receiving television, radio or similar waves, but excluding, however, conventional television antennae.

Service Station: Any building, place or location designed to supply motor vehicles with gasoline, oil, grease and supplies and for the inspection, testing and examination and repair thereof, equipped with gasoline pumps and oil pumps maintained for the purpose of selling gasoline and oil; provided, however, that no store maintained for the sale of automobile parts and nonrelated automotive products and services exclusive of gasoline and oil, shall be deemed to be a “service station”.

In addition, unless specifically permitted through use variance, the sale of roses, carwashes, propane, firewood, coffee, snacks and beverages is prohibited. The sale of cigarettes, ice, franchise specific promotional items and sale of single servings of cold beverages through a vending machine are permitted.

Setback Line: A line drawn parallel with a street line or lot line and drawn through the point of a building nearest to the streetline or lot line. The term “required setback” means a line that is established a minimum horizontal distance from the street line or lot line and beyond which a building or part of a building is not permitted to extend toward the street line or lot line.

SETBACK LINE



Sight Easement at Intersection: A triangular area established in accordance with the requirements of this Ordinance in which no grading, planting or structure shall be erected or maintained more than twelve inches (12”) above the street centerline except for street signs, fire hydrants and light standards.

Sign: Any inscription written, printed, painted or otherwise, placed on a board, plate, banner, or upon any material object or any device whatsoever, which by reason of its form, color, wording, activity or technique or otherwise, attracts attention to itself whether it be used as a means of identification, advertisement or announcement. As used in this Section, the term shall apply only to such signs as are visible and intelligible to persons located outside the building. In addition to the provisions of this Ordinance, all signs shall comply with the provisions of the uniform Construction Code.

Awning Sign: Any sign that is a part of or attached to an awning, awning or other fabric, plastic or structural protective cover over a door entrance, window or outdoor service area. A marquee is not an awning.

Banner: Any temporary sign made of flexible fabric, plastic or paper temporarily affixed against a building.

Freestanding Sign: Any sign supported by structures or supports that are permanently anchored in the ground and that are independent from any building or other structure.

Projecting Sign: Any sign affixed to a building or wall in such manner that its leading edge extends more than six inches (6”) beyond the surface of such building or wall.

Roof Sign: Any sign erected or constructed wholly on or over

the roof of a building, supported by the roof structure and extending vertically above the highest portion of the roof.

Sandwich Board: A sign made from a chalkboard not exceeding 6 square feet and kept on an easel.

Temporary Sign: Any sign that is not used on a daily basis and is not permanently mounted.

Wall Sign: Any sign attached parallel to, but within six inches (6”) of a wall, painted on the wall surface of, or mounted on the wall surface of or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

Window Sign: Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Site Plan: A development plan of one or more lots on which is shown (I) the existing and proposed conditions of the lot, including but not limited to topography, vegetation, drainage, flood plains, marshes and waterways; (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices; and (3) any other information that may be reasonably required in order to make an informed determination concerning the adequacy of the plan in accordance with the requirements of this Ordinance.

Minor Site Plan: Any development plan which is limited to the proposed construction of any permitted accessory use(s), such as a sign, off-street parking area, or home office occupation, as such accessory uses are specifically permitted in Section 400 of this Ordinance, or any development plan consisting of an expansion of, or addition to, an existing conforming structure and/or use not exempted from site plan review by Section 802B. of this Ordinance and not accounting for more than four thousand (4,000) cubic feet of enclosed or roofed area; providing that such development plan does not involve a planned development, the installation of any road improvements or the expansion of public facilities and does not adversely affect the development of an adjoining property or properties.

Major Site Plan: Any development plan not classified as a minor site plan.

Site Plan/Subdivision Review Subcommittee: A subcommittee of at least two Planning Board members, appointed by the Planning Board Chairman, plus up to three other individuals agreed upon by the full Planning Board, who may be other Planning Board members, other municipal officials or employees of the Town, for the purpose of reviewing site plan and/or subdivision applications prior to action by the Board to determine whether such applications comply with all Ordinance

provisions and with other requirements relating to site plans and/or subdivisions as may be conferred on the subcommittee by the Board through a motion duly adopted and recorded.

Site Plan Review: The examination of the specific development plans for a lot or tract of land. Whenever the term “Site Plan Approval” is used in this Ordinance, it shall be understood to mean a requirement that the site plan be reviewed and approved by the Board in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-l, et seq.).

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and ceiling next above it. Cellars and basements ordinarily shall not be considered stories when considering the height of a building; provided, however, that finished basements in non-residential buildings shall be considered a story for purposes of height, floor area and parking computations in accordance with the requirements of this Ordinance.

Story, Half: A space under a sloping roof that has the line of intersection of the roof and wall face not more than 3 feet above the floor level and in which space the possible floor area with headroom of 5 feet or less occupies at least 40 percent of the total floor area of the story directly beneath. Half stories shall not be used for residential occupancy except in the case of detached single family dwellings.

Street: Any street, avenue, boulevard, road, parkway, viaduct, drive or other way (1) which is an existing State, county or municipal road way or (2) which is shown on a plat heretofore approved, pursuant to law, whether publicly or privately owned, or (3) which is approved by N.J.S.A. 40:55D-1 et seq., or (4) which is shown on a plat duly filed in the office of the County Recording Officer prior to the appointment of a Planning Board and the grant to such Board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise
pavement, shoulder, gutters, sidewalks, parking areas and other areas within the street line. For purposes of the paving design and setback requirements of this Ordinance for and related to streets, all “private roads” shall be considered “streets”.

Street Line: The edge of the existing or future street right-of-way, whichever may result in the widest right-of-way, as shown on the adopted Master Plan or official map, and/or by the applicable requirements of this Ordinance, forming the dividing line between the street and a lot.

Structure: Anything constructed, assembled or erected which requires location on the ground or attachment to something having such location on or in the ground, including, but not limited to, buildings, fences, lights, tennis courts, tanks, parking lots, towers, signs, advertising devices and swimming pools.

Subdivision: The division of a lot, tract or parcel of land into two or more lots, tracts, parcels, or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this Ordinance if no new streets are created: (1) divisions of land found by the Planning Board or subdivision committee thereof to be for agricultural purposes where all resulting parcels are five acres or larger in size, (2) divisions of property by testamentary or interstate

provisions, (3) divisions of property upon Court order including, but not limited to, judgments of foreclosure, (4) consolidation of existing lots by deed or other recorded instrument and *(5)* the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the municipality. The term "subdivision" shall also include the term "resubdivision".

Minor Subdivision: Any division of land containing an aggregate of not more than three (3) lots (two (2) new lots and the remaining parcel), each fronting on an existing public street or streets; not involving any new street or the installation of any street improvements or the extension of Town facilities; not involving any streets requiring additional right-of-way width as specified in the Master Plan or official map and/or street requirements of this Ordinance, unless such additional right-of-way width, either along one (1) or both sides of said Street(s), as applicable, shall be deeded to the Town or to the appropriate governmental authority; not adversely affecting the development of the remainder of the parcel or adjoining property; not being a further division of an original tract of land for which previous minor subdivision(s) have been approved by the Town within the current calendar year and where the combination of the proposed and approved minor subdivision(s) constitutes a major subdivision; and not being deficient in those details and specifications required of minor subdivisions as specified in this Ordinance. The original tract of land
shall be considered any tract in existence at the time of the adoption of the Ordinance as such tract shown on the Town Tax Maps. Any readjustment of lot lines resulting in no new lots shall be classified as a minor subdivision.

Major Subdivision: Any division of land not classified as a minor subdivision.

Subdivision Review: The examination of the specific subdivision plat for a lot or tract of land. Wherever the term "Subdivision Approval" is used in this Ordinance, it shall be understood to mean a requirement that the subdivision plat be reviewed and approved by the Board in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.).

Swimming Pool, Portable: Portable pools shall not be subject to the requirements of this Ordinance and are those pools which are not otherwise permanently installed; do not require water filtration, circulation and purification; do not exceed a water surface of 100 square feet; and do not require braces or supports.

Swimming Pool, Private Residential: Private residential swimming pools shall mean and include artificially constructed pools, whether located above or below the ground, having a depth of more than 18 inches and/or a water surface of 100 square feet or more; designed and maintained for swimming and bathing purposes by an individual for use by members of his household and guests and which is located on a lot as an accessory use to a residential dwelling and shall include all buildings, structures, equipment and appurtenances thereto.

Swimming Pool, Commercial: Commercial swimming pools shall mean and include all pools associated with other than detached single-family and two-family dwellings. Commercial swimming pools shall be further classified into types in accordance with their particular use and shall meet the appropriate design standards as set forth by the National Swimming Pool Institute.

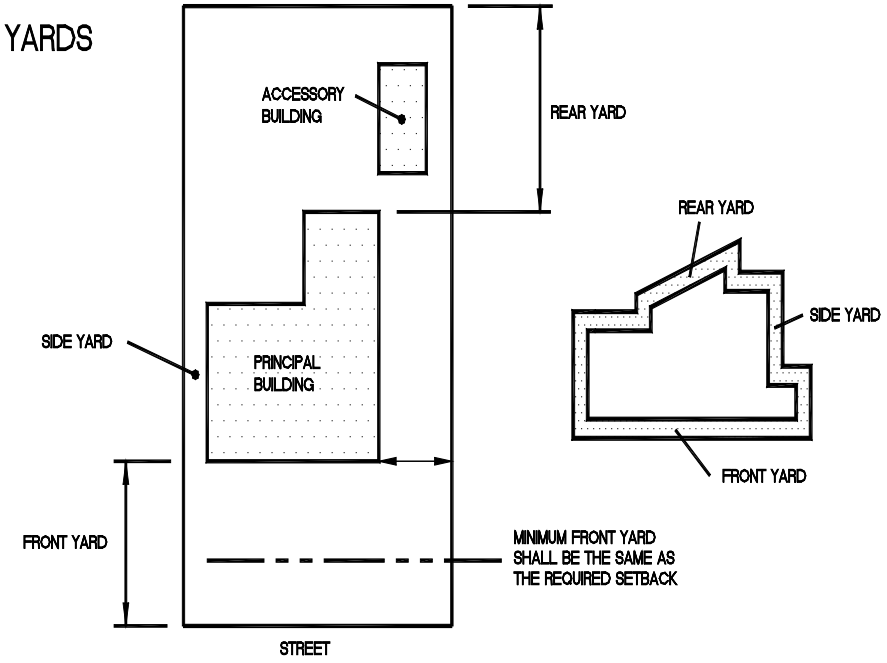
Town: Town of Hackettstown, Warren County, New Jersey.

Tract: An area of land composed of one or more lots and having sufficient dimensions and area to make one land area meeting the requirements of this Ordinance for the use(s) intended.

Variance: A departure from the terms of this Ordinance authorized by the appropriate municipal agency in accordance with N.J.S.A. 40:55D-l, et seq.

Warehouse: Any building or premises in which the principal use involves the storage of goods and materials.

Yard, Front: An open space extending across the full width of the lot and lying between the street line and the closest point of any building on the lot. The depth of the front yard shall be measured horizontally from a lot line drawn parallel or concentric to the centerline of the street.



Yard, Rear: An open space extending across the full width of the lot and lying between the rear lot line and the closest point of the principal building on the lot. The depth of the rear yard shall be measured horizontally and at right angles to either a straight rear lot line or the tangent of curved rear lot lines.

Yard, Side: An open space extending from the front yard to the rear yard and lying between each side lot line and the closest point of the principal building on the lot. The width of the required side yard shall be measured horizontally and at right angles to either a straight line or the tangent lines of curved side lot lines.

SECTION 300

ZONING DISTRICTS & ZONING MAP

SECTION 300

ZONING DISTRICTS AND ZONING MAP

301 ZONING DISTRICTS

For the purpose of this Ordinance, the Town of Hackettstown is hereby divided into twelve (12) districts as follows:

C	-	Conservation	
R-30	-	Single-Family Residential	(30,000 s.f.)
R-15	-	Single-Family Residential	(15,000 s.f.)
R-12.5	-	Single-Family Residential	(12,500 s.f.)
R-12.5/OFF	-	Single-Family/Offices	(12,500 s.f.)
APT	-	Apartments (10du/ac)	
TCC	-	Town Center Commercial	
CC	-	Community Commercial	
HC	-	Highway Commercial	
LM	-	Limited Manufacturing	
HF	-	Health Facilities	
PMU	-	Planned Mixed Use Downtown Development	

302 OPTIONAL DEVELOPMENT ALTERNATIVES

In addition to the permitted uses within each of the designated zoning districts, two (2) types of planned development are permitted in accordance with the requirements of this Ordinance on certain lands as follows:

Name	Where Permitted
Residential Clusters	Where indicated on the Zoning Map
Planned Residential Developments	Where indicated on the Zoning Map

303 ZONING MAP

The boundaries of the zoning districts and the areas designated for the optional development alternatives are established on the maps entitled "Zoning Map of the Town of Hackettstown", dated March 1989, which accompanies and is hereby made part of this Ordinance. Said map is amended by 98-ORD7, 99-ORD2, 99-ORD10, 2000-ORD5, 2001-ORD23, 2002-ORD21, 2003-ORD13, 2003-ORD21, ORD 2004-11, ORD2004-13, ORD 2010-08 and ORD 2011-15 as follows:

(a) Block 41, Lot 25 and Block 41.02 Lot 28 currently in the HC Zone District shall be removed from said district and placed in the LM District.
(b) Block 38, Lots 4 and 5 Block 41.02, Lots 29, 29.01and 32; Block 73, Lots 1, 2, 3, 4, 5, 6, 7, 8 and 10; and Block 1, Lot 1(part) currently in the HC Zone District, shall be removed from said district and placed in the CC Zone District.
(c) Block 34, Lots 4, 5, and 7.01; Block 38, Lots 2, 3, and 3.01 and Block 41.02 Lot 30 currently in the TCC Zone District shall be removed from said district and placed in the CC Zone District.

(d) Block 34, Lot 3 currently in the R-12.5 Zone District shall be removed from said District and placed in the CC District.
(e) Block 116, Lots 4, 5, and 6 in the R-30 Zone District shall be removed from said District and placed in the HF Zone District.
(f) The optional Planned Development Alternative entitled "Single-family Residential Cluster", which was permitted on Lot 19, Block 41, was eliminated.
(g) Block 108, Lots 2, 3, 4, 5, and 6 are hereby removed from the R-12.5 Zone District and placed in the R-30 Zone District.
(h) Block 124, Lots 10, 11, and 12 are hereby removed from the APT Zone District and placed in the R12.5 Zone District.
(i) Block 120, Lots 4, 5, 6, 7, 8, 8.01, 9, 10, and 11 and Block 123, Lots 2, 3, 4, 5, 6, 6.01, 6.02, 6.05, 7, 8, 8.02, 8.05 and 14 are hereby removed from the R12.5 / Office Zone District. These properties were rezoned and placed in the R12.5 Zone District.
(j) Block 119, Lot 82.01 is hereby removed from the R-30 District and placed in the C District.
(k) Block 71, Lots 1, 12.02, 13, 20, and 21 and Block 68, Lots 12, 13, 14, 14.01, 14.02, and 15 are hereby removed from the CC District and placed in the TCC District.
(l) Block 21, Lot 18 is hereby removed from the LM District and placed in the PMU District.
(m) Block 45, Lots 1, 1.01, 2, 2.01, 3, 3.01 and 3.02 are hereby removed from the Limited Manufacturing (LM) District and placed in the Health Facilities (HF) District.
(n) Block 45, Lots 1.01 and 2 are incorporated into the Planned Family Rental Development Overlay District.

304 INTERPRETATION OF BOUNDARIES

A. Zoning district boundary lines are intended to follow street centerlines, railroad rights-of-way, streams and lot or property lines as they exist on lots of record at the time of enactment of this Ordinance unless otherwise indicated by dimensions on the Zoning Map. B. Any dimensions shown on the Zoning Map are in feet and are measured horizontally and, when measured from a street, are measured from the street right-of-way line even if the centerline of that street is used for the location of the zoning district line.

C. The exact location of any disputed zoning district boundary line shall be determined by the Zoning Board of Adjustment.

D. The zoning standards, controls and designations apply to every structure, lot and use within each district and the district lines extend vertically in both directions from ground level.

305 PRINCIPAL BUILDINGS PER LOT

Unless otherwise specifically permitted within this Ordinance, no more than one (1) principal dwelling or building shall be permitted on one (1) lot.

SECTION 400

DISTRICT REGULATIONS

SECTION 400

DISTRICT REGULATIONS

401 GENERAL DISTRICT REGULATIONS

No building shall hereafter be used, erected, altered, converted, enlarged, added to, moved or reduced, wholly or in part, nor shall any lands be designed, used or physically altered for any purpose or in any manner except in conformity with this Ordinance. Where a lot is formed from part of a lot already occupied by a building, any subdivision shall be effected in such a manner as not to impair any of the requirements of this Ordinance with respect to the existing building and all yards and other open space in connection therewith and so that all resulting lots have adequate dimensions consistent with the requirements of the zoning district in which it is located.

402 "C" CONSERVATION

A. Principal Permitted Uses on the Land and in Buildings

1. Public playgrounds, public conservation areas, public parks and public open space.

2. "Public purpose uses" as defined in Section 200 of this Ordinance.

B. Accessory Uses Permitted

1. Those uses ordinarily associated with the principal permitted uses on the lands.

2. Tennis courts and other usual recreational facilities.

C. Maximum Building Height

No building height shall exceed thirty-five (35) feet in height and two and one-half (2 1/2) stories except as provided in Section 602 (see Section 602 for comparison) of this Ordinance.

D. General Requirements

1. All uses and activities must comply with appropriate State and Federal regulations.

2. If any land within the designated "C" District reverts to private ownership, that land shall become part of the "R-30" District.

403 "R-30" SINGLE-FAMILY RESIDENTIAL "R-15" SINGLE-FAMILY RESIDENTIAL "R-12.5" SINGLE-FAMILY RESIDENTIAL

A. Principal Permitted Uses on the Land and in Buildings

1. Single-family detached dwelling units.

2. Public playgrounds, public conservation areas, public parks, public open space and "public purpose uses" as defined in Section 200 of this Ordinance.

3. Public and private day schools of elementary and/or high school grade licensed by the State of New Jersey; except that nursery and/or day care centers or schools are not permitted.

4. Churches, the site development of which resembles in character, scale and uses, such site development commonly associated with recognized and long-established sects or denominations as Conditional Uses under N.J.S.A. 40:55D-67 (see Section 601 for additional standards).

5. Public Utilities as Conditional Uses under N.J.S.A. 40:55D-67 (see Section 601 for standards).

6. Community Residences For The Developmentally Disabled and Community Shelters For Victims Of Domestic Violence, subject to standards and requirements for single-family dwelling units located within the same district; however, where such residence or shelter houses more than six (6) persons, excluding resident staff, such use shall be deemed a 'Conditional Use' under N.J.S.A. 40:55D-67 (see Section 601 for standards).

7. Single-Family Residential Clusters, where indicated on the Zoning Map only, in accordance with the provisions specified in Section 605 of this Ordinance.

8. Planned Residential Developments, where indicated on the Zoning Map only, in accordance with the provisions specified in Section 605 of this Ordinance.

9. Bed and Breakfast Residences as Conditional uses under N.J.S.A. 40:55D-67 (See Section 601 for standards).

10. Health related professional and medical offices as a conditional use in the R-30 Single-Family Residential District only under N.J.S.A. 40:55-D67 (See Section 601 for standards).

11. Active Adult Residential Communities (AARC) as a conditional use in the R-12.5 Zone District only under N.J.S.A. 40:55D-67 (see Section 601 for standards).

12. Colleges and Universities as a conditional use under N.J.S.A. 40:55D-67 (see Section 601 for Standards).

B. <u>Accessory Uses Permitted</u>

1. Private residential swimming pools (see Section 515 for standards) and other usual recreational facilities customarily associated with residential dwelling units.

2. Private residential sheds for the storage of objects owned by the residents of the property, each not exceeding 15 feet in height, and altogether not exceeding 100 square feet in gross floor area.

3. Off-street parking and private garages (see Section 403 E. hereinbelow and Section 508).

4. Fences and walls (see Section 503).

5. Home occupations (see Section 200 for definition and requirements).

6. Signs (see Section 403 F. hereinbelow and Section 513).

7. Satellite dish antennae as Conditional Uses under N.J.S.A. 40:55D-67 (see Section 601 for standards).

C. Maximum Building Height

No building height shall exceed thirty-five feet (35') in height and two and one-half (2.5) stories except that churches and schools shall not exceed fifty-five feet (55') and except further as allowed in Section 602 of this Ordinance.

D. Area and Yard Requirements

	"R-30" District	"R-15" District	"R-12.5" District	Schools And Churches
Principal Building Minimum				
Lot area	30,000 sf	15,000 sf	12,500 sf	25,000 sf
Lot frontage	125'	80'	60'	120'
Lot width	125'	80'	60'	120'
Lot depth	175'	125'	100'	150'
Side yard (each)	25'	15'	10'	25'
Front yard	50'	30'	20'	40'
Rear yard	40'	30'	20'	40'
Accessory Building Minimum				
Distance to side line	15'	10'	10'	20'
Distance to rear line	5'	5'	5'	20'
Distance to other building	10'	10'	10'	20'
Maximum				
Building coverage of principal building	10%	20%	20%	25%
Lot Coverage	15%	30%	30%	60%

E. Minimum Off-Street Parking

Each individual use shall provide parking spaces according to the following minimum provisions:

1. Detached dwelling units shall provide two (2) spaces per unit.

2. Churches shall provide one (1) space per every three (3) permanent seats. (One seat shall be considered twenty-two inches (22") in calculating the capacity of pews or benches.)

3. Schools shall provide one (1) space per employee for grades kindergarten through tenth grades, and two and one-half (2 1/2) spaces per employee for grades eleven and twelve.

4. See Section 508 for additional standards.

F. Signs

1. Dwelling units: Information and direction signs as defined in subsection 513A.5.

2. Churches and Schools: one (1) free-standing sign not exceeding fifteen (15) square feet in area, ten (10) feet in height and set back at least one-half (1/2) the required principal building setback from all street and property lines, plus one (1) attached sign not exceeding twenty (20) square feet.

3. See Section 513 for additional standards.

404 "R-12.5/OFF" SINGLE-FAMILY/OFFICE

A. Principal Permitted Uses on the Land and in Buildings

1. Single-family detached dwelling units.

2. Professional offices, either by conversion or new construction subject to site plan review, and provided that the exterior of the building shall be maintained and/or constructed to resemble a single-family detached dwelling; no flat roofs shall be permitted. One (1) apartment not less than seven hundred fifty square feet (750 s.f.) in area may be located on the second floor of a building used for the permitted professional offices.

3. Public playgrounds, public conservation areas, public parks, public open space and 'public purpose uses ' as defined in Section 200 of this Ordinance.

4. Churches, the site development of which resembles in character, scale and uses, such site development commonly associated with recognized and long-established sects or denominations, as Conditional Uses under N.J.S.A. 40:55D-67 (see Section 601 for additional standards).

5. Community Residences For The Developmentally Disabled and Community Shelters For Victims Of Domestic Violence, subject to standards and requirements for single-family dwelling units located within the same district; however, where such residence or shelter houses more than six (6) persons, excluding resident staff, such use shall be deemed a 'Conditional Use' under N.J.S.A. 40:55D-67 (see Section 601 for standards).

6. Bed and Breakfast Residences as Conditional Uses under N.J.S.A.40:55D-67 (See Section 601 for standards).

7. Public and private day schools of elementary and/or high school licensed by the State of New Jersey, except that nursery and/or day care centers or schools are not permitted.

B. Accessory Uses Permitted

1. Private residential swimming pools (see Section 515 for standards) and other usual recreational facilities, customarily associated with residential dwelling units.

2. Private residential sheds for storage of objects owned by the residents of the property, each not exceeding 15 feet in height, and altogether not exceeding 100 square feet in gross floor area.

3. Off-street parking and private garages (see Section 404 E. hereinbelow and Section 508).

4. Fences and walls (see Section 503).

5. Home occupations (see Section 200 for definition and requirements).

6. Signs (see Section 404 F. hereinbelow and Section 513).

7. Satellite dish antennae as Conditional Uses under N.J.S.A. 40:55D-67 (see Section 601 for standards).

C. Maximum Building Height

No building height shall exceed thirty-five (35) feet in height and two and one-half (2 ½) stories except that churches shall not exceed fifty-five (55) feet in height; newly constructed professional office buildings shall not exceed thirty (30) feet in height and two and one-half (2 ½) stories; and except further as allowed in Section 602 of this Ordinance.

D. Area and Yard Requirements

	Detached Dwellings	Professional Offices	Churches/ Schools
Principal Building			
Minimum			
Lot area	12,500 s.f.	12,500 s.f.	25,000 s.f.
Lot frontage	60'	60'	120'
Lot width	60'	60'	120'
Lot depth	100'	100'	150'
Side yard (each)	15'	15'	25'
Front yard	20'	20'	40'
Rear yard	20'	20'	40'
Accessory Building			
Minimum			
Distance to side line	10'	10'	20'
Distance to rear line	5'	10'	20'
Distance to other building	10'	20'	20'
Maximum			
Building coverage of principal building	20%	N.A.	25%
Lot coverage	30% (1)	55%	60%
Floor Area Ratio	N.A.	0.30	N.A.

E. Minimum Off-Street Parking

Each individual use shall provide parking spaces according to the following minimum provisions:

1. Detached dwelling units and apartments on the second floor of buildings used for permitted professional offices shall provide two (2) spaces per unit.

2. Churches shall provide one (1) space per every three (3) permanent seats. (One seat shall be considered twenty-two (22) inches in calculating the capacity of pews or benches.)

3. Professional offices shall provide parking at the ratio of one (1) space per 200 s.f. of net habitable floor area, with no parking permitted in front yard areas and with parking in rear yard areas suitably screened from adjoining properties via evergreen landscaping.

4. Schools shall provide one (1) space per employee for grades kindergarten through tenth grades and two and one-half (2½) spaces per employee for grades eleven and twelve.

5. See Section 508 for additional standards.

F. Signs

1. Dwelling units: Information and direction signs as defined in subsection 513A.5.

2. Churches: one (1) free-standing sign not exceeding fifteen (15) square feet in area, ten (10) feet in height and set back at least one-half (j) the required principal building setback from all street and property lines, plus one (1) attached sign not exceeding twenty (20) square feet.

3. Offices: One (1) unlighted sign, either free-standing or attached, not exceeding eight (8) square feet in area. Alternatively, one (1) unlighted freestanding sign which would be permitted subject to the requirements of Section 406.4(b) and (c).

   Where a principal use occupying at least seven hundred fifty (750) square feet of segregated area has direct access from the outside, an unlighted sign not exceeding two (2) square feet in area, identifying the name of the activity, also may be attached to the building at the entrance.

4. See Section 513 for additional standards.

405 "APT" APARTMENTS

A. Principal Permitted Uses on the Land and in Buildings

1. Apartments (see Section 603 for additional standards).

2. Public playgrounds, public conservation areas, public parks, public open space 'public purpose uses' as defined in Section 200 of this Ordinance.

B. Accessory Uses Permitted

1. Usual recreational facilities.

2. Off-street parking and private garages (see Section 405F. hereinbelow and Section 508).

3. Fences and walls (see Section 503).

4. Signs (see Section 405H. hereinbelow and Section 513).

5. Satellite dish antennae as Conditional Uses under N.J.S.A. 40:55D-67 (see Section 601 for standards).

C. Maximum Building Height

No building shall exceed thirty-five (35) feet in height and two and one-half (2 1/2) stories except as allowed in Section 602.

D. Maximum Number of Dwelling Units Permitted

The maximum number of dwelling units permitted within the "APT" District shall be computed on the basis of ten (10) dwelling units per gross acre of land.

E. Area and Distance Requirements

1. The minimum tract size shall be two (2) acres in the "APT" District. A minimum two hundred (200) feet of frontage on one street shall be required for the "APT" District. Lot depth shall be a minimum of two hundred (200) feet.

2. Minimum distances between apartment buildings in the "APT" District shall be measured horizontally in feet and shall be measured away from the front, side and rear of each building. The total minimum separation between the buildings shall be the sum of two (2) abutting distances. The minimum distances shall be fifteen (15) feet for the front of a building on a public street and ten (10) feet for the front of a building on a private street; fifteen (15) feet for the side of a building; and twenty-five (25) feet for the rear of a building. No portion of any building shall be closer to any portion of any other building than the combined distances of the abutting requirements for each building, providing that the corner of a building off-set more than a twenty (20) degree angle from a line drawn parallel to another building shall be considered a "side" of the building. In addition, no building shall be located closer than forty (40) feet from the right-of-way line of any public street, or ten (10) feet from any private street or parking area.

3 All portions of the tract not utilized 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 conifers and/or deciduous trees native to the area in order to either maintain or reestablish the tone of the vegetation in the area and lessen the visual impact of the structures and paved areas.

F. Minimum Off-Street Parking

Each individual use shall provide parking spaces according to the following minimum provisions:

1. Apartments shall provide two (2) spaces for each dwelling unit. Each one (1) car garage space and the driveway leading to the garage space shall together be considered one (1) parking space; provided that the driveway is dimensioned to park a car off-street in accordance with the definition of "Parking Space" in Section 200 of this Ordinance.

2. See Section 508 for additional standards.

G. Minimum Off-Street Loading

Adequate trash and garbage pick-up stations, with appropriate accommodations for recycling, shall be provided within a totally enclosed container located in a manner to be obscured from view from parking areas, streets and adjacent residential uses by a fence, wall, planting or combination of the three (3).

H. Permitted Signs

1. Each "APT" development may have one (1) sign along each public street which the tract in question abuts. Such signs shall not exceed ten (10) feet in height, shall be set back from the street rights-of-way and driveways at least ten (10) feet , shall be set back from any property line a minimum of thirty (30) feet, shall not exceed an area of twenty (20) square feet, and shall be used only to display the development's name.

2. See Section 513 for additional standards.

406 "TCC" TOWN CENTER COMMERCIAL

A. Principal Permitted Uses on the Land and in Buildings

1. Retail sales of goods and services. Financial Service Centers are not considered retail sales of goods and services and are not permitted in the "TCC" district.

2. Retail and Personal Services with the exception of: escort services, massage and tattoo parlors, pawn shops including "cash for gold" businesses, dance halls, drug paraphernalia shops, nail salons not in conjunction with a full beauty shop, financial service centers.

3. Offices and office buildings.

4. Banks, excluding drive-in facilities.

5. Restaurants and taverns, except for drive-in and fast food restaurants.

6. Mixed uses of any of the above.

7. Public playgrounds, public conservation areas, public parks, public open space and 'public purpose uses' as defined in Section 200 of this Ordinance.

8. Churches, the site development of which resembles in character, scale and uses, such site development commonly associated with recognized and long-established sects or denominations, as Conditional Uses under N.J.S.A. 40:55D-67 (see Section 601 for additional standards).

9. Public Utilities as Conditional Uses under N.J.S.A. 40:55D-67 (see Section 601 for standards).

10. Apartments in mixed-use buildings if the second and on the second and/or third floor(s) only and/or third floor is limited to the permitted apartment residential use. Such apartment(s) shall be no less than 750 s.f. each in floor area for a one-bedroom or 900 s.f. each for a two-bedroom apartment.

11. Bed and Breakfast Inns in Historic Structures.

B. Accessory Uses Permitted

1. Off-street parking (see Section 406 F. hereinbelow and Section 508).
2. Fences and walls (see Section 503).
3. Signs (see Section 406 G. and Section 513).
4. Garages and storage buildings.

5. Satellite dish antennae as Conditional Uses under N.J.S.A. 40:55D-67 (see Section 601 for standards).

C. Maximum Building Height

No building shall exceed forty feet (40') in height and three (3) stories except as allowed in Section 602.

D. Area and Yard Requirements

	Individual Uses
Principal Building Minimum	"TCC" District
Lot area	3,000 s.f.
Lot frontage	30'
Lot width	30'
Lot depth	80'
Side yard (each)	6' (1)
Front yard	10' (2)
Rear yard	15'
Accessory Building Minimum	
Distance to side line	4'
Distance to rear line	4'
Distance to other building	4'
Maximum	
Building coverage of principal building	60%
Lot coverage	100%

(1) In order to encourage an end product which provides parking, access and architectural continuity even where development occurs piecemeal and with diverse ownership, buildings may be attached and may be built to the interior side line(s) in order to be attached. Attached buildings may include two (2) walls which must be keyed to each other; if buildings are not attached, the side yard(s) shall be six (6) feet.

(2) In order to ensure compatibility with existing development, buildings may be constructed to the street line if, and only if, the majority of the block frontage has been developed in such fashion.

E. General Requirements

1. Any principal building may contain more than one use and/or organization provided that the total building coverage of the combined activities does not exceed the maximum building coverage specified for the district, and that each activity occupies a minimum gross floor area of five hundred fifty (550) s.f. for individual uses.

2. All building walls facing any street or residential district line shall be suitably finished for aesthetic purposes.

3. No merchandise, products, equipment or similar material or objects shall be displayed or stored outside, and all solid waste not stored within a building shall be stored within an enclosed container. Adequate provisions for recycling shall be provided.

4. All areas not utilized for buildings, parking, loading access aisles and driveway or pedestrian walkways shall be suitably landscaped with shrubs, ground cover, seeding or plantings and maintained in good condition. When the lot coverage is extensive, landscaping shall be provided by the use of window plant boxes and large planting pots.

F. Minimum Off-Street Parking

Each individual use shall provide parking spaces according to the following minimum provisions. Where a permitted use of land includes different specific activities with different specific parking requirements, the total number of required parking spaces shall be obtained by individuals computing the parking requirements for each different activity and adding the resulting numbers together.

1. Retail and service activities shall provide parking at the ratio of one (1) space per two hundred (200) square feet of net habitable floor area.

2. Banks and medical/dental offices shall provide parking at the ratio of one (1) space per one hundred fifty (150) square feet of net habitable floor area.

3. General and non medical/dental professional offices and funeral parlors shall provide parking at the ratio of one (1) space per two hundred fifty *(*250*)* square feet of net habitable floor area.

4. Restaurants and taverns shall provide a minimum of one (1) parking space for every three (3) seats.

5. Churches shall provide one (1) space per every three (3) permanent seats (one seat shall be considered twenty-two inches (22”) in calculating the capacity of pews or benches).

6. Apartments on the second and/or third floor(s) of buildings shall provide two (2) spaces per dwelling unit.

7. Bed and Breakfast Inns shall provide one and one-quarter (1.25) spaces per room, plus one (1) space for every ten (10) seats provided in ancillary restaurant.

G. Permitted Signs

1. Each individual use in an individual building may have one (1) wall sign attached to the building not exceeding an area equivalent to ten percent (10%) of the first floor portion of the front facade devoted to the use or fifty (50) square feet, whichever is smaller. Where an individual business has direct

access from the outside, an unlighted sign not exceeding four (4) square feet identifying the name of the individual business also may be attached to the building at the entrance to the business. Where a building has a single outside entrance serving multiple businesses, an unlighted sign directory identifying the names of the individual business may also be attached to the building at the entrance. Such a directory sign may not exceed ten (10) square feet.

Buildings located on corner properties and buildings having 50 feet or more of open space between it and any adjacent building shall be permitted to install one additional wall sign attached to the building not exceeding the area in Section 406 G.l.

2. Projecting signs shall be permitted subject to the requirements of Section 513 A.17.

3. Awnings shall be permitted subject to the requirements of Section 513 A.18. and the following provisions:

   (a) Fixed or retractable awnings are permitted at the ground floor level and on upper floor levels where appropriate, provided they complement a building's architectural style, are compatible with its materials, colors and details, and do not conceal a building's architectural features.

   (b) Canvas is the preferred awning material; although other waterproofed fabrics may be considered. Metal or aluminum awnings, translucent or backlit awnings are permitted.

   (c) Lettering and numbers on awnings in the TCC Zone shall not exceed eight (8) inches in height.

   (d) Both wall and awning signs may be permitted; however, maximum signage permitted for wall sign under 406 G.l. shall not be exceeded by the combined wall and awning sign areas.

4. Freestanding Signs.

   (a) Freestanding signs shall be permitted in the Town Center Commercial District on commercial property having a minimum street frontage of fifty (50) feet in addition to which the principal structure is setback a minimum of ten (10) feet from the right-of-way line and five (5) feet from any sidewalk. The square footage of freestanding signs may also not exceed the square footage that would be permitted for a wall sign or twelve (12) square feet, whichever is less.

(b) The top of the sign shall be not more than eight (8) feet above the ground. The total area of the sign shall not exceed twelve square feet and shall be set back at least five (5) feet from all street right-of-way lines, property lines, and sidewalks.

(c) Subject to the requirements in paragraph (b.) above, one sign for each business establishment located on the premises may be suspended below the principal sign surface. Each such sign shall contain only the name of the business establishment and shall not exceed one (1) foot in height and five (5) feet in width.

(d) Both wall and freestanding signs shall be permitted; however, the maximum signage permitted on any property shall not be exceeded by the combined wall and freestanding sign areas.

5. Window signs shall be permitted subject to the requirements of Section 513 A.12.

6. Design standards applicable to wall signs, projecting signs, and freestanding signs in the TCC Zone District are as follows:

(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.

(b) Signs shall be compatible with existing architectural features of the building and shall not obscure or remove architectural elements such as cornices, piers, columns, or decorative moldings.

(c) Wood is the preferred signage material. Other materials may be used if made to resemble wood surfaces. Back-lighted or internally illuminated plastic signs are prohibited.

(d) Applied letters may substitute for wallmounted signs, if constructed of painted wood, painted cast metal, bronze, brass, or black, plastic or anodized metal similar in appearance to wood letters.

(e) Signs may be illuminated by spotlights which shall be shielded to prevent glare onto street or adjacent properties.

(f) Lettering and numbers on wall signs, applied letter signs, and projecting signs shall not exceed twelve (12) inches in height.

(g) No fluorescent or day glow colors shall be used on any signs.

(h) Exterior neon signs are prohibited.

7. See Section 513 for additional signage requirements.

407 "CC" COMMUNITY COMMERCIAL
"HC" HIGHWAY COMMERCIAL

A. Principal Permitted Uses on the Land and in Buildings

1. Retail sales of goods and services.

2. Retail and personal services with the exception of: escort services, massage and tattoo parlors, pawn shops, dance halls, drug paraphernalia shops, nail salons not in conjunction with a full beauty shop.

3. Offices and office buildings.

4. Banks, including drive-in facilities.

5. Financial Service Centers in the "HC" District Only.

6. Funeral parlors.

7. Automobile repair garages and body shops.

8. Automobile sales through franchised new car dealers.

9. Car washes.

10. Restaurants and taverns, except that drive-in and fast food restaurants are only permitted in the "HC" District.

11. Theaters in the "HC" District only.

12. Garden centers in the "HC" District only.

13. Shopping centers comprised of the above uses.

14. Motels and hotels in the "HC" District only.

15. Mixed Multi-Family Commercial Development as a conditional use under N.J.S.A. 40:55D-67 (see Section 601 for standards).

16. Service stations as Conditional Uses under N.J.S.A. 40:55D-67 (see Section 601 for standards).

17. Public Utilities as Conditional Uses under N.J.S.A. 40:55D-67 (see Section 601 for standards).

18. Single-family detached dwellings in the "CC" District only in accordance with the requirements in Section 400 for the "R-l5" District.

19. Public playgrounds, public conservation areas, public parks, public open space and 'public purpose uses' as defined in Section 200 of this Ordinance.

20. Indoor commercial recreation facilities completely contained within an enclosed structure including:

Arcade games
Billiards
Bowling
Electronic Golf
Exercise or Health Clubs or Spas

Hours of operation for any such facility located within two hundred (200) feet of any residential use or residential district shall not be earlier than 7:00 AM nor later than 11:00 PM Sunday through Thursday and not earlier than 7:00 AM nor later than 12:00 Midnight on Friday or Saturday.

21. Gymnasiums, racquetball clubs, skating rinks, and tennis clubs in the "HC" district only. Hours of operation for any such facility located within two hundred (200) feet of any residential use or residential district shall not be earlier than 7:00 AM nor later than 11:00 PM Sunday through Thursday and not earlier than 7:00 A.M. nor later than 12:00 Midnight on Friday or Saturday.

22. Rental car agencies as a principal use or in conjunction with a franchised new car dealer.

23. Bed and Breakfast Inns in Historic structures in the "CC" District only.

B. Accessory Uses Permitted

1. Off-street parking (see Section 407 F. hereinbelow and Section 508).

2. Fences and walls (see Section 503).

3. Signs (see Section 407 G. hereinbelow and Section 513).

4. Garages and storage buildings.

5. Satellite dish antennae as Conditional Uses under N.J.S.A. 40:55D-67 (see Section 601 for standards).

6. Temporary construction trailers and one (1) sign not exceeding fifty (50) square feet, advertising the prime contractor, subcontractor(s), architect, financing institution and similar data for the period of construction beginning with the issuance of a construction permit and concluding with the issuance of a certificate of occupancy or one (1) year, whichever is less, provided said trailer(s) and sign are on the site where construction is taking place and set back at least ten (10) feet from all street and lot lines.

7. Usual recreational facilities for motels and hotels only.

C. Maximum Building Height

No building height shall exceed thirty-five (35) feet in height and two and one-half (2-1/2) stories except as allowed in Section 602. One story buildings are discouraged and restricted by the F.A.R. and lot coverage requirements.

D. Area and Yard Requirements

	Individual Uses "CC" District	Individual Uses "HC" District	Shopping Centers (1)
Principal Building			
Minimum			
Lot area	20,000 s.f.	15,000 s.f.	2 ac.
Lot frontage	120'	100'	250'
Lot width	120'	100'	250'
Lot depth	150'	120'	250'
Side yard (each)	25'	20'	30'
Front yard	45'	40'	50'
Rear yard	30'	25'	35'
Accessory Building			
Minimum			
Distance to side line	10'	10'	30'
Distance to rear line	15'	15'	30'
Distance to other building (1)	20'	20'	20'
Maximum			
Floor Area Ratio	0.25 (2)	0.25 (2)	0.25 (2)
Lot coverage	70% (2)	70% (2)	70% (2)

(1) More than one (1) principal building shall be permitted in "shopping centers" only. All buildings shall be separated by a minimum of twenty (20) feet, provided such separation is to be used solely for pedestrian circulation. All buildings shall be separated by a minimum of fifty (50) feet where any part of such separation is to be used for parking or vehicular circulation. However, the separation requirements should not be construed to prohibit covered pedestrian walkways when the roof or covering of such walkway extends between the buildings.

(2) In those instances where two (2) adjacent property owners cooperate to share a common access driveway serving both properties and thereby eliminate an existing driveway access or do not propose a new access point to the roadway, then floor area ratio shall be 0.275 and the maximum lot coverage shall be seventy-five percent (75%) for both properties.

E. General Requirements

1. Any principal building may contain more than one (1) individual use, provided that the total Floor Area Ratio and Lot Coverage of the combined uses does not exceed the maximums specified and further, that any building not part of a shopping center shall have a maximum three (3) uses within it, and that each occupies a minimum gross floor area of 750 s.f.

2. Shopping centers in the "CC" District shall have individual buildings no larger than 10,000 s.f. gross floor area.

3. All buildings on a single commercial site shall be compatibly designed, whether constructed all at one time or in stages over a period of time. All building walls facing any street or residential district line shall be suitably finished for aesthetic purposes.

4. Unless otherwise specifically approved by the Board, no merchandise, products, equipment or similar material or objects shall be displayed or stored outside, and all solid waste not stored within a building shall be stored within an enclosed container.

5. All areas not utilized for buildings, parking, loading, access aisles, driveways or pedestrian walkways shall be suitably landscaped with shrubs, ground cover, seeding or similar plantings and maintained in good condition.

6. At least the first ten (10) feet adjacent to any street and/or property line shall not be used for parking and shall be planted and maintained in lawn area or ground cover and appropriately landscaped. The minimum setback area shall include a densely planted buffer of evergreen trees at least six (6) feet high at time of planting along any common property line with a residential district.

7. Each hotel or motel dwelling unit shall provide a minimum two hundred fifty (250) square feet of net habitable floor area for each unit containing one (1) sleeping room and one (1) bathroom, and three hundred fifty (350) square feet of net habitable floor area for each unit containing one (1) sleeping room, one (1) bathroom and cooking facilities. There shall be a residency limitation on all guests of thirty (30) days, provided that the residency limitation shall not apply to a permanent on-site superintendent's apartment.

8. There shall be no direct traffic access onto local residential streets, which are those streets abutted exclusively by residential uses.

F. Minimum Off-Street Parking

Each individual use shall provide parking spaces according to the following minimum provisions. Where a permitted use of land includes different specific activities with different specific parking requirements, the total number of required parking spaces shall be obtained by

individually computing the parking requirements for each different activity and adding the resulting numbers together.

1. Retail and service activities, including shopping centers, shall provide parking at the ratio of one (1) space per one hundred seventy-five (175) square feet of net habitable floor area.

2. Banks and medical/dental offices shall provide parking at the ratio of one (1) space per one hundred fifty (150) square feet of net habitable floor area. Additionally, drive-in banks shall provide room for at least eight (8) automobiles per drive-in window for queuing purposes.

3. General and non-medical/dental professional offices and funeral parlors shall provide parking at the ratio of one (1) space per two hundred fifty (250) square feet of net habitable floor area.

4. Restaurants and taverns shall provide a minimum of one (1) space for every three (3) seats, but in all cases a sufficient number of spaces to prevent any parking along public rights-of-way or private driveways, fire lanes and aisles.

5. Theaters shall provide one (1) space for every four (4) seats.

6. Bed and Breakfast Inns, motels and hotels shall provide one and one-quarter (1.25) spaces per room, plus one (1) space for every ten (10) seats provided in ancillary restaurant and/or convention facilities.

7. Automobile repair garages and body shops shall provide one (1) space for every one thousand (1,000) square feet or fraction thereof of net habitable floor area used for inside storage plus one (1) space for every seven hundred (700) square feet or fraction thereof of net habitable floor area used for repair or body work plus one (1) space for every two hundred (200) square feet or fraction thereof of net habitable floor area used for offices.

8. Garden centers shall provide parking at the ratio of six (6) spaces per one thousand (1,000) square feet of net habitable floor area of buildings, plus one-half (1/2) space per one thousand (1,000) square feet of outside storage, sale or display area.

9. Automobile sales shall provide ten (10) spaces for customer convenience separated from vehicular displays and not used by employees.

10. Car washes shall provide three (3) access lanes for each mechanized car wash entrance with each lane having a minimum capacity for ten (10) vehicles, plus one (1) separate space for each waxing, upholstery cleaning or self-service bay, with sufficient area to queue at least two (2) cars per bay without interfering with on-site traffic flow, plus one (1) space for each employee.

11. Indoor commercial recreation facilities shall provide one parking space per two hundred (200) square feet of gross floor area.

12. Tennis and racquetball clubs shall provide four (4) spaces for each court.

13 Bowling alleys shall provide four (4) spaces for each lane.

14. See Section 508 for additional standards.

G. Permitted Signs

1. Each principal commercial building not part of a shopping center may have one (1) major sign, either free-standing or attached, not exceeding five percent (5%) of the front facade of the principal building or fifty (50) square feet, whichever is smaller. Free-standing signs shall not exceed fifteen (15) feet in height and shall be set back at least twenty-five (25) feet from all street and property lines. Where a principal use occupying at least seven hundred fifty (750) square feet of segregated area has direct access from the outside, a sign not exceeding eight (8) square feet in area identifying the name of the activity shall also be permitted. Such additional sign(s) shall be either attached flat against the building at the entrance to the activity or suspended in perpendicular fashion from a roof over a common walkway. Suspended signs shall be no closer than eight (8) feet at their lowest point to the finished grade below.

2. Each shopping center may have one (1) free-standing sign along each road which the tract in question abuts, provided there exists at least one hundred fifty (150) feet of unbroken frontage. Such sign shall not exceed a height of twenty-five (25) feet; shall be set back from the street rights-of-way, drive-ways, and any property line at least fifty (50) feet; shall not exceed an area of one hundred (100) square feet; and shall be used only to display the shopping center's name and/or the names and individual uses therein.

   a. Where uses share a common walkway, each use served by the walkway may have one (1) additional sign which shall be either attached flat against the building or be suspended in perpendicular fashion from the roof over the common walkway. Suspended signs shall be no closer than eight (8) feet at their lowest point to the finished grade level below them. No such sign shall exceed ten (10) square feet in area.

   b. All signs in a shopping center shall conform in character with all other signs in the complex and shall blend with the overall architectural scheme of the shopping center.

3. Awnings shall be permitted subject to the requirements of Section 513 A.18. and the following provisions.

   (a) Fixed or retractable awnings are permitted at the ground floor level and on upper floor levels where appropriate, provided they complement a building's architectural style, are compatible with its materials, colors, and details, and do not conceal a building's architectural features.

(b) Canvas is the preferred awning material; although other waterproofed fabrics may be considered. Metal or aluminum awnings, translucent or backlit awnings are permitted.

(c) Letter and numbers on awnings shall not exceed ten (10) inches in height.

4. See Section 513 for additional standards.

H. Minimum Off-Street Loading

1. Each principal use shall provide for off-street loading and unloading with adequate ingress and egress from streets and with adequate space for maneuvering and shall provide such area at the side or rear of the building. Each space shall be at least fifteen feet by forty feet (15' x 40') and a minimum of one (1) space shall be provided for each building. Additional spaces may be necessary and required dependent upon the specific activity. There shall be no loading from the street.

2. There shall be at least one (1) trash and garbage pick-up location provided by each building which shall be separated from the parking spaces by either a location within the building or in a pick-up location outside the building which shall be a steel-like, totally enclosed container located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence, wall, planting or combination of all three. If located within the building, the doorway may serve both the loading and trash/garbage functions and if located outside the building, it may be located adjacent to or within the general loading area(s), providing the container in no way interferes with or restricts loading and unloading functions. Adequate provisions for recycling shall be provided.

408 "LM" LIMITED MANUFACTURING

A. Principal Permitted Uses on the Land and in Buildings

1. Offices and office buildings with multi-tenant space.

2. Limited manufacturing plants of a type which carry on processes within completely enclosed buildings, including manufacture, assembly or treatment of products from previously prepared material.

3. Laboratories of an experimental, research or testing nature which carry on processes within completely enclosed buildings and which do not produce noticeable noise, vibrations, smoke, dust, odors, heat or glare outside the building.

4. "Limited Manufacturing Park' on tracts of land at least ten (10) acres in area comprised of the preceding uses.

5. Adult Businesses as Conditional Uses under N.J.S.A. 40:55D-67 (see Section 601 for standards).

6. Distribution centers. Excluded shall be trucking terminals and vehicle maintenance facilities.

7. Warehouses provided they do not exceed 75% of the gross floor area of the individual buildings. Excluded shall be trucking terminals and vehicle maintenance facilities.

8. Contractors storage yards.

9. Public utility storage yards.

10. Commercial indoor recreation facilities.

11. Meeting and Assembly Halls for Social, Charitable and Fraternal Organizations or Clubs as conditional uses under N.J.S.A. 40:55D-67 (See Section 601 for standards).

12. Auction Houses

13. Livestock Auctions, provided that no slaughterhouse operations are included and provided that animals are not kept on site for in excess of seven (7) days.

14. Public playgrounds, public conservation areas, public parks, public open space and public purpose uses as defined in Section 200 of this Ordinance.

15. Private for profit medical uses as a conditional use subject to the site being within one half mile of the boundary of the HF District.

B. Accessory Uses Permitted

1. Off-street parking (see Section 408 F. hereinbelow and Section 508).

2. Fences and walls (see Section 503).

3. Signs (see Section 408 G. hereinbelow and Section 513).

4. Garages and storage buildings.

5. Satellite dish antenna as Conditional Uses under N.J.S.A. 40:550-67 (see Section 601 for standards).

6. Temporary construction trailers and one (1) sign not exceeding fifty (50) square feet, advertising the prime contractor, subcontractor(s), architect, financing institution and similar data for the period of construction beginning with the issuance of a construction permit and concluding with the issuance of a certificate of occupancy or one (1) year, whichever is less, provided said trailer(s) and sign are on the site where construction is taking place and are set back at least ten (10) feet from all street lines.

7. Employee cafeterias as part of a principal building or as the entire use of an accessory building, provided the cafeteria is limited in service to the employees of the principal use designated on the site plan as approved by the Board.

8. Customary accessory uses and structures which are clearly incidental to the principal use and structure.

C. Maximum Building Height

No building height shall exceed forty-five (45) feet in height and three (3) stories except:

1) As allowed in Section 602.

2) On lots which exceed 50 acres where it can be demonstrated that additional height is required to specifically accommodate manufacturing processes and associated equipment unique to the use located on that lot. In such cases, the maximum permitted building height shall be calculated based on the setback of the improvement from the street line as follows:

Setback From Street Line	Maximum Height Permitted
0 to 150 feet	45 feet
150 feet to 300 feet	55 feet
300 feet and beyond	65 feet

D. Area and Yard Requirements

Principal Building Minimum	"LM" District	Lots Within "LM" Parks
Lot area	3ac.	1ac.
Lot frontage	300'	150'
Lot width	300'	150'
Lot depth	300'	150'
Side yard (each)	50'	40'
Front yard	50'	40'
Rear yard	50'	40'
Accessory Building Minimum		
Distance to side line	25'	20'
Distance to rear line	25'	20'
Distance to other building	25'	20'
Maximum		
Building Coverage	30%	30%
Lot Coverage	75%	75%

E. General Requirements

1. Any principal building may contain more than one use and/or organization provided that the total building coverage of the combined activities does not exceed the maximum coverage specified for the district. Any lot may contain more than one (1) principal building provided that the minimum lot size is at least three (3) acres and that all bulk, yard and coverage requirements are met.

2. All buildings shall be compatibly designed, whether constructed all at one time or in stages over a period of time. All building walls facing any street or residential district line shall be suitably finished for aesthetic purposes.

3. Unless otherwise specifically approved by the Board, no merchandise, products, equipment or similar material or objects shall be displayed or stored outside, and all solid waste not stored within a building shall be stored within an enclosed container.

4. All areas not utilized for buildings, parking, loading, access aisles, driveways or pedestrian walkways should be suitably landscaped with shrubs, ground cover, seeding or similar plantings and maintained in good condition.

5. At least the first twenty (20) feet adjacent to any street and/or property line shall not be used for parking and shall be planted and maintained in lawn area or ground cover and appropriately landscaped. The minimum setback area shall include, a densely planted buffer of evergreen trees at least six (6) feet in height at time of planting along any common property line with a residential district.

F. Minimum Off-Street Parking

Each individual use shall provide parking spaces according to the following minimum provisions:

1. One (1) space for every fifteen hundred (1,500) square feet or fraction thereof of net habitable floor area used for inside storage, warehousing or wholesale distribution activity, plus one (1) space for every (750) square feet or fraction thereof of net habitable floor area used for limited manufacturing or laboratories, plus one (1) space for every two hundred fifty (250) square feet or fraction thereof of net habitable floor area used for offices; provided that the number of parking spaces resulting from the application of these provisions to the subject building shall not be increased by more than ten percent (10%).

2. Indoor commercial recreation facilities shall provide one parking space for every three persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such fashion -for example bowling alleys, tennis courts or exercise stations) plus one space per 200 square feet of gross floor area used in a manner not susceptible to such calculation.

3. The Board may permit a reduction in the paved area devoted to parking provided:

   (a) The submitted plan shall include all the parking spaces required by this Ordinance and shall include those spaces to be paved and those requested not to be paved;

   (b) All parking areas not to be paved shall be suitably landscaped and such landscaping shall be indicated on the submitted plan and be in addition to landscaping otherwise required or necessary.

   (c) The drainage system for the site shall be designed to accommodate the surface water runoff from all parking and driveway areas, considering all such areas to be paved whether proposed to be paved as part of the application approval or deferred to a possible future date;

   (d) The applicant shall agree in writing on the submitted plan to pave any or all of the non-paved parking areas should the paved parking areas prove to be inadequate to accommodate the on-site parking needs of the premises.

4. Auction houses shall provide one space per two patron seats provided or one space per 50 square feet of gross floor area, whichever is greater.

5. See Section 508 for additional standards.

G. <u>Permitted Signs</u>

1. Each principal use may have one (1) sign either free-standing or attached to the building, nor exceeding an area equivalent to five percent (5%) of the front facade of the principal building or fifty (50) square feet, whichever is smaller. Free-standing signs shall not exceed ten (10) feet in height and shall be set back at least thirty (30) feet from all property and street lines. Where an individual activity has direct access from the outside, a sign not exceeding eight (8) square feet identifying the name of the activity also may be attached to the building at the entrance to the activity.

2. Additionally, each subdivided development park may have one (1) sign along each arterial or collector road which the tract in question abuts provided there exists at least two hundred fifty (250) feet of unbroken frontage. Such sign(s)

shall not exceed fifteen (15) feet in height, shall be set back from street rights-of-way and driveways at least thirty (30) feet and shall be set back from any property line at least fifty (50) feet, shall not exceed an area of fifty (50) square feet, and shall be used only to display the development's name.

3. See Section 513 for additional standards.

H. Minimum Off-Street Loading

1. Each principal use shall provide for off-street loading and unloading with adequate ingress and egress from streets and with adequate space for maneuvering and shall provide such area at the side or rear of the building. Each space shall be at least fifteen feet by forty feet (15' x 40') and a minimum of one (1) space shall be provided for each building. Additional spaces may be necessary and required dependent upon the specific activity. There shall be no loading or unloading from the street.

2. There shall be at least one (1) trash and garbage pick-up location provided by each building which shall be separated from the parking spaces by either a location within the building or in a pick-up location outside the building which shall be a steel- like, totally enclosed container located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence, wall, planting or combination of all three. If located within the building, the doorway may serve both the loading and trash/garbage functions and if located outside the building it may be located adjacent to or within the general loading area(s), provided the container in no way interferes with or restricts loading and unloading functions. Adequate provisions for recycling shall be provided.

409 "HF" HEALTH FACILITIES

A. Principal Permitted Uses on the Land and in Buildings

1. Hospitals and other health facilities licensed by the State of New Jersey for the care of sick or injured human beings.
2. Health related professional, business and/or medical/dental offices.
3. Hospital pharmacies.
4. Convalescent and extended care facilities.
5. Educational facilities designed to train medical personnel.
6. Hospice services.
7. The retail sale and storage of medical equipment and supplies, including surgical supplies, prosthetics, and medical devices.
8. Public Utilities as Conditional Uses under N.J.S.A. 40:55D-67 (see Section 601 for standards).
9. Public playgrounds, public conservation areas, public parks, public open space and 'public purpose uses' as defined in Section 200 of this Ordinance.

B. Accessory Uses Permitted

1. Signs (see Section 409G. hereinbelow and Section 513).

2. Fences and walls (see Section 503).

3. Off-street parking and garages (see Section 409F. hereinbelow and Section 508).

4. Satellite dish antennae as Conditional Uses under N.J.S.A. 40:55D-67 (see Section 601 for standards).

5. Laboratories incidental to a permitted principal use.

6. Other usual accessory uses.

C. Maximum Building Height

No building shall exceed forty (40) feet in height and three (3) stories, except that the building height for hospitals and other health facilities shall be subject to the determination of the Board during site plan approval and except further as provided in Section 602 of this Ordinance.

D. Area and Yard Requirements

	"HF" District
Principal Building (1)	
Minimum	
Lot area	45,000 s.f.
Lot frontage	150'
Lot width	150'
Lot depth	200'
Side yard (each)	30' (2)
Front yard	50'
Rear yard	30' (2)
Accessory Building	
Minimum	
Distance to side line	20'
Distance to rear line	20'
Distance to other building	20'
Maximum	
Floor Area Ratio	0.30
Lot Coverage	75%

(1) More than one (1) principal building shall be permitted. All buildings shall be separated by a minimum of twenty (20) feet, provided such separation is to be used solely for pedestrian circulation. All buildings shall be separated by a minimum of fifty (50) feet where any part of such separation is to be used for parking or vehicular circulation. However, the separation requirements should not be construed to prohibit covered pedestrian walkways when the roof or covering of such walkway extends between the buildings.

(2) Or not less than fifty (50) feet where a lot abuts a residential use or district.

E. General Requirements

1. One (1) building may contain more than one (1) use provided that the total floor area ratio and lot coverage of the combined uses does not exceed the maximums specified for the district and, further, that each use occupies a minimum gross floor area of seven hundred fifty (750) square feet.

2. Unless otherwise specifically approved by the Board, no merchandise, products, waste, equipment or similar material or objects shall be displayed or stored outside.

3. All areas not utilized for buildings, parking, loading, access aisles and driveways or pedestrian walkways shall be suitably landscaped with shrubs, ground cover, seeding or plantings and maintained in good condition.

4. At least the first twenty (20) feet adjacent to any street line and/or property line shall not be used for parking and shall be planted and maintained in lawn area or ground cover and appropriately landscaped. The minimum setback area shall include a densely planted buffer of evergreen trees at least six (6) feet high at time of planting along any common property line with a residential district.

F. Minimum Off-Street Parking

Each individual use shall provide parking spaces according to the following minimum provisions:

1. Hospitals, clinics and other health facilities shall provide parking at the ratio of one (1) space per four hundred (400) square feet of net habitable floor area.

2. Medical/dental offices shall provide parking at the ratio of one (1) space per one hundred fifty (150) square feet of net habitable floor area.

3. Non-medical/dental professional and business offices and hospital pharmacies shall provide parking at the ratio of one (1) parking space per two hundred fifty (250) square feet of net habitable floor area.

4. See Section 508 for additional standards.

G. Signs

1. Each principal non-residential use may have one (1) sign either free-standing or attached to the building, not exceeding an area equivalent to five percent *(5%)* of the front facade of the principal building or fifty (50) square feet, whichever is smaller. Freestanding signs shall not exceed ten feet (10') in height and shall be set back at least thirty (30) feet from all property and street lines. Where an individual activity has direct access from the outside, a sign not exceeding eight (8) square feet identifying the name of the activity also may be attached to the building at the entrance to the activity.

2. See Section 513 for additional standards.

H. Minimum Off-Street Loading

1. Each principal use shall provide for off-street loading and unloading with adequate ingress and egress from streets and with adequate space for maneuvering and shall provide such area at the side or rear of the building. Each space shall be at least fifteen feet by forty feet (15' x 40') and a minimum of one (1) space shall be provided for each building. Additional spaces may be necessary and required dependent upon the specific activity. There shall be no loading or unloading from the street.

2. There shall be at least one (1) trash and garbage pick-up location provided by each building which shall be separated from the parking spaces by either a location within the building or in a pick-up location outside the building which shall be a steel-like, totally enclosed container located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence, wall, planting or combination of all three. If located within the building, the doorway may serve both the loading and trash/garbage functions and if located outside the building, it may be located adjacent to or within the general loading area(s), provided the container in no way interferes with or restricts loading and unloading functions. Adequate provisions for recycling shall be provided.

410 "PMU" PLANNED MIXED USE DOWNTOWN DEVELOPMENT

A. Permitted Uses:

1. All those permitted and accessory uses within the TCC Town Center Commercial District subject to the requirements of Section 406.

2. Planned Mixed Use Downtown Development Uses which shall be subject to the special requirements listed herein.

(a) **Permitted Uses/Principal Uses**

(1) Retail sales of goods and services. Financial centers are not considered retail sales of goods and services and are not permitted in the "PMU" district.
(2) Retail and Personal Services with the exception of: Escort services, massage and tattoo parlors, pawn shops, dance halls, drug paraphernalia shops, nail salons not in conjunction with a full beauty shop, financial service centers.
(3) Offices and office buildings
(4) Banks, excluding drive-in facilities
(5) Restaurants and taverns, excluding drive-in restaurants
(6) Apartments/condominium. Apartments/condominiums shall be multi-family dwelling units, for sale or rent, that may be located one over another with shared or individual entrances and exits, in a multi-story building which may contain non-residential uses on the first floor.
(7) Townhouses
(8) Hotels
(9) Classrooms for college or commercial schools
(10) Public purpose uses as defined in Section 200 of this ordinance
(11) Mixed uses of any of the above
(12) Indoor commercial recreation
(13) Pharmacies with drive-through facilities

(b) **Conditional Uses**

(1) Public Utilities
a. Conditional Use Requirements
(i) Public Utility uses must comply with the provisions in Section 601A of this Ordinance.

(c) **Accessory Uses**

(1) Off-street parking (See Section 508)
(2) Parking garages
(3) Fences and walls (See Section 503)
(4) Open Space and Recreational facilities, including but not limited to recreational paths and trails, pavilions, and dog parks.
(5) Public and Private Parks and Open Space
(6) Signs (See Section 513)
(7) Sales and rental office
(8) Construction office and/or trailer for the duration of the

construction of the project

(9) Utility facilities

(d) **Minimum Tract Area.** The minimum tract area for the overall development shall be ten (10) acres under the initial ownership or control of a single entity. The tract area district may be expanded to include any vacation of Bergen Street.

(e) **Maximum Number of Dwelling Units Permitted.** The maximum residential density shall be lesser of ten (10) dwelling units per gross acre of land (calculated before any subdivision, right-of-way dedication, or other dedication) or one hundred eight (108) units.

(f) **Non-Residential Development Floor Area.** The Planned Mixed Use Downtown Development Use shall be comprised of a mix of residential and non-residential uses. In addition to the residential dwelling units, a minimum of 30,000 square feet of retail or office building space shall be constructed on the first floor and/or incorporated into the first floor plans of any buildings fronting on Main Street and Stiger Street between the Main Street right-of-way and a point 50 feet north of the projection of the northerly right-of-way line of First Street. In no case shall the gross floor area (G.F.A.) of a non-residential development exceed a ratio of 0.08 for the entire district.

(g) **Maximum Building Coverage.** The maximum coverage for all principal and accessory buildings on the tract shall be twenty (20) percent.

(h) **Maximum Lot Coverage.** The maximum lot coverage by all buildings and man-made improvements on the tract shall be fifty (50) percent.

(i) **Planned Mixed Use Downtown Development Use Design, Building Arrangement, Lot Width, Frontage and Yards.**

1. The Planned Mixed Use Downtown Development District design shall be based on a comprehensive plan for the entire district providing for a unified master plan governing the land use, circulation, open space, stormwater management and utility needs of the development. Comprehensive design guidelines for building architecture, site layout, and landscape treatment shall be provided along with provision for ownership and maintenance of common areas and open spaces. A minimum of thirty-five (35) percent of the residential dwelling units must occur in the mixed use buildings. No townhouse units are permitted south of the projection of the northerly right-of-way line of First Street.

2. **Maximum Building Height.** All principal buildings fronting on Main Street or Stiger Street shall not exceed three (3) stories or fifty (50) feet in height, excluding architectural features such as towers, turrets, cupolas, etc.

3. **Height of Accessory Building and Structures.** The height of accessory structures shall conform to Section 501 D except that a parking garage shall

not exceed a height of twenty-five (25) feet and two (2) stories, if not part of a principal building.

4. **Minimum Tract Frontage and Width.** The minimum tract frontage and width shall be three hundred (300) feet.

5. **Minimum Building Setback from Tract Boundary.** All buildings shall be located a minimum distance from the tract boundary as follows:

   Principal Building
   Front Yard: 10 Feet
   Side Yard: 25 Feet
   Rear Yard: 25 Feet

   Except that buildings fronting on Main Street may be constructed to the street line provided that the first floor only of each building contains retail or office uses.

   Accessory Building
   Distance to side tract line. A parking garage: 15 Feet;
   All others: 4 Feet except that structures on the east side of the tract/Bergen Street/railroad right-of-way, may be constructed with 0 feet setbacks.
   Distance to rear tract line. A parking garage: 15 Feet;
   All others: 4 Feet
   Distance to other buildings. A parking garage: 10 Feet except where it is an integral part of a residential or mixed use structure;
   All others: 4 Feet

6. **Minimum Building Setback from Interior Streets or Parking Areas.** All buildings shall be located a minimum of ten (10) feet from the curb line of any street or parking areas located within the tract boundaries , except that integral carports or garages are permitted which de facto requires 0 feet setback.

7. **Minimum Distance Between Principal Buildings.**
   In the District, the minimum distance between mixed use buildings shall be as follows:

   The front of one building to the front of another building: 45 Feet
   The front of one building to the side of another building with windows: 25 Feet
   The side of one building to the side of another building with windows: 15 Feet
   The side of one building to the rear of another building with windows: 25 Feet
   The rear of one building to the rear of another building:
   45 Feet
   Windowless wall of one building to windowless wall of another building: 0 Feet

In the District, the minimum distance between townhouse buildings shall be as follows: 20 feet.

8. **Application of Area, Yard and Bulk Requirements to Individual Building Lots.** In the District, a building containing commercial use only, residential use only and/or a mix of residential and commercial uses may be located on an individual lot. Individual lots may be created for mixed use, and non-residential uses without regard to area or other bulk requirements provided that there is compliance with all required setbacks from the tract boundary, from streets, and between buildings. Building coverage, impervious lot coverage and open space requirements shall be calculated only for the entire tract.

9. **Permitted Projections.** Chimneys, bay windows, overhangs and other protrusions shall be permitted to encroach up to four (4) feet within a yard area setback required by this ordinance. No such projections or encroachments, however, shall be permitted within any public street right-of-way.

10. **Parking.**

Minimum Off-Street Parking. Residential Parking shall be provided in accordance with Residential Site Improvement Standards Table 4.4 Parking.

Non-Residential Parking shall be provided as follows:

Retail and service activities including pharmacies shall provide one parking space for every 350 square feet of net habitable floor area.

Offices/Banks shall provide one (1) parking space for every 350 square feet of net habitable floor area.

Restaurants and taverns shall provide one (1) parking space for every 3 seats. Parking shall not be located within ten (10) feet of a street, property line or sidewalk or five (5) feet of a building provided that a garage and driveway combination may be used as a parking space without a minimum separation from the building.

Hotels shall provide one (1) parking space for every hotel room.

Parking Facilities may be on the same lot as the building they are intended to serve or be located on adjacent properties provided their continued use for parking can be demonstrated. Access driveways and streets providing access to such parking facilities may cross or be built upon a common property line with an adjoining lot without regard to the required setbacks for such facilities. Parking spaces may be provided on street as parallel or diagonal parking or within areas designated specifically for parking.

Shared Parking. A twenty (20) percent reduction of the required off-street parking requirement may be permitted upon a showing that the uses

planned for the district can be served without conflict, encroachment or off-tract impacts.

11. **Special Requirements for the Planned Mixed Use Downtown Development Use.**

    a. Affordable Housing Units to be created. A minimum of ten (10) percent of the dwelling units shall be set aside as affordable housing units. The affordable housing obligation shall be implemented by a minimum in lieu payment of $25,000 per affordable housing unit obligation. These funds would be used for a market to affordable program or rehabilitation of dwelling units in the downtown area.

    b. Ground floor retail shall occupy the Main Street building frontage with the exception that sixty (60) percent of the Main Street building frontage and fifteen (15) percent of the tract area may be occupied by a freestanding retail building with associated parking and landscape buffers. Frontyard off-street parking shall be permitted in the parcel that has the freestanding retail building provided a 3.5 foot high brick or stone wall with a stone cap and piers at certain intervals be constructed around the perimeter of the lot.

    c. Three (3) acres of open space shall be set aside to the rear of the site and graded for recreation and open space activities. No portion of the three (3) acres set aside for open space shall be used for stormwater management. Ownership and maintenance of this open space and any recreational facilities installed within the open space shall remain with the tract owner until such time as the homeowners association for the for sale townhouse units has been established, at which time, the homeowners association shall assume responsibility for the ownership and maintenance. The open space shall be graded to accommodate the recreational facilities that are part of the approved Comprehensive Plan for the entire District. Public access to the open space for passive or active recreation shall be permitted.

    d. An average of no more than two (2) bedrooms per unit shall be permitted in apartment/condominium units. A deed restriction shall be recorded that restricts the average number of bedrooms per apartment/condominium unit to two (2) bedrooms per unit. Construction or conversion of any additional rooms for the purpose of permanent resident bedroom use in apartment/condominium units shall be prohibited.

    e. A maximum of seventy-five (75) percent of the townhouse units on-site are permitted to have three (3) bedrooms. The remainder of the townhouse units shall be limited to two (2) bedrooms per

unit. A deed restriction shall be recorded that restricts the number of bedrooms in the townhouse units to the limits prescribed in this section. Construction or conversion of any additional rooms for the purpose of permanent resident bedroom use in townhouse units shall be prohibited.

f. A minimum area of 1000 square feet of public plaza space facing Main Street, landscaped with decorative hard surface treatment and plantings shall be provided. The specific design of this public plaza space shall be decided during the site plan process. The public plaza space shall be located at the intersection of Stiger Street and Main Street.

g. The architectural character of all buildings on Main Street must be consistent with the historic architectural style of the buildings on Main Street that are located within the Town's Historic District.

h. The Bergen Street intersection with Main Street shall be removed and a replacement means of access through the tract that shall be dedicated to the municipality shall be provided to serve residential uses fronting on the remaining portion of Bergen Street. The Town will vacate the applicable portion of Bergen Street to be removed and transferable to the tract property owner as may be needed. The final area shall be added to the tract of land and district.

i. A private road shall be constructed between Main Street and Stiger Street to allow access to the freestanding retail use and other areas of retail, commercial and residential development.

j. A wall shall be constructed along Main Street between the railroad right-of-way and the easternmost building fronting on Main Street to screen rear yard parking.

k. Building construction and site development should incorporate green development practices and strategies such as those suggested by the USGBC through the Leadership in Environmental Education (LEED) Program or the use of energy star rated materials and/or appliances. These practices and strategies may include reuse of existing building materials, responsible disposal or recycling of existing building materials and use of energy efficient HVAC units. LEED or other outside agency approval is however not required as part of this strategy.

l. Other than the right-of-ways associated with the realigned portion of Bergen Street and the new section of East Stiger Street between First Street and the realigned portion of Bergen Street,

all roadways, parking areas, driveway aisles, and parking spaces shall be owned and maintained by the tract owner.

m. A homeowners association shall be established for the purpose of owning and assuming maintenance responsibilities for the common open space and common property designed within the development. The homeowners association shall be established prior to the issuance of any certificate of occupancy for a townhouse residential unit in the development.

SECTION 500

GENERAL PROVISIONS & DESIGN STANDARDS

SECTION 500

GENERAL PROVISIONS AND DESIGN STANDARDS

501 ACCESSORY BUILDINGS AND STRUCTURES

A. Accessory Buildings as Part of Principal Buildings

Any accessory building attached to a principal building shall be considered part of the principal building and the total structure shall adhere to the yard requirements for the principal building regardless of the technique of connecting the principal and accessory buildings.

B. Accessory Buildings and Structures Not to be Constructed Prior to Principal Building

No construction permit shall be issued for the construction of an accessory building or structure, other than construction trailers or storage sheds, prior to the issuance of a construction permit for the construction of the main building upon the same premises. If construction of the main building does not precede or coincide with the construction of the accessory building or structure, the Construction Official shall revoke the construction permit for the accessory building or structure until the construction of the main building has proceeded substantially toward completion.

C. Distance Between Adjacent Buildings and Structures

The minimum distance between an accessory building or structure and any other building(s) or structure(s) on the same lot shall be as prescribed in Section 400, 500 or 600, as applicable.

D. Height of Accessory Buildings and Structures

The height of accessory buildings shall be a maximum of fifteen feet (15’) unless otherwise specified in Section 400, 500 or 600, as applicable.

E. Location

An accessory building or structure may be erected in side and rear yard areas only and shall be set back from side and rear lot lines as prescribed in Section 400, 500 or 600, as applicable, except that if erected on a corner lot, the accessory building or structure shall be set back from the side street to comply with the setback line applying to the principal building for that side street.

F. Temporary Construction Trailers

Temporary construction trailers and one (1) sign not exceeding thirty-two (32) square feet, advertising the prime contractor, subcontractor(s), architect, financing institution, or similar data shall be permitted for the period of construction beginning with the issuance of a Construction Permit and concluding with the issuance of a Certificate of Occupancy, or one (1) year, whichever is less, provided said trailer(s) and sign are on the site where construction is taking place.

502 DRAINAGE

A. All stormwater management measures for a development regardless of use, including structural stormwater management strategies, detention basins and other stormwater management facilities and stormwater collection and conveyance structures, shall be designed in accordance with and comply with provisions of Section 525 of the Ordinance and N.J.A.C. 5:21-7 et seq.

B. For development not defined as a "major development" in Section 525, stormwater management measures shall be developed to meet the stormwater runoff quantity requirements in part 4 of Section 525 of the ordinance.

SECTIONS C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

SECTIONS C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

SECTIONS C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

SECTIONS C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

SECTIONS C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

SECTIONS C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

SECTIONS C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

SECTIONS C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

SECTIONS C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

SECTIONS C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

SECTIONS C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

SECTIONS C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

SECTIONS C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

SECTIONS C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

SECTIONS C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

SECTIONS 502 C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

SECTIONS C THROUGH U OMITTED PER ORDINANCE 2006-13

(SECTION RESERVED)

503 FENCES, WALLS AND SIGHT TRIANGLES

A. All permitted fences shall be situated on a lot in such a manner that the finished side of the fence shall face adjacent properties. All poles, posts, etc., shall be erected on the inside of the fence. No fence shall be erected of barbed wire, broken glass, topped with metal spikes, nor constructed of any material or in any manner which may be dangerous to persons or animals, except for non-residential uses where the Board determines that such construction is reasonable and affords safety. Electric fences are prohibited. No fence shall be constructed within six feet of any dwelling located on adjacent property.

B. All fences shall be constructed and maintained to withstand a wind load of no less than fifteen (15) pounds per square foot. Construction materials may be of wood board (picket or panel), metal chainlink fabric, picket or bent selvage on tip, or concrete panel; but shall not be solid concrete or concrete block. All materials shall be treated against infestation and corrosion.

C. All fences shall be symmetrical in appearance, with posts separated by identical distances, with the fencing conforming to a definite pattern and uniform design. Fences shall be kept in good repair, shall be regularly painted, and shall be maintained in a clean condition.

D. On any lot in any district, no wall or fence shall be erected or altered so that said wall or fence shall be over four feet (4’) in height in front yards and six feet (6’) in height in side and rear yards with the following provisions and exceptions:

1. A dog run may have fencing a maximum of six feet (6') in height provided such area is located in rear yards only and is set back from any lot line the distance required for accessory buildings in the zoning district as stipulated in Section 400.

2. A private residential swimming pool area must be surrounded by a fence at least four feet (4'), but no more than six feet (6') in height. Swimming pool areas shall be located in rear yards only. See Section 515 for additional standards.

3. A tennis court area, located in rear yards only, may be surrounded by a fence a maximum of fifteen feet (15') in height; said fence to be set back from any lot line the distance required for principal buildings in the zoning district as stipulated in Section 400.

4. Schools, playgrounds and parks in any district and commercial and industrial uses may erect security fences to control ingress and egress to all or part of the lot. Said fence shall be no more than ten feet (10') in height, and no such fence shall be located within a front yard setback area.

5. Temporary construction fencing up to 8 feet in height shall be permitted provided the on-going construction has been approved by the Planning Board or Zoning Board, and the fence complies with Paragraphs A, B, and C above and Paragraph E below.

6. Fencing around commercial uses is permitted in the LM Zone up to a maximum of eight feet provided the fence complies with Paragraphs A, B, and C above and Paragraph E below.

E. Sight triangle areas shall be required at street intersections and nonresidential driveways entering public streets, in addition to the specified right-of-way widths, in which no grading, planting or structure shall be erected or maintained more than thirty inches (30") above the street centerline, except for utility poles, street signs, fire hydrants and light standards. The sight triangle is defined as that area outside of the street right-of-way which is bounded by the intersecting street lines and the straight line connecting "sight points", one each located on the two intersecting street centerlines:

- 'Arterial' streets at three hundred feet (300');
- 'Collector' streets at two hundred feet (200'); and
- 'Local' streets and residential driveways at ninety feet (90').

Sight triangle easements shall be required for any new development and such easement dedication shall be expressed on the plat or plan as follows**: "Sight triangle easement deeded for purposes provided for and expressed in the Land Development Ordinance of the Town of Hackettstown".**

504 LIGHTING

A. Street lighting of a type supplied by the utility and of a type and number approved by the Town Engineer may be required at all street intersections and along all arterial, collector and local streets and anywhere else deemed necessary for safety reasons.

B. All parking areas and walkways thereto and appurtenant passageways and driveways serving commercial, public, office, multiple family or other uses having common off-street parking and/or loading areas shall be adequately illuminated for security and safety purposes. The lighting plan in and around the parking areas shall provide for nonglare lights. The light intensity provided at ground level should be indicated in footcandles on the submitted site plans, and should be maintained at a minimum level of at least five-tenths (0.5) footcandles at intersections, and three-tenths (0.3) footcandles elsewhere to be illuminated. Lighting shall be provided by fixtures with a mounting height not more than twenty-five feet (25') or the height of the building, whichever is less, measured from the ground level to the centerline of the light source.

C. Any outdoor lighting such as building and sidewalk illumination, driveways with no adjacent parking, the lighting of signs and ornamental lighting, shall be shown on the lighting plan in sufficient detail to allow a determination of the effects upon adjacent properties and traffic safety. The objectives of these specifications is to minimize undesirable off-premises effects. No light shall shine into windows or onto streets and driveways in such a manner as to interfere with or distract driver vision. To achieve these requirements, the intensity of such light sources, the light shielding and similar characteristics shall be subject to site plan approval.

D. Automatic shut-off or dimming devices shall be required for all parking areas providing twenty (20) or more parking spaces.

505 LOT CONFIGURATION

A. Insofar as is practical, side lot lines shall be either at right angles or radial to curved streets and rear lot line dimensions shall not be less than 60% of the length of the front lot line dimension.

B. Each lot must front upon an approved street.

C. Each single family lot in a proposed major residential subdivision shall be so configured that the depth is no greater than 2.5 times the width.

D. All lots shall be suitable for the purpose(s) of their intended use. Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as poor drainage conditions or flood conditions, the Board, after adequate investigation, may withhold approval of such lots. If approval is withheld, the Board shall give reasons and notify the applicant and enter the same in the minutes.

E. Concrete monuments shall be installed in accordance with the requirements of the New Jersey Map Filing Act.

506 NATURAL FEATURES

A. All subdivisions and site plans shall be designed so as to minimize changes in existing grades and to preserve natural features, such as trees greater than six (6) inches in diameter, wooded areas, brooks, hilltops, views and vistas, rock outcrops, as well as environmentally sensitive areas including wetlands, steep slopes, areas with seasonal high water table within one and a half feet of the surface and water bodies. In addition, critical areas, as defined in subparagraph B, must be protected and preserved as undeveloped open space in all developments.

B. In all developments the following critical areas shall be preserved as undeveloped open space: wetlands as defined by New Jersey Department of Environmental Protection and Energy, field verified by an on-site inspection; significant trees defined as the largest known individual trees of each species in New Jersey as listed by the New Jersey Department of Environmental Protection (N.J.D.E.P.) Bureau of Forestry and large trees which are 90% or more of the diameter of the known largest tree; lands in the floodplain as defined by the (N.J.D.E.P.) in its Stream Encroachment Manual; steep slopes in excess of twenty-five (25%) percent as measured over a 10-foot vertical contour interval unless appropriate engineering measures concerning slope stability, erosion, and resident safety are resolved to the satisfaction of the Town Engineer; habitats of rare, threatened or endangered vegetation and wildlife species as identified on federal or state lists; and historically significant structures and sites as listed on the Federal or New Jersey Registers of Historic Places.

All site plans, subdivision plans and general development plans shall comply with the following requirements:

1. Each development plan shall identify and map on-site critical areas. Such mapping shall depict the location of each critical area' in relation to the proposed development. Each critical area shall be distinguished graphically and the total acreage of each critical area within each lot shall be noted.

2. Critical areas shall be delineated as follows:

   a. Freshwater wetlands as defined by N.J.S.A. 13:9B-l et. seq. and as delineated in the field with the delineation boundary verified by the N.J.D.E.P.E. through a Letter of Interpretation, presence/ absence letter or other written communication.

   b. Buffer or transition areas for freshwater wetlands as required by the N.J.D.E.P.E.

   c. Location of significant trees as determined by field survey indicating by notes the diameter at four feet above ground and tree species.

   d. Location of the 100 year floodplain boundary.

e. Areas of slope exceeding 25% as measured over a 10 foot vertical change in grade.

f. The presence of potential habitat on the property of concern or adjoining properties within 200 feet of rare, endangered or threatened vegetation and wildlife based on written communication with the New Jersey Natural Heritage Program. The project site shall be indicated on a USGS topographic quadrangle map by the applicant and the map shall be forwarded to the Natural Heritage Program requesting information on the potential presence of habitat for rare, threatened or endangered vegetation and wildlife species.

3. Each development shall be designed to protect and prevent disturbance of Critical Areas during construction and subsequent use of the property. The following standards shall be adhered to:

a. Principal nonresidential buildings and accessory buildings and structures, including open or enclosed parking, shall be setback at least twenty (20) feet from the boundary of any required freshwater wetland transition area.

b. Where any yard of a residential development is within a freshwater wetlands transitional area, the required yard setback shall be maintained between the building or structures and the transition area/ buffer area boundary.

c. All efforts to preserve significant trees are to be made including, as appropriate, site redesign, use of tree wells, and other methods as specified in the landscaping section of this ordinance.

d. Within the 100 year floodplain only activities allowed by Ordinance that are approved by the N.J.D.E.P. shall be permitted.

e. No development, grading or other alteration or disturbance is permitted in areas with steep slopes in excess of twenty-five (25%) percent unless such action is approved by the Town Engineer in view of appropriate engineering measures concerning slope stability, erosion and resident safety which are reflected on the site plan.

f. If the presence of potential habitat for rare, threatened or endangered vegetation and/or wildlife species has been identified on-site or on adjoining properties by the New Jersey Natural Heritage Program, care should be taken during site design to preserve as much of this habitat as possible and to limit disruptions to habitat on adjoining parcels.

g. Wherever and whenever possible, registered historic structures or sites should be preserved and incorporated into the site design. Alterations should be kept to a minimum.

C. Natural fertility of the soil shall be preserved and soil on-site shall be disturbed as little as possible. No top soil shall be removed from the site. Top soil moved during the course of construction shall be redistributed evenly over the tract so as to provide at least six (6) inches of cover to all areas, where possible, which cover shall be stabilized by approved seeding and/or planting.

D. During the design, planning and construction of any development, a conscious effort shall be made to preserve the existing vegetation on the site. Additionally, the planting of shade trees shall be provided in all residential developments and in subdivisions of other kinds where deemed appropriate by the Approving Authority. Trees shall be planted along both sides of: existing and/or new streets at intervals of not more than fifty (50) feet and in types, sizes and locations conducive to healthy growth, and according to any standards adopted by the governing body so as not to interfere with street paving or utilities. All planting strips within street rights-of-way shall be finished graded, properly prepared, and seeded or sodded with lawn grass. The proposed location of the trees shall be indicated on the site plan and/or subdivision submission. All newly planted shade trees shall be of nursery stock, shall have a minimum caliper of two and one-half inches (2 1/2") and shall be of a species indigenous to the area or as approved by the Approving Authority. All plantings shall be done in conformance with good horticultural practice.

E. Landscaping provided as part of any development plan should provide for a variety and mixture of plantings. The selection should consider susceptibility to disease, colors, season, textures, shapes, blossoms, and foliage. The site plan shall show the location, specie, size at planting and quantity of each plant.

F. A five (5) foot wide shade tree easement shall be provided adjacent to the street line in all subdivisions.

G. An effort shall be made to preserve the existing vegetation on the site. All existing trees having a caliper of six inches (6") or more measured three feet (3') off the ground shall be protected by the installation of a snow fence or similar barrier prior to commencement of construction and the grades shall not vary around the trees by more than six (6) to twelve (12) inches. The limits of disturbance together with the proposed location and species of the trees shall be indicated on the site plan and/or subdivision submission. Whenever the applicant shall excavate or fill in areas in the vicinity of large trees, the applicant shall notify the Town Engineer and, within fifteen (15) days of said notification, the Town Engineer shall advise the applicant if it requires a statement and/or sketches outlining compliance with this subsection.

H. A minimum of twelve (12) trees per acre shall be planted on single-family residential lots, and a minimum of twelve (12) trees per acre of gross tract area shall be planted in open space areas. A minimum of twelve (12) trees per acre of gross tract shall be planted throughout the tract in the case of nonresidential or multi-family development. Any trees provided to meet the street tree and buffer requirements shall not be counted towards the minimum tree requirement; however, the Board may waive the required total number of trees where the availability of areas for the required trees is decreased because of the extent of existing vegetation to be retained or the provision of a landscaped buffer area.

507 NON-CONFORMING LOTS, STRUCTURES AND USES

A. Lots

1. Whenever the owner of a lot existing at the time of adoption of this Ordinance has dedicated or conveyed land to the Town in order to meet the minimum street width requirements of the Official Map or Master Plan of the Town, the Zoning Officer shall issue zoning and occupancy permits for lots whose depth and/or areas are rendered substandard only because of such dedication and where the owner has no other adjacent lands to provide the minimum requirements.

2. In all residential zones, any existing lot on which a building or structure is located and which lot does not meet the minimum lot size, or a structure which violates any yard requirements, may have additions to the principal building and/or construction of an accessory building without an appeal for variance relief provided: 1) the existing use(s) on the lot are conforming to the permitted use(s) set forth in this Ordinance for the lot in question; 2) the total permitted building coverage is not exceeded; 3) the accessory building and/or addition does not violate any other requirements of this Ordinance such as, but not limited to, height, setback and parking and does not increase any existing non-conformity; and 4) the lot is not reduced in size.

B. Structures and Uses

1. Any pre-existing non-conforming use or structure existing at the time of the passage of this Ordinance may be continued upon the lot or in the structure so occupied and any such structure may be repaired in the event of partial destruction thereof.

2. Repairs and maintenance work required to keep a structure in sound condition may be made to a non-conforming structure or a conforming structure containing a non-conforming use, including renovation which may require structural alterations or reconstruction. However, no structure or use shall be enlarged, extended, or constructed in any manner without an appeal for variance relief, unless specifically permitted elsewhere in this Ordinance.

3. A non-conforming use shall be considered abandoned if there is a cessation of the previous use or activity on the part of the owner or tenant; thereafter, such building, structure and/or land shall not be used in a non-conforming manner.

4. Any non-conforming use or structure which has been changed to a conforming use or structure shall not be changed back again into a non-conforming use or structure.

5. Any non-conforming use, structure or lot may change ownership and continue to function as the same non-conforming use, structure or lot provided all other provisions of this Ordinance and other applicable laws are met.

508 OFF-STREET PARKING, LOADING AREAS AND DRIVEWAYS

A. Landscaping

1. A screen planting, berm, fence, wall or combination thereof, no less than five feet (5') in height, shall be provided between off-street parking areas for more than ten (10) vehicles and any lot line or street line except where a building intervenes or where the distance between such areas and the lot line or street line is greater than one hundred fifty feet (150'). Fencing must be maintained in good condition and without advertising.

2. All loading areas shall be landscaped and screened sufficiently to obscure the view of the loading of vehicles and platforms from any public street, adjacent residential district(s), or on-site parking areas, throughout the year. Such screening shall be by an extension of the building, a fence, berm, wall, evergreen planting or combination thereof and shall not be less than five feet (5') in height.

3. Parking Lot Landscaping

   a. Amount required. In parking lots, at least five percent (5%) of the interior parking area shall be landscaped with plantings, and one (1) tree for each ten (10) spaces shall be installed. Planting required within the parking lot is exclusive of other planting requirements, such as for street trees or buffers.

   b. Location. The landscaping should be located in protected areas, such as along interior walkways, in center islands, at the end of bays, or in diamonds

between parking stalls. All landscaping in parking areas and along the street frontage shall be placed so that it will not obstruct sight distance.

c. Plant type. A mixture of hardy flowering and/or decorative evergreen and deciduous trees may be planted; the area between trees shall be planted with shrubs or ground cover or covered with mulch.

d. Distribution. Plantings shall be distributed throughout the parking area to break the view of parked cars.

e. Parking lot island specifications. Where parking lot islands are planted, same shall be a minimum width of six feet (6') from interior edge of curb to curb.

Parking lot islands are permitted in any parking lot but shall be required in all parking lots with more than thirty (30) parking stalls.

B. Lighting

Lighting used to illuminate off-street parking areas shall be arranged to reflect the light away from residential premises and public streets and shall be in accordance with Section 504. All parking facilities providing five (5) or more parking spaces shall be lighted.

C. Paving and Curbing

1. All parking and loading areas and access drives shall be paved as outlined below unless said requirement is otherwise waived by the appropriate municipal agency and approved as part of the development application approval. All parking areas, regardless of size and location, shall be suitably drained and maintained.

a. Areas of ingress or egress, loading and unloading areas, parking areas, interior driveways or access aisles and other areas likely to experience heavy traffic shall be paved with not less than five inches (5") of bituminous stabilized base course prepared and constructed in accordance with Division 3, Section 2A, of the "Standard Specifications for Road and Bridge Construction, 1989", as prepared by the New Jersey State Department of Transportation, and any supplements, addenda and modifications thereto. A minimum of two inch (2") compacted wearing surface of bituminous concrete (FABC) shall be constructed thereon in accordance with Division 3, Section 10, of the aforesaid New Jersey State Department of Transportation specifications and amendments thereto.

b. Where subgrade conditions of proposed parking and loading areas are wet, springy or of such a nature that surfacing would be inadvisable without first treating the subgrade, the treatment of the subgrade shall be made in the following manner: The areas shall be excavated to a suitable depth below the proposed finished grade and filled with a suitable subgrade material as reasonably determined by the Town Engineer. Where required

by the Town Engineer, a system of porous concrete pipe subsurface drains or an alternate solution approved by the Town Engineer shall be constructed beneath the surface of the parking area and connected to a suitable drain. After the subbase material has been properly placed and compacted, the parking area surfacing material, as described hereinabove, shall be spread thereon.

2. All off-street parking lots shall have adequate designations to indicate traffic flow and parking spaces.

3. Parking spaces shall be dimensioned in accordance with the definition of "parking space" in Section 200 of this Ordinance.

4. All off-street parking and loading areas shall be provided with curbing or curb stops so that vehicles cannot be driven onto required perimeter landscaped areas, buffer zones and street rights-of-way and so that each parking and loading area has controlled entrances and exits and drainage control. Curbing or wheel stops shall be located to prevent any part of a vehicle from overhanging internal sidewalks or landscaped areas. Parking and loading spaces shall not be an extension of any street right-of-way. Where appropriate, flush curbing with curb stops or curbing with curb cuts shall be used to encourage the discharge of runoff from impervious surfaces into landscaped areas to reduce total suspended solids (TSS) and runoff rate and encourage recharge.

5. Curb returns in all parking areas shall have a minimum radius of five (5) feet.

6. All parking stalls shall be marked with four inch (4") white lines printed in a hairpin design.

7. An evergreen planting strip not less than ten feet (10') in width and six feet (6') in height shall be provided as a buffer between any property line which abuts a residential use or district and any parking area with five (5) or more parking spaces.

D. <u>Access Driveways</u>

1. Residential.

a. The maximum grade of a driveway shall not exceed ten percent (10%) and the minimum grade shall not be less than one percent (1%) unless specifically approved by the Town Engineer.

b. All driveways within the Town right-of-way shall be paved with material approved by the Town Engineer. Pavement for driveways shall consist of a three inch layer of bituminous stabilized base course and a two inch layer of bituminous surface course in conformance with N.J.D.O.T. standards. Pervious paving materials may be used where specifically approved by the Town Engineer.

c. The minimum width of a driveway for a single-family dwelling shall be ten feet (10'). The minimum width shall be eighteen feet (18') for a two car garage.

d. At each driveway without curb return radii, the curb shall be depressed to form a driveway opening. The depression shall be equal in length to the width of the driveway plus three (3) feet on either side.

At driveways with curb return radii, the curb depression shall accommodate the exterior limits of the radii. The depression shall be smoothly formed to maintain a lowered curb face across the depression of at least one (1) inch, but not more than one and one-half (1 1/2) inches. The bottom of the curb shall be lowered to maintain full curb depth across the depression.

2. Nonresidential.

a. The maximum grade of a driveway shall not exceed eight percent. (8%) and the minimum grade shall not be less than one percent (1%) unless specifically approved by the Town Engineer.

b. Pavement for driveways shall consist of five (5) inches of bituminous stabilized base and two (2) inches bituminous surface course in conformance with N.J.D.O.T. Standard Specification for Road and Bridge Constructions in effect at the time of construction. Pervious paving materials may be used where specifically approved by the Town Engineer.

c. Driveways shall provide curb return radii of not less than fifteen (15) feet for all right turn movements. Driveway width shall be a minimum of eighteen (18) feet for one-way driveways and twenty-four (24) feet for two-way driveways.

d. At driveways with curb return radii, the curb depression shall accommodate the exterior limits of the radii. The depression shall be smoothly formed to maintain a lowered curb face across the depression of at least one (1) inch, but not more than one and one-half (1 1/2) inches. The bottom of the curb shall be lowered to maintain full curb depth across the depression.

3. The number of curb cuts for access shall be minimized for all land developments. Curb cut access shall be reviewed by the Town Planning Board for each application.

4. Driveways for all multi-family residential and commercial uses shall be located at least fifty (50) feet from the intersection of two streets.

E. Location of Parking and Loading

Required off-street parking and loading spaces shall be located on the same lot or premises as the use served, regardless of the number of spaces required by this Ordinance, except that in cases when it is determined during site plan review that the requirements for on-site off-street parking cannot be met because of existing conditions, the location and adequacy of off-site parking spaces to service the use shall be specified on the site plan for approval by the Planning Board. No parking of vehicles shall be permitted in fire lanes, streets, driveways, landscaped areas, aisles, buffer areas, sidewalks or turning areas. Parking may occupy front, side and rear yard areas subject to site plan approval, unless otherwise specified in this Ordinance. Where different specific activities with different parking requirements share the parking area, the total number of required parking spaces shall be the sum of the individual requirements for each activity.

F. Type of Facility

1. Parking spaces may be on, above or below the surface of the ground. When parking spaces are provided within a garage or other structure, said structure shall adhere to the proper accessory or principal building setbacks, as applicable.

2. The provision of parking and loading spaces shall also include adequate driveway and necessary turning areas for handling the vehicles for which provision is made. Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Aisles providing access to parking areas shall have the following minimum dimensions:

Angle of Parking Space	One-Way Aisle	Two-Way Aisle
90°	22’	24’
60°	18’	20’
45°	15’	20’
30°	12’	18’
parallel	12’	18’

Where the angle of parking is different on both sides of the aisle, the larger aisle width shall prevail.

3. Barrier free parking stalls for physically handicapped persons shall have a minimum width of twelve (12) feet.

   Curb ramps shall be provided adjacent to such stalls to permit access to the adjoining sidewalk area.

   All barrier free spaces shall be identified with a clearly visible sign displaying the international symbol of access.

4. Truck loading and unloading areas shall be provided in sufficient amount to permit the transfer of goods and products in other than a public street or public parking area and shall be adequately screened from the view of adjoining properties or streets.

5. Loading spaces shall be provided in addition to off-street parking spaces and shall not be considered as off-street parking spaces.

6. Loading spaces shall be at least 15 feet wide and 60 feet in length.

7. Where the separate designation of a specific loading space is not required for an activity, the required off-street parking area shall not be used for loading and unloading purposes except during hours when normal business operations are suspended.

8. Parking lots shall not exceed a maximum grade of six percent (6%) and shall be so graded that storm water runoff flows from aisles to parking stalls and does not cross drives or roads in a concentrated flow.

9. "Drainage and stormwater management facilities shall be provided for in all parking areas and driveways in accordance with Sections 502 and 525 of this Ordinance."

509 PERFORMANCE STANDARDS FOR ALL USES

An application for a construction permit shall provide documentation that the intended use will comply with the performance standards enumerated below. In the case of a structure being built where the future use is not known, a construction permit may be issued with the conditions that no Certificate of Occupancy will be issued until such time as this documentation is submitted with respect to the particular occupant. These provisions shall not apply to any sewage treatment plant which has received approval by the State Department of Environmental Protection.

A. Electrical and/or Electronic Devices

All electric or electronic devices shall be subject to the provisions of Public Law 90-602, 90th Congress, HR 10790, dated October 18, 1968, entitled “An Act for the Protection of Public Health and Safety from the Dangers of Electronic Product Radiation” and the BOCA Basic Building Code as adopted by the State of New Jersey.

B. Glare

No use shall produce a strong, dazzling light or reflection of a strong, dazzling light or glare beyond its lot lines. Exterior lighting shall be shielded, buffered, and directed so that glare, direct light or reflection will not become a nuisance to adjoining properties, adjoining units, adjoining districts or streets.

C. Heat

No use shall produce heat perceptible beyond its lot lines. Further, no use shall be permitted which could cause the temperature to rise or fall in any body of water, except that this provision shall not apply to any sewerage treatment plant which has received approval by the State Department of Environmental Protection.

D. Noise

Noise levels shall be designated and operated in accordance with local regulations and those rules established by the New Jersey Department of Environmental Protection as they may be adopted and amended.

E. Odor

Odors shall not be discernible at the lot line or beyond. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control will be maintained if the primary safeguard system should fail.

F. Storage and Waste Disposal

No flammable or explosive liquid, solids or gases shall be stored in bulk above ground; provided, however, that tanks or drums of fuel directly connected with energy devices, heating devices, or appliances located on the same lot as the tanks or drums of fuel are excluded from this provision.

No provision shall be made for the depositing of materials or waste upon a lot where they may be transferred off the lot by natural causes or forces, or where they can contaminate an underground aquifer or otherwise render such an underground aquifer undesirable as a source of water supply or recreation, or where they will destroy aquatic life. Provision shall be made for all material or waste which might cause fumes or dust, or which constitute a fire hazard, or which may be edible or otherwise attractive to rodents and insects to be enclosed in appropriate containers to eliminate such hazards and stored outdoors. Such outdoor storage containers shall be surrounded by fencing and adequately screened from adjacent properties.

All development plans shall provide for sufficient area for the storage of recyclable materials as follows**:**

1. Each application for residential development of fifty (50) or more units of single-family housing or twenty-five (25) or more units of multi-family housing must include provisions for the collection, disposition, and recycling of recyclable materials. A single-family unit or a unit within a multi-family dwelling should provide at least twelve (12) square feet of floor area conveniently arranged and located as a holding area for a four (4) week accumulation of materials. Such an area may be within a hidden laundry room, basement or garage.

2. Each application for a non-residential use which utilizes one thousand (1,000) square feet or more of land must include provisions for the collection, disposition and recycling of recyclable materials. Each application shall quantify the amount of recyclable material it will generate as part of its weekly generation, including newspapers, leaves, white high-grade paper, glass bottles and jars, aluminum, corrugated cardboard, and tin and bimetal cans. The application shall provide a storage area to contain a week’s accumulation of recyclable material.

3. The storage area for recyclable materials shall be designed for truck access for pick-up of materials and be suitably screened from view if located outside a building.

G. Ventilation

No use shall obstruct the natural ventilation of adjacent uses nor contaminate the air with excessive heat or odor. Further, no air conditioners or exhaust fans shall be permitted to discharge exhausted air unless set back from all property lines at least ten feet (10') or equipped with baffles to deflect the discharged air away from the adjacent use.

H. Vibration

There shall be no vibration which is discernible to the human senses or which is at low or high frequencies capable of causing discomfort or damage to life or property.

I. Toxic and Radioactive Substances

There shall be no toxic or radioactive substances associated with any use.

J. Drainage

No storm water or natural drainage which originates on the property or water generated by the activity (e.g., air conditioners, swimming pools, etc.) shall be diverted across property lines unless transported in an approved or existing drainage system.

K. Smoke Control

1. No smoke shall be emitted from any chimney or other source visible gray greater than No. I on the Ringelmann smoke chart as published by the U. S. Bureau of Mines.

2. Smoke of a shade not darker than No. 2 on the Ringelmann Chart may be emitted for not more than four minutes in any thirty (30) minute time period.

3. These provisions, applicable to visible gray smoke, also shall apply to visible smoke of a different color, but with an equivalent apparent opacity.

L. Control of Dust and Dirt, Fly Ash, Fumes, Vapors and Gases

1. No emission of dust, dirt, fly ash, fumes, vapors and gases shall be made which can cause any damage to health, animals or vegetation or other forms of property or which can cause any noticeable soiling at any point.

2. No emission of liquid or solid particles from any chimney, etc., shall exceed 0.3 grains per cubic foot of the covering gas at any point.

3. For measurement of the amount of particles in gases resulting from combustion, standard correction shall be applied to a stack temperature of five hundred degrees (500°) F. and fifty percent (50%) excess air.

510 PRINCIPAL USE

Unless otherwise specified in this Ordinance, no more than one (1) principal dwelling or building shall be permitted on one lot.

511 PUBLIC UTILITIES

A. All public services shall be connected to an approved public utilities system where one exists. The developer shall arrange with the servicing utility for the installation of the distribution supply lines and service connections, in accordance with the provisions of the applicable standard terms and conditions incorporated as part of its tariff, as the same are on file with the New Jersey State Board of Public Utility Commissioners; provided however, that lots which abut existing streets where overhead electric or telephone distribution supply lines and service connections have heretofore been installed may be supplied with electric and telephone service from these overhead lines, but any new service connections from the utilities' overhead lines shall be installed underground. In cases where extension of service are needed to existing buildings, the present method of service may be continued. In the case of existing overhead utilities, however, should a road widening or an extension of service or such other condition occur as a result of the development and necessitate the replacement or relocation of such utilities, the developer shall cause the replacement or relocation to be underground.

1. Upon submission of preliminary plats or plans for approval, the developer shall present a statement of interest, setting forth all public utility companies to serve the tract. All preliminary plats and plans shall show the location, size and capacity of all utility structures and facilities within two hundred feet (200') of the tract.

2. Prior to the commencement of construction, the developer shall furnish the Town Clerk a copy of the agreements with the applicable public utility companies certifying the jurisdiction of the public utility company for the particular portion of the Town; indicating agreement with the proposed utility installation design; and stating who will construct the facility so that service will be available prior to occupancy. The form of such agreement(s) shall be reviewed and approved by the Town Attorney prior to the commencement of construction.

3. The developer shall provide the Town with four (4) copies of a final "as built" plan showing the installed location of the facilities.

B. Easements along property lines or elsewhere for utility installation may be required. Such easements shall be at least twenty feet (20') wide and located in consultation with the companies or Town departments concerned and, to the fullest extent possible, shall be centered on or adjacent to lot lines. Such easement dedication shall be expressed on the plat or plan as follows: "Utility right-of-way easement granted for the purposes provided for and expressed in the Land Development Ordinance of the Town of Hackettstown".

512 SANITARY SEWERS

Where a public waste water treatment plant and collection system is accessible or proposed, the developer shall construct sanitary sewer lines and building connections in accordance with New Jersey Department of Environmental Protection permit requirements and in such a manner as to make adequate sewage treatment available to each lot and building within the development.

513 SIGNS

A. General Provisions.

* No signs shall be placed on or attached to a building or erected independently for any purpose other than to advertise a permitted business or use conducted on the same premises unless specifically permitted herein.

* No billboards or roof signs shall be erected or replaced.

* No sign having a message which in and of itself is lewd and licentious or advocates an act in violation of any municipal, County, State or Federal law is permitted.

* No signs shall be erected, or replaced, except as otherwise set forth herein, which are not in accordance with the standards established in this Ordinance.

* No signs shall be altered except for routine maintenance. Routine maintenance includes repainting and/or exact replacement of a previously approved sign.

* No sign except traffic signs and those of a duly constituted governmental body shall be erected within the street right-of-way, nor shall any sign be placed on any property without the consent of the property owner.

* No permit shall be issued to erect an exterior sign on any property containing a non-conforming sign or signs, until such time as the non-conforming sign or signs have been removed.

* No sign of any type shall be permitted to obstruct driving vision, traffic signals, traffic directional and identification signs, other places of business, or other signs or windows of the building on which they are located.

* No signs shall be attached to trees, fenceposts, stumps, utility poles, but shall be freestanding or attached to building in an approved manner.

* No sign shall be erected so as to emit any sound, odor or other nuisance beyond the property line or above twenty-five feet (25').

* No permit shall be issued to modify an existing nonconforming sign, including changes in lettering and message except that a permit shall not be required for routine maintenance.

* No building permit for a new sign shall be issued on any applicant containing nonconforming signage until such time as said signage is removed.

The erection of any sign shall require sign permit from the Town Zoning Officer unless specifically exempted herein or unless the sign has been approved by the Planning Board or Zoning Board of Adjustment, as the case may be, as part of an approved site plan or subdivision application for development. Additionally, all signs shall require a construction permit from the Construction Official unless specifically exempted herein.

The applicant shall file for the Zoning Permit by paying a fee of zero dollars ($0) to the Zoning Officer, on behalf of the Town, and by providing the Zoning Officer with the necessary information from which to determine whether the subject sign meets the terms of this Ordinance. Within fifteen (15) days after the filing for the permit, or within such further time as may be necessary in order to provide sufficient time for review and comment by the Town's Historic Preservation Commission for signs within the designated Historic District, the Zoning Officer shall either issue or deny the permit. If denied, the Zoning Officer shall indicate in writing the reason(s) for such denial; provided, however, that should the Zoning Officer have particular questions regarding any particular application, the application may be referred by the Zoning Officer to the Planning Board for review and comment prior to action by the Zoning Officer. Once the Zoning Permit has been issued, the Construction Official may issue a construction permit, as may be necessary, after the required review and approval.

1. Animated. Flashing and Illusionary Signs. Signs using mechanical or electrical devices to revolve, flash or display movement or the illusion of movement are prohibited.

2. Height. No freestanding or attached sign shall be higher than twenty feet (20') except that no sign shall exceed any lesser height if particularly specified.

3. Free-Standing Signs. Free-standing signs shall be supported by one or more columns or uprights which are firmly and permanently imbedded in the ground. Exposed guy wires, chains or other connections shall not be a support of a freestanding sign.

4. Illuminated Signs. Illuminated signs shall be arranged to reflect the light and glare away from adjoining streets and adjacent residential districts. No sign with red, green, blue or amber illumination in a beam, beacon or flashing form resembling an emergency light shall be erected in any location. Illuminated signs shall not be erected in residential districts.

5. Information and Direction Signs. Street number designations, household name plates, postal boxes, "private property", "no hunting", on-site directional and parking signs and warning signs are permitted in all zoning districts but are not considered in calculating sign area. No such sign(s) shall exceed six (6) square feet in area, and such sign(s) shall not require either a sign permit or a construction permit.

6. Maintenance. Signs and, in the case of permitted freestanding signs, the mounting area on the ground level beneath the sign, must be constructed of durable materials, maintained in good condition and not allowed to become dilapidated or unsightly.

7. Political Signs. Political signs temporarily giving notice of political campaigns shall be located on private property and shall be set back at least ten feet (10') from all side property lines and shall not exceed thirty-two (32) square feet in area. Signs shall be permitted within forty-five (45) days prior to any municipal, county, state or national election and shall be removed within ten (10) days after the election. All such signs do not need either a sign permit or a construction permit.

8. Real Estate Signs. Real estate signs temporarily advertising the sale, rental or lease of the premises or portion thereof shall be located on the property being sold, leased or rented and, if not attached to the building, shall be set back from all street lines at least five (5) feet. Signs shall not exceed six (6) square feet in area. All such signs shall be removed at the expense of the advertiser within thirty (30) days after the termination or completion of the matter of business being advertised. "Sold" signs shall be permitted between the signing of the contract of sale and the date of the legal closing. All real estate signs do not require a sign permit or a construction permit.

9. Sign Area: The area of a sign shall be measured around the edges of a framed or enclosed sign or by the area utilized by isolated words and/or symbols, including the background whether open or enclosed, but said area shall not include any supporting framework and bracing incidental to the display itself. The area of a banner, projecting or freestanding sign shall be measured around the edges of the entire area utilized by the sign, including the background whether open or closed but shall not include any supporting columns or bracing.

10. Signs With Two Exposures. Such signs shall be measured for area by using the surfaces of one side of the sign only. Both sides may be used.

11. Wall Fascia or Attached Signs. Wall Fascia or attached signs shall be firmly attached to the exterior wall of the building and shall not project more than six inches (6") from the building.

12. Window Signs.

    (a) Permanent window signs shall not cover more than fifty percent (50%) of the display window or entry door area. When the lettering in such window or entry door is over three inches (3") in height, then the window or door sign shall be considered as the permitted wall sign and shall require a sign permit.

    (b) Permanent window signs when the lettering is less than three inches (3") in height shall be exempt from the sign permit requirements.

    (c) Temporary window signage shall not require either a sign permit or a construction permit, but must comply with all size and color requirements. Temporary window signs are not permitted to be up for 90 consecutive days. No fluorescent or day glow colors are permitted.

    (d) Neon window signs not exceeding five square feet are permitted and shall be included in the fifty percent (50%) window coverage limit set forth in paragraph (a) above.

13. Temporary Signs. The following temporary exterior signs are permitted provided they comply with the following conditions:

(a) Grand Opening Banner – up to three (3) banners along with pennants announcing the new opening of a business are permitted for the ninety (90) consecutive calendar days following the first day the business is open to the public. The banners may not exceed twenty-five (25) square feet and must be attached against the building façade or associated railings or walls. The banner and pennants must be removed after the ninety (90) days. No application, permit or application fee is required, provided a zoning permit has been issued for the business. All grand opening banners must be kept in clean and good condition.

(b) Promotional Banners – A single banner announcing special sales or promotions is permitted provided it does not exceed 25 square feet, is attached against the building or associated railing or wall and is not up for more than ninety (90) calendar days in any calendar year. No application, permit or application fee is required. All promotional banners must be kept in clean and good condition. No promotional banners are permitted unless a permanent sign has been approved and installed.

(c) Sandwich Board Signs – Sandwich board signs comprised of a chalkboard on an easel with a chalkboard no larger than six (6) square feet shall be permitted. The easel shall be located against the building and shall not block any sidewalk or interfere with pedestrian traffic. Sandwich board signs shall be limited to one per storefront.

All sandwich board signs must be removed from the sidewalk at the close of business. Sandwich board signs are not limited to ninety (90) days per year.

(d) A-Frame Signs – A-frame signs shall be permitted in the HC and CC zones only, provided they do not exceed eight (8) square feet, are securely anchored to the ground and are not illuminated. A-frame signs shall not be located on sidewalks and must be set back at least twenty-five (25) feet. Only one A-frame sign is permitted on any property.

14. Flag of the United States of America. The flag of the United States of America may be displayed in all zones and does not need either a sign permit or a construction permit, except that all permanently installed poles used to display the flag shall require a construction permit.

15. Non-Profit Organization Event Signs. A temporary sign announcing an event sponsored by a non-profit organization shall not require a construction permit, but shall require the issuance of a sign permit by the Zoning Officer.

Upon written application to the Zoning Officer by a Hackettstown Town based non-profit organization, the Zoning Officer shall issue permits, without fee, for the erection of up to three (3) temporary signs announcing an event sponsored by said non-profit organization, provided the following requirement and regulations are met:

(a) One (1) sign may be located on the property owned by the non-profit organization, if and wherever such property exists, and up to two (2) signs may be located on properties other than that which may be owned by the non-profit organization, provided said properties are situated within the "TCC", "CC" or "HC" Districts.

(b) The written application to the Zoning Officer by the non-profit organization shall include a written representation by the owner of the property upon which a sign is to be located, giving permission for the display of said sign.

(c) The written application to the Zoning Officer by the non-profit organization shall include a sketch indicating the proposed location of the sign(s) and the graphic material to be placed on the sign(s).

(d) Permitted signs may be freestanding or attached. Each sign shall not exceed thirty-two (32) square feet in area. If freestanding, the sign shall not exceed ten feet (10') in height and shall be set back from all street, driveway, and property lines a distance equivalent to one (1) linear foot for each two and one-half (2 1/2) square feet of sign area.

(e) Highway banners are permitted upon approval by the Mayor and Common Council and upon approval by the State or County when located upon a State or County road and upon issuance of a certificate of insurance.

(f) The permitted signs shall not be illuminated and shall be located so as not to interfere with driver vision.

(g) All signs shall be constructed of approved materials and be neatly painted and adequately secured for aesthetic and safety purposes.

(h) No more than one (1) sign for any particular non-profit organization shall be permitted on any particular property at the same time and no more than two (2) non-profit organization event signs shall be permitted on any particular property at the same time.

(i) Permitted signs may be displayed for an ongoing project or an ongoing fund raiser for a period not to exceed six months, unless extended by resolution of the Mayor and Common Council. Permitted sign for a specific event may be displayed for a period not to exceed six (6) weeks prior to the event. The specific time period for the display of all signs shall be indicated on the written application to the Zoning Officer, unless the advertised event occurs earlier, in which instance the sign shall be removed within twenty-four (24) hours after the event.

(j) It shall be the responsibility of the non-profit organization to remove all permitted signs prior to the expiration of the specified time period for their display.

16. Prohibited Signs. Unless specifically permitted in this Ordinance, all other signs, whether of a permanent or temporary nature, shall be prohibited.

17. Projecting Signs.

(a) No projecting sign shall project or extend more than four feet (4') from the roof line or wall of the building whichever extends further upon which it is erected nor within two feet (2') of the street right-of-way line, and shall clear grade level below the sign by a minimum of ten (10') feet.

(b) The display surface area of a projecting sign shall not exceed eight (8) square feet on each side. Only one projecting sign per business entrance shall be permitted.

(c) Projecting signs shall be located no higher than the eaves or rafter line; but in no' case shall the top of the projecting sign exceed twenty (20) feet in height. The distance from the building wall to the signboard shall not exceed one (1) foot. The fixture to hold the projecting sign shall blend with architecture of the building.

(d) Proof of liability insurance in a form satisfactory to the Town of Hackettstown shall be provided by the property owner to the Town prior to the issuance of a permit for all signs which extend over the public right-of-way. Liability insurance shall remain in force for the period that the projecting sign remains over the public right-of-way.

(e) Note: All applicants are advised that they may be required to obtain permits from the N.J.D.O.T. for signs located within any state highway right-of-way.

18. Awning Signs.

(a) The bottom of the awning shall be at least eight feet (8') above grade level. The edge of the awning shall not be more than four feet (4') from the wall or fifty percent (50%) of the width of the sidewalk, whichever is less; provided that the edge of the awning shall be at least two feet (2') from the curb line.

(b) Signage shall be permitted on the awning subject to the provision that the letters or numbers be located on the vertical fringe or valance area at the bottom of the awning and not exceed four inches (4") in height and should there be no additional lettering or graphics on the awning, then this sign shall be excluded from the maximum wall signage area permitted.

(c) Awning signage which is not located on the vertical fringe area or which exceeds four inches (4") in height shall be considered as a wall sign and subject to the requirements of wall signs, however, not more than twenty-five percent (25%) of the awning face shall be covered by signage.

(d) Translucent or backlit awnings are permitted.

19. Municipal or Municipal Agency Signs. No permits shall be required for the installation of any traffic signs or signs by the Town of Hackettstown or any Town Commission or Authority of the Town of Hackettstown.

20. Compliance. All signs shall comply with all applicable state statutes or regulations concerning installation of signs on or along state highways or roads.

B. Street Signs

Street signs shall be of the type, design and standard previously installed elsewhere in the Town. The location of the street signs shall be determined by the Town, but there shall be at least two (2) street signs furnished at each intersection. All signs shall be installed free of visual obstruction.

514 STREETS, CURBS AND SIDEWALKS

A. Streets

1. All developments shall be served by paved streets in accordance with the approved subdivision and/or site plan and all such streets shall have an adequate crown. The arrangement of such streets not shown on the Master Plan or Official Map, as adopted by the Town, shall be such as to provide for the appropriate extension of such streets.

2. In all residential developments, the minimum public street hierarchy, right-of-way width, and overall cross-section shall be designed in accordance with the Residential Site Improvement Standards (N.J.A.C. 5:21-7 et seq.)

2. Street Classification

a) During the review of a land development plan, the Approving Board shall review the existing and proposed streets that abut and/or are located within the subject development and make a determination as to the classification of a particular street.

b) Local streets are defined as streets that provide the primary means of access to and from dwelling units to other streets in the system. Typical residential Average Daily Traffic (ADT) ranges from 100 to 1,500 vehicles, with an A.M. peak hour traffic of 7 to 8 percent and P.M. peak-hour traffic about 10 percent of ADT.

c) Collector streets are defined as streets whose primary purpose is to intercept traffic from intersecting local streets and convey that traffic to arterial streets. A secondary function of a collector street is to service abutting land uses. ADT's generally range from 1,500 to 3,500 for collector streets.

d) Arterial streets are defined as streets whose primary purpose is to carry through traffic to other points within or outside of the municipality. A secondary purpose of arterial streets is to provide access to abutting properties. ADT's exceed 3,500 on arterial streets.

e) Cul-de-sacs are defined as streets with a single common ingress and egress that have a turnaround at the end.

3. Roadway Circulation

a) All streets shall be laid out to conform as much as possible to the original topography of the land.

b) The use of a rigid rectangular grid street pattern is prohibited. The use of curvilinear streets is encouraged so as to provide a more desirable layout.

c) Curved local streets are preferred to discourage excessive speeds. The maximum length of tangent shall not exceed eight hundred (800) feet for any local street.

d) Streets shall be arranged so as to provide for the continuation of streets into adjacent properties for the convenient movement of traffic, fire safety and police protection, and the efficient layout of public utilities.

e) All developments shall be provided with two means of access so as to provide a convenient circulation pattern for motorists and emergency vehicles. If a second means of access is not available because adjacent parcels are undeveloped, stub streets shall be provided to allow access to same.

4. Blocks

a) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depths except where blocks abut major streets, railroads, floodplains, wetlands, and conservation easements.

b) The lengths, widths, and shapes of blocks shall be appropriate for the locality and type of development contemplated, but block lengths in residential areas shall not exceed one thousand two hundred (1,200) feet nor be less than four hundred (400) feet in length.

5. Cul-de-Sacs

a) Where a street is not to be extended to the boundary of the parcel or section line and its continuation is not required for access to the adjoining property, a cul-de-sac should be provided in accordance with the design standards.

b) Cul-de-sacs shall have a maximum length as measured from the centerline of the intersecting street to a point located between the radius point and point of curvature on the right side of the cul-de-sac when viewed toward the closed end, of eight hundred (800) feet.

c) When a cul-de-sac begins at an intersection with another cul-de-sac street, the length of that cul-de-sac must be computed by summing the length of same in accordance with b) above and the length between the centerline intersection of the two cul-de-sac streets and the centerline of the nearest intersecting street that is not a cul-de-sac. In no case, shall the total length exceed eight hundred (800) feet in accordance with b) above.

d) The minimum pavement radius within the cul-de-sac shall be fifty (50) feet.

e) The minimum right-of-way radius of a cul-de-sac shall be sixty (60) feet.

f) Cul-de-sacs shall be constructed wherever possible tangent to the right side when viewed toward the closed end. Cul-de-sacs which are tangent to the left side when viewed toward the closed end are prohibited.

g) Where it is planned that a dead end street shall be extended in the future, a temporary cul-de-sac meeting the design criteria in this section shall be required. When temporary cul-de-sacs are required, provisions must be made for the future extension of the street and the reversion of the right-of-way at this location to adjoining property owners.

6. Intersections

a) No more than two (2) streets shall cross at the same point. Street intersections shall be at right angles wherever possible and intersections of less than seventy-five (75) degrees as measured between the street centerlines, shall not be permitted.

b) When the centerlines of separate streets located on opposite sides of an intersecting street do not meet, their centerline intersections with the intersecting street shall be offset a minimum of two hundred (200) feet.

7. No street shall have a name which will duplicate or so nearly duplicate the name of an existing street name that confusion results. The continuation of an existing street shall have the same name. The Board reserves the right to approve or name streets within a proposed development.

8. In the event that a development adjoins or includes existing streets that do not conform to the street width requirements of this Ordinance, additional land along either or both sides of the street, sufficient to conform to the right-of-way requirements, shall be dedicated for the location, installation, repair and maintenance of streets, drainage facilities, utilities and other facilities customarily located on street rights-of-way. The necessary deeds of ownership shall be furnished and the dedication shall be expressed as follows: "**Street right-of-way granted for the purposes provided for and expressed in the Land Development Ordinance of the Town of Hackettstown".** If the development is along one (l) side only, one-half (1/2) of the required extra width shall be dedicated and the road shall be improved, including excavation, base course, surfacing and drainage improvements in accordance with the approved application, which may require that the improvements extend across the centerline of the road.

9. In all developments, the minimum public street right-of-way shall be measured from lot line to lot line and shall be in accordance with the Design Standards.

10. Any new street that is a continuation of an existing street shall be continued at a width that is equal to that of the existing street, although a greater width may be required pursuant to the Design Standards.

11. All changes in vertical grade shall be connected by vertical curves of sufficient length to provide a smooth transition and proper sight distance in accordance with AASHTO Standards.

12. The following design standards are hereby required in order to provide for streets of suitable location, width, alignment, and grade to accommodate prospective traffic and allow satisfactory access for police, firefighting, snow removal, sanitation, and road maintenance vehicles:

REQUIRED STREET DIMENSIONS

	Local Street	Collector Street	Arterial Street
Right-of-Way Width	50’	66’	80’
Paving Widths	30’	40’	50’
Number and Width of Traffic Lanes	2 @ 15’	2 @ 12’	2 to 4 @ 12’
Width of Shoulder or Parking Lane	0	2 @ 8’	2 @ 10–12’
Width of Divider	-	-	-
Curb Radii at Intersections	25’	30’	35’
Tangents between reverse curves	100’	150’	200’
Minimum Centerline Radius	250’	400	800’
Sight Distances at center lines	200’	275’	400’
Maximum center line Grades	8%	8%	5%
Minimum center line Grades	0.75%	0.75%	1%
Minimum Distances from intersections for grades to be 3% maximum	50’	100’	100’
Minimum tangent length approaching intersection	50’	100’	200’
Cul-de-sac Paving Diameter	100’	-	-

13. The pavement width of streets and the quality of subsurface and base materials shall adhere to the minimum standards set forth by the County or State Engineers when said paving concerns roads under their jurisdiction and where such standards exist. Concerning streets under the jurisdiction of the Town, the following standards shall apply:

a) All pavements are to be constructed in accordance with N.J. Highway Specifications entitled **"Standard Specifications for Road and Bridge Construction 1989 and Amendments Thereto".**

b) A sub-base of bank-run gravel six inches (6") thick shall be constructed in accordance with Division 2, Section 9 of the N.J. State Highway Department Specifications on all local streets.

c) The base course shall consist of five inches (5") of bituminous stabilized base on all local streets.

d) The surface course shall consist of a plant-mix bituminous concrete having a compacted thickness of two inches (2") on all local streets. The materials and methods of construction shall be as set forth in Addendum A of the aforesaid N.J. State Highway Department Specifications.

e) When collector and arterial streets are proposed, a pavement design report prepared in accordance with N.J.D.O.T. Standards must be submitted for the Town Engineer's review and approval of the proposed pavement section.

f) The developer shall, at his own expense, have core borings made by a certified laboratory to verify the total actual depth of all courses. Said borings shall be at such locations as required by the Town Engineer and shall not exceed six percent (6%) every 3,000 square feet of paved area, in the same proportions for smaller areas.

14. Drainage shall be constructed within streets in accordance with Section 502 of the Ordinance.

B. <u>Curbs</u>

Curbing, either Belgian block, granite or concrete, is required along both sides of all streets. All curbing shall be laid in the manner approved by the Town Engineer, including both horizontal and vertical alignments. Depressed curb ramps for the handicapped shall be installed at all radii in accordance with the laws of the State of New Jersey.

1. Concrete curbing shall be in accordance with N.J. Department of Transportation Standards and measure eight inches (8") by nine inches (9") by eighteen inches (18") in depth.

2. Belgian block curbing shall be installed in accordance with the Town Engineer's requirements.

C. Sidewalks and Aprons

1. Sidewalks and aprons are required on both sides of all existing and proposed streets, and shall be located as required by the Town Engineer with the approval of the Planning Board.

2. Sidewalks shall be at least four feet (4') wide and shall be four inches to six inches (4" - 6") thick, constructed on a subgrade properly prepared as required by, and with the approval of, the Town Engineer. All concrete sidewalks and aprons shall be constructed in accordance with N.J. Highway Specifications entitled "**Standard Specifications for Road and Bridge Construction 1989 and Amendments Thereto"**. Sidewalks constructed of permeable materials are permitted where deemed appropriate by the Town Engineer.

3. At such points of intersection between sidewalks and streets or driveways as the Town Engineer shall decide, the sidewalk shall be constructed so as to slope gradually, to street level, at a gradient of not more than one (1) foot in twelve (12) feet, wherever possible, so as to provide ramp access for handicapped persons between the sidewalk and the street. The curb depression shall be a minimum width of three (3) feet. Construction shall be in accordance with standards prescribed by the New Jersey Department of Transportation.

4. Handicap ramps shall be installed as part of all subdivision and site plans in accordance with the Americans With Disabilities Act.

515 SWIMMING POOLS

A. Private Residential

1. No private residential swimming pool shall be constructed or installed on any lot unless the lot contains a residence building. Pools, including related decking, patio and other accessory uses, shall occupy no more than fifty percent (50%) of the rear yard area(s) in which it is located and shall be located no closer than ten feet (10') to any lot line or building.

2. A private residential pool may be lighted by both underwater or exterior lights, provided that all exterior lights are located so that the light is neither directed nor reflected upon adjacent properties. All standards used for exterior lighting shall not exceed twelve feet (12') in height.

B. Public And Commercial

1. Public and commercial poo1s shall be located within an area not less than one thousand (1,000) square feet that is devoted to the use of the pool and for such adjacent uses as lounge chairs, shuffle board or walking areas around the pool.

2. Any public or commercial pool or separate swimming tank, including related decking, patio and other accessory uses, shall be no closer to any property line than the set back distances prescribed for accessory uses in the applicable zoning district as prescribed in this Ordinance or fifteen feet (15') whichever is more stringent.

3. The varying depths of the pool shall be prominently marked in the pool as well as at the edge of the poo1.

4. The poo1 shall be lighted both internally and externally, but in no case shall any light be directed in a direct or indirect fashion upon any adjacent property. If any portion of the pool, part of the land devoted to the use of the pool, light standard or loud speakers are located closer to any residential building or any property line than fifteen feet (15'), adequate buffers of trees and shrubs shall be provided to protect against light and sound.

5. The total land devoted to the use of the pool shall be enclosed with a fence no less than four feet (4') in height but no more than six feet (6') in height. The fence shall be equipped with a positive, self-latching gate.

6. No pool shall be constructed or installed unless approved by the Board as part of a site plan approval. All pools shall be classified into types in accordance with their particular use and shall meet the appropriate design standards as set forth by the BOCA Basic Building Code, the National Swimming Pool Institute, or the Swimming Pool Code of New Jersey, 1970, whichever is more stringent.

516 WATER SUPPLY

A. Regarding all non-residential developments and all planned developments, and regarding subdivisions where public water is accessible, water mains shall be constructed and connected to the existing public water supply systems by the applicant, at the applicant's sole expense, and in such a manner as to make adequate water service available to each lot or building within the development. The entire system shall be designed in accordance with the requirements and standards of the local and/or State agency having approval authority and shall be subject to their approval. The system also shall be designed with adequate capacity and sustained pressure and in a looped system with no dead-end lines, whenever possible.

For purposes of this Ordinance Section regarding subdivisions, accessible' shall mean that the property to be developed is no further from an existing water main than the number of feet calculated by multiplying the number of lots in the proposed subdivision by two hundred (200) or, in the case of subdivisions in which more than fifteen (15) lots are proposed, 'accessible' shall mean that the property to be developed is within one (1) mile of an existing water main.

B. Where no public water is 'accessible' to a subdivision as defined hereinabove, water shall be furnished on an individual lot basis. If wells are installed on each lot and the lot also contains its own sewage disposal facilities, the wells shall be of the drilled type with a minimum fifty feet (50') of casing where possible or, where such minimum footage of casing is not possible, the well shall be drilled at least twenty feet (20') into unweathered rock. Well installation, sealing and testing shall be in accordance with the New Jersey Standards for Construction of Water Supply Systems in Realty Improvements (Chapter 199 of the Public Laws of 1954), as amended, and in accordance with the guidelines and resolutions adopted by the

County Board of Health. Prior to being placed in consumer use and prior to issuance of a Certificate of Occupancy for any building served by the well, the developer shall certify to the County Board of Health that he/she has complied with all applicable State, County and local regulations.

C. Where no public water is 'accessible' to a subdivision as defined hereinabove, in addition to complying with Section 516 B., the applicant shall deposit funds in escrow with the Town of Hackettstown in an amount equal to the cost of connecting the subdivision to an existing public water supply system calculated on the basis of two hundred feet (200') per unit. The escrow amount shall be calculated by determining the costs of providing such water main extension as charged by the public water utility for such service, including but not limited to, materials, installation, taxes, appurtenances and surcharges, if any.

D. In lieu of depositing the aforesaid escrow funds, the applicant may, at his/her option, elect to install water main extensions in the subdivision, even though public water may not be 'accessible' as defined hereinabove.

517 APPEARANCE OF BUILDINGS

Within any residential district, no building with permitted professional, office or other home occupation shall be constructed or altered so as to be inharmonious with the residential character of the adjacent residential areas such as store front types of construction, unfinished concrete block or cinder block wall surfaces.

518 PROPERTY ABUTTING RAILROAD RIGHT-OF-WAY

Where property to be subdivided is next to or includes a railroad right-of-way, suitable provisions shall be made for such things as railroad crossings, screening or buffer strips, freight access, warning signals and signs in recognition of the relationship between the railroad, the subdivision and the intended use of land.

519 GRADING

A. All subdivision and site plans shall contain a complete grading plan that will include the following:

1. Proposed first floor and garage floor elevations of all residential dwellings and first floor elevations of all commercial and multi-family residential buildings and proposed outside grades at the building and lot corners.

2. Top of curb elevations at street intersections and within the turnaround area of a cul-de-sac.

3. Top of curb and/or gutter elevations at maximum 50 foot intervals in parking areas and at the corner of all parking areas.

4. Proposed topographic contours shown differently than the existing contours for all areas to be disturbed on-site and off-site as part of a project with flow arrows indicating the direction of flow of surface water.

B. The minimum slope for lawns shall be two (2) percent and for smooth hard finished swales, including but not limited to concrete, three quarters of one percent (0.75%).

Grading around the foundation of all types of buildings shall be such that stormwater is directed away from the foundation. When the terrain is such that stormwater is directed toward a building foundation, appropriate drainage measures such as swales and storm sewers shall be provided to intercept and drain surface water.

A minimum of twenty (20) feet behind the rear of any residential unit shall be graded no greater than five (5) percent so as to provide a usable rear yard area.

C. The grade of land located within the dripline of a tree that is to remain pursuant to subdivision or site plan approval shall not be raised or lowered. Tree wells, retaining walls, and other approved means shall be employed in this case to preserve the integrity of the tree.

D. The grading design must be such that land disturbance and clearing is minimized and soil compaction limited.

520 EASEMENTS

A. Where new utilities will not be installed within public rights-of-way, the developer shall provide appropriate easements in accordance with the standards required by the appropriate utility.

B. Where a subdivision is traversed by a watercourse, drainageway, or channel, there shall be provided a stormwater easement or drainage right-of-way, conforming substantially with the lines of such watercourse, and of width or construction, or both, as will be adequate for the purpose. Wherever possible, watercourses shall be located along rear or side lot lines. Where necessary, the applicant shall obtain approval of the New Jersey Department of Environmental Protection and Energy. Drainage easements around open ditches shall be a minimum of fifty (50) feet wide in accordance with Section 502.

C. Storm sewer easements shall be no less than twenty-five (25) feet in width in accordance with Section 502. All other utility easements shall be at least twenty (20) feet wide in accordance with Section 511.

D. All easements shall be shown on the plat and site plan and shall be clearly labeled and dimensioned as to permit accurate location of easement limits. The purpose of the easement shall be stated on the map.

E. Internal grading of a lot as by swale, berm or other topographical feature designed to intercept or direct waters shall either be designated within an easement on the map to be filed or be dedicated by recorded instrument in such a way as to give notice to future owners of the property and ensure continued maintenance of the drainage feature. No overland swales shall be permitted across adjoining properties.

F. Conveyed by Deed.

All easements shall be conveyed by deed to the Town of Hackettstown or the proper authority and shall be approved by the Town Attorney and Town Engineer or designees.

G. Easements shall be dimensioned on the plat and site plan according to the limit of the natural conditions or such other configuration appropriate to the area being placed in the easement and the design of the development. Maintenance of conservation easements shall be limited to clearing of rubbish and dead trees that pose a safety problem.

H. Improvements within drainage or utility easement areas, including structures, fences, walls, landscaping and plantings other than grass are prohibited within all Town drainage or utility easements. An exception to this prohibition is drainage easements strictly for swales, when no underground piping is present and provided that any structures, supports, fencing, or fencepost is located at least six inches above the invert of the drainage swale and no landscaping is permitted within five feet of the invert of any swale. These exceptions are permitted provided that the said improvements or landscaping do not cause any change in the grading of the property or drainage of the property. Any issue or dispute concerning the permissibility of an improvement within an easement area shall be decided by the Town Engineer.

521 GUIDERAILS

Guiderails, pipe railing, or other appropriate barricades, shall be designed and placed at drainage structures, streams, embankment limits, curves and other required locations as specified by New Jersey Department of Transportation.

522 RETAINING WALLS

Retaining walls installed in slope control areas shall be constructed of reinforced concrete or other reinforced masonry or of other construction acceptable to the Town Engineer and adequately designed and detailed on the plans to carry all earth pressure, including any expected surcharges. Timber retaining structures will not be permitted within the right-of-way of public roads. All proposed retaining walls over four (4) feet in height shall require calculations to support the design of such walls prepared and certified by a Professional Engineer. All such calculations shall be submitted to the Town Engineer for review and approval.

523 LANDSCAPING STANDARDS

A. Site plan and subdivision applications shall include a separate, detailed plan, drawn to a scale of no less than one (1) inch equals fifty (50) feet, showing all proposed landscaping, buffering, screening and existing trees to remain and be removed and all of the following items:

1. Plant listing, including:

a. All plant material to be used shall be keyed to plan(s) and defined by botanical and common name.

b. Quantity to be used.

c. Size of material to be planted.

d. Ultimate sizes of each plant and time to reach maturity.

e. Characteristics, i.e. fall color, flowering, ornamental factors.

f. Plant delivery method, i.e. container, balled and burlapped, bare root or other.

2. Information required for design must include:

   a. Location, species and size i.e. caliper, of all existing plant material to remain on site.

   b. Indication of screening and buffer plantings required by ordinance.

   c. Location and spacing of each plant to be planted, shown to scale.

   d. Methods to be used in welling, staking and guying, mulching and wrapping according to Town standards.

   e. Ground covers to be used in design, which may be indicated as a mass planting, but spacing must be defined in plant list.

   f. Existing and proposed contours, where required.

3. Name and address of person, firm or organization preparing landscape plans.

4. Placement and size of street trees shall be indicated along all thoroughfares in accordance with Town standards.

5. Description of physical site conditions of consequence, i.e. exposure, ground water level, etc.

B. Protection of Existing Plantings.

1. A four (4') foot high standard wood snow fence as a physical barrier shall be installed around the dripline of each plant or group of plants that are to remain on the site and last until construction is completed. Clearing and land disturbance are to be minimized to the extent possible.

2. Barriers shall not be supported by the plants they are protecting but shall be self—supporting.

3. Trees designated to remain on the construction site are to be indicated on the site plan or subdivision as a clearing limit area beyond which no disturbance shall occur. The barrier shall be installed before a tree removal permit will be granted and/or before any excavation or construction is begun.

C. Specifications for new plantings of trees and shrubs.

1. Only nursery-grown plant materials will be acceptable and shall conform with the standards of the American Association of Nurserymen.

2. Prior to the installation of all plant material, the results of physical and chemical tests of the subsoil and topsoil shall be submitted to the Town Engineer to assess soil composition and if the ph is acceptable for proposed planting.

3. Trees and shrubs shall be planted only when the soil is frost-free and friable.

4. All trees shall be placed in a proper manner and in a good grade of backfill in accordance with accepted horticultural standards. All deciduous trees shall have a minimum two and one half (2 1/2) inch caliper at the time of planting.

5. Landscaping in the area of all cuts and fills and/or terraces shall be sufficient to prevent erosion, and all roadway side slopes steeper than one (1) foot vertically to three (3) feet horizontally shall be planted with ground covers appropriate for the purpose and soil conditions, water availability, and environment.

6. All plantings shall be planted in recognized spring and fall planting seasons.

7. Native plants and shrubs shall be utilized to the extent possible.

524 Morris Canal

A. Purpose. The preservation, protection and enhancement of the Morris Canal is necessary because:

(1) The Morris Canal is recognized as a cultural resource of national importance by its inclusion on the State and National Registers of Historic Places.

(2) The Morris Canal was of great significance locally to the social and economic development of Warren County as a whole and of the individual municipalities through which it passed and is so recognized by its inclusion in Warren County's Open Space Plan.

(3) The Morris Canal has environmental importance as a drainageway, water retention basin and, in many cases, as a portion of valuable natural area water-sheds.

B. Zone Designations. The definition of the Morris Canal corridor on the Municipal Zoning Map shall include:

(1) The canal right-of-way, levels, prism, basins, locks and inclined planes.

(2) Adjacent features, sites and structures, such as boat yards, of primary importance to the operation of the canal.

(3) In addition, areas of special sensitivity within the zone, including but not necessarily limited to special features, such as the inclined planes, locks and boat basins and yards shall be designated.

C. Prohibitions. The following shall be prohibited:

(1) The indiscriminate dumping, filling and/or destruction within the zone of canal prism, towpaths, banks and other related physical features, both above and below ground.

(2) The issuance of building permits within the canal zone that would negatively impact the extent of cultural resources and/or the function of the canal as a drainageway, retention basin or portion of a natural area watershed.

D. Provisions for driveways, underground utilities, sanitary and stormwater sewers, streets, etc. The crossing of and the excavation within the canal zone for any of the above-mentioned purposes is to be allowed only when there is no feasible and prudent alternative and when such action is clearly in the public interest. Provisions in this circumstance are to include:

(1) For utilities and sewers, work to be done in such a manner as to minimize the disturbance and/or destruction of significant features, both above and below ground, and any such features disturbed and/or destroyed in such work are to be restored to their preexisting condition as closely as is feasibly possible.

525 - STORMWATER CONTROL

Section 1: Scope and Purpose

A. Policy Statement

Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural BMPs. Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount 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 ordinance to establish minimum stormwater management requirements and controls for "major development," as defined in Section 2.

C. Applicability

1. This ordinance shall be applicable to all site plans and subdivisions as well as individual lots for the following major developments as defined in Section 2:

a. Non-residential major developments; and

b. Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.

2. This ordinance shall also be applicable to all major developments undertaken by the Town of Hackettstown and other governmental entities.

D. Compatibility with Other Permit and Ordinance Requirements

Development approvals issued for subdivisions and site plans pursuant to this ordinance 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 ordinance shall be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance 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 ordinance 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.

Section 2: Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

"Best Management Practices (BMPs)" means any program, technology, process, siting criteria, operating method, or device that controls, prevents, or reduces pollution.

"CAFRA Planning Map" means 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" means those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.

"Compaction" means the increase in soil bulk density.

"Core" means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

"County review agency" means an agency designated by the WarrenCounty Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

A county planning agency; or

A county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

"Department" means the New Jersey Department of Environmental Protection.

"Designated Center" means a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

"Design engineer" means 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" means 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, by any person, for which permission is required under

the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, development means: any activity that requires a State permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act , N.J.S.A 4:1C-1 et seq.

"Drainage area" means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

"Environmentally critical areas" means an area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

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

"Impervious surface" means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

"Infiltration" is the process by which water seeps into the soil from precipitation.

"Major development" means any "development" that provides for ultimately disturbing one or more acres of land or increasing coverage by 0.25 acres 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.

"Municipality" means any city, borough, town, township, or village.

"Node" means an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

"Nonstructural Best Management Practices (BMPS)" means and includes, but is not limited to, those strategies set forth in subchapter 5 of NJAC 7.8.

"Nutrient" means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

"Person" means any individual, corporation, company, partnership, firm, association, the Town of Hackettstown, or political subdivision of this State subject to municipal jurisdiction pursuant to the Municipal Land Use Law , N.J.S.A. 40:55D-1 et seq.

"Pollutant" means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42

U.S.C. 2011 et seq.), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

"Recharge" means the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

"Sediment" means 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" means the lot or lots upon which a major development is to occur or has occurred.

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

"State Development and Redevelopment Plan Metropolitan Planning Area (PA1)" means 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" is defined as 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" means water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

"Stormwater runoff" means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

"Stormwater management basin" means 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.

"Stormwater management measure" means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

"Tidal Flood Hazard Area" means 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" means a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

"Urban Enterprise Zones" means 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" is defined as previously developed portions of areas:

(1) Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;

(2) Designated as CAFRA Centers, Cores or Nodes;

(3) Designated as Urban Enterprise Zones; and

(4) Designated as Urban Coordinating Council Empowerment Neighborhoods.

"Waters of the State" means 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" means an area that is inundated or saturated by surface water or ground water 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.

Section 3: 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 Section 4. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.

2. The standards in this ordinance 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.

Section 4: Stormwater Management Requirements for Major Development

A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with Section 10.

B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department' Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlnebergi* (bog turtle).

C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 4.F and 4.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 of Sections 4.F and 4.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 Sections 4.F and 4.G to the maximum extent practicable;

3. The applicant demonstrates that, in order to meet the requirements of Sections 4.F and 4.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 D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Sections 4.F and 4.G that were not achievable on-site.

E. Nonstructural Stormwater Management Strategies

1. To the maximum extent practicable, the standards in Sections 4.F and 4.G shall be met by incorporating nonstructural stormwater management strategies set forth at Section 4.E into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management

measures identified in Paragraph 2 below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

2. Nonstructural stormwater management strategies incorporated into site design shall:

   a. Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;

   b. Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;

   c. Maximize the protection of natural drainage features and vegetation;

   d. Minimize the decrease in the "time of concentration" from pre-construction to post construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;

   e. Minimize land disturbance including clearing and grading;

   f. Minimize soil compaction;

   g. Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;

   h. Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;

   i. Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:

      (1) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy Section 4.E.3. below;

      (2) Site design features that help to prevent discharge of trash and debris from drainage systems;

      (3) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and

      (4) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.

3. Site design features identified under Section 4.E.2.i.(2) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, “solid and floatable

materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section 4.E.3.c below.

a. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

   (1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

   (2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

   Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

b. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

c. This standard does not apply:

   (1) Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

   (2) Where flows from the water quality design storm as specified in Section 4.G.1 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

      (a) A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or

      (b) A bar screen having a bar spacing of 0.5 inches.

   (3) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars, to the elevation of the water quality design storm as specified in Section 4.G.1; or

   (4) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking

that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

4. Any land area used as a nonstructural stormwater management measure to meet the performance standards in Sections 4.F and 4.G shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

5. Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 7, or found on the Department's website at www.njstormwater.org.

F. Erosion Control, Groundwater Recharge and Runoff Quantity Standards

1. This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.

   a. The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.

   b. The minimum design and performance standards for groundwater recharge are as follows:

      (1) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Section 5, either:

         (a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or

         (b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.

      (2) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to (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 Section 5, complete one of the following:

(1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two, 10, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;

(2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two, 10, and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

(3) Design stormwater management measures so that the post-construction peak runoff rates for the 2, 10 and 100 year storm events are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the

increased volume of stormwater runoff will not increase flood damages below the point of discharge; or

(4) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with (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 Section 2 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

G. Stormwater Runoff Quality Standards

1. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two 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

Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
0	0.0000	65	0.8917
5	0.0083	70	0.9917
10	0.0166	75	1.0500
15	0.0250	80	1.0840

20	0.0500	85	1.1170
25	0.0750	90	1.1500
30	0.1000	95	1.1750
35	0.1330	100	1.2000
40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

2. For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 7, or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in Section 7. 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 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B)/100$$

Where

R = total TSS percent load removal from application of both BMPs, 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

Best Management Practice	TSS Percent Removal Rate
Bioretention Systems	90
Constructed Stormwater Wetland	90
Extended Detention Basin	40-60
Infiltration Structure	80

Manufactured Treatment Device	See Section 6.C
Sand Filter	80
Vegetative Filter Strip	60-80
Wet Pond	50-90

4. If there is more than one onsite drainage area, the 80 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 post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in Sections 4.F and 4.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 Section 7.

7. In accordance with the definition of FW1 waters at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.

8. Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:

   a. The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:

      (1) A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.

      (2) Encroachment within the designated special water resource protection area under Subsection (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 centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.

b. All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the "Standards For Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act , N.J.S.A. 4:24-39 et seq.

c. If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act , N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:

(1) Stabilization measures shall not be placed within 150 feet of the Category One waterway;

(2) Stormwater associated with discharges allowed by this section shall achieve a 95 percent TSS post-construction removal rate;

(3) Temperature shall be addressed to ensure no impact on the receiving waterway;

(4) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;

(5) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and

(6) All encroachments proposed under this section shall be subject to review and approval by the Department.

d. A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to Section 4.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 G.8 shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in 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. Paragraph G.8 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 February 2, 2004 , provided that the construction begins on or before February 2, 2009.

Section 5: 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 pre-construction 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 Section 5.A.1.a and the Rational and Modified Rational Methods at Section 5.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 pre-construction 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 pre-construction stormwater runoff rates and volumes.

4. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the

NRCS Technical Release 55 – Urban Hydrology for Small Watersheds and other methods may be employed.

5. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

B. Groundwater recharge may be calculated in accordance with the following:

1. The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at http://www.state.nj.us/dep/njgs/; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427 Trenton, New Jersey 08625-0427; (609) 984-6587.

Section 6: 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 (1") spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (1/3) the width of the diameter of the orifice or one-third (1/3) the width of the weir, with a minimum spacing between bars of one-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of Section 8.D.

3. Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.

4. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.

5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at Section 8.

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 Section 4 of this ordinance.

C. Manufactured treatment devices may be used to meet the requirements of Section 4 of this ordinance, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

Section 7: Sources for Technical Guidance

A. Technical guidance for stormwater management measures can be found in the documents listed at 1 and 2 below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone (609) 777-1038.

1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: 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.

Section 8: 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. 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 paragraph 3, 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 Section 8.C a free-standing outlet structure may be exempted from this requirement.

   b. Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two

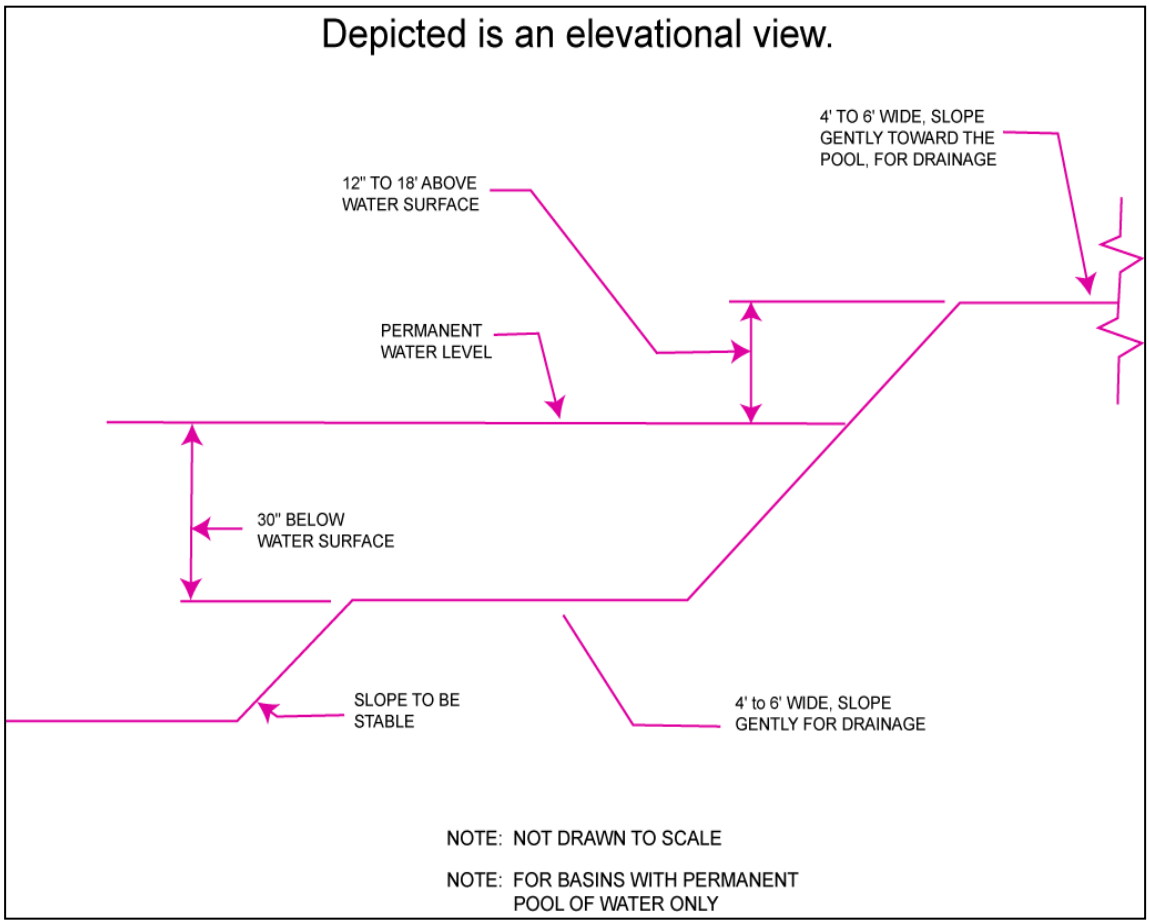
and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See Section 8.D for an illustration of safety ledges in a stormwater management basin.

c. In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.

C. Variance or Exemption from Safety Standards

1. A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or Department) that the variance or exemption will not constitute a threat to public safety.

D. Illustration of Safety Ledges in a New Stormwater Management Basin



Section 9: Requirements for a Site Development Stormwater Plan

A. Submission of Site Development Stormwater Plan

1. Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section 9.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 ordinance.

3. The applicant shall submit 6 copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 9.C of this ordinance.

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 of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

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. The topographic base map of the site submitted shall extend a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade 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.

2. 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 ground water 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 Sections 3 through 6 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 Section 4 of this ordinance.

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 onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7. Maintenance and Repair Plan

The design and planning of the stormwater management facility shall meet the maintenance requirements of Section 10.

8. Waiver from Submission Requirements

The municipal official or board reviewing an application under this ordinance may, in consultation with the municipal engineer, waive submission of any of the requirements in Sections 9.C.1 through 9.C.6 of this ordinance 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.

Section 10: Maintenance and Repair

A. Applicability

1. Projects subject to review as in Section 1.C of this ordinance shall comply with the requirements of Sections 10.B and 10.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 Section 10.B.2 above is not a public agency, the maintenance plan and any future revisions based on Section 10.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 Section 10.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 Section 10.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 Section 10.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 Sections 10.B.6 and 10.B.7 above.

9. The requirements of Sections 10.B.3 and 10.B.4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.

10. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person.

B. 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.

Section 11: Private Drain Retrofitting.

A. Purpose.

An ordinance requiring the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by the Town of Hackettstown so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

B. Definitions.

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter 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.

a. Municipal separate storm sewer system (MS4)– a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by Town of Hackettstown or other public body, and is designed and used for collecting and conveying stormwater.

b. Person – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

c. Storm drain inlet- an opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

d. Waters of the State – means the ocean and its estuaries, all springs, streams 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.

B. Prohibited Conduct.

No person in control of private property (except a residential lot with one single family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

1. Already meets the design standard below to control passage of solid and floatable materials; or

2.Is retrofitted or replaced to meet the standard in Section C below prior to the completion of the project.

C. Design Standard.

Storm drain inlets identified in Section B above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see C-3 below.

1. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

a. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

b. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

2. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

3. This standard does not apply:

a. Where the municipal engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

b. Where flows are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

i. A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or

ii. A bar screen having a bar spacing of 0.5 inches.

c. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1”) spacing between the bars; or

d. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

D. Enforcement.

This ordinance shall be enforced by the Superintendent of the Department of Public Works of the Town of Hackettstown or the Town Engineer.

Section 12:

Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this ordinance shall be subject to the following penalties.

A. A Fine up to Two Thousand Dollars. Each day a violation continues shall constitute a separate offense

526 SOIL REMEDIATION

Any property subject to the New Jersey Industrial Site Recovery Act, N.J.A.C. 7:26B et seq., or any of the Rules set forth in New Jersey Administrative Code at 7:26C, 7:26D, or 7:26 E, or where there has been a determination by either the New Jersey Department of Environmental Protection or by a licensed site remediation specialist that the property's soil contains environmental contamination, then that property shall be remediated in accordance with the standards set forth in Chapter 26 of Title 7 of the New Jersey Administrative Code. It shall not be sufficient to merely erect a fence or other barrier around the contaminated area.

SECTION 600

EXCEPTIONS, MODIFICATIONS, DEVELOPMENT ALTERNATIVES & AFFORDABLE HOUSING PROVISIONS

SECTION 600
EXCEPTIONS, MODIFICATIONS, DEVELOPMENT ALTERNATIVES AND AFFORDABLE HOUSING PROVISIONS

601 CONDITIONAL USES

Before a construction permit or Certificate of Occupancy shall be issued for any conditional use as permitted by this Ordinance, application shall be made to the Planning Board. The review by the Planning Board of a conditional use shall include any required site plan review pursuant to this Ordinance. Public notice and a hearing shall be required as stipulated in this Ordinance. Conditional uses include the following:

A. Public Utility Uses

1. For purposes of this Ordinance, the term "public utility uses" shall include such uses as telephone dial equipment centers, power substations and other utilities serving the public, such as sewage treatment plants, but shall exclude dumps and sanitary landfills.

2. The proposed installation in a specific location must be necessary for the satisfactory provision of service by the utility to the neighborhood or area in which the particular use is located.

3. The design of any building in connection with such facilities must not adversely affect the safe, comfortable enjoyment of property rights in the surrounding area.

4. Adequate fences and other safety devices must be provided as may be required. Fences, when used to enclose public utility facilities such as electrical power substations, shall be built in accordance with the applicable requirements of the New Jersey Board of Public Utility Commissioners and the National Electrical Code in effect at the time of the construction.

5. Landscaping, including shrubs, trees and lawns, shall be provided and maintained.

6. Off-street parking shall be provided as determined by the Planning Board during site plan review.

B. Senior Citizen Housing

PROVISIONS FOR SENIOR CITIZEN HOUSING AS A CONDITIONAL USE IN THE IN HC AND HF DISTRICTS WERE ELIMINATED BY ORDINANCE 2008-5, WHICH WAS ADOPTED ON APRIL 14, 2008. ALL SENIOR CITIZEN HOUSING DEVELOPMENTS THAT WERE APPROVED AND CONSTRUCTED PRIOR TO THE ADOPTION OF ORDINANCE 2008-05 IN THESE DISTRICTS IN ACCORDANCE WITH THE BELOW STANDARDS ARE GRANDFATHERED AS PERMITTED CONDITIONAL USES.

1. No site shall contain less than three (3) acres of buildable land (i.e. lands not including wetlands or 100-year flood plain), and no building on the site shall be situated within two hundred feet (200') from the street line of either State Highway 57 or 182.

2. The maximum residential density shall not exceed twenty-two (22) dwelling units per gross acre.

3. No dwelling unit shall contain more than two (2) bedrooms.

4. The maximum building height shall not exceed thirty-five (35) feet and two and one-half (2-1/2) stories.

5. A minimum of one (1) parking space shall be provided for each dwelling unit. One (1) additional parking space is required for every twenty (20) dwelling units for guest and employee parking. The Planning Board, however, may permit a reduction of the required parking spaces, not exceeding twenty percent (20%) fewer parking spaces than otherwise required herein, and provided further that:

    a. A landscaped area of equivalent size and acceptable location to meet the parking deficiency shall be set aside and reserved for the purpose of meeting any future parking needs;

    b. The submitted plans shall include all parking spaces required by this Ordinance and shall reflect those spaces to be paved and those requested to be set aside for future parking needs;

    c. All parking areas not to be paved shall be suitably landscaped, and such landscaping shall be indicated on the submitted plan and be in addition to landscaping otherwise required or necessary;

    d. The drainage system for the site shall be designed to accommodate the surface water runoff from all parking and driveway areas, considering all such areas to be paved, whether proposed to be constructed as part of the application approval or deferred to a possible future date;

    e. The applicant shall agree in writing on the submitted plan to construct and pave any or all of the future parking areas should the parking areas prove to be inadequate to accommodate the on-site parking needs of the premises; and

    f. The conditions and circumstances requiring the possible future construction of the deferred future parking spaces shall be established by the Planning Board during site plan review.

6. Individual dwelling units shall have the following minimum net habitable floor areas:

   Efficiency - 500 square feet

   1-Bedroom - 575 square feet

   2-Bedroom - 675 square feet

7. The applicant shall provide for the management of surface water in accordance with Subsection 502 of this Ordinance, which may include the requirement for detention or retention basins. Should the applicant provide such surface water management facilities on the site being developed for the senior citizen housing units, it is understood that the area occupied by the surface water management facilities may result in the inability to achieve the maximum densities otherwise allowed herein. Moreover, should the applicant decide to provide such surface water management facilities on adjacent properties also owned by the applicant and remaining for development in accordance with other provisions of the "HC" Highway Commercial District, it also is understood that such facilities may prevent the maximum development of those lands in accordance with the applicable requirements of this Ordinance. In either instance, the necessity for surface water management facilities shall not be considered by the Planning Board or Zoning Board of Adjustment, as the case may be, as a grounds for the granting of variances from other Ordinance provisions governing development of the lands.

8. A land area or areas equal in aggregate to at least two hundred fifty (250) square feet per dwelling unit shall be designated on the site plan for the passive recreational use of the residents of the project including seating, gazebos and/or other such similar improvements. Areas reserved for future parking spaces may not be used to meet this passive recreational requirement.

9. The required minimum lot frontage and lot width is one hundred (100) feet; however this dimension may be reduced to not less than forty four (44) feet for a distance not to exceed two hundred fifty (250) feet measured from the street right-of-way, for the purpose of providing primary driveway access to the remainder of the lot. No primary access driveway shall be less than thirty (30) feet in width and shall be located no closer than six (6) feet to any street or property line. Other access driveways and parking areas shall be located no closer than ten (10) feet from any street or property line. No building shall be located closer than fifty (50) feet to any street or property line nor closer than twenty-five (25) feet to any other building.

10. Prior to any Town approval, the following prerequisites shall have been accomplished:

    a. Verification that there are adequate utility services and support facilities for the project, including existing commercial establishments serving everyday needs within a one (1) mile walking distance of the proposed site, with appropriate pedestrian walkways provided from the site to street sidewalks. The applicant, however, shall not be required to demonstrate adequate sewerage treatment capacity until the time of issuance of the first Construction Permit.

    b. Assurance that the occupancy of such housing will be limited to households, the single member of which, or either the husband or wife of which, or both, or any of a number of siblings or unrelated individuals of which, or a parent of children of which is/are 62 years of age or older, or as otherwise defined by the Social Security Act, as amended, except that this provision shall not apply to any resident manager on the premises.

    c. Verification of preliminary approval of the project by any state or federal agency which finances or assists the financing or operation of such housing, if applicable.

    d. Provision that at least twenty percent (20%) of the total number of units shall be subsidized or otherwise made affordable to "low" and "moderate" income senior citizen households, as defined in Subsection 601 B.l0.b. hereinabove and as discussed and defined in the "Mt. Laurel II" Supreme Court Decision (So. Burlington Cty. N.A.A.C.P. v. Mt. Laurel Tp., 92 N.J. 158 (1983) and Section 606 of this Ordinance.

11. All other applicable requirements of this Ordinance must be met.

C. <u>Service Stations</u>

1. No service station shall be located within five hundred (500) feet of any fire house, school, playground, church, hospital, public building or institution.

2. All appliances, pits, storage areas and trash facilities other than gasoline filling pumps or air pumps shall be within a building. Gasoline filling pumps shall be permitted within the required front yard space of service stations but shall be no closer than thirty (30) feet to any future street line. All lubrication, repair or similar activities ordinarily associated shall be performed in a fully enclosed building and no dismantled parts shall be displayed outside of an enclosed building.

3. No junked motor vehicle or part thereof shall be permitted on the premises of any service station.

4. Landscaping shall be provided in the front yard area equal to at least twenty percent (20%) of the front yard area and such landscaping shall be reasonably distributed throughout the entire front yard area.

5. Service stations shall provide at least five (5) off-street parking spaces for the first lift, wheel alignment pit or similar work area; and an additional three (3) spaces for each additional work area. Such spaces shall be separated from the driveway and general apron areas which give access to the gasoline and air pumps and service areas. No designated parking space shall obstruct access to such facilities. No parking shall be permitted on unpaved areas.

6. Service stations may be permitted one (1) free-standing sign and one (1) sign attached flat against the building. The freestanding sign shall not exceed an area of twenty (20) feet from all street rights-of-way and lot lines. The attached sign shall not exceed thirty (30) s.f. in area.

7. All of the other area, yard, and general requirements of the respective zone and other applicable requirements of this Ordinance must be met.

D. Satellite Dish Antennae

1. For purposes of this Ordinance, the term "satellite dish antennae" are any apparatus or structure constructed or installed out of doors with the purpose of receiving television, radio or similar waves, but excluding, however, conventional television antennae.

2. Installation or construction of satellite dish antennae shall be subject to the following minimum requirements:

   a. A satellite dish antennae shall function only as a receiving station and not as a transmitting station.

   b. A satellite dish antennae shall not be placed on any lot which does not contain a permitted principal structure.

   c. A satellite dish antennae may be roof-mounted or may be installed on the ground. If roof-mounted, the satellite dish antennae shall not exceed forty inches (40") in diameter, shall not extend more than four feet (4') above the roof line where mounted, and shall be located toward the rear of the structure away from the street line. If mounted on the ground, the satellite dish antennae shall not exceed twelve feet (12') in diameter, shall not extend more than fifteen feet (15') above ground level, and shall be located in rear yard areas only. Moreover, each ground-mounted satellite dish antennae shall be set back a distance equivalent to the diameter of the dish antennae or the set back requirements specified for accessory structures in the zone in which the antennae is located, whichever distance is greater.

d. A ground-mounted satellite dish antennae shall be effectively screened with non-deciduous plantings from adjacent properties.

e. Unless impracticable, all satellite dish antennae shall be of the aluminum mesh type and shall blend with the immediate surrounding area, including the color of the roof if roof -mounted.

f. No lot shall have more than one satellite dish antennae. Wires and cables running between the ground mounted antennae and any structure shall be properly installed underground in accordance with the Uniform Construction Code. Additionally, the installation of the satellite dish antennae shall meet all local, State and Federal requirements, including those contained in the Uniform Construction Code.

g. Portable mounted satellite dish antennae are prohibited.

h. Satellite dish antennae shall be installed or constructed in a manner so as not to interfere with television, radio or similar reception in adjacent and nearby areas and shall meet all State and Federal requirements.

i. For installation or construction of satellite dish antennae on lots containing one (1) family or two (2) family dwellings shall be subject to review and approval by the Zoning Officer and a construction permit shall be required. All other satellite dish antennae shall require minor site plan approval by the Planning Board prior to the issuance of a construction permit.

E. Adult Uses

1. Purpose

These regulations are adopted in furtherance of all of the public purposes of municipal zoning and planning, including, but not limited to, guiding the appropriate use and development of the Town of Hackettstown in a manner which will promote the public health, safety, morals and general welfare, and in order to meet the needs of citizens of the Town of Hackettstown and of the State of New Jersey, while maintaining the quality and character of the Town of Hackettstown and deterring the growth and spread of blight and crime (especially prostitution, sexual offenses, public indecency, and related offenses). It is recognized that there are some uses commonly known as “adult” uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when such uses are located near residential areas or in other inappropriate locations, or without sufficient showing that such uses in a specified location will comply with the conditions and standards for the location and operation of such uses. Therefore, special regulations of these objectionable “adult” uses is deemed necessary to ensure that adverse effects will not contribute

to the blighting or downgrading of the Town of Hackettstown. In no way is the fact that the Town of Hackettstown regulates any or all of the adult uses described herein, or prohibits or allows them in the various zoning districts, to be construed as approval of, or condoning of, such uses.

2. Definitions

Adult Use: Adult bookstores or adult mini motion picture/live entertainment theatre, as defined herein.

Adult Bookstore: An establishment from where minors are excluded, having a substantial or significant portion of its stock in trade, books, magazines, other periodicals, films, or other viewing material which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "specified sexual activities" or " specified anatomical areas", as defined herein, or an establishment in which a segment or section of the premises is devoted to the sale, rental, display or viewing of such material.

Adult Mini Motion Picture/Live Entertainment Theater: An enclosed building with a capacity of less than fifty (50) persons, from which minors are excluded, used for presenting material, films, movies, video or live shows distinguished or characterized by an emphasis on matter depicting, describing or relating to "specific sexual activities" or "specified anatomical areas", as defined herein, for observation by patrons therein. This definition shall also apply to an enclosed building which contains any number of individual viewing booths not in excess of the maximum permitted by this Ordinance in which a person may privately or individually view material, films, movies, videos or live shows distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as defined herein.

Specified Anatomical Areas: (1) Less than completely and opaquely covered human genitals, pubic region, buttocks and/or female breasts below a point immediately above the top of the areola, or (2) human male genitals in a discernibly turgid state, even if completely or opaquely covered.

Specified Sexual Activities: (1) Human genitals in a state of sexual stimulation or arousal, or (2) Acts of human masturbation, sexual intercourse or sodomy, or (3) Fondling or other erotic touchings of human genitals, pubic regions, buttocks or female breasts.

3. No permitted adult use shall be located within two hundred (200) feet of any residential district; within one thousand (1000) feet of any existing church, synagogue, or other place of worship; within two hundred (200) feet of any religious, charitable or nonprofit institution, or any public or private school, nursery, child care center, public community center, park, playground, recreation center, or similar use; or within two hundred (200) feet of any premises licensed for the sale or distribution of alcoholic beverages. The foregoing distance

limitations shall be measured by a straight line drawn from the nearest point of the lot boundary on which the proposed adult use is to be located to the nearest point of the lot or district boundary, as the case may be, of the other use or district, and such uses, district boundary lines and dimensions shall be indicated on the submitted site plan.

4. No permitted adult use shall be located within two hundred (200) feet of any existing residential use in the Town of Hackettstown or in any contiguous municipality, nor within two hundred (200) feet of any residential zone in any contiguous municipality.

5. Adult uses must be located in a free standing building which will include a buffer zone to separate it from family oriented businesses.

6. Adult uses in buildings having a capacity of fifty (50) or more persons are prohibited.

7. Off-street parking shall be provided at the ratio of one space per every two hundred (200) square feet of gross floor area or portion thereof. In addition, one (1) parking space is required for each viewing theater of from one to three occupants and one (1) parking space for each additional three occupants or part thereof. Provided, that at least ten (10) parking spaces shall be provided in any case.

8. Signs shall meet the requirements specified for retail commercial activities in the "LM" District; additionally, no "specified anatomical areas" or "specified sexual activity" shall be shown, described or depicted on any signs, advertisements, displays or exhibits that are visible from outside the building.

9. The interior of the adult use building shall be designed so that no interior contents of the building are visible at any time from the outside through windows, door openings or in any other manner.

10. The interior of any building in which an adult use is located shall be adequately lighted and shall be constructed so that every portion thereof is readily visible without obstruction to the clerk or other person in charge of the building from the counter, booth, cash register, or other place where such person is normally stationed.

11. All other applicable requirements of the "LM" District and of the Land Development Ordinances of the Town of Hackettstown shall be met.

12. All such uses must be licensed as required in the General Ordinances of the Town of Hackettstown.

13. Hours of operation shall not be earlier than 9 a.m. nor later than 12 midnight, prevailing time, on weekdays and Saturday. All licensed premises shall be closed on Sundays.

F. Churches

1. For purposes of this Ordinance, churches shall include commonly known, recognized and long-established sects or denominations.

2. Churches shall be permitted as a conditional use in the “R-30”, “R-15”, “R-12.5”, “R-12.5/Off” and “TCC” zones and shall meet the area and yard requirements set forth in Section 400 of this Ordinance for the respective zone.

3. Traffic movement generated by a church use shall not have a negative or adverse impact on adjoining and nearby properties.

4. The architectural design of the church shall be of a similar scale and character of surrounding land uses.

5. The site plan shall include adequate landscaping in order to protect surrounding residential properties from the effect of light and noise generated by the use of the subject site for a church.

G. Community Residences For The Developmentally Disabled and/or Community Shelters For Victims Of Domestic Violence

1. Any community residence for the developmentally disabled or community shelter for victims of domestic violence that house more than six (6) persons, excluding resident staff, shall require a ‘Conditional Use’ permit for the use of a dwelling unit for such shelter or residence, including the conversion of a dwelling unit for such use.

2. In no case shall more than fifteen (15) persons, excluding resident staff, occupy any community residence or community shelter.

3. The minimum area and yard requirements applicable to the particular zoning district shall each be increased by 16.67% for each person housed in the community residence or community shelter over and above six (6) persons, excluding resident staff.

4. No community residence for the developmentally disabled or community shelter for victims of domestic violence occupied by more than six (6) persons shall be located within fifteen hundred feet (1500’) of an existing community residence or community shelter.

5. A ‘Conditional Use’ permit shall not be granted if the total number of persons, other than resident staff, residing at such community residences or community shelters exceeds fifty (50) persons or 0.5% of the population of the Town, whichever is greater.

6. The residential character of the lot and buildings shall not be changed and there shall be no exterior evidence of the community residence or community shelter. No signs shall be permitted except information and direction signs as permitted for single-family detached dwellings.

7. The following design requirements shall be incorporated within the submitted plan:

   a. Each community residence or community shelter shall be connected to public water and sewer facilities;

   b. Community residences or community shelters shall have immediate access to public transportation services or, in the alternative, provide occupants with a van or equivalent transportation service; and,

   c. Community residences or community shelters shall resemble single-family detached dwellings in appearance.

8. All community residences or community shelters shall have three-quarters (3/4) parking spaces for each resident thereof. The Planning Board shall give due consideration to provisions for visitation and the number of resident staff in order to ensure that there are ample parking facilities. Therefore, the Planning Board may, at its discretion, require more parking spaces than three-quarter (3/4) spaces per resident or may, if the evidence so warrants, waive strict adherence to this standard. Moreover, sufficient off-street area is to be provided for the pick-up and discharge of occupants by vans or other vehicles servicing the residents.

9. All other area, yard, building coverage, height and requirements of the respective zone and other applicable requirements of this Ordinance must be met.

H. <u>Bed and Breakfast Residences</u>

1. The bed and breakfast residence shall be located in an historic structure.

2. Minimum lot size requirements of the zone in which the Bed and Breakfast Residence is located must be complied with.

3. There shall be a minimum lot frontage of one-hundred (100) feet on an adjoining street.

4. No more than one (1) employee shall be permitted to work on the premises at any time. Members of the owner's immediate family who are residents on the premises shall not be considered employees, whether or not paid.

5. The residential exterior of the dwelling shall not be altered. If any application is made for addition or alteration of the structure, a minor site plan approval will be required from the Planning Board.

6. One (1) off-street parking space shall be provided for any non-resident employee. One (1) off-street parking space shall be provided for each guest room. All parking shall be located in a rear or side yard and shall be five (5) feet from any residential property line and shall be screened from view of the immediately adjoining residential property. Lighting shall be required for off-street parking areas for five (5) or more spaces and shall be consistent with the residential character of the neighborhood. Times of lighting operation may be determined by the Planning Board. All lighting fixtures in parking areas shall be shielded and all light shall be contained on subject property and not spill over to adjacent residential properties.

7. Bed and breakfast residences shall be subject to state law regarding requirements of the BOCA Code, Uniform Fire Safety Act, and shall be registered with the Bureau of Housing Inspection in the Division of Housing and Development in the Department of Community Affairs. The bed and breakfast residence shall comply with all local ordinances concerning housing and any and all County Health Department regulations as required.

8. The bed and breakfast residence shall identify itself with a sign consistent with the sign regulations of the district in which it is located for one (1) wall or freestanding sign.

9. The number of guest rooms for transient accommodation shall not exceed three (3) each in any building having a net habitable floor area of three thousand (3,000) square feet or less. One (1) additional guest room may be added for each additional six hundred (600) square feet of net habitable floor area up to a maximum total number of five (5) guest rooms. No guest rooms shall contain any cooking facilities.

10. No guest may be registered for a maximum continuous period in excess of fourteen (14) consecutive nights.

I. Meeting and Assembly Halls for Social, Charitable, <u>and Fraternal Organizations or Clubs</u>

1. For purposes of this ordinance, the terms Social, Charitable, and Fraternal Organizations or Clubs shall mean a group of people formally organized for a common interest, usually social, charitable, cultural, religious or entertainment, with regular meetings, rituals and formal written and adopted membership requirements.

2. Such uses shall be permitted in the LM Zone subject to the following requirements:

a. Not more than twenty (20%) percent of the lot area shall be covered by buildings.

b. No building, structure or active recreation facilities shall be located within one hundred (100) feet of an adjacent residential use property line.

c. Off-street parking shall be provided in the ratio of one space for each fifty (50) sq. ft. of gross floor area or one space for each two persons allowed within the building occupancy load, whichever is greater.

d. Where parking areas are adjacent to a residential zone or use, there shall be a twenty-five (25) foot buffer strip, including fences and shrubs no less than six (6) feet high.

J. Health Related Professional and Medical Offices

1. Such uses must have frontage on a road under County jurisdiction and be located on a lot within 1,000 feet of the HF Zone District.

2. Such uses may only be located on a lot which meets the minimum lot area and yard requirements of the R-30 Zone District.

3. The maximum floor area ratio shall be 0.25.

4. The maximum lot coverage shall be 70%.

5. Parking shall be provided in conformance with Section 409F.

6. Parking areas shall be provided in conformance with Section 508 except that where parking areas are adjacent to a residential use, there shall be a fifteen (15) foot wide buffer strip including fences and/or landscaping, no less than six (6) feet high.

K. Personal Wireless Telecommunications and Equipment Facilities

1. Definitions.

Antenna means a system of electrical conductors that transmit or receive radio frequency signals for wireless communications.

Antenna Support Structure means a structure other than a telecommunications tower which is attached to a building and on which one or more antennas are located.

Collocation means use of common PWTF 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 PWTF on a structure owned or operated by a utility or other public entity.

Personal Wireless Telecommunications Facilities (PWTFs) means facilities for the provision of Wireless Communications services, including, but not limited to, antennas, antenna support structure, telecommunications towers, and related facilities other than PWTEFs.

Personal Wireless Telecommunications Equipment Facilities (PWTEFs) means accessory facilities serving and subordinate in area, extent and purpose to, and on the same lot as, a telecommunications tower or antenna location. Such facilities include, but are not limited to, transmission equipment, storage sheds, storage buildings, and security fencing.

Town of Hackettstown means the Town of Hackettstown and in the County of Warren, and State of New Jersey.

Telecommunications Tower means a freestanding structure on which one or more antennas are located, including lattice towers, guyed towers, monopoles and similar structures.

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

2. Purpose and Goals

The purpose of this ordinance is to provide sound land use policies, procedures and regulations for personal wireless telecommunications facilities to protect the Town of Hackettstown from the visual or other adverse impacts of these facilities, while encouraging their unobtrusive development to provide comprehensive wireless telecommunications services in the Hackettstown community with its benefits to residents and businesses. The ordinance expresses a preference that antennas be located on existing buildings and towers, preferably on municipal or other public property, and not on newly constructed telecommunications towers; and encourages collocation and site sharing of new and existing PWTFs.

3. Development Standards

a. Height Standards

Where permitted, PWTFs may exceed the maximum building height limitations, provided the height has the least visual impact and is no higher than required to achieve service area requirements and potential collocation, when visually appropriate. PWTEFs are limited to twelve (12) feet in height.

b. Setback Standards

All PWTF and PWTEF shall be subject to the minimum yard requirements of the zoning district in which it is located, provided the minimum setback may be increased where necessary to address safety concerns.

If PWTEFs are located on the roof of a building, the area of the PWTEFs and other equipment and structures shall not occupy more than twenty-five (25) percent of the roof area.

4. Conditional Use

a. Locational Priority

If needed in accordance with an overall comprehensive plan for the provision of full wireless communications service within the Town of Hackettstown, PWTFs and PWTEFs shall be permitted as a conditional uses in the TCC, CC, LM and HF Zones only and at the following prioritized locations:

(1) The first priority location shall be on lands or structures owned by the Town of Hackettstown;

(2) The second priority location shall be on lands or structures owned by the Hackettstown Board of Education;

(3) The third priority location shall be collocation on existing PWTFs provided that the new installation does not increase the height by more than 10%; and

(4) The fourth priority location shall be such locations as the applicant proves are essential to provide required service to the Town of Hackettstown and are enclosed within existing clock towers, light poles, church steeples or other permanent structures.

(5) The fifth priority location shall be such locations as the applicant proves are essential to provide required service to the Town of Hackettstown and it is clearly demonstrated by the applicant that location priorities 1 through 4 are not able to provide the same level of service.

b. Conditional Use Standards

All PWTF and PWTEF shall be located to minimize visual impacts on the surrounding area in accordance with the following standards. In applying these standards, locations in a higher priority category under section 4a shall be deemed more acceptable than lower priority sites.

(1) Sites for PWTFs and PWTEFs must demonstrate that they provide the least visual impact on residential areas and public way. All potential visual impacts must be analyzed to illustrate that the selected site provides the best opportunity to minimize the visual impact of the proposed facility.

(2) PWTEFs should be located to avoid being visually solitary or prominent when viewed from residential areas and the public way. The facility should be obscured by vegetation, tree cover, topographic features and/or other structures to the maximum extent feasible.

(3) PWTFs and PWTEFs shall be placed to ensure that historically significant viewscapes, streetscapes, and landscapes are protected. The views of and vistas from architecturally and/or significant structures should not be impaired or diminished by the placement of telecommunication facilities.

(4) Monopole: Any proposed new telecommunications tower shall be a "monopole" unless the applicant can demonstrate that a different type pole is necessary for the collocation of additional antennas on the tower. Such towers may employ camouflage technology.

(5) Height Limitations: In addition to the height standards set forth in Paragraph 3-a, personal wireless telecommunication facilities (PWTFs) shall meet the following height and usage criteria:

(i) For a single carrier, up to one hundred (100) feet in height, provided paragraph 3-a above is complied with.

(ii) For two carriers, up to one hundred twenty five (125) feet in height, provided paragraph 3-a above is complied with.

(iii) For three carriers, up to one hundred fifty (150) feet in height, provided paragraph 3-a above is complied with.

(6) PWTF's in the TCC Zone may only be roof-top antennas. Monopoles are not permitted in the TCC Zone.

5. Zoning

PWTF's shall be permitted as conditional uses in the TCC, CC, LM and HF Zones only.

6. Site Design Standards

The following design standards shall apply to PWTFs and PWTEFs installed or constructed pursuant to the terms of this ordinance unless waived by the Planning Board or Zoning Board:

a. Number of Structures on a Lot. Ordinance limitation on the number of structures on a lot shall not apply when PWTF and PWTEF are located on a lot with buildings or structures already on it. See also section 7 of this ordinance.

b. Fencing and Other Safety Devices. PWTFs and PWTEFs shall be surrounded by a security feature such as a fence. All towers shall be designed with anti-climbing devices in order to prevent unauthorized access. Additional safety devices shall be permitted or required, as needed, and as approved by the Planning Board or Zoning Board.

c. Landscaping. Landscaping shall be provided along the perimeter of the security fence to provide a visual screen or buffer for adjoining private properties and the public right-of-way. Required front yard setback areas shall be landscaped. All PWTEF shall be screened by an evergreen hedge eight to ten feet in height at planting time and/or a solid fence eight feet in height.

d. Signs. Signs shall not be permitted except for signs displaying owner contact information, warnings, equipment information, and safety instructions. Such signs shall not exceed two (2) square feet in area. No commercial advertising shall be permitted on any PWTF or PWTEF.

e. Color. PWTFs shall be of a color appropriate to the tower's locational context and to make it unobtrusive as possible, unless otherwise required by the Federal Aviation Administration (FAA).

f. Activity and Access. All equipment shall be designed and automated to the greatest extent possible in order to reduce the need for onsite maintenance and thereby to minimize the need for vehicular trips to and from the site. Access shall be from established site access points whenever possible. Minimal off-street parking shall be permitted as needed and as approved by the Planning Board or Zoning Board.

g. Dish Antennas. Dish antennas shall be colored, camouflaged or screened to make them as unobtrusive as possible and in no case shall the diameter of a dish antenna exceed six feet (6').

h. Lighting. No lighting is permitted except as follows:

(a) PWTEFs enclosing electronic equipment 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 PWTF except lighting that specifically is required by the Federal Aviation Administration (FAA), and any such required lighting shall be focused and shielded to the greatest extent possible so as not to project towards adjacent and nearby properties.

i. Noise. No equipment shall be operated so as to produce noise that would constitute a nuisance or violate any local noise ordinance if any, except in emergency situations requiring the use of a backup generator.

j. Radio Frequency Emissions. The FTA gives the FCC sole jurisdiction of the field of regulation of Radio Frequency (RF) emission and PWTFs which meet the FCC standards shall not be conditioned or denied on the basis of RF impacts. Applicants shall provide current FCC information concerning PWTFs and Radio Frequency emission standards. PWTFs shall be required to provide information on the projected power density of the proposed facility and how this meets the FCC standards.

k. Structural Integrity. PWTFs must be constructed to the Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures" (or equivalent), as it may be updated or amended. In addition, any structure upon which a PWTF is to be erected must be deemed to be structurally sound.

l. Maintenance. PWTFs shall be maintained to assure their continued structural integrity. The owner of the PWTF shall also perform such other maintenance of the structure and of the site as to assure that it does not create a visual nuisance.

m. Historical Structures. PWTF's may not have any negative impact on any historical structures in the vicinity.

7. Collocation Policy

a. The municipal engineer shall maintain an inventory of existing PWTF locations within or near the Town of Hackettstown.

b. An applicant proposing a PWTF at a new location shall demonstrate that it made a reasonable attempt to find a collocation site acceptable to engineering standards and that none was practically or economically feasible. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Board that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed tower.

c. Each application for PWTF shall be accompanied by a plan which shall reference all existing PWTF locations in the applicant's Hackettstown inventory, any such facilities in the abutting towns which provide service to areas within the Town of Hackettstown, any changes proposed within the following twelve (12) month period, including plans for new locations, and the discontinuance or relocation of existing facilities.

d. 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 PWTF relates to the objective of providing full wireless communication services within the Town of Hackettstown community at the time full service is provided by the applicant throughout the Town of Hackettstown.

(2) How the proposed location of the proposed PWTF relates to the location of any existing antennas within and near the Town of Hackettstown.

(3) How the proposed location of the proposed PWTF relates to the anticipated need for additional antennas within and near the Town of Hackettstown community by the applicant and by other providers of wireless communication services within the Town of Hackettstown;

(4) How the proposed location of the proposed PWTF relates to the objective of collocating the antennas of many different providers of wireless communication services on the same PWTF; and

(5) How its plan specifically relates to and is coordinated with the needs of all other providers of wireless communication services within the Town of Hackettstown.

e. The Planning Board or Zoning Board may retain technical consultants, as it deems necessary to provide assistance in the review of the site location alternatives analysis. The service provider shall bear the reasonable cost associated with such consultation, which cost shall be deposited in accordance with Hackettstown's escrow provisions.

f. The items set forth in paragraphs b, c, d and e shall be required to be submitted as part of the application and shall be required as part of a complete application.

8. Removal of Abandoned PWTFs.

Any PWTF that is not operated for a continuous period of twelve (12) months shall be considered abandoned. If there are two or more users of a single PWTF, the abandonment shall not become effective until all users cease using the PWTFs for a continuous period of twelve (12) months. The owner of such PWTF shall remove same within ninety (90) days of notice from the zoning officer that the PWTF is abandoned. If such PWTF is not removed within said ninety (90) days, the municipality may remove such PWTF at the owner's expense. If the facility is to be retained, the provider(s) shall establish that the facility will be reused within one year of such discontinuance. If a facility is not reused within one year, a demolition permit shall be obtained and the facility removed. At the discretion of the zoning officer, upon good cause show, the one year reuse period may be extended for a period not to exceed one additional year.

The applicant shall provide a performance bond and/or other assurance satisfactory to the Planning Board and in a form approved by the Town Attorney that will cause the antennas, the supporting tower, the ancillary building enclosing related electronic equipment and all other related improvements to the land to be removed, at no cost to the Town, when the antennas are abandoned. The applicant and/or operator of the cellular antennas shall provide the Town with a notice or letter of intent to cease operations. The applicant shall be responsible for prompt demolition and removal of an unused tower.

9. Nonconforming PWTFs.

PWTFs in existence on the date of the adoption of this ordinance, which do not comply with the requirements of this ordinance (non-conforming PWTFs) are subject to the following provisions:

a) Nonconforming PWTFs may continue in use for the purpose now used, but may not be expanded without complying with this ordinance.

b) Nonconforming PWTFs 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 therefore, but without otherwise complying with this ordinance. If this destruction is greater that partial, then repair or restoration will require compliance with this ordinance.

c) The owner of any nonconforming PWTF may repair, rebuild and/or upgrade (but not expand such PWTF or increase its height or reduce its 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 ordinance.

10. Additional Site Plan Submission Requirements.

In addition to the applicable documentation and items of information required for site plan approval the following additional documentation and items of information are required to be submitted to the Planning Board for review and approval as part of the site plan submission and are also a requirement for a completeness determination.

a) Documentation by a qualified expert regarding the capacity of any proposed PWTF for the number and type of antennas;

b) Documentation by a qualified expert that any proposed PWTF will have sufficient structural integrity to support the proposed antennas and the anticipated future collocated antennas and that the structural standards developed for antennas by the Electronic Industries Association (EIA) and/or the Telecommunications Industry Association (TIA) have been met;

c) A letter of intent by the applicant, in a form which is reviewed and approved by the Town Attorney, indicating that the applicant will share the use of any PWTF with other approved providers of wireless communication services; and

d) A visual impact study, graphically simulating through models, computer enhanced graphics, or similar techniques, the appearance of any proposed tower and indicating its view from at least the five (5) locations around and within one (1) mile of the proposed PWTF where the PWTF will be most visible. Aerial photographs of the impact area shall also be submitted.

e) Copies of any easements necessary.

11. Exceptions.

This ordinance shall not apply to:

a) Any tower that is under thirty five (35) feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively as a receipt only antenna.

b) Preexisting towers and preexisting antennas shall not be required to meet the requirements of 6.K and 6.M.

L. Active Adult Residential Community (AARC)

1. Active Adult Residential Communities (AARC) shall be permitted in the R-12.5 Zone District provided the following conditions are met:

   (a) Minimum tract size of 75 acres
   (b) Maximum gross density of 1.5 dwelling units per acre
   (c) A bi-directional roadway access must be provided with a sidewalk on at least one side. The developer shall be responsible for the construction of the off-tract extension of Canal Way to accomplish this objective.
   (d) All infrastructures (roadways, drainage systems, detention and retention basins, parking areas, etc) must be privately owned and all new utility lines placed underground.
   (e) A minimum of forty-five (45%) percent of the gross tract area shall be dedicated as open space.
   (f) Maximum impervious coverage shall be thirty-five (35%) percent of the gross tract area.
   (g) There shall be in each AARC community at least one clubhouse or community building. There shall be at least twenty (20) square feet of clubhouse building space provided for each proposed dwelling unit. The clubhouse shall be completed and in operation before the 50th dwelling unit has been completed and a certificate of occupancy issued therefore or prior to the issuance of certificate of occupancy for fifty percent of the total number of approved dwellings, whichever shall occur first.
   (h) Traffic calming devices, such as removable speed humps, islands, road narrowing designs, etc. must be provided on the development plans. All traffic calming devices must be approved by the Planning Board and Town Council for installation on Canal Way and Valley View Avenue and other locations deemed appropriate by the Town through the review process.

2. The following standards shall apply:

   a. Principal Permitted Uses On The Land And In Buildings

      (1) Townhouses
      (2) Public playgrounds, public conservation areas, public parks, public open space and "public purpose uses" as defined in Section 200 of this Ordinance.

   b. Accessory uses Permitted

      (1) Commercial swimming pool (See Section 515 for standards), and other usual recreational facilities.
      (2) Off-street parking and private garages (see Section 508).
      (3) Fences and walls (see Section 503).
      (4) Signs (see Section 8 Herein below and Section 513).
      (5) Temporary construction and sales trailers, models, and one (1) free standing sign per entrance not exceeding fifty (50) square feet, setting forth the name of the community. Trailers shall be located on the site where construction is taking place and are to be set back at least thirty (30) feet from all street and curb lines.
      (6) Accessory uses customarily incidental to principal permitted uses, including clubhouses and other recreational facilities.

c. Maximum Building Height

Townhouse buildings shall not exceed thirty-five (35) feet and two and one-half (2½) stories in height except as allowed in Section 602.

d. Maximum Number of Dwelling Units Permitted

The maximum number of dwelling units permitted within an AARC is equal to one and one half (1½) dwelling units per gross acre of land, except that any contiguous portion of the total tract may be developed at a net density of up to eight (8) dwelling units per acre provided that the one and one half (1½) dwelling units per acre aggregate gross density is not exceeded.

e. Area Yard and Distance Requirements

(1) Townhouses: Minimum distance between townhouses shall be measured horizontally in feet and shall be measured away from the front, side and rear of each building. The minimum distances shall be as indicated below:

Minimum Location	**Distance**
Windowless wall to windowless wall of buildings	30 feet
Window wall to windowless wall of buildings	30 feet
Window wall to window wall of buildings	30 feet
Front to front of buildings	75 feet
Rear to rear of buildings	50 feet
End to end of buildings	30 feet
Any building face to collector street curb line	45 feet
Any building face to any curb line of a street (public or private) which is not arterial or collector	30 feet
Any building face to arterial street curb line	50 feet
Any building face to common parking area	12 feet

Fee simple lots shall meet the requirements specified in Section 601.L.2.m of this ordinance.

f. Setbacks and Building Dimensions

(1) Steps, chimneys and similar fixtures and all eaves and cornices may extend beyond the side and rear setback lines.
(2) Uncovered decks open to the sky located at the first floor level of a principal structure may intrude a maximum of 10 feet into the rear yard setback.

g. Minimum Off-Street Parking

(1) Each townhouse shall provide two (2) garage parking spaces for each unit.
(2) Additional parking shall be provided at a ratio of a minimum of one-half (1/2) space for each dwelling unit, for guest parking, and shall be dispersed evenly and uniformly and conveniently throughout the tract. Common parking areas may be utilized to satisfy this requirement.
(3) Additional parking shall be provided at the clubhouse or community building with a minimum of 1 space/200 square feet of building area.
(4) There shall be no parking of recreational vehicles or boats except in a designated parking area for such vehicles.
(5) See Section 508 for additional standards.

h. Permitted Signs

(1) Each townhouse development may have one (1) sign along each public street, which the tract in question abuts. Such signs shall not exceed ten (10) feet in height, shall be set back from the street rights-of-way and driveways at least ten (10) feet, shall be set back from any adjacent property line a minimum of thirty (30) feet, shall not exceed an area of thirty-two (32) square feet, and shall be used only to display the development's name and telephone number.
(2) See Section 513 for additional standards.

i. Buffers and Landscaping

(1) A landscaped buffer to effectively screen the dwellings shall be located along any tract boundary line of an Active Adult Residential Community wherein townhouses are proposed, except that the buffer shall not be required in areas where the closest existing dwelling unit is at least two hundred (200) feet from the property line otherwise to be buffered. The buffer may contain a berm at least four (4) feet in height and shall be planted with at least a double staggered row of evergreen trees, twelve (12) feet on center and at least six (6) feet in height when planted so that at maturity the plant material will be no closer that three (3) feet from any property line. As an option, the

buffer planting may consist of existing vegetation and/or a naturalized planting of coniferous trees, shade trees, flowering trees and deciduous and evergreen shrubs subject to the review and approval of the Approving Board. An undisturbed buffer of at least 75 feet in width along the property line shall be provided adjacent to the abandoned Morris Canal.

(2) Landscaping Plan. A landscaping plan shall be submitted with each site plan application, unless an exception is granted. The plan shall identify existing and proposed trees, shrubs, ground cover, natural features, such as rock outcroppings, and other landscaping elements. When existing natural growth is proposed to remain, the applicant shall include in the plans proposed methods to protect existing trees and growth during and after construction.

(3) Protection of existing plantings. Maximum effort should be made to save fine specimens (because of size or relative rarity). No material or temporary soil deposits shall be placed within four (4) feet of shrubs or ten (10) feet of trees designated to be retained on the preliminary and/or final plat. Protective barriers or tree walls shall be installed around each plant and/or group of plants that are to remain on the site. Barriers shall not be supported by the plants they are protecting, but shall be self-supporting. They shall be a minimum of four (4) feet high and constructed of a durable material that will last until construction is completed. Snow fences and silt fences are examples of acceptable barriers.

j. Common Open Space Requirements

(1) Land area equal to a minimum of forty-five percent (45%) of the tract of land proposed for an Active Adult Residential Community shall be specifically set aside for conservation, open space, flood plain, recreation, and/or other common open space. Land utilized for street rights-of-way shall not be included as part of the above forty-five percent (45%).

(2) See Section 605 D.2 through Section 605 D.5 for additional requirements.

k. Pedestrian Circulation

There shall be an adequate system of pedestrian walks serving all facilities within the development, providing access to residential units, parking areas, open spaces, recreational and other communal facilities and along vehicular roadways as deemed necessary by the Approving Board. Public access shall also be provided to the Morris Canal.

l. Architecture and Construction

(1) There shall be no more than six (6) townhouse units in each structure. Front elevations of individual units should be varied through architectural indentations in order to avoid a continuous façade.
(2) The architecture employed shall be aesthetically congruous among structures, phases and sections of the development.
(3) All exteriors of building perimeter walls shall be of wood, brick, stone, vinyl siding or other accepted durable material provided, however, that asbestos shingle or cinder block as an exterior finish is prohibited.
(4) The exterior of accessory structures shall harmonize architecturally with and be constructed of materials of like character to those used in principal structures.

m. Fee Simple Townhouse Lots

Lot and yard dimensions encompassing individual townhouse dwelling units may be freely disposed and arranged on a tract of land provided they are superimposed upon an approved site plan for the subject development. Additionally, the following provisions shall be met:

(1) The boundaries of any lots shall not infringe upon any common open space land areas, nor shall the boundaries of a lot be closer than five (5) feet from any driveway or parking lot area.
(2) No lot line shall be located closer than twenty-five (25) feet from any tract property line or any "collector" street, nor closer than ten (10) feet from any "local" street.
(3) No construction permit shall be issued for any townhouse dwelling unit, at any time unless the proposed construction is in accordance with the approved site plan and this condition shall be recited in the deed of the subdivided townhouse lot.

n. Tract Size

The minimum gross tract area shall be seventy-five (75) acres. In the event that the developer intends to dedicate and convey any parcel for the tract for ownership and use by the Town or other public or non-profit entity, a subdivision, limited to accommodate such dedication and conveyance shall be permitted. The total tract including any of the above-dedicated areas shall be considered to calculate density.

o. Age Restrictions

(1) Each dwelling unit in the AARC development must be occupied by one (1) permanent resident fifty-five (55) years of age or older. No permanent resident shall be forty (40) years of age or younger unless they are the spouse of a permanent resident fifty-five (55) years of age or older. A permanent resident is an individual who resides in a dwelling three (3) months or more in a twelve (12) month period. Temporary residents who reside three (3) months or less in a given twelve (12) month period do not need to meet the above age criteria.

(2) Certification of Compliance. As a condition of preliminary and final site plan/subdivision approval, a developer in the AARC District shall submit a certification of compliance with the requirements of the Fair Housing Act of 1988 and the Housing for Older Persons Act as are applicable. The certification of compliance shall also contain a hold harmless and indemnification provision protecting the Town of Hackettstown from any and all civil rights or other lawsuits arising out of the developer's or its successor in title's failure to comply with the Fair Housing Act of 1988 and amendments thereto.

(3) Prior to the issuance of certificates of occupancy and as a condition of an initial or a change in the occupancy, tenancy or nature of use, the Zoning Officer shall verify compliance with the age restrictions, established by Subsection (1) above, for residents of the AARC. Upon application for a certificate of occupancy, all prospective occupants of the respective residential units shall furnish conclusive proof of age, such as a certified birth certificate or valid driver's license to the Zoning Officer.

(4) Transfer on Death. In the event that an owner of a dwelling dies, testate or intestate leaving as heirs one or more persons who do not qualify as a permitted resident, these restrictions shall in no way be deemed to restrict the ownership of said dwelling by the heirs; provided, however, that said heir or heirs, their successors or assigns, shall not reside in the dwelling. The foregoing is not intended to apply to a +cohabitating surviving spouse who does not qualify as to age, it being the intent hereof that surviving cohabitating spouses shall (to the extent permitted by the Fair Housing Act as to 55 or Over Housing) be permitted to continue to occupy such dwelling subsequent to the death of a spouse.

(5) Rental. No dwelling shall be rented by the owners thereof provided however, that any dwelling owner may rent a dwelling for a period of less than six (6) months to a bona fide contract purchaser thereof.

p. Deed Restrictions

(1) Any conveyance of property rights by the developer, its successors or assigns must contain deed restrictions, which put the transferee on notice that the occupancy of property is age-restricted.

(2) Prior to the sale of any units, the developer shall execute and record a declaration of covenants and restrictions by the terms of which all lands and the owners thereof shall be, at all times, bound to certain uniform requirements and standards for the maintenance and repair of the common elements and limited common elements.

M. Colleges and Universities

1. Definitions

Colleges and Universities shall be defined by the following permitted uses:

a. Principal Permitted Uses are academic-related uses and activities normally associated with colleges, universities, or institutions of higher learning including:

- Formal teaching/learning facilities such as classrooms and lecture halls.

- Research facilities such as laboratories and libraries.

- Facilities used for physical education such as gymnasiums, courts and athletic fields.

- Facilities such as gymnasiums, courts, and athletic fields to be used for physical education, intercollegiate and intramural athletics, commencement events, social events, and student meetings.

- Cultural education facilities such as auditoriums and theatres.

- Administrative buildings and offices.

- Residential dormitories and housing for students and faculty.

- Student support services i.e. student center / bookstore / dining areas.

- Gymnasiums provided that seating capacity does not exceed 1200 persons and usage of such facilities is limited to physical education, intercollegiate and intramural athletics events, commencement events, social events and student meetings. Concerts are permitted. However, no indoor concerts with seating in excess of 750 persons and no outdoor concerts are permitted unless a special events permit is secured under Section 8-21 et seq. of the General Code of the Town of Hackettstown.

b. Accessory Uses are:

- Maintenance facilities such as garages; storage areas; utility, heating, and steam plants.

- Parking areas for students, faculty, staff, and visitors.

c Prohibited Uses are:

- Uses not expressly permitted above.

2. Conditional Use Requirements

Colleges and Universities shall be permitted in the R-30 Single Family Residential District provided the following conditions are met:

a. Minimum tract size shall be 30 contiguous acres.

b. Lot coverage by buildings shall not exceed 16%.

c. Floor-Area-Ratio shall not exceed 0.35, excluding the area of basements and attics used solely for storage and mechanicals.

d. Total impervious coverage shall not exceed 55%.

e. Following the issuance of a certificate of occupancy for any new student center, vehicles making deliveries to the College property shall access the College from Grand Avenue, provided that all requisite land use approvals are secured by the College for the safe and proper ingress and egress onto Grand Avenue. Any deliveries that cannot be made from Grand Avenue and require access from any other streets, including Plane Street, Jefferson Street, Fifth Avenue and Reese Avenue must be made by automobile or by delivery vehicles limited to 45 feet in length or less.

f. A Master Development Plan shall be required to be submitted with the first site plan application following the adoption of this Ordinance. The Master Development Plan shall be updated and resubmitted with every subsequent site plan application.

3. Master Development Plan

The Master Development Plan shall provide complete information on existing conditions and additional information on future plans for campus development as a checklist item for the purpose of assisting the Board in determining the completeness of the site plan submission. It is recognized that the Master Development Plan may be amended by the College from time to time to reflect changes in conditions and future plans for campus development.

The Master Development Plan shall include the following:

a. Survey and written inventory and explanation of all existing structures and facilities, including buildings and parking areas and improved pedestrian and vehicular circulation areas of the Hackettstown campus, and the following:

(1) The total number of student beds in dormitories on campus, the total number of students in attendance at the date of passage of the Ordinance (DOPO), the total number living on campus and total number living off campus, and the total number of students on campus at any given time.

(2) A listing of extracurricular activities associated with the campus, with attendances and locations.

(3) The total number of employees DOPO, including professors, instructors, secretaries and maintenance people, by category, assigned to the Hackettstown campus.

(4) The total number of parking spaces on campus and locations.

(5) Total number of athletic fields on campus, including their sizes and locations.

(6) Areas and locations of open space on the campus.

(7) Date of construction of each building and structure on the campus.

(8) A map or plat setting forth the above.

b. All contemplated future construction on the campus, as best as can be determined.

c. Specific proposals for the internal circulation of pedestrian and vehicular traffic within the campus, as well as for the routing of delivery vehicles.

d. A parking analysis documenting existing conditions, proposed future supply and demand for parking pursuant to this Ordinance and justification for any adjustments requested related to shared parking, campus policies affecting vehicle use, or other factors that would permit the reduction in the total number of spaces required. As part of any subsequent development application, this analysis shall be updated to reflect changes in the number of spaces or demand for parking resulting from changes since the last review and any changes resulting from the proposed new development.

e. An inventory of all existing and proposed off-campus college facilities in Hackettstown and a brief written description of other off-campus facilities.

f. The status of environmental issues affecting the campus, including critical areas and historic preservation.

g. Existing and projected student enrollment at the Hackettstown campus, including the breakdown between commuting and resident students.

4. Site Plan Review

Any proposed building, structure, facility or parking area shall be submitted for site plan approval by the Planning Board in accordance with this chapter. The site plan shall show the proposed new construction in detail in relation to all surrounding or adjoining structures and facilities and shall be consistent with the current Master Development Plan.

5. Lot, Area and Bulk Requirements

a.	Minimum Lot Frontage	500 ft.
b.	Minimum Lot Width	500 ft.
c.	Minimum Lot Depth	500 ft.

d. Minimum Setbacks

The following setback requirements shall apply only to the construction of new buildings or to expansions of or additions to existing buildings. Renovations and expansions of or additions to existing nonconforming buildings shall be permitted, provided that the expansion or addition conforms to the applicable setback requirements.

Renovations to existing nonconforming buildings that do not exacerbate the existing nonconforming setback(s) shall also be permitted.

	(1) Front Yard Setback	125 ft. to Jefferson St., Plane St., Reese Ave., and Fifth Ave. 25 ft. to Moore Street.
	(2) Side Yard Setback	75 ft. (125 ft. when adjacent to a residential zone or residential use).
	(3) Rear Yard Setback	75 ft. (125 ft. when adjacent to a residential zone or residential use).
e.	Distance between Principal Buildings	30 ft.
f.	Height	Three (3) stories or 40 feet, except that any portion of the student center that will be occupied by a theater may exceed this standard up to a maximum height of 50 feet and the portion of the student center that will be occupied by the theater fly loft may exceed this standard up to a maximum height of 75 feet, provided the required setback of the building shall be increased to 300 feet.
g.	Maximum Façade Length	100’ for any façade directly facing and within 300 feet of Plane St., Reese Ave., Fifth Ave. and Moore St., provided that where there is a façade break of 20 feet or more, each portion of the façade may be measured separately for the purposes of meeting this requirement.
h.	Façade Breaks	Any building façade directly facing and within 300 feet of Plane St., Reese Ave., Fifth Ave. and Moore St. in excess of 50’ in length shall include minimum off-sets of 3 ft. at least every 35 ft.
i.	New Gymnasium Setback	175 feet to any property line.
j.	Renovations or Additions to the Existing Reeves Gymnasium and Natatorium	75 feet to any property line.

6. Parking Requirements

a. Off street parking shall be provided at the rate of one (1) space per every three (3) full and part-time students enrolled at the Hackettstown campus, plus one and one-half (1½) spaces per every two (2) faculty / staff members assigned to the Hackettstown campus, except that parking for adjuncts shall be provided at the rate of one space per adjunct to equal the maximum number of adjuncts on the Hackettstown campus at any one time.

b. All required parking shall be provided on College-owned property in excess of four (4) acres, provided that all requisite land use approvals are secured by the College from any state, county or local agency that shall exercise jurisdiction over the subject property. On-street parking shall not be considered as meeting any part of the required parking.

c. Parking areas shall be screened with landscaping and/or berms, as approved by the Board and set back 75 ft. from all property lines except for the following areas:

- Any parking area on Fifth Avenue from the westerly side of Reese Avenue to a point 300 feet west shall require a 35 foot setback.

- Any parking adjacent to Block 105 Lots 5, 6, and 7 and Block 104 Lots 3.03, 3.04, and 2.02 shall require a 45 foot setback.

- Any parking area on Reese Avenue from the southerly side of First Avenue to a point 350 feet south on Reese Avenue shall require a 40 foot setback and any parking areas on the balance of Reese Avenue shall require a 35 foot setback for all parking areas.

- Any berm required by the Board hereunder shall be no less than five feet in height and shall be planted with year round evergreen trees at least four feet in height and shall be of such density as to obscure the parked vehicles from view from any adjacent public street.

d. Parking areas shall comply with the requirements of Section 508 of the Land Development Ordinance.

e. Parking spaces provided for daytime activities or purposes shall be considered available for other uses conducted on weekends or evenings.

f. Beginning on January 31, 2005, the College shall report to the enforcement officer annually by January 31st, the current number of employees and students based upon the current enrollment and employees. When that number exceeds a number established at the time of the last site plan review by more than 30 parking spaces, the enforcement officer shall notify the Board, which may then reopen the application with regard to the need for additional parking. If this occurs, the College shall have two years within which to bring the parking into compliance with any revised requirement, provided that the College secures the requisite approvals from any State, County, or local agency exercising jurisdiction over the construction of any new parking area on College-owned property.

7. Future Use of College or University Land and Facilities.

a. In the event that Centenary College vacates the premises or otherwise discontinues its use of the premises and is not subsequently replaced with another College or University use of the same character and purpose, any other subsequent use shall be considered a change of use.

b. In the event of the discontinuance of the premises by Centenary College or by a successor entity having the same character and purpose, the Planning Board, on its own motion or upon an application for a zoning change, shall consider and make a recommendation to the Town Council as to the appropriate zoning for the site in question.

N. <u>Mixed Multi-Family Residential Commercial Uses (MXRC)</u>

1. A Mixed Multi-Family Residential Commercial Use (MXRC) shall be permitted in the HC District along the east side of Mountain Avenue (State Route 182) provided the following conditions are met:

   a. A minimum tract size of 15 contiguous acres.
   b. The maximum residential density shall not exceed twelve (12) dwelling units per gross acre.
   c. Lot coverage by buildings shall not exceed twenty (20) percent.
   d. Total impervious coverage shall not exceed sixty (60) percent.
   e. No building shall be situated within fifty (50) feet of Mountain Avenue.
   f. No dwelling unit shall contain more than two (2) bedrooms except for those units that are required by the State of New Jersey to be subsidized or otherwise made affordable to “low” and “moderate” income non-age restricted households and contain more than two (2) bedrooms.
   g. Building height shall not exceed fifty-two (52) feet or four (4) stories, provided that there are commercial uses and parking under the building which shall be deemed the first story. Otherwise, the building height shall not exceed thirty-six (36) feet or three (3) stories.
   h. Provision that at least seventeen percent (17%) of the total number of units shall be subsidized or otherwise made affordable to “low” and “moderate” income non age-restricted households, as discussed and defined in the “Mt. Laurel II” Supreme Court Decision (So. Burlington City. N.A.A.C.P.v.Mt. Laurel Tp., 92 N.J. 158 (1983)) and Section 606 of this Ordinance.

i. Individual dwelling units setaside for affordable housing shall meet the minimum net habitable floor areas per number of bedrooms as required by COAH regulation.

j. The following uses shall be permitted in the Mixed Multi-Family Residential Commercial Use development:

   1. Principal Permitted Uses:

      a. Fee Simple condominiums or rental apartments.
      b. Ground floor retail uses. A minimum of 20,000 square feet or 12 percent of the total floor area shall be devoted to retail commercial uses in a mixed multi-family residential commercial use. No individual store shall exceed 10,000 square feet of net leasable floor area.
      c. Public playgrounds, public conservation areas, public parks, public open space and "public purpose uses" in accordance with Section 200.

   2. Accessory Permitted Uses:

      a. Commercial Swimming Pool in accordance with Section 515.
      b. Clubhouse, community building or center and accessory recreation facilities typically associated with the principal uses.
      c. Parking Facilities in accordance with Section 508 as herein modified.
      d. Lands set aside for conservation, open space, recreation, and/or other common open space.

k. Residential units shall comply with State Residential Site Improvement Standard for off-street parking. Retail and commercial uses shall provide one (1) parking space for every 350 square feet of floor area. A reduction of up to 25 percent of the total required off-street parking may be permitted by the Board based upon a showing of shared parking potential.

   1. All parking areas not to be paved shall be suitably landscaped and such landscaping shall be indicated on the plan and be in addition to landscaping otherwise required or necessary;
   2. Designated visitor parking spaces shall be provided;
   3. The drainage system for the site shall be designated to accommodate the surface water runoff from all parking and driveway areas, considering all such areas to be paved, whether proposed to be constructed as part of the application approval or deferred to a possible future date;
   4. The applicant shall agree in writing on the plan to construct and pave any or all of the future parking areas should the parking areas prove to be inadequate to accommodate the on-site parking needs of the premises; and
   5. The conditions and circumstances requiring the possible future construction of the deferred future parking spaces shall be established by the Board during site plan or subdivision review.

l. The applicant shall provide for the management of surface water in accordance with Section 525 of this ordinance and all applicable RSIS requirements.

m. No parking shall be located within fifty (50) feet of the street line of Mountain Avenue (State Route 182).

n. No structure in an MXRC development shall be constructed within seventy-five (75) feet of any existing single-family residential zone district in the Town.

o. The required minimum lot frontage and lot width shall be one hundred (100) feet.

p. No building shall be located closer than fifty (50) feet to any property line nor closer than twenty-five (25) feet to any other building. Front, side and rear yard setbacks shall be fifty (50) feet.

q. Direct access to Mountain Avenue from the subject property shall be limited to right turns in and right turns out.

r. A pedestrian access easement open to the general public shall be provided adjacent to the entire length of the Musconetcong River on the subject property with a connection to Mountain Avenue.

s. A land use area or areas equal in aggregate to at least two hundred fifty (250) square feet per dwelling unit shall be designated on the site plan for active and passive recreational use for the residents of the MXRC development.

t. Any properties being developed under this ordinance containing the short Mountain Avenue bypass as identified in the County of Warren's 2000 study entitled "Technical Report – Hackettstown Bypass Corridor Study" shall reserve a right-of-way area for the bypass or grant an easement for road improvements for the bypass. Any easement area will be free all buildings, but may contain parking, driveways, access roads and drainage improvements.

u. The developer of non-residential space in a mixed use development shall pay a fee equal to three (3.0) percent of the equalized assessed value of the land and improvements for all new non-residential construction on the property or any addition to existing structures to be used for non-residential purposes.

602. GENERAL EXCEPTIONS AND MODIFICATIONS

A. Christmas Tree Sale: The annual sale of Christmas trees is permitted in the "TCC", "CC", "HC", and "LM" zones between Thanksgiving and December 25, inclusive, provided that the municipal engineer is satisfied that adequate parking is available along with safe ingress and egress by pedestrians and vehicles. The operator shall be required to pay the cost of the review of the site by the municipal engineer.

B. Height Limits: Excepting for residential buildings as permitted in this Ordinance, penthouses or roof structures for the housing of stairways, tanks, ventilating fans, air conditioning equipment or similar equipment required to operate and maintain the building, and skylights, spires, cupolas, flagpoles, chimneys or similar structures associated with the building(s), may be erected above the height limits prescribed by this Ordinance, but in no case more than twenty percent (20%) more than the maximum height permitted for the use in the district.

C. Parking Of Commercial Vehicles In Residential Zones: One registered commercial vehicle of a rated capacity not exceeding two tons on four wheels, owned or used by a resident of the premises, shall be permitted to be regularly parked or garaged on a lot in any residential district, provided that said vehicle is parked in a side or rear yard area, which area is relatively unexposed to neighboring properties and is screened from neighboring properties by plantings at least five feet (5') in height. For purposes of this Ordinance, a commercial vehicle is a bus (excluding a school bus) and/or vehicle containing advertising matter intending to promote the interest of any business, whether or not said vehicle is registered as a "commercial" vehicle with the New Jersey State Division of Motor Vehicles; except that this provision shall not be deemed to limit construction equipment which is used on the site for construction purposes.

D. Parking Of Trailers And/Or Campers In Residential Zones: Travel trailers, campers, motor homes, horse trailers, boats, boat trailers, ATV and motorcycle trailers may be parked or stored only. Their dimensions shall not be counted in determining building coverage and they shall not be used for temporary or permanent living quarters while situated on the lot.

E. Public Election Voting Places: The provisions of this Ordinance shall not be construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

F. Public Utility Lines: Public utility lines for the transportation and distribution and control of water, electricity, gas, oil, steam, telegraph and telephone communications, and their supporting members, other than buildings or structures, shall not be required to be located on a lot nor shall this Ordinance be interpreted as to prohibit the use of a property in any zone for the above uses.

G. Garage Sales: Sales of a homeowner's or occupant's or several homeowners' or occupants' personal property, commonly known as garage, porch, or yard sales, are permitted from one of said homeowners' or occupant's property, provided the sale involves only personal property purchased or acquired by the respective homeowners or occupants holding the sale for their own respective household use. Sales of personal property other than property acquired for the seller's own household use, such as property purchased for resale or acquired by gift, consignment, or otherwise for the purpose of resale is not permitted and shall be considered in violation of this Section. Such permitted sales shall not be conducted more frequently than three (3) times within any twelve (12) month period for any one homeowner's or occupant's property, and shall not exceed three (3) days in duration.

One temporary sign not exceeding ten (10) square feet shall be permitted on the property where the sale is taking place. The sign may be erected 48 hours prior to the sale and must be removed 24 hours after the sale. No signs are permitted off site.

603. TOWNHOUSES AND APARTMENTS

No townhouse or apartment dwelling unit shall be constructed unless the dwelling is part of an approved site plan and unless the following minimum standards are met in addition to other applicable requirements of this Ordinance:

A. Each building and complex of buildings shall have an architectural theme with appropriate variations in design to provide attractiveness to the development; compatible within the development and in its relationship to adjacent land uses. Such variations in design shall result from the use of landscaping and the orientation of buildings to the natural features of the site and to other buildings as well as from varying unit widths, using different exterior materials, changing roof lines and roof designs, varying building heights and changing window types, shutters, doors, porches and exterior colors. Architectural elevations shall be submitted to the Board for review and approval.

B. All dwelling units shall be connected to approved and functioning water and sanitary sewer systems prior to the issuance of a Certificate of Occupancy.

C. All parking facilities shall be on the same site as the building and located within one hundred fifty (150) feet of the nearest entrance of the building they are intended to serve. Parking spaces shall be provided in areas designed specifically for parking and there shall be no parallel or diagonal parking along interior streets.

D. No outside area or equipment shall be provided for the hanging of laundry or the outside airing of laundry in any manner; sufficient area and equipment shall be made available within each building for the laundering and artificial drying of the laundry of the occupants of each building.

E. Dwelling units shall have access to a master television antennae system and individual units may not erect individual external television antennae.

F. Each dwelling unit shall have the following minimum net habitable floor areas:

Apartments		Townhouses	
Efficiency	500 sf.	--	
1 bedroom:	600 sf.	1 bedroom:	700 sf.
2 bedrooms:	725 sf.	2 bedroom:	850 sf.
3 bedrooms:	875 sf.	3 bedroom:	1,000 sf.

G. For each apartment unit, in addition to any storage area contained inside individual dwelling units, there shall be provided for each dwelling unit two hundred fifty (250) cubic feet of storage area in a convenient, centrally located area in the cellar, basement or ground floor of the building where personal belongings and effects may be stored without constituting a fire hazard and where said belongings and effects may be kept locked and separated from the belongings of other occupants.

H. No townhouse dwelling unit shall be less than twenty feet (20') wide.

I. Each townhouse may be provided with a patio or a deck in the rear yard only. The patio or deck may extend a maximum of twelve feet from the rear wall of the townhouse structure within the rear yard only. Decks must be uncovered and open to the sky and must be located off the main living level.

604 FLOOD PLAIN AREAS

A. Basis For Establishing Flood Plain Areas.

The mapping of flood plain areas within Hackettstown Town is indicated on the map entitled "Flood Hazard Areas" which is part of the municipality's "Master Plan Comprehensive Revision" document adopted October 25, 1988. As noted on the map, the basis for the delineation of flood plain areas was the Flood Boundary Maps prepared by the Federal Emergency Management Agency and dated September 1, 1983. However, it is recognized that more flood plain areas may exist in the Town than those already mapped. Moreover, the State Department of Environmental Protection, Division of Water Resources, in accordance with the Flood Hazard Area Control Act (N.J.S.A. 58-16A-50 et seq.), has adopted N.J.A.C. 7:13 and will be mapping the "flood hazard areas" in Hackettstown. The Department of Environmental Protection mapping shall take precedence when completed.

Additionally, while information depicted on the Flood Hazard Areas map has been prepared as accurately as possible; nevertheless, it must be understood that detailed information mapped at such a large scale may not represent the actual conditions on any particular parcel of land. Therefore, the information is not intended to take the place of specific on-site engineering data presented to the Town at the time applications are submitted for approval of a subdivision, site plan, construction permit, and/or any other application which considers the flood plain information depicted on the map.

B. Regulations For Flood Plain Areas.

1. Purpose

The purpose of these regulations is to permit only that development of flood prone areas within Hackettstown Town which 1) is appropriate in light of the probability of flood damage and the need to reduce flood losses, 2) represents an acceptable social and economic use of the land in relation to the hazards involved,3) does not increase the danger to human, plant or animal life, 4) provides that no decreases in the amount of available storage for flood waters within the flood plain results from any development; and conversely, to discourage all other development. These regulations are created in recognition of the increased threat, severity, and frequency of floods expected to result from continued development. It is intended to retain areas adjacent to streams and rivers free from structures and other obstructions to the water flow during the periodic rises in the water level.

These regulations are intended to protect flood plains so that flood water may have a natural course to follow; that the water course is not constricted or altered in a manner that will increase water velocities or create a dam; that the water level may rise without danger to persons, animals or property; and that the water level may rise and cover larger land surfaces for the purposes of greater water percolation and recharging of the underground water supply.

2. Definitions

a. Appeal: A request for the review of the Town Engineer's interpretation of any provision of this section of the Ordinance or a request for a variance from the Planning Board.

b. Channel: The bed and banks of the water courses located within the boundaries of the Town of Hackettstown which convey the normal flow of said water courses most of the time.

c. Design Flood Profile: The elevations of the water surface of the floodway design flood and the flood hazard area design flood.

d. 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 flood hazard area.

e. Flood Elevation Determination: A determination of the water surface elevations of the design flood, i.e., the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

f. Flood Fringe Area: The portion of the flood hazard area not designated as the floodway.

g. Flood Hazard Area: The floodway and the flood fringe area of a delineated stream.

h. Flood Hazard Area Design Flood: The 100-year storm in non-delineated areas and the 100-year storm plus twenty-five percent (25%) in delineated areas.

i. Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry areas from:

1) Inland or tidal waters; and

2) The unusual and rapid accumulation of run-off of surface water from any source.

j. Flood Plain: The relatively flat area adjoining the channel of a natural stream which has been or may be hereafter covered by flood water.

k. Flood Plain Management Regulations: State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

l. Floodway: The channel of a natural stream and portions of the flood hazard area adjoining the channel which are reasonably required to carry and discharge the flood water or flood flow of any natural stream.

m. Habitable Floor: For flood plain management purposes, any floor, including the basement, useable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a “habitable floor”.

n. New Construction: Structures for which the start of construction commenced on or after the effective date of this Ordinance.

o. Structure: For flood plain management purposes, a walled or roofed building, including a gas or liquid storage tank, that is principally above ground. For insurance purposes, “structure” means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed

to a permanent site. For the latter purpose, the term includes a building while in the course of construction, alteration or repair but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such material or supplies are within an enclosed building on the premises.

p. Substantial Improvement: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

1) Before the improvement or repair is started; or,

2) If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, floor or other structural part of the floor commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

(a) Any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which is solely necessary to assure safe living conditions; or,

(b) Any alteration of a structure listed on the National Historic Register of Historic Places or the State Inventory of Historic Places.

q. Variance: A grant of relief by the Planning Board from the requirements of this Section permitting construction in a manner otherwise prohibited by this section of the Ordinance because the literal enforcement would result in unnecessary hardship.

C. Site Plan Review

All proposals for any development within a flood plain area shall require site plan approval by the Planning Board in accordance with Section 800 of this Ordinance; provided, however, that when a plan does not include the construction of permanent buildings or structures but, instead, includes such work as grading, landscaping, work associated with agricultural uses and similar uses, the requirement for site plan approval may be waived by the Planning Board upon written recommendation from the Town Engineer. In any case, all other requirements of this section of the Ordinance shall apply.

Fees shall be as provided for site plans in Section 900 of this Ordinance and public notice of public hearings shall be given as stipulated for site plans in Section 706 D. of this Ordinance. In addition to the applicable information required for preliminary site plan approval stipulated in Section 804 of this Ordinance, the following additional information shall be provided:

1. Proposed finished grade elevations at the corners of any structure or structures.

2. The extent of proposed or previous filling, cutting or regrading of the land, if any.

3. The location, type and size of all existing and proposed erosion and siltation control measures, such as slope protection, soil stabilization, sedimentation basins, sediment trap head walls and aprons.

4. Proof of stream encroachment lines (floodway) obtained from the State Department of Environmental Protection. Should this information not be available through the Department of Environmental Protection, it is required that the applicant submit a floodway delineation for the reach of the stream involved with all required engineering data to the Town Engineer for review and approval.

5. The applicant should be prepared to present evidence that the proposal:

    a. Has an inherent low flood damage potential.

    b. Either acting alone or in combination with the existing or future uses will not obstruct flood flows or increase flood heights and/or velocities or reduce ground absorption or storage volume of storm water.

    c. Does not affect adversely the water carrying or storage capacity of the channel, floodway or flood fringe areas.

    d. Does not increase local run-off and erosion and provides proper drainage of the area to an existing adequate water course or drainage system.

    e. Does not unduly stress or degrade the natural environment of the flood plain or degrade the quality of surface water or the quality or quantity of ground waters.

    f. Does not require channel modification or relocation.

    g. Is set forth in this Ordinance as a permitted use.

    h. Is not a prohibited use in that portion of the flood plain where proposed to be located.

6. Where required by the Planning Board, the applicant shall furnish information relating to subsurface conditions based on percolation tests and soil borings or probes. Test borings or probes shall be performed by a licensed professional engineer and shall be in accordance with acceptable engineering standards and

practices. Written notification of intention to conduct such tests shall be forwarded to and received by the Town Engineer at least two (2) working days prior to testing. A detailed report of the test shall be submitted to the Planning Board and the Town Engineer for review.

D. Uses In Floodways And Flood Fringe Areas

1. Prohibited Uses

No person shall hereafter engage in, cause or permit other persons to engage in prohibited uses within a delineated flood plain. The following uses shall be prohibited:

a. Placing, depositing or dumping any vehicles, solid waste, garbage, refuse, trash, rubbish or debris.

b. Dumping or discharging untreated domestic sewerage or industrial waste, either solid or liquid.

c. Storage or disposal of pesticides.

d. Storage or processing of materials that are in time of flooding buoyant, flammable or explosive.

e. The storage or processing of hazardous materials that could be injurious in time of flooding to human, animal or plant life.

2. Permitted Uses in Floodways

Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood lands during the occurrence of a flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Channel improvements or changes may be permitted only in connection with stream improvements and stabilization, which improvements or changes have the approval of the State Department of Environmental Protection, the Warren County Planning Board and the Hackettstown Town Planning Board. The accepted practices of soil husbandry and farming as well as recreational uses in the nature of parks, wildlife preserves, play yards, picnic areas, golf courses and boat landings shall be permitted. Material, equipment or vehicles related to and used in conjunction with a permitted use shall not be parked or stored in the floodway area.

3. Permitted Uses In The Flood Fringe Areas

Within any flood fringe area, the accepted practices of soil husbandry and farming as well as restricted uses in the nature of parks, wildlife preserves and undeveloped common open space shall be permitted provided site plan approval is acquired from the Town. Additionally, detached dwellings and related development may be constructed on lands within the flood fringe area provided that the lowest habitable floor is at a minimum of one (1) foot above the flood hazard design elevation and provided further that:

a. No more than twenty-five percent *(25%)* of any lot shall be flood plain lands; otherwise, each lot shall be a minimum of five (5) acres in area outside or beyond the floodway;

b. Each lot have direct access to a public street; and

c. The lot coverage not exceed five percent *(5%)* in the flood fringe area.

E. Conditions Of Approval

The Planning Board may impose such conditions on permitted uses as it deems appropriate in order to promote the public safety, health and welfare to protect public and private property, wildlife and fisheries and to preserve and enhance the natural environment of the flood plain. No Certificate of Occupancy shall be issued unless all conditions of approval have been complied with. In all flood hazard areas, the following conditions are specified in any case:

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

3. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

4. All new and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into the flood waters.

5. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

6. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

7. All subdivision proposals shall be consistent with the need to minimize flood damage.

8. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

9. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

10. Appropriate and adequate controls on operations, sureties, deed restrictions and maintenance bonds shall be provided, as applicable, for review and approval by the Planning Board Attorney.

11. The construction of storm water detention and/or retention facilities, channel modifications, dikes, levees and other protective measures may be required as determined by the Town Engineer.

12. The installation of an adequate flood warning system shall be required.

13. The postponement of development until such a time as any necessary and required pre-construction protective measures are installed or implemented shall be required.

14. New construction or substantial improvement of any residential structure shall have the lowest habitable floor, including a cellar or basement, elevated to one (1) foot above the design flood elevation.

15. New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including a cellar or basement, elevated to one (1) foot above the design flood elevation or, together with the attendant utility and sanitary facilities, be floodproofed so that below the design flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A licensed professional engineer or architect shall certify that the standards of this section of the Ordinance are satisfied. Such certification shall be provided to the Planning Board. Any or all of the following floodproofing measures may be required:

    a. Installation of watertight doors, bulkheads and shutters, or similar devices.
    b. Reinforced walls to resist water pressure.

c. Use of paints, membranes or mortars to reduce seepage of water through walls.

d. Addition of weights to structures to resist flotation.

e. Installation of pumps to lower water levels of structures.

f. Pumping facilities or comparable measures for the subsurface drainage systems of the building to relieve external foundation wall and basement flood pressures. Over the sidewalk and under the sidewalk gravity or sump pump drains are not permitted. All such drains shall outlet into an existing adequate water course or drainage system.

g. Construction that resists rupture or collapse caused by water pressure or floating debris.

h. Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewerage or storm waters into the structure; gravity drainage of basements may be eliminated by mechanical devices.

i. Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to inundation and flooding.

16. Where and when permitted, fill shall be no lower than one foot (1') above the flood design elevation and shall extend at such height for a distance of at least fifteen feet (15') beyond the limits of any structure erected thereon.

17. Where and when permitted, structures on fill shall be so built that the basement, or in the event there is no basement, that the lowest habitable floor is at a minimum of one foot (1') above the flood hazard design elevation.

F. Variances From Conditions

Variances from the conditions of this section of the Ordinance may be granted by the Hackettstown Town Planning Board in conformance with the following provisions:

1. For the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Register of Historic Places.

2. If an increase in flood levels within any designated floodway or flood fringe area would not occur during the design flood.

3. Upon a determination that the variance is the minimum necessary to afford relief considering the flood hazards.

4. Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant and a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

G. Flood Insurance

Flood insurance in accordance with the Federal Insurance Agency shall be required for all development in the flood plain.

H. Warning And Disclaimer

The degree of flood protection required herein 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 Ordinance does not imply that land outside flood hazard areas will be free from flooding or flood damage. This Ordinance shall not create liability on the part of the Town of Hackettstown or by any other officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

605 PLANNED DEVELOPMENTS

A. Types And Locations

"Planned Residential Developments" are permitted on tracts of land at least forty (40) acres in area where indicated on the zoning map; the tract may be comprised of non-contiguous land areas.

"Planned Family Rental Developments are permitted where indicated on the zoning map."

B. Planned Family Rental Developments Standards

1. The maximum number of dwelling units within the Planned Family Rental Development Overlay District shall be 200.

2. The maximum number of dwelling units permitted within the District is 14.3 dwelling units per gross acre of land, except that Lot 2 in Block 45 may be developed at a net density of 22 dwelling units per acre provided that the 14.3 dwelling units per acre gross density for the District is not exceeded.

3. All units shall be rental units for families. No age restricted units are permitted.

4. At least 40% of the total number of units shall be subsidized or otherwise made affordable to "low" and "moderate" income non-age restricted households, as discussed and defined in the "Mt. Laurel II" Supreme Court Decision and the New Jersey State Affordable Housing regulations.

5. Individual dwelling units set aside for affordable housing shall meet the minimum net habitable floor area per number of bedrooms as required by New Jersey State Affordable Housing regulations.

6. A maximum of 15,000 square feet of commercial space is permitted to be constructed on Lot 1.01 in Block 45 in a freestanding building(s) as part of any planned family rental unit development. General office, retail and medical office uses are permitted to be constructed in such a building. No more than 30 percent of the total commercial floor area shall be devoted to the sale of retail goods. The type of retail commercial uses envisioned for this district are those that provide convenient access within walking distances or reduced vehicular travel to basic goods and services for nearby residences and employees. Preferred retail uses are those fulfilling a social role as informal places encouraging frequent contact and familiarity for residents and employees. Typical uses include cafes, fitness centers, corner stores, barber shops, and the like.

7. A site plan application must be filed with the Planning Board for the entire overlay district and not in phases so that all development impacts can be assessed and compliance with the LDO confirmed.

8. The following uses shall be permitted:

    a. Principal Uses Permitted:
        1. Family rental apartments.
        2. Retail sales of goods and personal services on the first floor of a freestanding commercial building or a mixed use building. Retail and Personal Services not permitted in this district include tattoo and massage parlors, pawn shops, dance halls, drug paraphernalia shops, escort services, nail salons not in conjunction with a full beauty shop and financial service centers.
        3. Offices and office buildings.
        4. Health related professional, business, and/or medical/dental offices.
        5. Public playgrounds, public conservation areas, public parks, public open space and "public purpose uses" in accordance with Section 200 of the LDO.

b. Accessory Permitted Uses:
   1. Commercial swimming pool in accordance with Section 515 of the LDO.
   2. Clubhouse, community building or center and accessory recreation facilities typically associated with the principal uses.
   3. Parking facilities in accordance with Sections 508 and 605 of the LDO.
   4. Refuse enclosures.
   5. Stormwater Management facilities.
   6. Fences and walls (See Section 503).
   7. Signs (See Section 513).

9. The applicant shall provide for the management of surface water in accordance with Section 525 of the LDO and all applicable RSIS requirements.

10. A land area or areas equal in aggregate to at least two hundred fifty (250) square feet per dwelling unit shall be designated on the site plan as active and passive recreational use for the residents of the overlay district. Lands allocated for above ground stormwater management facilities are not permitted to be used to comply with the recreation area requirements in this subsection.

11. Residential units shall comply with the Residential Site Improvement Standards (RSIS) as to the amount of off-street parking to be provided. Retail and commercial uses shall provide one (1) parking space for every 200 square feet of floor area. The quantity of parking in commercial areas can be reduced up to 25 percent of the total required off-street parking if permitted by the Board based upon a showing of shared parking potential.

    In addition, parking areas shall comply with the following:

    a. Areas around or within parking areas that are not paved shall be suitably landscaped. All such landscaping shall be indicated on the plan and be in addition to landscaping otherwise required or necessary;

    b. Parking for visitors shall be provided and indicated on the site plan;

    c. All parking areas shall be illuminated in accordance with the provisions in Section 504 of the LDO;

    d. Drainage systems shall be installed in parking areas in accordance with Section 525 of the LDO and the provisions in the RSIS;

    e. If the Board agrees to defer the paving of certain parking areas, the applicant shall agree in writing on the plan to construct and pave any or all of the future parking areas should the parking areas prove to be inadequate to accommodate the on-site parking needs of the premises.

12. The maximum lot coverage in aggregate on Lots 1.01 and 2 in Block 45 shall be 55%.

13. All driveways and parking areas shall be constructed at least 10 feet from any property lines, except that the setback for parking areas and driveways from the Bilby Road right-of-way line shall be at least 20 feet.

14. The number of driveway openings within the Bilby Road right-of-way shall be minimized. Developer shall secure permission from the owner of Lot 1 in Block 45 to utilize the existing driveway on this tract in an effort to minimize driveway openings as part of the family rental unit development.

15. Building height for family rental unit buildings shall not exceed sixty-two (62) feet and four (4) stories.

16. The bedroom mix of the low and moderate income residential units provided shall be as follows unless otherwise directed by the Commissioner of the Department of Community Affairs.

    a. <u>One bedroom units</u> – 20% of the overall number of units.
    b. <u>Two bedroom units</u> – 60% of the overall number of units.
    c. <u>Three bedroom units</u> – 20% of the overall number of units.

17. No building shall be situated within fifty (50) feet of a property boundary except that the setback for buildings to the Bilby Road right-of-way line shall be one hundred (100) feet.

C. Planned Residential Developments

1. Principal Permitted Uses On The Land And In Buildings

a. Townhouses (see Section 603) for additional standards.

b. Apartments, provided that no more than fifteen percent (15%) of the total residential dwelling units on any one tract are apartments (see Section 603 for additional standards).

c. Detached single-family dwelling units.

d. Professional and Medical Offices provided that said uses shall occupy no more than ten percent (10%) of the overall tract acreage.

e. Public playgrounds, public conservation areas, public parks, public open space and 'public purpose uses' as defined in Section 200 of this Ordinance.

2. Accessory Uses Permitted

a. Private residential swimming pools (see Section 515 for standards), and other usual recreational facilities.

b. Off-street parking and private garages (see Section 605 C.6. hereinbelow and 508).

c. Fences and walls (see Section 503).

d. Signs (see Section 605 C.8. hereinbelow and Section 513).

e. Temporary construction trailers and one (1) sign not exceeding fifty (50) square feet, advertising the prime contractor, subcontractor(s), architect, financing institution and similar data for the period of construction beginning with the issuance of the first construction permit and concluding with a Certificate of Occupancy or one year,

whichever is less, provided said trailer(s) and sign are on the site where construction is taking place and are set back at least thirty feet (30') from all street and lot lines.

f. Accessory uses customarily incidental to principal permitted uses.

3. Maximum Building Height

No building shall exceed thirty-five feet (35') in height and two and one-half (2.5) stories except as allowed in Section 602 and except further that townhouse and apartment buildings shall not exceed forty feet (40') and three and one-half (3 1/2) stories in height.

4. Maximum Number Of Dwelling Units Permitted

The maximum number of dwelling units permitted within a Planned Residential Development is equal to four (4) dwelling units per gross acre of land, except that any contiguous portion of the total tract may be developed at a net density of up to eight (8) dwelling units per acre provided that the four (4) dwelling units per acre aggregate gross density is not exceeded. It is the specific intent of this Ordinance that no structures be constructed on any wetlands or flood plain lands within a Planned Residential Development.

5. Area. Yard And Distance Requirements

a. Townhouses and Apartments

Minimum distance between townhouses and apartment buildings shall be measured horizontally in feet and shall be measured away from the front, side and rear of each building. The minimum distances shall be as indicated below:

Minimum Location	Distance
Windowless wall to windowless wall of buildings	30 Ft.
Window wall to windowless wall of buildings	30 Ft.
Window wall to window wall of buildings	50 Ft.
Front to front of buildings	75 Ft.
Rear to rear of buildings	50 Ft.
End to end of buildings	30 Ft.
Any building face to collector street right-of-way line	40 Ft.

Any building face to any right-of-way line of a street (public or private) which is not arterial or collector	25 Ft.
Any building face to arterial street right-of-way line	50 Ft.
Any building face to common parking area	12 Ft.

The approving authority may reduce the above distances by not more than one-third (1/3) if there is an angle of twenty (20) degrees or more between buildings and if extensive landscaping or buffers are placed between buildings.

Fee simple lots shall meet the requirements specified in Section 605 E. of this Ordinance.

b. <u>Detached Single-family Dwelling Units</u>

Minimum Lot Area	6,000 Sq. Ft.
Minimum Lot Frontage	60 Ft.
Minimum Lot Depth	80 Ft.
Minimum Rear Yard	20 Ft.
Minimum Lot Width	60 Ft.
Minimum Side Yard	7.5 Ft. from the lot line, provided however that this setback may be reduced to 3 Ft. on one side so long as the distance between buildings is at least 15 Ft.
Minimum Front Yard	25 Ft.
Maximum Building Coverage of principal building	20%
Maximum Lot Coverage	40%

<u>Accessory Building Structure Minimum</u>

Distance to side line	5 Ft.
Distance to rear line	5 Ft.
Distance to other building	10 Ft.

Private Residential Swimming Pools (See Section 515)

c. Non-Residential Uses.

Areas devoted to the permitted non-residential uses shall meet the following requirements:

1) A maximum impervious coverage of sixty percent (60%), plus an additional five percent (5%) for amenity areas, plazas and similar design features, and a maximum floor area ratio of 0.25 shall be permitted.

2) At least the first fifteen feet (15') adjacent to any street or property line shall not be used for parking and shall be planted and

maintained in lawn area, ground cover, or landscaped with evergreen shrubbery.

3) No merchandise, products, equipment or similar material or objects shall be displayed or stored outside and all solid waste not stored within a building shall be stored within an enclosed container situated on an adequate concrete foundation and screened with a fence and plantings.

4) All areas not utilized for buildings, parking, loading, access aisles and driveways or pedestrian walkways shall be suitably landscaped with shrubs, ground cover, seeding or similar plantings and maintained in good condition. In any case, no less than forty percent (40%) of the total lot area devoted to the permitted non-residential uses shall be landscaped; provided that the amenity areas, plazas and similar design features noted hereinabove as well as yard areas shall be considered as part of the required forty percent (40%) landscaping requirement.

5) The minimum side and/or rear yard setback area shall include a planted buffer of twenty-five feet (25') along any common property line with a residential district.

6) Area and Yard Requirements

Minimum Lot Area	20,000	Sq. Ft.
Minimum Lot Frontage	120	Ft.
Minimum Lot Width	120	Ft.
Minimum Lot Depth	150	Ft.
Minimum Side Yard (each)	25	Ft.
Minimum Front Yard	45	Ft.
Minimum Rear Yard	30	Ft.

6. <u>Minimum Off-Street Parking</u>

Each individual use shall provide parking spaces according to the following minimum provisions. Where a permitted use of land includes different specific activities with different specific parking requirements, the total number of required parking spaces shall be obtained by individually computing the parking requirements for each different activity and adding the resulting numbers together.

a. Townhouses and apartments shall provide two and one half (2.5) spaces for each unit.

b. Single-family dwellings shall provide three (3) spaces for each unit.

c. Professional offices shall provide one (1) space for every two hundred fifty (250) square feet or fraction thereof of gross floor area.

d. Medical and dental offices shall provide one (1) space for every one hundred fifty (150) square feet or fraction thereof of gross floor area.

e. In any event, each use shall provide a sufficient number of spaces in appropriate locations so that no driveway, aisle, fire lane or street right-of-way is used at any time for parking. Moreover, parking areas for individual uses shall be designed to be interconnected with adjacent properties and shall utilize common entrance(s) and exit(s), where feasible, to minimize access points to the street(s).

f. See Section 508 for additional standards.

7. Minimum Off-Street Loading

Each non-residential building shall provide for off-street loading and unloading with adequate ingress and egress from streets and with adequate space for maneuvering and shall provide such area at the side or rear of the building. Each space shall be at least fifteen feet by forty feet (15’ x 40’) and a minimum of one (1) space shall be provided for each building. Additional spaces may be necessary and required dependent upon the specific activity. There shall be no loading or unloading from the street.

8. Permitted Signs

a. Each townhouse or apartment development may have one (1) sign along each public street which the tract in question abuts. Such signs shall not exceed ten feet (10’) in height, shall be set back from the street rights-of-way and driveways at least ten feet (10’), shall be set back from any adjacent property line a minimum of thirty feet (30’), shall not exceed an area of twenty (20) square feet, and shall be used only to display the development’s name and telephone number.

b. Offices: One (1), either free-standing or attached, not exceeding twelve (12) square feet in area. If free-standing, the sign shall not exceed ten feet (10’) in height and shall be set back at least five feet (5’) from all street and property lines.

Where a principal use occupying at least seven hundred fifty (750) square feet of segregated area has direct access from the outside, an unlighted sign not exceeding two (2) square feet in area, identifying the name of the activity, also may be attached to the building at the entrance.

c. See Section 513 for additional standards.

9. Buffers

A landscaped and bermed buffer a minimum of fifty feet (50') in width shall be located along any tract boundary line of a Planned Residential Development wherein townhouses or apartments are proposed, except that the buffer shall not be required in areas where the closest existing dwelling unit is at least two hundred feet (200') from the property line otherwise to be buffered. The buffer shall contain a berm at least four (4) feet in height and shall be planted with at least a double staggered row of evergreen trees, twelve (12) feet on center and at least six feet (6') in height when planted so that at maturity the plant material will be no closer than three feet (3') from any property line. As an option, the buffer planting may consist of a naturalized planting of coniferous trees, shade trees, flowering trees and deciduous and evergreen shrubs subject to the review and approval of the Town Engineer and Planner. Buffers shall not be required where detached single family dwelling units are proposed adjacent to any tract boundary. However, detached single family dwelling units shall be setback at least fifty (50) feet from any tract boundary.

10. A conservation easement at least two hundred feet (200') in width or to the 560 foot elevation contour line, whichever is less extensive, shall be located along the Musconetong River measured from the top of the bank.

11. Common Open Space Requirements

See Section 605 D. for standards, requirements and guidelines.

12. Low And Moderate Income Housing Requirements

a. At least eleven percent (11%) of the total number of residential dwellings within a Planned Residential Development (PRD) shall be subsidized or otherwise made affordable to 'low' and 'moderate' income households as discussed and defined in the "Mt. Laurel II" Supreme Court Decision (So. Burlington Cty. N.A.A.C. v. Mt. Laurel Tp.. 92 N.J. 158 (1983), and, moreover, for each acre of land within the PRD devoted to the permitted non-residential uses, the developer shall be required to provide an additional 0.222 units per acre of 'low'' and 'moderate' income housing (11% of 4 du/ac) within the residentially developed portion of the PRD, without increasing the overall permitted number of dwelling units within said residential portion of the PRD.

b. See Section 606 for additional standards and requirements.

D. Open Space Requirements

1(a) **SECTION 1(a) WAS DELETED IN ITS ENTIRETY PER ORDINANCE 2001-23. SECTION RESERVED.**

1(b) Planned Residential Developments

Land area equal to a minimum of thirty percent (30%) of the tract of land proposed for a "Planned Residential Development" (excluding any lands proposed for the optional nonresidential development) shall be specifically set aside for conservation, open space, flood plain, recreation and/or other common open space. Land utilized for street rights-of-way shall not be included as part of the above thirty percent (30%).

Moreover, no more than one-half (1/2) of the minimum required open space area may be wetlands or flood plain lands, except that the Planning Board may permit up to two-thirds (2/3) of the minimum required open space area to be wetlands or flood plain lands, provided that at least one-third (1/3) of the minimum required open space is developed with active recreation facilities, such as ballfields, tennis and basketball courts, other game areas, playgrounds, trails and/or similar facilities. In any case, an open space and recreation plan shall be submitted to the Planning Board and shall indicate the open space lands and the location and type of active recreation facilities, construction details, additional landscaping, and all other necessary site design requirements.

2. In its preparation of the set-aside common open space and the purposes proposed for its use, the developer shall be guided by the following high priority concerns of the Town:

a. The location and construction of adequate recreational facilities throughout the Town for public use;

b. The conservation of stream rambles for passive recreational use;

c. The protection of environmentally fragile and important resource land areas, including aquatic buffer areas, flood plains, wetlands, and treed acreage;

d. The distribution and location of the open space within the development so that as many residential buildings and individual dwelling units as is practicable abut and have access to the common open space.

The Town shall review the submitted common open space plan in the context of the particular development proposal, the particular characteristics of the subject land area, and the ability, desirability and practicality of relating the proposed open space to adjacent and nearby lands. In any case, the lands shall be improved as may be necessary to best suit the purpose(s) for which they are intended.

3. Should the proposed development consist of a number of stages, the Planning Board may require that acreage proportionate in size to the stage being considered for final approval be set aside simultaneously with the granting of final approval for that particular stage, even though these lands may be located in a different section of the overall development.

4. Common open space may be deeded to the Town or dedicated to an open space organization or trust, with incorporation and by laws to be approved by the Planning Board. If common open space is not dedicated and accepted by the Town, the landowner shall provide for and establish an open space organization or trust for the ownership and maintenance of the common open space. Such organization or trust shall not be dissolved, nor shall it dispose of any common open space by sale or otherwise.

   a. If the applicant proposes that the common open space shall be dedicated to the Town, then the Planning Board shall forward such request with its recommendation to the Town Council prior to the granting of preliminary plan approval of any development application containing common open space.

   b. All lands not offered to and/or not accepted by the Town shall be owned and maintained by an open space organization or trust as provided in N.J.S.A. *40:55D-43* and stipulated herein.

5. In the event that the organization created for common open space management shall fail to maintain any open space or recreation area in a reasonable order and condition in accordance with the approved site plan, the Town may serve notice upon such organization or upon the owners of the development, setting forth the manner in which the organization has failed to maintain such areas in reasonable conditions, and said notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof and shall set the date and place of a hearing thereon

which shall be held within fifteen (15) days of the notice. At such hearing the Town may modify the terms of the original notice as to the deficiencies and may give an extension of time not to exceed sixty-five (65) days, within which time the deficiencies shall be cured.

a. If the deficiencies set forth in the original notice or in modifications thereof shall not be cured within said thirty (30) days or any extension thereof, the Town, in order to preserve the common open space and maintain the same for a period of one year, may enter upon and maintain such land. Said entry and said maintenance shall not vest in the public any rights to use the open space and recreation areas except when the same is voluntarily dedicated to the public by the owner.

b. Before the expiration of said year, the Town shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of said areas, call a public hearing upon fifteen (15) days written notice to such organization and to the owners of the development to be held by the Town, at which hearing such organization and owners of the development shall show cause why such maintenance by the municipality shall not, at the election of the Town, continue for a succeeding year. If the Town shall determine that such organization is ready and able to maintain such open space and recreation areas in reasonable condition, the Town shall cease to maintain such open space and recreation areas at the end of said year. If the Town shall determine such organization is not ready and able to maintain said open space and recreation areas in a reasonable condition, the Town may, in its discretion, continue to maintain said open space and recreation areas during the next succeeding year and, subject to a similar hearing, a determination in each year thereafter. The decision of the Town in any case shall constitute a final administrative decision subject to judicial review.

c. The cost of such maintenance by the Town shall be assessed pro rata against the properties within the development that have a right of enjoyment of the open space in accordance with the 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 Town in the same manner as other taxes.

d. Any open space organization or trust initially created by the developer shall clearly describe in its by-laws the rights and obligations of the homeowners and tenants in the residential development and the articles of incorporation of the organization shall be submitted for review by the Planning Board prior to the granting of final approval by the Town.

E. <u>Fee Simple Townhouse Lots</u>

Lot and yard dimensions encompassing individual townhouse dwelling units may be freely disposed and arranged on a tract of land, provided they are superimposed upon an approved site plan for the subject development. Additionally, the following provisions shall be met:

1. The boundaries of any lot shall not infringe upon any common open space land areas, nor shall the boundaries of any lot be closer than five feet (5') from any driveway or parking lot area.

2. No lot line shall be located closer than twenty-five feet (25') from any tract property line or any "collector" street, nor closer than ten feet (10') from any "local" street.

3. No construction permit shall be issued for any townhouse dwelling unit, at any time, unless the proposed construction is in accordance with the approved site plan, and this condition shall be recited in the deed of the subdivided townhouse lot.

606 AFFORDABLE HOUSING PROVISIONS

A. Purpose

The purpose of these Ordinance provisions is to comply with the New Jersey State Supreme Court Decision known as "Mt. Laurel II" establishing a mechanism for assuring that housing units designated for occupancy by 'low' and 'moderate' income households remain affordable to, and occupied by, 'low' and 'moderate' income households.

B. Definitions

For the purpose of this Ordinance, certain phrases and words are herein described as follows: words used in the present tense include the future; words used in the singular number include the plural number and vice versa; the word "used" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used; the word "lot" includes the word "plot" and "premises"; the word "family" shall include the word "household"; the word "building" includes the words "structure", "dwelling" and "residence"; the word "shall" is mandatory and not discretionary. Any word or term not defined herein shall be used with a meaning as defined in Webster's New International Dictionary of the English Language, unabridged and latest edition. Moreover, whenever a term is used in this chapter which is defined in N.J.S.A. 40:55D-1, et seq., such term is intended to have the meaning as defined in N.J.S.A. 40:55D-l et seq., unless specifically defined otherwise in this Ordinance.

Administrative Agent – The entity responsible for administering the affordability controls of some or all units in the affordable housing program for the Town of Hackettstown to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low-income and moderate-income households.

Affordable Housing Plan: An instrument constituting restrictive covenants running with the land with respect to the 'low' and 'moderate' income units described and identified in such instrument.

Affordable Unit: A housing unit in the Town, the sale or rental of which is established in accordance with this Ordinance and which shall be sold or rented to a 'low 'or 'moderate' income family in accordance with this Ordinance.

Agency: The Affordable Housing Agency of the Town of Hackettstown created pursuant to this Ordinance, or any successor duly authorized by the Hackettstown Town Council to carry out the powers and duties of the Agency.

Assessments: Levies, charges or assessments, both public and private, including those imposed by a Homeowners' Association upon the units which are part of the Homeowners' Association.

COAH: The New Jersey Council on Affordable Housing.

Developer: The legal or beneficial owner or contract purchaser of land or property subject to the affordable housing construction and rehabilitation requirements of the Affordable Housing Plan.

Development Fees: Money paid by an individual person, partnership, association, company or corporation for the improvement of property as permitted under COAH's rules.

Equalized Assessed Value: The value of a property determined by the Town tax assessor through a process designated to ensure that all property in the Town is assessed at the same assessment ratio or ratios required by law. Estimates at the time of issuance of a building permit may be obtained utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the Town tax assessor.

Family: All persons living as a single non-profit housekeeping unit, whether or not the same are related by blood, marriage or otherwise. Family should also be synonymous with "Household".

First Purchase Money Mortgage: The most senior mortgage securing a loan used for the purchase of a unit.

First Purchase Money Mortgagee: The most senior mortgagee holder who has loaned funds for the purchase of a unit or the assigns of such most senior mortgage holder. Such mortgagee must be an institutional lender or investor, licensed or regulated by a State or Federal government or an agency thereof.

Foreclosure: A termination of all rights of the mortgagor or the mortgagor's assigns or grantees in a unit covered by a recorded mortgage through legal processes, or through a Deed in lieu of foreclosure which has been executed prior to a judicially-regulated sale. Foreclosure shall not take place before the exhaustion of remedies as set forth in this Ordinance.

Gross Aggregate Family Income: The total annual income from all sources of all members of the household or family, as determined and adjusted in accordance with the rules and regulations promulgated by the Town.

Improvements: Additions within a unit, including materials, supplies, appliances or fixtures which become a permanent part of, or affixed to, a unit.

Income: All income, from all sources, such as compensation for employment services, wages, salaries, interest, rents, dividends and gains from the sale of property, pension benefits and government benefits.

Low Income Family: A family whose gross aggregate income is no greater than fifty percent (50%) of the median income of the region, with adjustments for smaller and larger families. The Town shall qualify prospective purchasers of Affordable Units as "low income" families prior to a developer selling an Affordable Unit to a prospective purchaser.

Low Income Purchaser: A "low income" family purchasing an Affordable Unit.

Low Income Renter: A "low income" family renting an Affordable Unit.

Low Income Unit: A housing unit which is affordable to a 'low income' family.

Market Unit: Any unit in a development which is not designated an Affordable Unit.

Master Deed: The Master Deed and Declaration of Restrictive and Protective Covenants, including By-Laws and Rules and Regulations, for a housing development to be recorded in the Office of the Clerk of Warren County, and any proper amendments thereto.

Median Income or Median Family Income: The most recent annual median family income figure for Warren County published by the New Jersey Council on Affordable Housing; or such area or such figure that may be accepted pursuant to order by a Court of competent jurisdiction for the purpose of establishing Median Family Income to determine housing price levels.

Moderate Income Family: A family whose gross aggregate income is no greater than eighty percent (80%) and no less than fifty percent (50%) of the median income of the region, with adjustments for smaller and larger families. The Town shall qualify prospective purchasers of an Affordable Unit as Moderate Income Families prior to a developer selling an Affordable Unit to a prospective purchaser.

Moderate Income Purchaser: A "moderate income" family purchasing an Affordable Unit.

Moderate Income Renter: A "moderate income" family renting an Affordable Unit.

Moderate Income Unit: A housing unit which is affordable to a "moderate income" family.

Municipal Housing Liaison - The employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for the Town of Hackettstown.

Net Habitable Floor Area: The heated living area of a housing unit, exclusive of basements, attics and garages.

Owner: The then current title holder of record of a unit as same is reflected in the most recently dated and recorded deed for a particular unit. For purposes of the initial sales, the owner shall include the developer. Ownership of a unit shall be deemed to be acceptance and ratification of an Affordable Housing Plan for the development in which the unit is located and all its provisions.

Qualified Purchaser: A person or family who, pursuant to this Ordinance and an Affordable Housing Plan: (1) submits an Application for Certification as a Qualified Purchaser to the Town; (2) whose Gross Aggregate Family Income at the time of proposed purchase is within 'low' or 'moderate' income levels, as these income levels are defined herein; and (3) who obtains certification as a Qualified Purchaser from the Town pursuant to the rules and regulations of the Town. Once a Qualified Purchaser becomes an owner in accordance with the provisions of this Ordinance and an Affordable Housing Plan, any increase or decrease in the Gross Aggregate Family Income of such owner shall not affect ownership rights, privileges or obligations of such owner for a period of five (5) years. The term "Qualified Purchaser" also shall include a person or family who occupies the Affordable Unit on a rental basis, subject to the qualifications and conditions stated above and elsewhere herein.

Any person who submits false information in support of an application for certification and who subsequently receives such certification and either a title to an Affordable Unit as owner or possession of an Affordable Unit as tenant, shall be deemed to have committed a substantial breach of the provisions of this Ordinance and the Affordable Housing Plan and any right of ownership or occupancy of such unit shall be subject to forfeiture pursuant to the provisions of Section 1.3. of this Ordinance.

Region: The 'West Central' region as designated by the New Jersey Council on Affordable Housing including the Counties of Somerset, Hunterdon, Middlesex and Warren in the State of New Jersey.

Substantive Certification: A determination by COAH approving the Town's housing element and fair share plan in accordance with the provisions of the Fair Housing Act and the rules and criteria as set forth therein. A grant of substantive certification shall be valid for a period of six years in accordance with the terms and conditions contained therein.

Total Monthly Housing Costs: The total of the following monthly payments associated with the cost of the housing: mortgage payment (principal, interest, private mortgage insurance); applicable assessments by a Homeowners' Association; real estate taxes; and fire, theft and liability insurance. For rental units, housing costs also shall include utilities.

C. Establishment Of Affordable Housing Agency

1. Designation

The Town Council of the Town of Hackettstown shall designate an Affordable Housing Agency, which Agency shall be responsible for administering the Affordable Housing Ordinance.

Such Agency may be a group of citizens of the municipality appointed by the Town Council, the Town Clerk or a member of his/her staff appointed by the Clerk, an independent consultant or other entity under contract to the Town Council, any other entity created by the Town Council for this purpose, or any combination of the preceding. A fee schedule shall be established by the Town Council to cover the costs of the Agency, and such fees shall be paid by the owner or renter of the Affordable Unit.

2. Powers and Duties

a. Within sixty 60 days of its organizational meeting, the Affordable Housing Agency shall prepare and forward to the Town Council such rules and regulations as may be necessary to implement the policies and goals of this Ordinance. Such rules shall be subject to review and approval by the Town Council. The Council shall review and approve, disapprove or recommend modifications to such rules and regulations within sixty (60) days of the Agency's proposal to the Council. Thereafter, the Agency shall revise and resubmit the proposed rules and regulations to the Council within twenty (20) days of the Council's action. The Council shall then review and approve the revisions within twenty (20) days of resubmittal by the Agency.

b. To determine the maximum sales, resale, rental and rerental charges for 'low' and 'moderate' income units, and to provide certification of same to the developer, Planning Board and the construction official in charge of issuing building permits as required by this Ordinance. Updated maximum sales, resale, rental and rerental charges shall be issued annually to reflect recalculations of the regional median income.

c. To establish selection procedures and criteria for determining Qualified Purchasers.

d. To pre-qualify prospective owners and renters, and to requalify existing owners and renters, based upon income and household size, and to issue a certificate as to income eligibility status.

e. To review and approve or disapprove the Affordable Housing Plan required of all developers of 'low' and 'moderate' income housing.

f. To verify that an Affordable Housing Plan has been recorded and that the deeds of individual Affordable Units reference such Affordable Housing Plan.

g. To develop a formula for use in calculating the maximum resale price and rerental charge of 'low' and 'moderate' income units which is consistent with the provisions of Section D.3. of this Ordinance.

h. To determine whether the cost or value of the installation of improvements or amenities within, or as part of, a 'low' or 'moderate' income unit should be approved for inclusion in the resale price of the unit. The Agency shall establish regulations and procedures whereby an owner may apply for such approval prior to undertaking the improvements.

i. To review and approve or disapprove the developer's proposed Affirmative Marketing Plan and to require developers to submit proofs of publication, and to monitor the marketing practices of developers of 'low' and 'moderate' income units to ensure that they comply with the affirmative marketing requirements of this Ordinance.

j. To report bimonthly to the Town Council on the status of 'low' and 'moderate' income units including, but not limited to, the Agency's actions in connection with any Statements of Exemption, and foreclosures upon any Affordable Unit.

The Agency shall report on all proposed developments which are subject to the provisions of this Ordinance and for which applications have been filed with or approved by the Planning Board. The Agency shall provide information on the

location of the proposed site, number of 'low' or 'moderate' income units; the number of market units; calculation of maximum sales prices per Section D.; the distribution of Affordable Units by bedroom number; the phasing schedule for completion of Affordable Units in relation to completion of Market Units; the name of the developer; and the dates that Planning Board actions were taken or are anticipated to be taken.

k. To issue a Statement of Exemption where requested, pursuant to Section E.4. of this Ordinance.

l. To maintain a waiting list of households interested in purchasing or renting Affordable Units in the Town of Hackettstown.

m. To advance and pay monetary sums necessary to protect, preserve and retain an Affordable Unit as an Affordable Unit, pursuant to the terms of this Ordinance.

n. To assist a developer, prospective owner, or prospective renter to apply to the New Jersey Housing and Mortgage Finance Agency, or other public agency, for financing or subsidy funds in order to facilitate the purchase or rental of Affordable Units by 'low' and 'moderate' income families.

3. Appropriation and Accountability

The Town Council shall appropriate adequate monies for operation of the Agency. The Agency may employ or contract for professional services required to carry out its duties and responsibilities, subject to the amount appropriated by the Town Council for its use. All developers of Affordable Units shall be required to pay fees adequate to cover the cost of administrative expenses incurred in the initial review of an Affordable Housing Development, including the selection of qualified purchasers. All resales, unless specifically exempted by this Ordinance, shall include a fee to be paid by the owner (i.e. seller) of an Affordable Unit to the Agency at the time that the buyer takes title to the unit. All rerentals, unless specifically exempted by this Ordinance, shall include a fee to be paid by the owner of an Affordable Unit to the Agency at the time that the renter takes occupancy of the unit. The Agency shall develop all such fee schedules.

The Town Council shall appropriate adequate monies for all other Agency operations.

The Agency shall report to the Town Council through the Town Clerk.

4. Establishment of Municipal Housing Liaison Position and Compensation; Powers and Duties.

a. Establishment of position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for the Town of Hackettstown.

b. Subject to the approval of the Council on Affordable Housing (COAH), the Municipal Housing Liaison shall be appointed by the Governing Body and may be a full or part time municipal employee.

c. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Town of Hackettstown, including the following responsibilities which may not be contracted out, exclusive of Item 6 which may be contracted out:

(1) Serving as Hackettstown's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interested households;

(2) Monitoring the status of all restricted units in the Town of Hackettstown's Fair Share Plan;

(3) Compiling, verifying and submitting annual reports as required by COAH;

(4) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable.

(5) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;

(6) If applicable, serving as the Administrative Agent for some or all of the restricted units in Hackettstown as described in Paragraph f. below.

d. Subject to approval by COAH, the Town of Hackettstown may contract with or authorize a consultant, authority, government or any agency charged by the Governing Body, which entity shall have the responsibility of administering the affordable housing program of Hackettstown, except for those responsibilities which may not be contracted out pursuant to sub-section c. above. If the Town of Hackettstown contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the Municipal Housing Liaison shall supervise the contracting Administrative Agent.

e. Compensation. Compensation shall be fixed by the Governing Body at the time of the appointment of the Municipal Housing Liaison.

f. The following administrative powers and duties are hereby assigned to the Affordable Housing Services pursuant to a contract to be entered into between the Town and Affordable Housing Services.

(1) Affirmative Marketing

(a) Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of the Town of Hackettstown and the provisions of N.J.A.C. 5:80-26.15; and

(b) Providing counseling or contracting to provide counseling services to low and moderate income applicants on subjects

such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

(2) Household Certification

(a) Soliciting, scheduling, conducting and following up on interviews with interested households.

(b) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low-income or moderate-income unit;

(c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

(d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et. seq.;

(e) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and

(f) Employing the random selection process as provided in the Affirmative Marketing Plan of the Town of Hackettstown when referring households for certification to affordable units.

(3) Affordability Controls

(a) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;

(b) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

(c) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;

(d) Communicating with lenders regarding foreclosures; and

(e) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

(4) Resale and rental.

(a) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and

(b) Instituting and maintaining an effective means of communicating information to low-income and moderate-income households regarding the availability of restricted units for resale or re-rental.

(5) Processing request from unit owners.

(a) Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;

(b) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air conditioning systems; and

(c) Processing requests and making determinations on requests by owners of restricted units for hardship waivers.

(6) Enforcement.

(a) Securing annually lists of all affordable housing units for which tax bills are mailed to absentee owners and notifying all such owners that they must either move back to their unit or sell it;

(b) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent.

(c) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent can be made;

(d) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;

(e) Establishing a program for diverting unlawful rent payments to the municipality's affordable housing trust fund or other appropriate municipal fund approved by the DCA;

(f) Creating and publishing a written operating manual, as approved by COAH, setting forth procedures for administering such affordability controls; and

(g) Providing annual reports to COAH as required.

(7) The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

D. Affordability, Establishment Of Maximum Initial Sales Prices, Resale Prices, And Rentals

Prior to the sale, resale, rental or re-rental of a 'low' or 'moderate' income unit, the Agency shall determine the maximum sales price or rental charge that may be charged for that size unit in each income category in accordance with the following:

1. Estimated Maximum Initial Sales Price For Units

a. As part of the final site plan application submitted to the Planning Board by a developer for a development containing Affordable Units, the developer also shall submit to the Agency information demonstrating the mortgage financing generally available to 'low' and 'moderate' income homebuyers and the developer's calculations of the Estimated Maximum Initial Sales Prices in accordance with subsection D.2. hereinbelow.

b. The Agency shall review the developer's calculations and shall approve the Estimated Maximum Initial Sales Prices for applicable sized units in each income category and shall notify the Planning Board and the developer. Any delay of the Agency in reviewing and approving the Estimated Maximum Initial Sales Prices shall not postpone or delay the Planning Board's action on the proposed development pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.).

2. Maximum Initial Sales Prices For Units

a. A base sales price shall be calculated such that the sum of the monthly payments for principal, interest, taxes, fire, theft and liability insurance, and homeowner association fees, if any, shall not exceed twenty-eight percent (28%) of the 'low' or 'moderate' income ceilings determined in accordance with Section E.2.

b. In order to assure that 'low' and 'moderate' income units are affordable by households whose income is less than the 'low' or 'moderate' income ceilings, a range of sales prices shall be offered for each such unit based on a range of income of forty to fifty percent (40% - *50%)* with an average of forty-five percent (45%) of the regional median income for 'low' income housing, and sixty-five percent to eighty percent (65% - 80%), with an average of seventy-two percent (72%) of the regional median income for 'moderate' income housing. The overall range of sales prices for all 'low'

and ‘moderate’ income units combined shall be affordable to households with an average income of 58.5 percent of the regional median income. In establishing the ranges of affordability, units shall be offered, as best as practicable, in accordance with the following distribution of prices for every twenty (20) ‘low’ and ‘moderate’ income units.

Income		Price Distribution (as percentage of regional median income)
Low		1 at 40.0 through 42.5 percent
		3 at 42.6 through 47.5 percent
		6 at 47.6 through 50 percent
	Moderate	1 at 50.1 through 57.5 percent
		1 at 57.6 through 64.5 percent
		1 at 64.6 through 68.5 percent
		1 at 68.6 percent through 72.5 percent
		2 at 72.6 percent through 77.5 percent
		4 at 77.6 percent through 80 percent

c. At least a minimum of sixty (60) days prior to the developer’s anticipated need of certificates of occupancy for the affordable housing units, the developer shall provide the Agency with information demonstrating the financing that is generally available locally to ‘low’ and ‘moderate’ income homebuyers and the developer’s calculations of the Maximum Initial Sales Prices. The interest rate used by the developer in calculating the Maximum Initial Sales Prices shall be the rate that the Agency determines to be generally available locally for a thirty (30) year, fixed-rate mortgage with a down payment of no more than ten percent (10%) of the purchase price.

In the event that the developer obtains for the ‘low’ and ‘moderate’ income purchaser a commitment for a thirty-year fixed rate mortgage, or in the event that the developer obtains a commitment for thirty-year fixed rate mortgages in sufficient quantity to provide mortgage financing for all the Affordable Units included within the project remaining to be sold, the payment rate of the committed thirty-year fixed rate mortgage(s) shall be used for calculating the maximum sales price.

In the event that the developer or another entity shall provide other thirty-year fixed rate mortgage financing for the Affordable Units, such as in a mortgage buy-down program, the interest rate during the first year of the mortgage shall be used for purposes of calculating the affordable sales prices, so long as the interest rate does not increase by more than 0.5 percent each year during each of the first five (5) years of the mortgage. If, however, the interest rate increases by more than 0.5 percent during any of the first five *(5)* years of the mortgage, then for purposes of calculating the affordable sales prices, the average payment rate during the first five (5) years of the mortgage shall be used.

d. If the developer proposes to provide financing through an adjustable rate mortgage (ARM) or establishes that ARM are generally available locally to ‘low’ and ‘moderate’ income purchasers, then the interest rate to be used for calculating the maximum sales price shall be the greater of either: (1) the current index of one-year Treasury bills plus two points; or, (2) two points less than the best available fixed-rate mortgage.

e. The Agency shall use this information to determine the Maximum Initial Sales Prices for the different sized units in each income category as described above. The Agency shall certify the actual Maximum Initial Sales Prices to the Town Council, the Planning Board, the developer and the construction official in charge of issuing certificates of occupancy, within sixty (60) days of its receipt of the pricing information described hereinabove. No certificates of occupancy for the affordable units shall be issued until the Maximum Initial Sales Prices have been certified by the Agency. The certified sales prices shall remain in effect for a period of one (1) year; however, the developer may request a modification of the maximum sales prices at any time by applying to the Affordable Housing Agency for recalculation of these prices based on changes in any of the factors used to calculate the prices, provided that the affordable range in D.2.b. hereinabove is maintained.

f. The developer shall pay a fee to the Affordable Housing Agency in an amount established by the Agency, prior to the initial occupancy of any 'low' or 'moderate' income unit. Such fee is intended to help fund the cost of the Affordable Housing Program.

3. Maximum Resale Prices

a. Prior to the resale of any 'low' or 'moderate' income unit, the Agency shall determine the Maximum Resale Price for the unit in accordance with regulations adopted by the Agency, which take into account: 1) the increases in the regional median income; and, 2) the cost or value of improvements to the property made by the owner, as determined in accordance with the rules and regulations established by the Agency pursuant to Section D.3.c. hereinbelow.

b. The base resale price, before adding the costs of improvements, shall be the previous purchase price increased by the percentage increase in regional median family income between the year of the previous title closing and the current year.

For purposes of calculations based on regional median income, "year" shall mean February 1 - January 31, or any alternative dates for which regional median income figures are issued.

c. Improvement costs may be included in the resale price only if the owner has obtained prior approval from the Agency. Allowable improvements, for which costs may be approved, shall be limited to permanent structural improvements which shall increase the occupancy potential of a unit under Section E.3. of this Ordinance and new appliances and fixtures to be sold with the unit. Allowable improvements shall not include routine maintenance repair and interior decoration.

The Agency shall publish guidelines and regulations setting forth the allowable capital improvements that will be considered for inclusion in the resale price of any Affordable Unit. No portion of the cost or value of any improvement not specifically set forth in the guidelines and regulations and not approved by the Agency prior to installation shall be included for purposes of the resale price calculation. If the owner receiving approval from the Agency for an improvement, a portion of the cost or value of which is to be included within the resale price of the Affordable Unit, and such owner is in need of a second mortgage in order to pay for such improvement, then the Agency shall execute and deliver to the owner, for recording by the owner a

document by which the Agency's rights, claims and liens under this Affordable Housing Ordinance and the Affordable Housing Plan also are subordinated to such second mortgage. The Agency's rights, claims and liens shall not be subordinated to any second mortgages unless the Agency has executed and delivered such instrument to an owner in connection with an improvement approved by the Agency.

d. The owner (seller) shall not include in the resale price either closing costs, real estate commissions, or other costs associated with the selling of the unit.

e. The owner (buyer) shall pay a fee to the Affordable Housing Agency at the time of resale in an amount established by the Agency. Such fee is intended to help fund the cost of administering the Affordable Housing Program.

f. The sales price controls imposed by this Ordinance on an Affordable Unit shall remain applicable for a period of ninety-nine (99) years from the date of the first purchase of said Affordable Unit.

4. Maximum Rental Charge

a. A base rent shall be calculated such that the sum of the monthly rental payment, including utilities, does not exceed thirty percent (30%) of the 'low' or 'moderate' income ceilings determined in accordance with Section E.2.

b. If the actual cost of all utilities is not included in the monthly rental charge, the Agency shall calculate for each unit size an estimated monthly charge for those utilities not included in the rent, including the cost for the operation of air conditioning equipment and clothes washing and drying equipment, whether or not such equipment is provided by the developer. These charges shall be estimated utilizing techniques acceptable in the utilities industry and shall be subtracted from the maximum gross rent to determine the maximum rental charge that may be charged for each 'low' and 'moderate' income unit.

c. In order to assure that 'low' and 'moderates income units are affordable by households whose income is less than the 'low' or 'moderate' income ceilings, a range of rents shall be offered for each such unit based on a range of income of forty to fifty percent (40% - 50%) with an average of forty-five percent (45%) of the regional median income for 'low' income housing, and sixty-five percent to eighty percent (65% - 80%), with an average of seventy-two percent (72%) of the regional median income for 'moderate' income housing. The overall range of rents for all 'low' and 'moderate' income units combined shall be affordable to households with an average income of fifty-eight and one-half percent (58.5%) of the regional median income.

In establishing the ranges of affordability, units shall be offered as best as practicable, in accordance with the following distribution of prices for every twenty (20) 'low' and 'moderate' income units:

Income	Price Distribution (as percentage of regional median income)
Low	1 at 40.0 through 42.5 percent
	3 at 42.6 through 47.5 percent
	6 at 47.6 through 50 percent

Moderate	1 at	50.1	through	57.5 percent
	1 at	57.6	through	64.5 percent
	1 at	64.6	through	68.5 percent
	1 at	68.6	percent through	72.5 percent
	2 at	72.6	percent through	77.5 percent
	4 at	77.6	percent through	80 percent

d. The developer shall calculate the maximum rental charge for each size unit in the 'low' and 'moderate' income category and shall submit said calculations to the Agency for review. The Agency shall determine, based upon its review, the maximum rental charges. These rental charges shall remain in effect for a period of at least one (1) year, or until the regional median income levels are revised. Upon a revision to these regional median income levels, the developer may request a modification of rent charges by applying to the Agency for recalculation of the prices based on income changes. To the extent feasible, these criteria and procedures should ensure that the new rental charges are consistent with the affordability standards set forth in this Ordinance. In all cases, the Agency shall reserve the right to require the developer to seek a modification in permitted rent charges.

e. The Agency shall establish appropriate criteria and procedures for allowing periodic rental charges increases, including appropriate rental charge increases for capital improvements deemed necessary by the Town Construction Official.

f. The developer shall pay a fee to the Affordable Housing Agency, in an amount established by the Town Council, at the time of initial occupancy of the subject unit. Moreover, all rerentals, unless specifically exempted by this Ordinance, shall include a fee to be paid by the owner of an Affordable Unit to the Agency at the time that the renter takes occupancy of the unit. Such fees are intended to help fund the cost of administering the Affordable Housing Program.

g. The rental controls imposed by this Ordinance on an Affordable Unit shall remain applicable for a period of ninety-nine (99) years from the date of the first rental of said Affordable Unit.

E. Income Eligibility and Exemptions

1. Certification and Recertification
A prospective purchaser or renter of a 'low' or 'moderate' income unit must be certified as a Qualified Purchaser ('Low' or 'Moderate' Income Family) by the Agency prior to the purchase or rental of such unit. Every five (5) years after the original certification, the owner or renter of a 'low' or 'moderate' income unit shall be reexamined by the Agency and must be re-certified to be a "Qualified Purchaser" at that time in order to be permitted to continue in ownership and/or occupancy of the unit. Should it be determined at that time that the owner or renter is no longer a "Qualified Purchaser", then said owner or renter shall be considered to be in substantial violation of the Affordable Housing Plan and this Ordinance and be subject to the remedies of Section 1.3.

The Agency shall recalculate annually the regional median income and determine adjustments for household size based on annual estimates of regional median income and shall report its findings to the Town Clerk within thirty (30) days of said calculation.

2. Income Ceilings
The income ceilings for 'low' and 'moderates income households of four (4) members shall be fifty percent (50%) and eighty percent (80%), respectively, of the regional median income, with adjustments for household size in accordance with guidelines of the State of New Jersey Council On Affordable Housing.

3. Relationship Between Household Size and Unit Size
For the purpose of determining maximum sales prices and rental charges pursuant to this Ordinance, the ceiling incomes of the following household sizes shall be used to determine the maximum prices for each of the corresponding unit sizes:

Efficiency	1 person (1 person may occupy such unit)
1 bedroom	2 persons (although 1 or 2 persons may occupy such unit)
2 bedrooms	3 persons (although 3 or 4 persons may occupy such unit)
3 bedrooms	5 persons (although 4 or 5 persons may occupy such unit)

Any room other than a bathroom, kitchen, dining area or living room shall be considered a bedroom for purposes of calculating the Maximum Initial Sales Price. No alterations or improvements by owners after initial occupancy shall increase the number of bedrooms unless the total area of habitable living space is increased by an amount at least equal to the new area being claimed as a new bedroom.

4. Statement of Exemption

Upon application by an owner of an Affordable Unit, and under the circumstances noted hereinbelow, the Agency shall declare that the sale, resale, rental, or rerental of an Affordable Unit is exempt from the requirement that the sale or rental of the unit must be to a 'low' or 'moderate' income family, as the case may be. Specifically, with respect to a 'low income unit', in the event that no 'low' income purchaser or renter for a 'low income unit' is found within ninety (90) days after the unit is listed for sale or rental, and the Agency is notified in writing of such listing, the 'low income unit' may be sold or rented to a 'moderate' income purchaser or renter. Should no 'moderate' income purchaser or renter be found within ninety (90) days after the 'low income unit' is listed for sale or rental to a 'moderate' income family, and the Agency is notified in writing of such listing, the 'low income unit' may be sold or rented to any interested party, with priority being given to the party most nearly falling within the definition of "Qualified Purchaser".

Similarly, with respect to a 'moderate income unit', in the event that no 'moderate' income purchaser or renter is found within ninety (90) days after the unit is listed for sale or rental to a 'moderate' income family, and the Agency is notified in writing of such listing, the 'moderate income unit' may be sold or rented to a 'low' income purchaser or renter. Should no 'low' income purchaser or renter be found within ninety (90) days after the 'moderate income unit' is listed for sale or rental to a 'low' income family, and the Agency is notified in writing of such listing, the subject 'moderate income unit' may be sold or rented to any interested party, with priority being given to the party most nearly falling within the definition of "Qualified Purchaser

Proof of all attempts to sell or rent the subject Affordable Unit shall be submitted to the Agency for their review and approval.

The Agency shall maintain a waiting list of families interested in purchasing or renting Affordable Housing in the Town of Hackettstown and such list shall be used by developers of Affordable Housing, and owners of Affordable Housing seeking purchasers and renters for their units; families on the top of the list for an appropriately sized unit shall be given first priority for said unit.

Notwithstanding any exemptions granted pursuant to the above, resale controls shall remain in effect for any subsequent resales of the subject Affordable Unit, and rental controls shall remain in effect for any subsequent rerentals of the subject Affordable Unit.

Prior to the exempted sale, resale, rental or rerental of an Affordable Unit under this Section, the Agency shall have issued a 'Statement of Exemption' in recordable form to the owner of the subject Affordable Unit. The Agency shall issue or deny such a Statement of Exemption within thirty (30) days of receipt of a request for such statement by the owner of the subject Affordable Unit. A copy of the Statement of Exemption shall be given to the purchaser or renter of the Affordable Unit at the time of closing of title or tenant occupancy, as applicable.

The Statement of Exemption shall deem such purchaser or renter to be a 'Low Income Family' or 'Moderate Income Family' and a 'Qualified Purchaser' of the Affordable Unit for purposes of any subsequent resale or rerental. A Statement of Exemption issued pursuant to this Section shall exempt only the specific sale, resale, rental or rerental transaction for which it was issued.

The restrictions of resale or rental to Qualified Purchasers shall apply to all subsequent resales or rentals of the Affordable Unit unless a new Statement of Exemption is issued pursuant to this Section specifically for a subsequent resale or rental transaction.

The effect of a Statement of Exemption shall be that the owner may resell or rent the Affordable Unit to any potential purchaser or renter regardless of whether such purchaser or renter is a Qualified Purchaser. However, all other terms, provisions and restrictions of this Ordinance remain in full force and effect. Said purchasers or renters shall take title and possession to the Affordable Unit subject to the terms, restrictions, conditions and provisions of this Ordinance applicable to Affordable Units, including those addressing use, occupancy, improvement and resale and rerental as though such purchaser were in fact a Qualified Purchaser.

In the case of sales housing, nothing shall prevent the Town from purchasing an Affordable Unit, providing that the owner was unable enter a contract of sale with a Qualified Purchaser within ninety (90) days of notifying the Agency of the owner's intent to sell the subject unit. Upon exercising this option to purchase, the Town shall reserve the right to hold, rent or convey the subject unit, providing that any subsequent rental or sale is consistent with the requirements and conditions of this Ordinance.

F. Exempt "Non-Sales" Transactions

The following transactions shall be deemed "non-sales" for purposes of this Ordinance, and the Agency shall issue a Statement of Exemption to the owner receiving title by virtue of any of the following transactions:

(a) Transfer of Ownership between husband and wife;

(b) Transfer of Ownership between former spouses ordered as a result of a judicial decree of divorce (and not including sales to third parties);

(c) Transfer of Ownership between family members as a result of inheritance;

(d) Transfer of Ownership through an Executor's Deed to any person;

(e) Transfer of Ownership through an Order of the Superior Court or other court of competent jurisdiction.

Such Transfer of Ownership shall neither extinguish the restrictions and applicability of this Ordinance to such Affordable Unit nor terminate any liens incurred under this Ordinance. Liens must be satisfied in full prior to the subsequent resale of the Affordable Unit and all such subsequent resales are fully subject to the terms and provisions of this Ordinance.

G. Affordable Housing Plan

All developers of 'low' and 'moderate' income housing shall prepare and submit as part of an application for final approval an Affordable Housing Plan. The Plan shall be an instrument to be recorded with the Office of the Recorder, Warren County, New Jersey, constituting restrictive covenants running with the land with respect to the Affordable Units described and identified in such instrument.

Such instrument shall be executed by the Agency prior to recording of the Affordable Housing Plan and the Agency shall certify that the Affordable Housing Plan is consistent with the then current Affordable Housing Ordinance. The instrument shall also be executed by the developer and/or the then current title holder of record of the property upon which the Affordable Units are to be constructed.

1. Content of Plan

The instrument shall set forth the terms, restrictions and provisions applicable to the Affordable Units and shall be consistent with the Affordable Housing Ordinance, including but not limited to, those provisions of the Ordinance concerning use; occupancy; sale; resale; rental; re-rental; sales price and rental determination; duration of restrictions; exempt transactions; hardship exemptions; foreclosure; violation; legal description of the specific Affordable Units governed by the instrument; determination of eligible purchasers and owners; responsibilities of owners; improvements; and creating the liens and rights of the Agency upon such Affordable Units, all as such provisions of the Ordinance exist at the time that the instrument is executed by the Agency.

The instrument shall refer to this Affordable Housing Ordinance and the rules and regulations of the Affordable Housing Agency.

The terms, restrictions and provisions of the instrument shall bind all purchasers and owners of any Affordable Unit, their heirs, assigns and all persons claiming by, through or under their heirs, assigns and administrators.

If a single instrument is used to govern more than one Affordable Unit, then the instrument must contain the legal description of each Affordable Unit governed by the instrument. The deed of each and every individual Affordable Unit so governed must contain the recording information of the instrument applicable to such Affordable Unit.

It is intended that the terms of the Affordable Housing Plan be wholly consistent with the Affordable Housing Ordinance as such Ordinance exists on the date the Affordable Housing Plan is executed by the Agency; however, in the event of conflict or inconsistency, the Affordable Housing Ordinance as it existed on the date of the Plan shall control. Changes, amendments or revisions to the Affordable Housing Ordinance subsequent to the date of an Affordable Housing Plan shall not affect, amend or alter the Affordable Housing Plan, and such Affordable Housing Plan shall continue to be interpreted and applied in accordance with the Affordable Housing Ordinance as it existed on the date of the particular Affordable Housing Plan.

2. Expiration

The terms, restrictions and covenants of an Affordable Housing Plan shall expire and terminate only in the case of the following:

(a) Ninety-nine (99) years from the date of the first purchase or rental of an Affordable Unit by a 'Low Income Family' or a 'Moderate Income Family';

(b) With respect to an Affordable Unit subject to foreclosure, the date of purchase of such unit pursuant to regulations set forth in Section 1.3. of this Ordinance.

3. Disclosure Statements

The developer shall provide disclosure statements to all initial purchasers and renters of Affordable Units prior to the execution of any Contract of Sale or Lease. (A sample of such disclosure statement is attached as Appendix A). All owners or renters of Affordable Units shall provide copies of such disclosure statements to subsequent buyers or renters prior to execution of Contracts of Sale or Leases with such buyers or renters. In addition, the Town shall provide to the initial owner or renter of an Affordable Unit, who (as well as all future owners or renters) in turn, shall provide to prospective buyers or renters copies of the Affordable Housing Ordinance together with copies of existing regulations promulgated by the Town together with any duly approved and recorded amendments at the time the Contract of Sale or Lease is executed and delivered to the prospective 'low' or 'moderate' income purchaser or renter.

4. Deeds of Conveyance and Leases

The Deeds of Conveyance from the developer to the purchasers of Affordable Units, as well as the leases from the developer to the renters of Affordable Units, shall include the following clause:

"The owner's/tenant's right, title and interest in this unit and the use, sale, resale, rental or rerental of this property are subject to the terms, conditions, restrictions, limitations and provisions as set forth in , which plan was filed in the Office of the Clerk of Warren County in Misc. Book —— at Page — on — and is on file with the Town of Hackettstown Municipal Clerk".

The above clause shall be in addition to the clause stating that the unit is subject to the Master Deed, which clause also shall appear in the Deeds or Leases for all units in a project.

5. Phasing
In order to ensure that development of Affordable Units takes place simultaneously with development of market units in any housing development with Affordable Housing Units, such development shall be subject to the following phasing schedule:

Market Rate Housing Percentage (Maximum)	'Low' and 'Moderate' Income Housing Percentage (Minimum)
Up to 25%	0% (none required)
25% + 1 unit	At least 10%
Up to 50%	At least 25%
Up to 75%	At least 50%
75% + 1 unit	At least 75%
	Up to 90%

6. Unit Configuration

a. Each dwelling unit shall have the following minimum net habitable floor area:

Multi-Family Units		Townhouses	
Efficiency:	500 sq. ft.		
1 Bedroom:	600 sq. ft.	1 Bedroom	700 sq. ft.
2 Bedroom:	725 sq. ft.	2 Bedroom	850 sq. ft.
3 Bedroom:	875 sq. ft.	3 Bedroom	1,000 sq.ft.

b. The bedroom mix of non-senior citizen 'low' and 'moderate' income units shall contain the following distribution of unit types:

Efficiencies:	(16% maximum)
1-Bedroom:	(42% maximum)
2-Bedroom:	(26% minimum)
3-Bedroom:	(16% minimum)

The bedroom mix of senior citizen 'low' and 'moderate' income units shall contain the following distribution of unit types:

Efficiencies:	(25% maximum)
1-Bedroom:	(75% maximum)
2-Bedroom:	(25% minimum)

1. Affirmative Marketing Plan

All developers of 'low' and 'moderate' income units shall affirmatively market said units as follows to persons of 'low' and 'moderate' income, irrespective of race, color, sex, religion or national origin:

- First priority shall be given to residents of the Town of Hackettstown working within the Town;
- Second priority shall be given to any resident of the Town of Hackettstown;
- Third priority shall be given to any head of household working within the Town of Hackettstown but residing elsewhere;
- Fourth priority shall be an eighteen to twenty-five (18 - 25) year old child of a current resident of the Town of Hackettstown, which child has been residing outside of the Town during the previous four (4) year time period, attending school and/or serving in the armed forces;
- Fifth priority shall be residents within Somerset, Hunterdon, Middlesex and Warren Counties; and
- Sixth priority shall be residents elsewhere in the State of New Jersey.

In accordance with the above, the developer shall formulate and submit an 'Affirmative Marketing Plan' to the Agency for review and approval, which plan shall be incorporated as a condition of final approval of the application for development. At a minimum, the plan shall provide for advertisement throughout the region.

All Affirmative Marketing Plans shall commence at least ninety (90) days before the anticipated issuance date of temporary or permanent Certificates of Occupancy, and, shall continue until all 'low' and 'moderate' income housing units are under a Contract of Sale or a Lease.

All advertisements shall conform with applicable Affirmative Action, Equal Opportunity, and non-discrimination laws of the State and Federal government.

2. Waiting List

The Agency shall maintain a waiting list of families interested in purchasing or renting Affordable Housing in the Town of Hackettstown and such list shall be used by developers of Affordable Housing and owners of Affordable Housing seeking purchasers and renters for their units; families on the top of the list for an appropriately sized unit shall be given first priority for said unit.

I. Obligations of Owners and Renters, Violations, Foreclosure, Surplus Funds

1. First Purchase Money Mortgages

The First Purchase Money Mortgagee and/or mortgage servicer shall serve written notice upon the Town within ten (10) days after the First Purchase Money Mortgage is three (3) months in arrears, and within ten (10) calendar days of the filing of the complaint seeking foreclosure of the First Purchase Money Mortgage held on the Affordable Unit.

2. Obligation of Owners and Renters

The owner or renter of an Affordable Unit shall keep the unit in good repair and the Town Construction Official, at the request and on behalf of the Agency, shall enter and inspect an Affordable Unit in order to assess its condition relative to the applicable laws of the Town, and shall report his/her findings to the Agency in writing.

The owner shall pay all taxes and public assessments and any assessments by a Homeowners Association levied upon or against the unit, or any part thereof, as and when the same become due and before penalties occur.

The owner of an Affordable Unit, in addition to payment of any and all assessments required pursuant to the Master Deed, shall further fully comply with all of the terms, covenants or conditions of said Master Deed, as well as fully comply with all terms, conditions and restrictions of this Ordinance and the Affordable Housing Plan.

The Town of Hackettstown or any instrumentality designated by the Town shall have the right to purchase any mortgage which is in default at any time prior to the entry of a foreclosure judgment, or within the redemption period thereafter. Notification of a default and of the institution of a Foreclosure action and of a Sheriff's Sale shall be served in writing upon the Town Clerk. The Town shall at all times be considered a party in interest and shall have the right to be joined as a party defendant and/or shall have the right to intervene in the foreclosure action seeking foreclosure of a first mortgage and/or shall have the right to redeem and acquire the owner's equity of redemption or to acquire the unit from the owner upon such terms and conditions as may be determined by the Town.

3. Violation of Affordable Housing Plan

The interest of any owner or renter shall be subject to forfeiture in the event of substantial breach of any of the terms, restrictions and provisions of this Ordinance and the Affordable Housing Plan which remains uncured for a period of sixty (60) days after service of a written Notice of Violation upon the owner by the Town. The Notice of Violation shall specify the particular infraction and shall advise the owner or renter that his or her interest is subject to forfeiture if such infraction is not cured within sixty (60) days of receipt of the Notice. The provisions of this paragraph may be enforced by the Town by Court action seeking a judgment which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the Affordable Unit. Such judgment shall be enforceable, at the option of the Town, by means of an execution sale by the Warren County Sheriff at which the Affordable Unit of the violating owner shall be sold at a sales price which is not less than the amount necessary to fully satisfy any First Purchase Money Mortgage prior liens and costs of the enforcement proceedings, including attorney's fees and in full compliance with the terms, restrictions and provisions of the Plan. The violating owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's Sale.

The proceeds of the Sheriff's Sale shall first be applied to satisfy the First Purchase Money Mortgage and any prior liens upon the Affordable Unit. The excess, if any, shall be applied to reimburse the Town for any and all costs and expenses incurred in connection with either the Court action resulting in the judgment of violation or the Sheriff's Sale. In the event that the proceeds from the Sheriff's Sale are insufficient to reimburse the Town in full as aforesaid, the violating owner shall be personally responsible for any unreimbursed costs incurred by the Town in connection with collecting such deficiency. In the event of a surplus, the balance, if any, shall be placed in escrow by the Town for the owner and shall be held in such escrow for a period of two (2) years or until such time as the owner shall make a claim with the Town for such. Failure of the owner to claim such balance within the two year period shall automatically result in forfeiture of such balance to the Town. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Town whether such balance shall be paid to the owner or forfeited to the Town.

Title shall be conveyed to the purchaser at the Sheriff's Sale subject to the restrictions and provisions of the Plan. The owner determined to be in violation of the provisions of this Plan and from whom title and possession were taken by means of the Sheriff's Sale shall not be entitled to any right of redemption. Bidders for the unit shall be ranked in accordance with their listing on the "waiting list" maintained by the Agency, with the family on the top of the list for an appropriately sized unit given first priority for said unit. If there are no bidders at the Sheriff's Sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the Town may acquire title to the Affordable Unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees, and the maximum sales price for which the Affordable Unit could have been sold under the terms of this Ordinance and the Affordable Housing Plan. This surplus shall be treated in the same manner as the surplus which would have been realized from an actual sale as described in Section 1.5. Failure of the Affordable Unit to be either sold at the Sheriff's Sale or acquired by the Town shall obligate the owner to accept an offer of purchase from any Qualified Purchaser, which may be referred to the owner by the Town, with such offer to purchase being equal to the maximum sales price of the Affordable Unit as permitted by this Ordinance and the Affordable Housing Plan.

The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of this Ordinance and the Affordable Housing Plan until such time as title is conveyed from the owner.

In the case of rental housing, renters shall observe all applicable provisions of this Ordinance, and shall be subject to eviction procedures should the provisions of this Ordinance or the Affordable Housing Plan be violated. In all cases, a Qualified Purchaser shall be the only occupant of a 'low' or 'moderate' income unit, and in no case shall the subject unit be rented, rerented or otherwise occupied without prior approval by the Agency.

4. Surplus Funds

In the event of a Foreclosure Sale by the First Purchase Money Mortgagee, the owner shall be personally obligated to pay to the Town any surplus funds, but only to the extent that such surplus funds exceed the difference between what the owner could have resold his unit for under this Ordinance and the Affordable Housing Plan at the time of the Foreclosure Sale and the amount necessary to redeem and satisfy the First Purchase Money Mortgage, including costs of foreclosure. For purposes of this paragraph, surplus funds shall be the total paid to the sheriff in excess of the amount required to pay and satisfy the First Purchase Money Mortgage, including the costs of foreclosure, even if junior creditors actually receive payment

from said surplus funds to the exclusion of the owner. The Town is hereby given a first priority lien, second only to the First Purchase Money Mortgagee of a unit and any taxes or public assessments by a duly authorized governmental body, equal to the full amount of surplus funds. This obligation of the owner to pay this full amount to the Town shall be deemed to be a personal obligation of the owner of record at the time of the Foreclosure Sale and the Town is hereby empowered to enforce the obligation of the owner in any appropriate Court of law or equity as though same were a personal contractual obligation of the owner. Neither the First Purchase Money Mortgagee nor the purchaser of the Foreclosure Sale shall be responsible or liable to the Agency for any portion of this excess.

This provision is subject, however, to applicable laws of the State of New Jersey governing the distribution and payment of proceeds of foreclosure sales.

5. Town Option to Remedy Default

The Town may, at its sole option and discretion, advance and pay sums necessary to protect, preserve and retain an Affordable Unit as an Affordable Unit subject to the terms of this plan. All sums so advanced and paid by the Town shall become a lien against such unit and shall have a higher priority than any lien except the First Purchase Money Mortgage lien and other liens by duly authorized government agencies. Such sums may include, but are not limited to, insurance premiums, taxes, assessments (public or private), Second Mortgages authorized by the Affordable Housing Agency, and liens which may be or become prior and senior to any First Purchase Money Mortgage as a lien on the Affordable Unit, or any part thereof.

J. Service Upon Town Or Agency

Wherever in this Ordinance or an Affordable Housing Plan the Town is authorized to receive letters, contracts or other documents, the Town Clerk shall be the person to whom same are delivered.

K. Captions Headings

All captions and headings in this Ordinance are for purposes of reference only and shall not affect the interpretation or construction of any provision of this Ordinance.

L. Severability

OMITTED PER ORDINANCE 2001-03
SECTION RESERVED

M. Contribution in Lieu of Constructing Affordable Units

Developers within the planned residential developments may pay a fee in lieu of constructing low or moderate income units. A developer who wishes to be released from the obligation to build inclusionary units on site may request permission to be released from this obligation. Such request shall be considered and approved by the governing body prior to the receipt of any approvals from the Planning Board. For each required unit which the developer is otherwise required by this Section to build on site and for which he/she applies to be released from the obligation, the developer shall pay the sum of twenty five thousand dollars ($25,000.00) to the Town in the event that the governing body approves the request. If the request is approved, then the dwelling units to be built on the site by the developer may be one hundred (100%) market units.

1. Collection of Fees.

   A. Developers shall pay fifty (50%) percent of the development fee to the Town at the issuance of the required building permit(s).

   B. Developers shall pay the balance of the fee to the Town immediately prior to the issuance of the certificate(s) of occupancy and after the development has been determined to be substantially complete.

2. Housing Trust Fund.

   A. There is hereby created an interest bearing housing trust fund in Skylands Community Bank for the purpose of receiving development fees from residential developers. All development fees paid by developers pursuant to this Section shall be deposited in this fund. No money shall be expended from the housing trust fund unless the expenditure conforms to a spending plan approved by COAH.

   B. IF COAH determines that the Town 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 Section shall be expended. Such authorization is pursuant to this Section and COAH's rules on development fees.

3. Use of Funds.

   A. Money deposited in the housing trust fund may be used for any activity approved by COAH for addressing the Town'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 more affordable to low and moderate income households and administrative costs necessary to implement the Town's housing element. The expenditure of all money shall conform to a spending plan approved by COAH.

   B. No more than twenty (20%) percent of the revenues shall be expended

on administrative costs necessary to develop, revise or implement the housing element. Examples of eligible administrative activities include: personnel, consultant services, space costs, consumable supplies and rental or purchase of equipment directly associated with plan development or plan implementation.

C. Development fee revenues shall not be expended to reimburse the Town for housing activities that preceded substantive certification.

4. Explanation of Development Fee Section.

A. This section shall expire if:

(1) COAH dismisses or denies the Town's petition for Substantive Certification;

(2) COAH revokes substantive certification or its certification of this Section;

(3) Substantive certification expires prior to the Town filing an adopted housing element with COAH, petitioning for substantive certification or receiving COAH's approval of this Section.

(Sample)
DISCLOSURE STATEMENT FOR
AFFORDABLE UNITS IN
(Insert Name of Development)

The home which you are considering purchasing is an Affordable Unit as defined in a document entitled "Affordable Housing Plan for _____ which has been recorded with the Clerk of the County of Warren and the Clerk of the Town of Hackettstown. The Affordable Housing Plan was prepared by
and the Town of Hackettstown and was a requirement of the Town of Hackettstown in its approval of _____ and a complete reading of the Plan is necessary to fully understand and be aware of all the restrictions contained in the Plan which affect the home you are considering purchasing. By way of a brief summary, the following restrictions are contained in the Plan:

1. Purchasers or tenants of these Affordable Units are limited to 'low' and 'moderate' income families. These Affordable Units must be occupied by the owner and may not be rented except as may be permitted by the Town of Hackettstown or its designee. This restriction applies to the initial purchase and all resales;

2. These Affordable Units may not be resold at a sales price greater than the initial sales price plus a percentage increase based on the annual median income figures issued by the New Jersey Council On Affordable Housing for the Somerset-Hunterdon-Middlesex-Warren County region.

3. Owners of the Affordable Units may add reasonable amenities or improvements to such units, but the cost of such amenities or improvements must be approved by the Town Affordable Housing Agency if they are to be included in the resale price. It is possible that the cost of some of the improvements made by owners may not be recovered at the time of resale due to the restrictions on resale;

4. These Affordable Units shall pay full Condominium Assessments. Owners of these Affordable Units have the very same rights, privileges, duties and obligations as any other condominium owner in _____. The owners of these units are entitled to participate fully in the affairs of the Association on an equal basis with any other member of the Association. There are no restrictions or limitations upon the ability of owners of these units to participate in the affairs of the Association; and

5. The terms, restrictions, provisions and covenants of the Affordable Housing Plan, and the provisions of the Master Deed referring to and incorporating the Affordable Housing Plan, shall automatically expire and terminate with respect to the Affordable Units ninety-nine (99) years from the date of the first purchase or rental of an Affordable Housing Unit by a 'Low Income Family' or a 'Moderate Income Family'.

The above are the limitations and restrictions which most greatly affect the Affordable Units in the _____ ___; however, a full understanding of the Plan requires a thorough and complete reading of the Plan in its entirety.

I have read the contents of this Disclosure Statement and understand same. I have been instructed that a thorough reading of the Plan in its entirety is necessary to understand its requirements and limitations. I have further been instructed to seek the assistance and advise of an attorney in reviewing the Plan.

Date: _____ _____
Prospective Purchaser

Building No.:_____Unit:_____ _____
Prospective Purchaser

SECTION 607
AFFORDABLE HOUSING REQUIREMENTS

A. Applicability

1. This subsection of the land use regulations of the Town of Hackettstown sets forth mechanisms by which developers shall provide for a fair share of affordable housing based on growth that is associated with development taking place within the Town of Hackettstown.

2. Residential Development. Except as exempted in subsection **§**607.B, all residential development that results in the construction of new market-rate dwelling units in accordance with N.J.A.C. 5:94-1 et seq., shall be subject to the "growth share" provisions of this ordinance.

3. Non-residential development. Except as exempted in subsection **§** 607.B, all non-residential development that results in an increase in gross floor area of any existing non-residential structure or the construction of a new non-residential structure in accordance with N.J.A.C. 5:94-1 et seq., shall be subject to the "growth share" provisions of this ordinance.

B. Exemptions

1. Developments that received preliminary or final approval from the Planning Board and/or Board of Adjustment, as applicable, prior to the effective date of this ordinance.

C. Residential Growth Share Provisions

1. All residential development which results in the construction of new market-rate dwelling units in the Town of Hackettstown shall provide one unrestricted affordable housing unit for every eight market rate units constructed.

2. All residential development consisting of eight or more residential units shall provide one unrestricted affordable housing unit on-site for every eight market-rate units unless the Town upon showing of a sufficient documentation determines that payment in lieu of constructing the affordable housing units required is more beneficial to the Town. Said amount of payment shall be established by dividing the number of market-rate units by eight and multiplying the resulting fraction by the Affordable Unit Cost.

3. For developments that result in a number of market-rate residential units not evenly divisible by eight, the developer may construct the additional affordable unit on-site or alternatively, the developer may make a payment in lieu of constructing the additional affordable unit. If the developer selects the latter option, the amount of said payment shall be established by subtracting any whole multiples of eight from the total number of market-rate residential units being created, dividing any remaining number of units by eight and multiplying the resulting fraction by the established cost to construct one affordable residential unit ("Affordable Unit Cost").

4. All residential development consisting of less than eight residential units may provide one unrestricted affordable unit on-site or may make a payment in lieu of constructing the proportionate fraction of the affordable housing unit required. If the developer selects the latter option, the amount of said payment shall be established by dividing the number of market-rate units by eight and multiplying the resulting fraction by the Affordable Unit Cost.

5. As an alternative to fulfilling the affordable housing requirements set forth in 2. through 4. above, developers of residential units may elect to construct an unrestricted affordable housing unit elsewhere in the Town of Hackettstown or purchase an existing residential unit elsewhere in the Town of Hackettstown in accordance with the Town of Hackettstown's Reconstruction (gut rehabilitation) program, Rental Subsidy program, Buy-down program, and shall comply with applicable COAH rules at N.J.A.C. 5:94-1 et seq. If the developer elects to construct the affordable unit off-site but within the Town of Hackettstown, each on-site unit otherwise required to be affordable to a low or moderate income household may be converted to a market-priced unit, but the developer's growth share obligation shall be increased accordingly and reflected in the number of units being constructed off-site but within the Town.

6. All residential development not subject to the provisions of 1. Through 5. above shall be subject to the provisions of development fees as set forth in §606.M of this ordinance.

7. No density increase shall be permitted for the construction of affordable housing.

D. Non-Residential Growth Share Provisions

1. All non-residential development that results in an increase in gross floor area of any existing non-residential building or the construction of a new non-residential building in the Town of Hackettstown shall provide one unrestricted affordable unit for every 25 jobs that results from the application of standards adopted by COAH (presently found in Appendix E of N.J.A.C. 5:94-1 et seq.) and based on use groups, as defined by the International Building Code (IBC) which has been incorporated by reference into the Uniform Construction Code (UCC).

2. All non-residential developments shall provide one unit of unrestricted affordable housing for every 25 jobs created by new or expanded development. Determinations of the number of jobs created shall be based on the new or expanded floor area in the development and the conversion factors, by use group, published by COAH as Appendix E in N.J.A.C. 5:94-1 et seq.

3. Except as set forth in 607.D.4. below, non-residential developers shall construct an unrestricted affordable housing unit elsewhere in the Town of Hackettstown or purchase an existing residential unit elsewhere in the Town of Hackettstown in accordance with the Town of Hackettstown's Reconstruction (gut rehabilitation) program, Buy-down program, and/or Municipally-sponsored rental program which shall comply with applicable COAH rules at N.J.A.C. 5:94-1 et seq.

4. As an alternative to fulfilling the affordable housing requirements set forth in 607.D.2. above, the non-residential developer may make a payment in lieu of constructing the affordable units. The amount of said payment shall be determined by establishing the number of jobs to be created in a development by using the conversion factors published by COAH as Appendix E

in N.J.A.C. 5:94-1 et seq., dividing by 25 to determine the number of affordable housing units required and multiplying the resulting figure by the Affordable Unit Cost.

5. For developments that result in a number of jobs not evenly divisible by 25, the developer may construct the additional affordable unit off-site in accordance with subsection 607.D.3. above or alternatively, the developer may make a payment in lieu of constructing an additional affordable unit in accordance with subsection 607.D.4. above. If the developer selects the latter option, the amount of said payment shall be established by subtracting any whole multiples of 25 from the total number of jobs being created, dividing any remaining number of jobs by 25 and multiplying the resulting fraction by the Affordable unit cost.

6. All non-residential development creating less than 25 jobs may provide one unrestricted affordable unit off-site in accordance with subsection 607.D.3. above or may make a payment in lieu of constructing an affordable housing unit. If the developer selects the latter option, the amount of said payment shall be established by dividing the number of jobs by 25 and multiplying the resulting fraction by the Affordable Unit Cost.

7. No density increase shall be permitted for the construction of affordable housing.

E. Mixed Use District Growth Share Provisions

1. A Mixed Use District shall refer to properties permitting buildings containing both residential and commercial uses.

2. In a Mixed Use District, residential development shall provide one unrestricted affordable housing unit on-site for every eight market-rate units.

3. Non-residential development in Mixed Use Districts shall provide one unrestricted affordable housing unit on-site for every 25 jobs created by new or expanded development. Determinations of the number of jobs created shall be based on the new or expanded floor area in the development and the conversion factors, by use group, published by COAH as Appendix E in N.J.A.C. 5:94-1 et seq. Affordable units may be part of or included within a mixed use structure or may be constructed in a separate building(s) on the same site.

4. For developments in Mixed Use Districts that result in a fractional affordable housing obligation, the developer may construct the additional unrestricted affordable unit on-site or alternatively, the developer may make a payment in lieu of constructing the additional affordable unit only. The amount of said payment for non-residential development shall be determined by establishing the number of jobs to be created in a development by using the conversion factors published by COAH as Appendix E in N.J.A.C. 5:94-1 et seq., subtracting any whole multiples of 25 from the total number of jobs being created, dividing any remaining number of units by 25 and multiplying the resulting fraction by affordable unit cost. The amount of said payment for residential development shall be determined by subtracting any whole multiples of eight from the total number of market-rate residential units being created, dividing any remaining number of units by eight and multiplying the resulting fraction by affordable unit cost.

F. General Provisions for Constructing Affordable Units

1. Affordable housing units being constructed on-site or off-site shall meet the requirements of the Town of Hackettstown's affordable housing ordinance, and shall be in conformance with COAH's third round rules at N.J.A.C. 5:94-1 et seq. and the Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq., including, but not limited to, requirements regarding phasing schedule, controls on affordability, low/moderate income split, heating source, maximum rent and/or sales prices, affordability average, bedroom distribution, and affirmative marketing.

2. To the greatest extent possible, affordable housing units being provided within inclusionary developments shall be disbursed throughout inclusionary developments and shall be located within buildings designed to be architecturally indistinguishable from the market-rate units otherwise being constructed within the development. To that end, the scale, massing, roof pitch and architectural detailing (such as the selection of exterior materials, doors, windows, etc.) of the buildings containing the affordable housing units shall be similar to and compatible with that of the market-rate units.

G. Payment in Lieu Provisions

1. Any payment in lieu amount of Affordable Unit Cost shall be derived from the analysis of the subsidy required to create an affordable housing unit in the Town of Hackettstown, which analysis shall be on file in the office of the Town Clerk. The Affordable Unit Cost shall be updated on an annual basis.

2. All payments in lieu of constructing affordable housing shall be deposited by the Town of Hackettstown into an affordable housing trust fund to be established by the Town of Hackettstown in conformance with regulations established by COAH and shall at all times be identifiable from development fees. These funds shall be used by the Town of Hackettstown in accordance with regulations established by COAH to create new affordable housing opportunities within the physical boundaries of the Town of Hackettstown.

H. Other Requirements

1. A proposed affordable housing plan shall be submitted to the Board at the time application is made for any development requiring growth share affordable housing pursuant to this Section. The Plan shall be a condition of "completeness" determination. All Plans shall be the subject of review by the Town Planner or appointee for consistency with COAH's Rules and with the Town's third round Housing Element and Fair Share Plan. Compliance with all of the terms of COAH's Rules and with the approved plan shall be a condition of development plan approval and may be covered by appropriate performance and maintenance guarantees as with any other required improvement.

2. Where an odd number of low and moderate income housing units are required to be provided, the majority of the units shall be low income units. Where there is an insufficient number of affordable units provided to meet the bedroom distribution requirements of COAH's Rules, the first unit shall be a two bedroom unit, the second unit shall be a one-bedroom unit and

third unit shall be a three bedroom unit. Otherwise, the bedroom distribution shall be in strict accordance with COAH's Rules.

3. It shall be the developer's responsibility, at its sole cost and expense, to pay the per unit cost of the initial advertising and ongoing administration of the controls on affordability pursuant to the contract between the Town and the experienced administrative entity. The designated administrative entity shall file with the Town Planner or designee such certification, reports and or monitoring forms as may be required by COAH.

4. Residential developments that have been zoned to produce an affordable housing set-aside greater than the growth share requirements of this Section or that are intended to include only low and moderate income housing units shall be exempt from the requirements of this Section with the exception that all affordable units produced shall be unrestricted affordable units Moreover, developments covered by this Section shall be exempt from the payment of Development Fees under the adopted Development Fee Ordinance.

5. The use of any of the foregoing mechanisms for providing affordable housing within the Town of Hackettstown shall be limited to the provision of unrestricted restricted affordable housing units in compliance with all of the COAH's Rules set forth at N.J.A.C. 5:94-1 et seq.

REPEAL OF CONFLICTING ORDINANCES

Any ordinances of the Town of Hackettstown that are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SEVERABILITY

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereof shall not affect the remaining parts of this Ordinance.

SECTION 700

ZONING BOARD OF ADJUSTMENT, PLANNING BOARD & HISTORIC PRESERVATION COMMISSION

SECTION 700

ZONING BOARD OF ADJUSTMENT, PLANNING BOARD AND HISTORIC PRESERVATION COMMISSION

701 ESTABLISHMENT OF THE BOARD OF ADJUSTMENT

A. A Zoning of Adjustment is hereby created pursuant to N.J.S.A.40:55D-69 et seq. consisting of seven (7) regular members and two (2) alternate members, each of whom shall be residents of Hackettstown Town and be appointed by the governing body. The members of the heretofore created Zoning Board of Adjustment are hereby reappointed to serve their respective terms. The terms of all new members appointed under this Ordinance shall be so determined that, to the greatest practicable extent, the expiration of such terms shall be distributed, in the case of regular members, evenly over the first four (4) years after their appointment and, in the case of alternate members, evenly over the first two (2) years after their appointment; provided, however, that the initial term of no regular member shall exceed four (4) years and that the initial term of no alternate member shall exceed two (2) years. Thereafter, the term of each regular member shall be four (4) years and the term of each alternate member shall be two (2) years.

B. Alternate members shall be designated at the time of their appointment as "Alternate No. 1" and "Alternate No. 2". Alternate members may participate in the discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate is to vote, "Alternate No. 1" shall vote.

C. No member of the Zoning Board of Adjustment shall hold an elective office or elective position under the municipality.

D. Any vacancy on said Board occurring other than by expiration of term shall be filled by appointment by the governing body of the municipality to serve for the unexpired term of the member whose term shall become vacant. A member may be removed by the governing body for cause, but only after public hearing, if requested, and other requested procedural due process protections.

E. The Zoning Board of Adjustment shall organize annually by selecting from among its regular members a Chairman, Vice Chairman, and Secretary. The Board also shall select a Clerk of the Board, who may or may not be a member of the Board or a municipal employee.

F. The governing body, after giving due consideration to budget requests that may be submitted by the Zoning Board of Adjustment, shall make provisions in its budget and appropriate funds for the expenses of the Zoning Board of Adjustment.

G. The Office of Zoning Board of Adjustment Attorney is hereby created. The Board of Adjustment may annually appoint to such office an attorney at law of New Jersey other than the municipal attorney, and shall fix the compensation or rate of compensation for said attorney.

H. The Zoning Board of Adjustment may also employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary. The Board, however, shall not authorize expenditures which exceed, exclusive of gifts, grants or applications fees, the amount appropriated by the governing body for its use.

702 POWERS AND JURISDICTION OF THE ZONING BOARD OF ADJUSTMENT

The Zoning Board of Adjustment shall have the power to:

A. Error or Refusal

Hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, decision or refusal made by an official based on or made in the enforcement of the zoning provisions of this Ordinance.

B. Exceptions or Interpretations

Hear and decide requests for interpretation of the Zoning Map or the zoning provisions of this Ordinance or for decisions upon other special questions upon which the Board is authorized to pass by any zoning provisions of this Ordinance or by any duly adopted Official Map.

C. General Bulk Variances

1. Where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation of this Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such

property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship.

2. Where, in an application or appeal relating to a specific piece of property the purposes of this Ordinance would be advanced by a deviation from the zoning requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from such zoning requirements.

3. No variance from those departures enumerated in Section 702 D. hereinbelow (N.J.S.A. 40:55D-70[d]) shall be granted under this subsection; and provided further, that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board has power to review a request for a variance pursuant to Section *705* H. of this Ordinance (N.J.S.A. 40:55D-60[a]).

D. Use Variance, Variances From Conditional Use Standards, And Major Specific Bulk Variances

In particular cases and for special reasons, grant a variance to allow departure from the zoning provisions of this Ordinance to permit:

1. A use or principal structure in a district restricted against such use or principal structure;

2. An expansion of a non-conforming use;

3. A deviation from a particular specification or standard set forth in this Ordinance as pertaining solely to a conditional use;

4. An increase in the permitted floor area ratio as defined in Section 201 of this Ordinance and in N.J.S.A. 40:55D-4;

5. An increase in the permitted density as defined in Section 400 or Section 600 of this Ordinance, as the case may be, and in N.J.S.A. 40:55D-4, except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision, in which event applications would be made pursuant to Section 702 C. hereinabove.

A variance under this subsection shall be granted only by affirmative vote of at least five *(*5*)* members of the Board.

E. General Provisions

1. No variance or other relief may be granted by the Board unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and the zoning provisions of this Ordinance.

2. In respect of any airport hazard areas delineated under the "Air Safety and Hazardous Zoning Act of 1983" (N.J.S.A. 6:1-80 et seq.), no variance or other relief may be granted permitting the creation or establishment of a non-conforming use which would be prohibited under the standards promulgated pursuant to that act, except upon issuance of a permit by the Commissioner of Transportation.

3. An application under this section may be referred to any appropriate person or agency for its report; provided that such reference shall not extend the period of time within which the Zoning Board of Adjustment shall act.

F. Other Powers

The Zoning Board of Adjustment shall have such other powers as prescribed by law, including, but not limited to, the following:

1. Direct issuance of a construction permit pursuant to N.J.S.A. 40:55D-34 for the construction of a building or structure within the bed of a mapped street or public drainageway, flood control basin or public area as shown on a duly adopted Official Map, if an Official Map is adopted by the Town, whenever one or more parcels of land within said bed cannot yield a reasonable return to the owner unless a construction permit is granted. The Board may grant such relief only by affirmative vote of a majority of the full authorized membership of the Zoning Board of Adjustment, ensuring that such relief will tend to cause a minimum change of the Official Map and will not significantly add to the cost of opening any proposed street. The Board shall impose reasonable requirements as a condition of granting the construction permit so as to promote the health, morals, safety and general welfare of the public.

2. Direct issuance of a construction permit pursuant to N.J.S.A. 40:55D-36 for the construction of a building or structure on a lot not abutting a street which is shown on a duly adopted Official Map, if an Official Map is adopted by the Town, or which is (a) an existing State, County or municipal street or highway; or (b) a street shown upon a plat approved by the municipal Planning Board; or (c) a street on a plat duly filed in the office of the County Recording Officer. The Board may grant such relief only when the enforcement of the statute requirement that a building lot abut a street would entail practical difficulty or

unnecessary hardship, or where the circumstances of the case do not require the building or structure to abut a street. The Board shall impose requirements or conditions that will provide adequate access for fire fighting equipment, ambulances and other necessary emergency vehicles for the protection of the health and safety and that will protect any future street layout on the Official Map or on the Traffic Circulation Plan element of the municipal Master Plan.

3. The Zoning Board of Adjustment shall have the power to grant, to the same extent and subject to the same restrictions as the Planning Board, subdivision, site plan or conditional use approval whenever the proposed development requires approval by the Zoning Board of Adjustment of a variance pursuant to subsection 702 D. of this Ordinance. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon a grant of all required subsequent approvals by the Zoning Board of Adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and the zoning provisions of this Ordinance. The number of votes of Board members required to grant such subsequent approval shall be as otherwise provided in this Ordinance for the approval in question, and the special vote pursuant to subsection 702 D. of this Ordinance shall not be required.

703 APPEALS AND APPLICATIONS TO THE ZONING BOARD OF ADJUSTMENT

A. Appeals to the Zoning Board of Adjustment may be taken by any interested party affected by any decision of an administrative officer of the municipality based on or made in the enforcement of the zoning provisions of this Ordinance or a duly adopted Official Map. Such appeal shall be taken within twenty (20) days by filing a notice of appeal with the official from whom the appeal is taken, with three (3) copies of the notice given to the Secretary of the Zoning Board of Adjustment. The notice shall specify the grounds for the appeal. The official from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

B. The Zoning Board of Adjustment may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from and to that end have all powers of the municipal official from whom the appeal is taken.

C. An appeal to the Zoning Board of Adjustment shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the municipal official from whose action the appeal is taken certifies to the Zoning Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court upon notice to the municipal official from whom the appeal is taken and due cause shown.

D. A developer may file an application for development with the Zoning Board of Adjustment for action under any of its powers without prior application to a municipal official.

E. The Zoning Board of Adjustment shall act upon any appeal or any application for development within one hundred twenty (120) days either from the date the appeal is taken from the decision of the municipal official or from the date the application is certified as a complete application, as the case may be, or within such further time as may be consented to by the applicant, except that when an applicant elects to submit separate consecutive applications for use variance approval and site plan, subdivision or conditional use approval, the one hundred twenty (120) day time period for action shall apply to the application for approval of the use variance, and the time period for granting or denying any subsequent approval shall be as otherwise provided in this Ordinance.

704 ESTABLISHMENT OF THE PLANNING BOARD

A. A Planning Board is hereby created consisting of nine (9) regular and up to two (2) alternate members of the following four (4) classes:

Class I	The Mayor
Class II	One (1) of the officials of the municipality other than a member of the governing body, to be appointed by the Mayor, provided that if there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be deemed the Class II Planning Board member if there is both a member of the Zoning Board of Adjustment and a member of the Board of Education among the Class IV members or alternate members.
Class III	A member of the Town Council to be appointed by it.

Class IV Regular Members	Six (6) other citizens of the municipality, to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, except that one (1) member may be a member of the Zoning Board of Adjustment and one (1) member may be a member of the Board of Education. A member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be a Class IV Planning Board member unless there is among the Class IV members of the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education, in which case the member of the Environmental Commission shall be deemed to be the Class II member of the Planning Board.
Class IV Alternate Members	Two (2) other citizens of the municipality who may be appointed by the Mayor. Alternate members shall hold no other municipal office, except that one member may be a member of the Zoning Board of Adjustment and/or one member may be a member of the Board of Education. The alternate members shall be designated by the Mayor at the time of their appointment as “Alternate No. 1” and “Alternate No. 2.

B. The term of the member composing Class I shall correspond with his official tenure. The terms of the members composing Class II and Class III shall be for one (1) year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission. The term of a Class II or Class IV member who is also a member of the Environmental Commission shall be for three (3) years or terminate at the completion of his term as a member of the Environmental Commission, whichever comes first. The term of a Class IV member who is also a member of the Board of Adjustment or the Board of Education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever comes first.

C. All present Class IV members of the Planning Board shall continue in office until the completion of the terms for which they were appointed. The terms of Class IV regular members first appointed pursuant to this Ordinance shall be so determined that to the greatest practicable extent the expiration of such term shall be evenly distributed over the first four (4) years after their appointment; provided that the initial term shall not exceed four (4) years. Thereafter the term of each Class IV regular member shall be four (4) years. All terms shall run from January 1 of the year in which the appointment is made.

D. The terms of the Class IV alternate members shall be two (2) years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire any one (1) year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two (2) years. All terms shall run from January 1 of the year in which the appointment is made.

E. 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.

F. If a vacancy of any class shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for the unexpired term. Any member other than a Class I member may be removed by the governing body for cause but only after public hearing, if requested, and other requested procedural due process protection.

G. The Planning Board shall organize annually by selecting from among its Class IV regular members a Chairman, Vice Chairman, and Secretary. The Board also shall select a Clerk of the Board, who may or may not be a member of the Board or a municipal employee of the Town.

H. The governing body, after giving due consideration to budget requests that may be submitted by the Planning Board, shall make provisions in its budget and appropriate funds for the expenses of the Planning Board.

I. The office of Planning Board Attorney is hereby created. The Planning Board may appoint to such office and fix compensation or rate of compensation of an attorney at law of New Jersey other than the Town Attorney.

J. The Planning Board may also employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary. The Board, however, shall not authorize expenditures which exceed, exclusive of gifts, grants or application fees, the amount appropriated by the governing body for its use.

705 POWERS AND JURISDICTION OF THE PLANNING BOARD

The Planning Board shall have the powers listed below in addition to other powers established by law:

A. Make, adopt and, from time to time, amend a Master Plan for the physical development of the Town, including any areas outside its boundaries which, in the Board's judgement, bear essential relationship to the planning of the Town.

B. Administer the Subdivision and Site Plan Review provisions of the Land Development Ordinance in accordance with the applicable provisions of said Ordinance.

C. Recommend to the Town Council an Official Map, reflecting appropriate provisions of the municipal Master Plan, pursuant to N.J.S.A. 40: *55D—32*.

D. Hear and decide applications for conditional uses in accordance with the applicable provisions of this Ordinance.

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

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

G. Annually, at the request of the Town Council, prepare a program of municipal capital improvements projects projected over a term of six (6) years and recommend same to the Town Council.

H. Consider and report to the Town Council within thirty-five (35*)* days after referral as to any proposed development regulation submitted to it and also pass upon other matters specifically referred to the Planning Board by the Town Council.

I. Make available to the Historic Preservation Commission an informational copy of every application submitted to the Board for development in historic zoning districts or on historic sites designated in the Historic Preservation Plan Element of the Town Master Plan.

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

K. Whenever the proposed development requires approval of a subdivision, site plan or conditional use, but not a variance pursuant to Section 702 D. of this Ordinance (N.J.S.A. 40:55D-70[d]), to grant to the same extent and subject to the same restrictions as the Zoning Board of Adjustment:

1. Variances pursuant to subsection 702 C. of this Ordinance (N .J.S.A. 40:55 D-70[c]).

2. Direction pursuant to subsection 702 F.1. of this Ordinance (N.J.S.A. 40:55D-34) for issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to N.J.S.A. 40:55 D-32.

3. Direction pursuant to subsection 702 F.2. of this Ordinance (N.J.S.A. 40:55D-36) for issuance of a permit for a building or structure not related to a street.

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

The developer may elect to submit a separate application requesting approval of the variance or direction of the issuance of a permit, and a subsequent application for any required approval for a subdivision, site plan, or conditional use. The separate approval of the variance or direction of the issuance of a permit, shall be conditioned upon grant of all required subsequent approvals by the Planning Board. No such subsequent approval shall be granted unless the approval can be granted without substantial detriment to the public good and without substantial impairment to the intent and purpose of the zone plan and the zoning provisions of this Ordinance.

706 PROVISIONS APPLICABLE TO BOTH THE PLANNING BOARD AND THE ZONING BOARD OF ADJUSTMENT

A. Conflicts of Interest

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

B. Meetings

1. Meetings of both the Planning Board and the Zoning Board of Adjustment shall be scheduled no less than once a month and any meeting so scheduled shall be held as scheduled unless cancelled for lack of applications for development to process.

2. Special meetings may be provided for at the call of the Chairman or on the request of any two (2) Board members, which meetings shall be held on notice to its members and the public in accordance with all applicable legal requirements.

3. No action shall be taken at any meeting without a quorum being present, said quorum to be the majority of the full authorized membership of the Board.

4. All actions shall be taken by majority vote of the members of the Board present at the meeting except as otherwise required by a provision of N.J.S.A. 40:55D-1 et seq. A member of the Board who was absent for one or more of the meetings at which a hearing was held shall be eligible to vote on a matter upon which the hearing was conducted, notwithstanding his absence from one or more of the meetings; provided, however, that such Board member has available to him the transcript or recording of all of the hearing from which he was absent, and certifies in writing to the Board that he has read such transcript or listened to such recording.

5. All regular meetings and all special meetings shall be open to the public, except as provided in the Open Public Meeting Law C.231, Laws of New Jersey, *1975.* Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meeting Law C.231, Laws of New Jersey, 1975.

C. <u>Public Hearings</u>

1. Subsequent to an application for development being declared complete, the Planning Board or the Zoning Board of Adjustment, as the case may be, shall hold a hearing on the application for development. Each Board shall make rules governing such hearings.

2. Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least ten (10) days before the date of the hearing during normal business hours in the office of the Administrative Officer. The applicant may produce any documents, records or testimony at the hearing to substantiate or clarify or supplement the previously filed maps and documents.

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

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

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

D. Public Notice of a Hearing

1. Public notice of a hearing shall be given for all applications for development.

2. The Clerk of the Planning Board or the Clerk of the Zoning Board of Adjustment, as the case may be, shall notify the applicant at least two (2) weeks prior to the public hearing at which the application will be discussed. Notice of a hearing requiring public notice shall be given by the applicant at least ten (10) days prior to the date of the hearing in the following manner:

   a. Publication in an official newspaper of the Town, if there is one, or in a newspaper of general circulation in the Town in the absence of an official newspaper; and,

   b. By notification by personal service or certified mail to the following. An affidavit of proof of the giving of the required notice shall be filed by the applicant with the municipal agency at, or prior to, the hearing. It is not required that a return receipt is obtained; notice is deemed complete upon mailing (N.J.S.A. 40:55D-14).

      (1) To all owners of real property as shown on the current tax duplicate, located in the State and within two hundred feet (200') in all directions of the property which is the subject of the hearing; provided that this requirement shall be deemed satisfied by notice to the (1) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it.

         (a) Notice to a partnership owner may be made by service upon any partner.

         (b) Notice to a corporate owner may be made by service upon its president, a vice-president, secretary or

other person authorized by appointment or by law to accept service on behalf of the corporation.

(c) Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

(2) To the Clerk of any adjoining municipality or municipalities when the property involved is located within 200 feet of said adjoining municipality or municipalities.

(3) To the Warren County Planning Board when the application for development involves property adjacent to an existing county road or proposed road as shown on the County Official Map or County Master Plan, adjoining other county land or situated within 200 feet of a municipality boundary.

(4) To the Commissioner of Transportation of the State of New Jersey when the property abuts a state highway.

(5) To the Director of the Division of State and Regional Planning in the Department of Community Affairs when the hearing involves an application for the development of property which exceeds 150 acres or 500 dwelling units, in which case the notice shall include a copy of any maps or documents required to be filed with the Town.

3. Upon the written request of an applicant, the Town Tax Assessor shall, within seven (7) days, make and certify a list from current tax duplicates of names and addresses of owners within the Town to whom the applicant is required to give notice. The applicant shall be charged twenty-five cents ($0.25) per name or ten dollars ($10.00), whichever is greater, for said list and shall be entitled to rely upon the information contained in such list, and failure to give notice to any lot owner not on the list shall not invalidate any hearing or proceeding. Additionally, the applicant shall be responsible for giving proper notice to all property owners pursuant to Section 13-706.4.b.2 above who own property not located within the Town.

4. The notice shall state the date, time and place of the hearing and the nature of the matters to be discussed, and an identification of the property proposed for development by street address, if any, and by reference to lot and block numbers as shown on the current tax duplicate in the Town Tax Assessor's

office, and the location and times at which any maps or documents for which approval is sought are available for inspection.

5. Regarding any application for development being reviewed by the Planning Board or Zoning Board of Adjustment, as the case may be, and said Board determines that substantial revisions have been made to said application subsequent to the date when it was determined to be a "complete application", then the Board may require the applicant to again comply with the notice requirements specified in this section of the Ordinance.

E. Records

1. Minutes of every regular or special meeting shall be kept and shall include the names and addresses of the persons appearing and addressing the Planning Board or the Zoning Board of Adjustment, and of any persons appearing by attorney, the action taken by the Planning or Zoning Board, the findings, if any, made by it and the reasons therefor. The minutes shall thereafter be made available, after approval by the Board, for public inspection during the normal business hours at the office of the Administrative Officer. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceedings concerning the subject matter of such minutes. Such interested party shall be charged a reasonable fee for the reproduction of the minutes.

2. A verbatim recording shall be made of every hearing on an application for development submitted to the Town. The recording of the proceedings shall be made either by stenographer, mechanical or electrical means. The municipality shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his expense, provided that the charge for a transcript shall not exceed the maximum amount permitted in N.J.S.A. 2A:11-15. Each transcript shall be certified in writing by the transcriber to be accurate.

F. Decisions

1. Each decision on any application for development shall be reduced to writing by the Board and shall include findings of facts and conclusions based thereon.

2. The Board shall provide the findings and conclusions through:

   a. A resolution adopted at a meeting held within the time period provided in this Ordinance for action by the Board on the application for development; or

b. A memorializing resolution adopted at a meeting held no later than forty-five *(45)* days after the date of the meeting at which the Board voted to grant or deny approval. Only the members of the Board who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution. An action pursuant to N.J.S.A. 40:55D-9 (resulting from the failure of a motion to approve an application) shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution.

3. The vote on any memorializing 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 the mailings, filings and publications required in Section 708 of this Ordinance.

4. If the Board fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary manner for an order compelling the Board to reduce its findings and conclusions to writing within a stated time and the cost of the application, including attorneys fees, shall be assessed against the municipality.

5. Conditional Approvals:

   a. Conditions Precedent: Whenever any application for development is approved by the Board subject to specified conditions intended to be fulfilled before the approval becomes effective, said approval shall lapse and become null and void unless all specified conditions are fulfilled within 190 days of the date the approval was granted by the Board.

   b. Conditions Subsequent: Whenever any application for development is approved by the Board subject to conditions which are not required to be fulfilled before the approval becomes effective and are not guaranteed pursuant to Section 902 of this Ordinance, then the failure to fulfill any such condition within six (6) months from the date of the approval of the application for development shall be grounds for the issuance of a stop work order by the enforcing official and the withholding of any zoning permit, construction permit, certificate of occupancy or any other approval until such condition is fulfilled.

   c. Nothing herein contained shall be construed as preventing the Board from specifying a longer period of time within which any specific condition must be fulfilled, or from granting, an extension of time for fulfilling a condition for good cause shown.

d. Only upon fulfillment of all conditions precedent shall any subdivision plat or site plan be signed or any required zoning permit, construction permit, occupancy permit or other approval be issued.

e. The fulfillment of all conditions, precedent or subsequent, shall be reported in writing to the Board, which may cause such reports to be verified in an appropriate manner.

G. Expiration of Variance

Any variance hereafter granted by the Zoning Board of Adjustment or Planning Board permitting the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire by limitation, unless such construction permits are obtained and such construction or alteration shall have been actually commenced on each and every structure permitted by said variance or unless such permitted use has actually been commenced, within two (2) years from the date of entry of the determination of the Zoning Board of Adjustment or Planning Board; provided however, that the running of the period of limitation hereby established shall be tolled from the date of the filing of an appeal from the decision of the Zoning Board of Adjustment or Planning Board to Town Council or to court of competent jurisdiction until the termination in any manner of such appeal or proceeding. For good cause shown, and after a hearing before the Board on notice in the manner required for original variance applications, the Zoning Board of Adjustment or Planning Board may extend the variance by resolution. Any extension may not exceed one (1) year in duration and no more than two (2) such extensions shall be permitted. To receive consideration, an application for extension of a variance shall be made prior to the expiration of the time limit sought to be extended. Anything herein to the contrary notwithstanding, any variance granted with a site plan, subdivision, and/or conditional use approval shall expire with the expiration of the site plan, subdivision, and/or conditional use approval.

707 APPEAL OF USE VARIANCE APPROVAL DECISION

A. Any interested party may appeal to the Town Council any final decision of the Zoning Board of Adjustment approving an application for a use variance pursuant to *N.J.S.A. 40:55D-70d.* and Section 702 D. of this Ordinance. Notwithstanding the aforesaid right of appeal to the Town Council, any party has the right to obtain a review of such Zoning Board of Adjustment decision by any court of competent jurisdiction according to law.

B. Any appeal to the Town Council shall be made within ten (10) days of the date of publication of such final decision pursuant to Section 708 of this Ordinance. The appeal to the Town Council shall be made by serving the Town Clerk in person or by certified mail with a notice of appeal specifying the grounds thereof and the name and address of the appellant and the name and address of his attorney, if represented.

C. The appellant shall either: 1) Within five (5*)* days of serving notice of the appeal, arrange for a transcript for use by the Town Council and pay a deposit of fifty dollars ($50.00) or the estimated cost for such transcription, whichever is less; provided that the charge by the Town to the applicant for the transcript shall not exceed the maximum permitted in N.J.S.A. 2A:11-15*;* or 2) Within thirty-five (35) days of serving notice of the appeal, submit a transcript to the Town Clerk for use by the Town Council. Should the appellant neither arrange for or submit a transcript as provided hereinabove, the Town Council may dismiss the appeal for failure to prosecute. All transcripts shall be certified in writing by the transcriber to be accurate.

D. Notice of the meeting to review the record below shall be given by the Town Council by personal service or certified mail to the appellant, to those entitled to notice of a decision pursuant to Section 708 of this Ordinance, and to the Zoning Board of Adjustment at least ten (10) days prior to the date of the meeting. The appeal shall be decided by the Town Council only upon the record established by the Zoning Board of Adjustment. The parties may submit oral and written arguments on the record at the Town Council meeting, and the Town Council shall provide and pay for verbatim recording and transcripts of such meeting.

E. The Town Council shall conclude a review of the record below not later than ninety-five (95*)* days from the publication of the notice of the subject decision of the Zoning Board of Adjustment, unless the appellant consents in writing to an extension of such time period. Failure of the Town Council to hold a hearing and conclude a review of the record below and to render a decision within such specified period without such written consent of the appellant shall constitute a decision affirming the action of the Zoning Board of Adjustment.

F. The Town Council may reverse, remand or affirm, with or without conditions, the final decision of the Zoning Board of Adjustment being appealed. The affirmative vote of three (3) members of the Town Council shall be necessary to reverse, remand, or impose or remove conditions upon the aforesaid final decision. In the event that an affirmative vote of three (3) members of the Town Council is not obtained, the aforesaid final decision shall be deemed affirmed without change.

G. An appeal to the Town Council shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the Zoning Board of Adjustment certifies to the Town Council, after the notice of appeal has been filed with the Board, that by reasons of facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court on application upon notice to the Zoning Board of Adjustment and on good cause shown.

708 NOTICE OF PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT DECISIONS

Any decision of the Planning Board or the Zoning Board of Adjustment when acting upon an application for development and any decision of the Town Council when acting upon an appeal shall be given notice in the following manner:

A. A copy of the decision shall be mailed by the appropriate Town authority within ten (10) days of the date of decision to the applicant or appellant, or, if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed within ten (10) days to any interested party who has requested it and who has paid the fee prescribed by the Town authority for such service.

B. A brief notice of every final decision shall be published in the official newspaper of the Town. Such publications shall be arranged by the Secretary of the Planning Board, the Secretary of the Zoning Board of Adjustment, or the Town Clerk, as the case may be, without separate charge to the applicant. The notice shall be sent to an official newspaper for publication within ten (10) days of the date of any such decision.

C. A copy of the decision shall also be filed in the office of the Town Clerk, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the Town.

709 ESTABLISHMENT OF THE HISTORIC PRESERVATION COMMISSION

A. An "Historic Preservation Commission" is hereby created consisting of five (5) members of the following four (4) classes appointed by the Mayor:

Class A	One (1) person who is knowledgeable regarding building design, building construction, and/or architectural history. A member may or may not be a citizen of the municipality.
Class B	One (1) person who is knowledgeable of local history and/or has demonstrated an interest in local history. The Class B member may or may not be a member of the municipality.
Class C	Three (3) people who are citizens of the municipality and who hold no other municipal office, position or employment except that a Class C member may be a member of the Planning Board or Zoning Board of Adjustment.
Class D	Two (2) alternate members meeting the qualification of Class C. The Mayor at the time of appointment shall designate the alternate members as "Alternate 1" and Alternate "2". Alternates may participate in all discussions, but may not vote except in the absence or disqualification of a regular member.

B. All terms shall run from January 1 of the year in which the appointment is made. The terms of the members first appointed under this Ordinance shall be as follows:

Class A	Three (3) years.
Class B	Four (4) years.
Class C	Two (2) years for two (2) members and one (1) year for the other member.

Class D Alternate members shall be appointed evenly over the first two (2) years after their appointment and that the initial term of no alternate shall exceed two (2) years. Thereafter, the term of an alternate shall be two (2) years.

Subsequent to the above initial terms, the term of all members shall be four (4) years each. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only. Moreover, notwithstanding any other provision herein, the term of any Historic Preservation Commission member who also is a member of the Planning Board or Zoning Board of Adjustment shall be for his/her term of membership on the Planning Board or on the Zoning Board of Adjustment, as the case may be.

C. The Historic Preservation Commission shall organize annually by selecting from among its members a Chairman and Vice Chairman. The Commission also shall select a Secretary, who may or may not be a member of the Commission or a municipal employee of the Town.

D. No member of the Historic Preservation Commission shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest.

E. A member of the Historic Preservation Commission may, after public hearing if he requests it, be removed by the governing body for cause.

F. The governing body shall make provision in its budget and appropriate funds for the expenses of the Historic Preservation Commission.

G. The Historic Preservation Commission may employ, contract for, and fix the compensation of experts and other staff and services as it shall deem necessary. The Commission shall obtain its legal counsel from the Town Attorney at the rate of compensation determined by the governing body. Expenditures shall not exceed, exclusive of gifts or grants, the amount appropriated by the governing body for the Commission's use.

H. The Historic Preservation Commission shall establish and adopt rules and procedures for the transaction of its business, which rules and procedures shall be made available to the public and be subject to the following restrictions:

1. The Historic Preservation Commission shall establish a regular schedule of monthly meetings. Additional meetings may be called by the Chairman or the Vice Chairman when the regular meetings are inadequate either to meet the needs of its business, to handle emergencies, or to meet constraints imposed by law. All meetings shall comply with the Open Public Meetings Act (N.J.S.A. 10:4-7 et seq.).

2. A quorum for the transaction of business shall consist of three (3) or more members, including the Chairman and Vice Chairman.

3. The Secretary shall keep minutes and records of all meetings and proceedings, including voting records, attendance records, findings, determinations, and decisions; all such minutes and records shall be made available to the public.

710 POWERS AND JURISDICTION OF THE HISTORIC PRESERVATION COMMISSION

The Historic Preservation Commission shall have the powers listed below in addition to other powers established by law:

A. Prepare a survey of historic sites and/or historic district areas within the municipality in accordance with criteria identified in the survey report, including but not limited to the following:

   1. That the site or district is associated with events that have made a significant contribution to the broad patterns of our history; or

   2. That the site or district is associated with the lives of persons significant in our past; or

   3. That the site or district embodies the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

   4. That the site or district has yielded, or may be likely to yield, information important in prehistory or history.

B. Make recommendations to the Planning Board on the historic preservation element of the Master Plan and on the implementations for preservation of historic sites for any other Master Plan elements.

C. Advise the Planning Board on the inclusion of historic sites in the recommended capital improvement program.

D. Advise the Planning Board and Zoning Board of Adjustment on applications for development pursuant to N.J.S.A. 40:55D-110.

E. Provide written reports pursuant to N.J.S.A. 40-55D-111 on the application of the Zoning Ordinance provisions concerning historic preservation.

F. Carry out such other advisory, educational, and informational functions as will promote historic preservation in the Town.

SECTION 800

DEVELOPMENT APPLICATION REVIEW PROCEDURES

SECTION 800

DEVELOPMENT APPLICATION REVIEW PROCEDURES

801 JURISDICTION OF RESPONSIBILITY DURING DEVELOPMENT APPLICATION REVIEW

The Planning Board and the Zoning Board of Adjustment have certain overlapping powers to expedite the review process. Their respective responsibilities are outlined below:

A. Powers of the Planning Board:

1. The Planning Board shall have the power to grant subdivision or conditional use approval simultaneously with site plan approval.

2. The Planning Board shall have the power to act in lieu of the Zoning Board of Adjustment and subject to the same extent and restrictions of the Zoning Board of Adjustment on the following matters when the Planning Board is reviewing applications for approval of subdivision plans, site plans or conditional uses. Whenever relief is requested pursuant to this subsection, public notice shall be given and shall include reference to the request for a variance or direction for issuance of a permit, as the case may be.

   a. Grant variances pursuant to N.J.S.A. 40:55D-70c.

   b. Direct, pursuant to N.J.S.A. 40:55D-34, for issuance of a permit for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved pursuant to N.J.S.A. 40:55-32.

   c. Direct, pursuant to N.J.S.A. 40:55D-36, for issuance of a permit for a building or structure not related to a street.

B. Zoning Board of Adjustment Action in Lieu of Planning Board

The Zoning Board of Adjustment shall have the power to grant, to the same extent and subject to the same restrictions as the Planning Board, site plan, subdivision or conditional use approval whenever the proposed development requires approval by the Zoning Board of Adjustment of a variance pursuant to N.J.S.A. 40:55D-70d.

802 APPLICATION OF REQUIREMENTS

A. Subdivision Review

All subdivisions, as defined under Section 200, are subject to the review procedures specified herein.

B. Site Plan Review

No construction permit shall be issued for any new structure or parking lot designed for four (4) or more vehicles, or for an addition to an existing structure or parking lot, and no Certificate of Occupancy shall be issued for any change of use of an existing structure until the site plan has been reviewed and approved by the municipality except that:

1. A construction permit for a single-family detached dwelling unit or a two-family dwelling unit shall not require site plan approval, except that the use of any existing or proposed principal or accessory building for a "home occupation" as defined and permitted by this Ordinance shall require minor site plan approval prior to the issuance of a construction permit or certificate of occupancy. The foregoing shall in no way affect the responsibility of an application to submit the necessary information and receive the necessary approvals as may be required pursuant to other Ordinances.
2. Any change of use from one permitted category of non-residential use to another permitted category of non-residential use may not require site plan approval if 1) both the Construction Official and Zoning Officer certify to the Board in writing that the existing site development meets the requirements of this Ordinance for the new use category, and 2) the new use category does not require an increase in the number of required parking spaces; 3) the Town Engineer concurs with the findings of the Construction and Zoning Official.
3. Building alterations/additions shall not require site plan approval if both the Zoning Official and Construction Official stipulate to the Town Engineer the following conditions apply:

    a. There is no change in use category;
    b. No additional parking is required as a result of the alteration or addition;
    c. No more then Ten percent (10%) additional building coverage is proposed but in any case not to exceed 500 ft^2 ;
    d. No variance is required;
    e. There is no major change in circulation proposed such as drive-through windows, ingress or egress drives, changes in internal circulation, loading or unloading, delivery or pickup of goods and services or trash collection; and
    f. There are no major changes in a significant site facility or improvement such as drainage facility, buffer or landscaping features and the like.

4. A change to a previously approved site plan (via Planning Board or Zoning Board) that does not significantly impact nor substantially change the character and quality of the existing approval, shall be exempt from this Chapter provided that the Zoning Officer in consultation with the Town Engineer and Construction Official, determines that the proposed change satisfies the standards set forth in this subsection and notifies the Planning Board of these findings. Under no circumstances shall an application be deemed to satisfy this subsection if it has been more then three (3) years from the date of the site plan approval.

5. The clearing, excavation or filling of an area in excess of 5,000 square feet shall require site plan approval unless related to the construction of one single family home that does not require subdivision approval.

   Prior to any clearing, excavation or filling of an area in excess of 5,000 square feet related to the construction of a single family home that does not require subdivision approval, the property owner shall submit a grading plan and secure approval from the Town Engineer.

An applicant may elect to file for preliminary and final site plan approval simultaneously to expedite the review process. The site plan shall be prepared according to the requirements stipulated for final approval. Developers electing to by-pass the preliminary approval stage are doing so at the peril of added expenses if changes in the design are required.

C. Variance Relief

All applications for variance relief not involving any related site plan, subdivision or conditional use approval shall be made to the Zoning Board of Adjustment and shall be filed at least four (4) weeks prior to the date of the meeting. The filing shall include fifteen (15) copies of any maps and related material; fifteen (15) completed copies of the appropriate application form(s), which includes the checklist for variances pursuant to N.J.S.A. 40:55D-10.3 attached to this Ordinance; and the fee in accordance with Section 900 of this Ordinance. The Board shall act upon the application as required by law.

D. Informal Review by the Planning Board

1. At the request of a developer, the Planning Board shall grant one (1) informal review of a concept plan for a development for which the developer intends to prepare and submit an application for development.

2. The developer shall not be required to submit a fee for such an informal review; however, no professional review(s) will be undertaken unless the developer has agreed to pay for said review(s) in accordance with Section 900 of this Ordinance.

3. The developer shall not be bound by any concept plan for which review is requested, and the Planning Board shall not be bound by any such review.

4. A developer desiring to have a concept plan informally reviewed by the Planning Board shall so notify the Administrative Officer at least four (4) weeks prior to the meeting of the Planning Board. The Administrative Officer shall thereafter notify the developer of the time and place which has been scheduled by the Planning Board for the informal review.

E. Highlands Submission Requirements

1. APPLICATIONS FOR DEVELOPMENT IN THE HIGHLANDS PRESERVATION AREA. No Application for Development (as defined pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) involving property located (or partially located) in the Preservation Area of the Highlands Region, for which application submission requirements apply under this Ordinance, shall be deemed complete or considered for review by the applicable Town land use Board until and unless the Applicant has obtained and provided a copy of:

a. A Consistency Determination from the Highlands Council indicating that the application is consistent with the Highlands Regional Master Plan; or
b. A Consistency Determination from the Highlands Council indicating that the application is not consistent with the Highlands Regional Master Plan, accompanied by a certification, as detailed in Section 1.C below, by the Applicant's professional(s) that the application has been revised since review by the Highlands Council to achieve consistency with the Highlands Regional Master Plan; or
c. A Highlands Preservation Area Approval issued by the NJDEP.

2. APPLICATIONS FOR DEVELOPMENT IN THE HIGHLANDS PLANNING AREA. No Application for Development (as defined pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) involving property located wholly or partially in the Planning Area of the Highlands Region, for which application submission requirements apply under this Ordinance, shall be deemed complete or considered for review by the applicable Town land use Board until and unless the Applicant has obtained and provided a copy of:

a. A Consistency Determination from the Highlands Council indicating that the application is consistent with both the Highlands Regional Master Plan, and the Highlands Council Resolution (#2011-25) granting approval of the Hackettstown Petition for Plan Conformance; or
b. A Consistency Determination from the Highlands Council indicating that the application is not consistent with the Highlands Regional Master Plan and/or the Highlands Council Resolution (#2011-25) granting approval of the Hackettstown Petition for Plan Conformance, accompanied by a certification, as detailed in Section 1.C below, by the Applicant's professional(s) that the application has been since review by the Highlands Council revised to achieve consistency with the Highlands Regional Master Plan and the Highlands Council Resolution (#2011-25) granting approval of the Hackettstown Petition for Plan Conformance.

3. FINDINGS OF INCONSISTENCY. Where a Highlands Council Consistency Determination indicates that an Application for Development is inconsistent with the Highlands Regional Master Plan or the Highlands Council Resolution (#2011-25) granting approval of the Hackettstown Petition for Plan Conformance, no such application shall be deemed complete or considered for review by the applicable Town land use Board, until or unless the Applicant has obtained from the professional(s) responsible for preparation of the Applicant's plans, a certification indicating that to the best of the knowledge and abilities of such professional(s), the plans have been revised to achieve consistency with the Highlands Regional Master Plan and the Highlands Council Resolution (#2011-25) granting approval of the Hackettstown Petition for Plan Conformance, and specifically describing the revisions made to achieve such consistency.

4. EXCLUSIONS. The following specific improvements and related applications shall be excluded from the provisions of this Section:

a. Any improvement to a single family dwelling in lawful existence as of the effective date of this Ordinance, provided that such improvement: a) is related and dedicated solely to the single-family residential use of either the dwelling or the property upon which it is situated; b) results in the ultimate disturbance of less than one (1) acre of land; and c) produces a cumulative impervious surface area of less than one-quarter (¼) acre.

b. The reconstruction, within the same footprint, of any building or other structure lawfully existing as of the effective date of this Ordinance, in the event of its destruction or partial destruction by fire, storm, natural disaster, or any other unintended circumstance.

c. The repair or maintenance of any building or other structure lawfully existing as of the effective date of this Ordinance. This exclusion shall not be construed to permit repairs or maintenance activities that alter the footprint of such building or structure.

d. The interior improvement, rehabilitation, or modification of any building or other structure lawfully existing as of the effective date of this Ordinance. This exclusion shall not be construed to permit activities that alter the footprint of such building or structure.

e. The attachment of signs or other ornamentation to any building or structure, to the installation of windows, doors, chimneys, vents, shafts, heating, ventilation, or air conditioning equipment, or to any other such improvement to a building or structure provided it occupies a surface area footprint of not more than 50 square feet. This exclusion shall not be construed to permit ultimate disturbance or cumulative impervious surface in excess of that provided at 1, above, for single-family dwellings.

f. Any improvement or alteration to a building or other structure lawfully existing as of the effective date of this Ordinance, where such improvement or alteration is necessary for compliance with the provisions of the Americans with Disabilities Act, or to otherwise provide accessibility to the disabled.

g. Any activity, improvement or development project located (or partially located) in the Preservation Area for which a Highlands Applicability Determination is not required as a precondition of NJDEP permitting, as provided pursuant to N.J.A.C. 7:38-2.4(b)1 through 2.4(b)10.

5. EXEMPTIONS. Any activity, improvement or development project listed and demonstrated to constitute a Highlands Act exemption shall be exempt from the provisions of this Section.

a. Demonstration of a Highlands Act exemption for an Application for Development involving lands located (or partially located) in the Preservation Area shall consist of a Highlands Applicability Determination issued by the NJDEP pursuant to N.J.A.C. 7:38-2.4.
b. Demonstration of a Highlands Act exemption for an Application for Development involving lands located wholly in the Planning Area shall consist of a Highlands Exemption Determination issued by the Highlands Council.

6. WAIVER. The Town may issue a waiver from the provisions of this Section where it can be established by the Applicant and can be verified by the designated representative(s) of the Town that:

a. The activity, improvement or development proposed by the subject Application for Development has not yet been formally determined to be exempt from the Highlands Act, but eligibility for an exemption has been sufficiently established by the Applicant; or
b. The activity, improvement or development proposed in the Application for Development will neither encroach upon a Highlands Resource or Highlands Resource Area, nor be of detrimental impact to any Highlands resource or Highlands Resource Area as these are identified and delineated in the Highlands Regional Master Plan. The Applicant's professional(s) responsible for preparation of the Applicant's plan shall establish compliance of the above through a formal certification specifically addressing the Highlands Resources and Resource Areas and related policies and objectives as identified in Chapter 4 of the Highlands Regional Master Plan.

7. HIGHLANDS COUNCIL CALL-UP. All municipal waivers or findings of application completeness issued pursuant to this Section shall be subject to Highlands Council call-up review and the municipality shall specifically include conditions of this review consistent with this paragraph. In all such cases, the municipality shall within five (5) calendar days of issuance, provide notice to the Applicant and to the Highlands Council of any waiver or finding of application completeness made pursuant to this Section. The Highlands Council call-up review period shall expire 15 calendar days following its receipt of such notice. Absent any notice to the municipality from the Highlands Council within that timeframe, the application shall be considered complete, with the date of the waiver or application completeness to be as of the date of first issuance by the municipality. Upon determining to exercise this authority for call-up review, the Highlands Council shall transmit notice to the Applicant and the municipality.

8. HIGHLANDS DEFINITIONS. For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance 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.

Applicant – means any entity applying to the Board of Health, Planning Board, Zoning Board of Adjustment, Zoning Officer, Construction Official or other applicable authority of the municipality for permission or approval to engage in an activity that requires an Application for Development.

Application for Development – means the application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance, or direction of the issuance of a permits pursuant to section 25 or section 27 of P.L.1975, c.291 (C.40:55D-34 or C.40:55D-36).

Disturbance – means the placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation.

Disturbance, Ultimate – means the total existing or proposed area of disturbance of a lot, parcel, or other legally designated (or otherwise legally recognized) tract or subdivision of land, for the purpose of, and in connection with, any human activity, property improvement, or development, including the surface area of all buildings and structures, all impervious surfaces, and all associated land disturbances such as excavated, filled, and graded areas, and all lawn and landscape areas. Ultimate disturbance shall not include areas of prior land disturbance which at the time of evaluation: a) contain no known man-made structures (whether above or below the surface of the ground) other than such features as old stone rows or farm field fencing; and b) consist of exposed rock outcroppings, or areas which, through exposure to natural processes (such as weathering, erosion, siltation, deposition, fire, flood, growth of trees or other vegetation) are no longer impervious or visually obvious, or ecologically restored areas which will henceforth be preserved as natural areas under conservation restrictions.

Highlands Council – means the New Jersey Highlands Water Protection and Planning Council**.**

Highlands Act – means the Highlands Water Protection and Planning Act, P.L. 2004, c.120, as amended, codified in part at N.J.S.A. 13:20-1 *et seq.*

Highlands Applicability Determination – means the determination made by the NJDEP of whether a project proposed for the Preservation Area is a major Highlands development, whether any such major Highlands development is exempt from the Highlands Act, and whether the project is consistent with the applicable Areawide Water Quality Management Plan.

Highlands Area – means that portion of the municipality for which the land use planning and regulation are in conformance with, or are intended or proposed to be in conformance with, the Highlands Regional Master Plan including specifically in the case of Hackettstown, the whole of the municipality.

Highlands Preservation Area Approval (HPAA) – means a permit to engage in a regulated activity in the Highlands Preservation Area issued by the NJDEP pursuant to the Highlands Act and the NJDEP Highlands Water Protection and Planning Act Rules (N.J.A.C. 7:38), including an HPAA that contains a waiver pursuant to N.J.S.A. 13:20-33b. Highlands Preservation Area Approval includes Highlands general permits issued pursuant to N.J.S.A. 13:20-33d and promulgated at N.J.A.C. 7:38-12. HPAA, when used in this Ordinance, includes Highlands general permits unless explicitly excluded.

Highlands Region – means all that area within the boundaries of the municipalities listed in subsection a. of section 7 of the Highlands Act.

Impervious Surface – means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, including, but not limited to, porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

Impervious Surfaces, Cumulative – means the total area of all existing or proposed impervious surfaces situated or proposed to be situated within the boundary lines of a lot, parcel, or other legally recognized subdivision of land, expressed either as a measure of land area such as acreage, or square feet, or as a percentage of the total lot or parcel area.

Municipal Land Use Law (MLUL) – means the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq*.

NJDEP – New Jersey Department of Environmental Protection

NJDEP Preservation Area Rules – means the regulations established by the NJDEP to implement requirements of the Highlands Act, titled "Highlands Water Protection and Planning Act Rules," and codified at N.J.A.C. 7:38-1 et seq.

Planning Area – means lands within the Highlands Region not within the Preservation Area (N.J.S.A. 13:20-7).

Plan Conformance – means the process by which a municipality revises the master plan, development regulations and other regulations related to the development and use of land to conform them with the goals, requirements, and provisions of the Regional Master Plan in accordance with the Highlands Plan Conformance Guidelines.

Preservation Area – means that portion of the Highlands Region so designated by subsection b. of section 7 of the Highlands Act.

Regional Master Plan – means the Highlands Regional Master Plan or any revision thereof adopted by the Highlands Council pursuant to N.J.S.A. 13:20-8.

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

803 SUBMISSION OF MINOR SUBDIVISION PLATS AND MINOR SITE PLANS

A. Procedure for Submitting Minor Subdivision Plats and Minor Site Plans
The applicant shall submit to the Administrative Officer at least four (4) weeks prior to the meeting: twenty (20) copies of the minor plat or plan; twenty (20) completed copies of the appropriate application(s), which includes the application(s) for any requested variance(s) and the checklist(s) pursuant to N.J.S.A. 40:55D-10.3 attached to this Ordinance with the items of information required therein; twenty (20) copies of the Environmental Impact Statement; ten (10) copies of any protective covenants, easements and/or deed restrictions applicable to the subject site, whether recorded or unrecorded; and the fee in accordance with Section 900 of this Ordinance. The application shall contain an acknowledgement signed by the applicant stating that the applicant is familiar with the procedure set forth herein for submitting and acting upon minor subdivision plats and minor site plans, and agrees to be bound by it. The Administrative Officer shall process the application and shall issue an application number. Once an application has been assigned a number, such number shall appear on all papers, maps, plats or plans and other documents for processing in conjunction with the application.

B. Details Required for Minor Subdivision Plats and Minor Site Plans

Each minor plat or minor plan shall be drawn by a professional engineer and/or land surveyor licensed to practice in the State of New Jersey and shall bear the signature, seal, license number and telephone number of the said professional engineer and/or land surveyor; provided, however, that all engineering data shall be signed and sealed by a professional engineer and all surveying data shall be signed and sealed by a professional land surveyor.

Each submission shall be drawn at an appropriate scale not less than 1" equals 50' and shall be submitted on one of four of the following standard sheet sizes (8-1/2" x 13"; 15" x 21"; 24" x 36"; or 30" x 42"). All plan sheets shall be folded into eighths with the title block revealed.

Each minor plat or plan shall show the following information as applicable to a minor subdivision or minor site plan, unless the Planning Board or Zoning Board of Adjustment determines, upon request of the applicant, that such information either is unnecessary or inapplicable to the particular subdivision or site plan and can be waived:

1. A key map showing the entire tract and its relation to the surrounding area, at a scale of one inch equals not more than 1,000 feet;

2. Title block in accordance with the rules governing title blocks for professional engineers (N.J.S.A. 45:8-36), including:

    a. Name of subdivision or development, Town of Hackettstown and Warren County, with each sheet specifically titled with appropriately descriptive words;

    b. Name, title, address and telephone number of subdivider or developer;

    c. Name, title, address and license number of the professional or professionals who prepared the plat or plan;

    d. Name, title and address of the owner or owners of record;

    e. North arrow;

    f. Scale (written and graphic); and

    g. Date of original preparation and of each subsequent revision thereof and a list of the specific revisions entered on each sheet.

3. If the applicant is a corporation or a partnership, the names and addresses of all partners, or the names and addresses of all stockholders owning ten percent (10%) or more of any class of stock of the corporation;

4. Acreage figures (both with and without areas within public rights-of-way);

5. Approval signature lines:

    a. Chairman;
    b. Secretary; and
    c. Town Engineer.

6. Existing block and lot number(s) of the lot(s) to be subdivided or developed as they appear on the Town Tax Map, and proposed block and lot numbers as provided by the Town Tax Assessor upon written request;

7. Tract boundary line (heavy solid line);

8. The location of existing and proposed property lines (with bearings and distances), streets, structures (with their numerical dimensions and an indication as to whether existing structures will be retained or removed), parking spaces, loading areas, driveways, watercourses, railroads, bridges, culverts, drain pipes, any natural features such as wetlands and treed areas, both within the tract and within one hundred (100) feet of its boundary;

9. The location and width of all existing and proposed utility easements, the use(s) for which they are intended to be limited, and the manner in which the easements will be controlled;

10. Zoning districts affecting the tract, including district names and all area and bulk requirements, with a comparison to the proposed development;

11. Proposed buffer and landscaped areas;

12. Delineation of flood plains, including both floodway and flood fringe areas;

13. Contours as shown on the U.S.G.S. topographic sheets;

14. Marshes, ponds and lands subject to flooding within the tract and within one hundred (100) feet thereof;

15. The name of all adjacent property owners as they appear on the most recent tax list prepared by the Clerk of the Planning Board or Clerk of the Zoning Board of Adjustment, as the case may be;

16. Five (5) copies of a certificate from the Town Tax Collector that all taxes and assessments are paid to date;

17. Five (5) copies of the completed application to the Warren County Planning Board, if applicable;

18. Five (5) copies of the completed application to the Hackettstown Municipal Utilities Authority, if applicable;

19. Concerning minor subdivisions only, existing and proposed monuments;

20. Proposals for soil erosion and sediment control as required by N.J.S.A. 4-24-39 et seq.

21. All minor subdivision applications shall be accompanied by an Environmental Impact Statement in accordance with the provisions of 804 C. of this Ordinance. The applicant may request a waiver of this requirement, either in whole or in part, provided that the applicant states in writing the basis for the waiver request. The Board shall act upon the requested waiver at the meeting when it determines whether or not the application is complete.

22. No minor subdivision or minor site plan involving any street(s) additional right-of-way width as specified in the Master Plan or Official Map and the street requirements of this Ordinance shall be approved unless such additional right-of-way, either along one (1) or both sides of said streets, as applicable, shall be granted to the Town or other appropriate governmental agency;

23. Plans of proposed improvements and utility layouts including sewers, storm drains and water lines, and feasible connections to gas, telephone and electrical utility systems. If private utilities are proposed, they shall comply fully with all Town, County, State and Federal regulations. If service will be provided by an existing utility company, in lieu of detailed plans, a letter from that company stating that service will be available before occupancy will be sufficient. Additionally, letters from the appropriate County

and State agencies granting approval for the extension of utility service(s) under their respective jurisdiction shall be submitted with the application;

24. No minor subdivision or minor site plan involving any corner lot shall be approved unless a sight triangle easement shall be granted as specified in this Ordinance; and

25. Deed descriptions (including metes and bounds), easements, covenants, restrictions and roadway dedications shall be submitted for approval and required signatures prior to filing with the County Recording Officer.

26. All minor subdivision applications and minor site plan applications shall include with the application a sixty-year title search dated within 6 months of the application date including copies of all deeds, easements, covenants, restrictions and other items affecting title to the property.

C. Action by the Town

1. The Planning Board or Zoning Board of Adjustment, as the case may be, and its professional advisors, shall review the aforesaid application for the purpose of determining, within forty-five (45) days of its submission, whether said application is complete and whether any waiver of check list items will be granted. The Board shall:

   a. If said application is found to contain all of the information required by a checklist adopted as part of this Land Development Ordinance and attached hereto following Section 806 of this Ordinance, the Board, or its agent in those specific instances where designated, shall certify that said application is complete.

   b. If said application is found to lack some of the information required by the checklist adopted as part of this Land Development Ordinance and attached hereto following Section 806 of this Ordinance, said Board shall either:

      (1) Cause the applicant to be notified, in writing, that said application is incomplete, specifying the deficiencies in the application; or

      (2) If the Board reasonably concludes that the missing items of information are necessary to make an informed decision on the application, but are not of such significance to cause the application to be deemed incomplete, said Board may declare the application complete, conditioned upon the submission of the missing items of information to the Administrative Officer within ten (10) days; or

      (3) If the Board reasonably concludes that the missing items of information are not necessary for it to make an informed decision on the application, said Board may waive the requirement that said items be supplied as a prerequisite for completeness and certify that the application is complete notwithstanding the missing items.

   c. An applicant who has been notified that his application is incomplete may request waiver of one or more of the submission requirements set forth in Section 803 B. and said request shall be the subject of a resubmitted application which shall be acted upon in accordance with Section 803 C.1.a. or 803 C.1.b. hereinabove.

   d. In the event the Board fails to act pursuant to subsections 803 C.1.b.(1) or 803 C.1.b.(2) hereinabove within forty-five *(45)* days of the date of submission of the application, said application shall be deemed complete as of the forty-sixth (46th) day following its submission.

2. On the date the aforesaid application is certified complete, or on the forty-sixth (46th) day following the submission of the application in the event the Board fails to make a determination of completeness, as the case may be, the applicable time period within which the Board must act upon the application shall commence. In any case, the applicant is obliged to prove that he or she is entitled to approval of the application. The Board may subsequently require correction of any information found to be in error, may require submission of additional information not specified in this Ordinance, and/or may require revisions in the application documents, all as are reasonably necessary to make an informed decision as to whether the requirements for approval of the application have been met; provided, however, that the application shall not be deemed incomplete for lack of any such additional information or revisions.

3. Promptly after certification of completeness, the application documents shall be distributed by the Administrative Officer to the following:

    a. The Planning Board or the Zoning Board of Adjustment, as the case may be, (nine [9] copies each of the minor plat or plan, the application, and any Environmental Impact Statement);

    b. Planning Board Attorney (one [1] copy each of the minor plat or plan, the application, any protective covenants, easements and/or deed restrictions, and any Environmental Impact Statement);

    c. Town Planner (one [1] copy each of the minor plat or plan, the application, any protective covenants, easements and/or deed restrictions, and any Environmental Impact Statement);

    d. Town Engineer (one [1] copy each of the minor plat or plan, the application, any protective covenants, easements and/or deed restrictions, and any Environmental Impact Statement);

    e. Zoning Officer (one [1] copy of the minor plat or plan);

    f. Town Clerk (one [1] copy each of the minor plat or plan, the application, any protective covenants, easements and/or deed restrictions, and any Environmental Impact Statement, for the Town's files);

    g. Town Fire Prevention Official (one [1] copy of the minor plat or plan);

    h. At the direction of the Planning Board or the Zoning Board of Adjustment, as the case may be, additional copies of the minor plat or plan and/or other items of submitted information shall be sent to other Town, County or State agencies and/or to other professional consultants as may be designated by the Board.

4. The Planning Board shall take action on minor subdivision and minor site plan applications within forty-five (45) days after the application has been certified complete by the Board or within such further time as may be consented to by the applicant. Failure of the Board to act within the prescribed time period shall constitute approval of the application; provided that any minor subdivision or minor site plan application which includes any requested variance relief pursuant to N.J.S.A. 40:55D-60 and Section 801 A.2. of this Ordinance shall be acted upon within one hundred twenty (120) days or within such further time as may be consented to by the applicant.

5. The Zoning Board shall take action on a minor subdivision or minor site plan application under its jurisdiction as prescribed in Section 803 C.4. hereinabove unless said minor subdivision or minor site plan application is being considered by the Zoning Board of Adjustment simultaneously with an application for a "use" variance in accordance with N.J.S.A. 40:55D-70d. and Section 702 D. of this Ordinance, in which case the Zoning Board of Adjustment shall act upon all aspects of the application within one hundred twenty (120) days after the application has been certified complete by the Zoning Board of Adjustment or within such further time as may be consented to by the applicant. Failure of the Board to act within the prescribed time period shall constitute approval of the application.

6. Any designated Site Plan/Subdivision Review Committee shall read any written report submitted concerning the application and shall review the submission to ascertain its conformity with the requirements of this Ordinance; the Committee shall offer its recommendations to the Board.

7. Any proposed application for development determined by the Board to be creating, imposing, aggravating or leading to the possibility of an adverse effect upon either the property in question or upon any adjacent properties, may be required to be revised to remove any adverse effect(s) prior to further review or approval by the Board, or, where the remaining portion of the original tract is sufficient to be subdivided or developed further, the applicant may be required to submit a sketch of the entire remaining portion of the tract to indicate a feasible plan whereby the applied for subdivision or development, together with subsequent subdivision(s) or development(s), may be submitted that will not create, impose, aggravate or lead to any adverse effect.

8. All hearings held on applications for minor site plan approval shall require public notice of the hearing. The Board shall set the date, time and place for the public hearing and shall inform the applicant of this at least fourteen (14) days prior to said hearing date. Notice of the hearing shall be given by the applicant at least ten (10) days prior to the date of the hearing (see Section 706 D.).

9. When a minor subdivision or minor site plan is approved by the Board, a notation to that effect, including the date of approval, shall be made on a master copy. At least ten (10) prints of the plat or plan and any related deed descriptions to be filed with the County Recording Officer shall be signed by the Town Engineer and the Chairman and Secretary of the Board (or the Acting Chairman or Secretary where either or both may be absent). No further approval of the application shall be required and the Secretary of the Board, within ten (10) days of the date of approval, shall notify the applicant of the Board's action. Additionally, the Secretary of the Board shall forward the applicant a copy of the approved resolution, adopted in accordance with Section 706 F. of this Ordinance, within ten (10) days of its adoption by the Board.

10. When a minor subdivision or minor site plan is disapproved by the Board, the Secretary of the Board, within ten (10) days of such action, shall notify the applicant of such disapproval. Additionally, the Secretary of the Board shall forward the applicant a copy of the disapproval resolution, adopted in accordance with Section 706 F. of this Ordinance, within ten (10) days of its adoption by the Board, setting forth the reasons for the disapproval.

11. Within 190 days from the date of approval by the Board of a minor subdivision, a plat map drawn in compliance with the Map Filing Act, P. L. 190 c. 141 (C.46:29-9.9 et seq.) or deed description, properly drafted and signed by the Chairman and Secretary of the Board (or the Acting Chairman or Secretary where either or both may be absent), shall be filed by the subdivider with the County Recording Officer; provided that if an applicant elects to file a deed, said deed shall be accompanied with a photographically reduced copy of the approved plat. Unless filed within 190 days, the approval shall expire and will require Board approval as in the first instance. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision approval was granted, shall not be changed for a period of two (2) years after the date of minor subdivision approval by the Board, provided that the approved minor subdivision shall have been duly recorded.

12. Before the Secretary of the Board returns any approved minor subdivision or minor site plan to the applicant, the applicant shall provide additional copies of the plat or plan as may be necessary in order to furnish copies to each of the following:

    a. Town Clerk;

    b. Town Engineer (in the case of subdivisions only, a map of the plat drawn to the tax map scale of 1" = 100' or 1" = 400', as directed by the Town Engineer);

    c. Zoning Officer;

    d. Town Tax Assessor;

    e. Town Board of Health;

    f. Such other Town, County or State agencies and officials as directed by the Board.

804 SUBMISSION OF PRELIMINARY MAJOR SUBDIVISION PLATS AND PRELIMINARY MAJOR SITE PLANS

A. Procedure for Submitting Preliminary Major Subdivision Plats and Preliminary Major Site Plans

1. The applicant shall submit to the Administrative Officer at least four (4) weeks prior to the meeting: twenty (20) copies of the preliminary plat or preliminary plan; twenty (20) completed copies of the appropriate application(s), which includes the application(s) for any requested variance(s) and the checklist(s) pursuant to N.J.S.A. 40:55D-10.3 attached to this Ordinance with the items of information required therein; twenty (20) copies of the Environmental Impact Statement; twenty (20) copies of any protective covenants, easements and/or deed restrictions applying to the subject site, whether recorded or unrecorded; and the fee in accordance with Section 900 of this Ordinance. The application shall contain an acknowledgment signed by the applicant stating that the applicant is familiar with the procedure set forth herein for submitting and acting upon preliminary major subdivision plats and preliminary major site plans, and agrees to be bound by it. The Administrative Officer shall process the application and shall issue an application number. Once an application has been assigned a number, such number shall appear on all papers, maps, plats or plans and other documents submitted for processing in conjunction with the application.

2. Twelve (12) of the required copies of the preliminary plat or preliminary plans shall be reduced in size and said sheets shall not exceed fifteen inches by twenty-one inches (15” x 21”) in size.

B. Details Required for Preliminary Major
Subdivision Plats and Preliminary Major Site Plans

Each preliminary plat or preliminary plan shall be drawn by a professional engineer and/or land surveyor licensed to practice in the State of New Jersey and shall bear the signature, seal, license number and telephone number of the said professional engineer and/or land surveyor; provided, however, that all engineering data shall be signed and sealed by a professional engineer and all surveying data shall be signed and sealed by a professional land surveyor.

Each submission shall be drawn at an appropriate scale not less than 1” equals 100’ and shall be submitted on one of four of the following standard sheet sizes (8 1/2" x 13"; 15" x 21"; 24” x 36"; 30" x 42"). All plan sheets shall be folded into eighths with the title block revealed.

Each preliminary plat or plan shall show the following information as applicable to a subdivision plat or site plan, unless the Planning Board or Zoning Board of Adjustment determines, upon request of the applicant, that such information either is unnecessary or inapplicable to the particular subdivision or site plan and can be waived:

1. A key map showing the entire tract and its relation to the surrounding areas, at a scale of one inch equals not more than 1,000 feet;

2. Title block in accordance with the rules governing title blocks for professional engineers (N.J.S.A. 45:8-36), including:

    a. Name of subdivision or development, Town of Hackettstown, Warren County, with each sheet specifically titled with appropriately descriptive words;

    b. Name, title, address and telephone number of subdivider or developer;

    c. Name, title, address and license number of the professional or professionals who prepared the plat or plan;

    d. Name, title and address of the owner or owners of record;

    e. North arrow;

    f. Scale (written and graphic); and

    g. Date of original preparation and of each subsequent revision thereof and a list of the specific revisions entered on each sheet.

3. Certification that the applicant is the owner of the land or his properly authorized agent, or that the owner has given his consent under an option agreement;

4. If the applicant is a corporation or a partnership, the names and addresses of all partners, or the names and addresses of all stockholders owning ten percent (10%) or more of any class of stock of the corporation;

5. Approval signature lines:

    a. Chairman;
    b. Secretary; and
    c. Town Engineer.

6. Acreage to the nearest tenth of an acre (both with and without areas within public rights-of-way);

7. The names and lot and block numbers of all property owners within two hundred feet (200') of the extreme limits of the tract as shown on the most recent tax list prepared by the Clerk of the Planning Board or Clerk of the Zoning Board of Adjustment, as the case may be;

8. Existing tax sheet number(s) and existing block and lot number(s) of the lot(s) to be subdivided or developed as they appear on the Town Tax Map, and proposed block and lot numbers as provided by the Town Tax Assessor upon written request;

9. Tract boundary line (heavy solid line);

10. Zoning districts affecting the tract, including district names and all area and bulk requirements, with a comparison to the proposed development;

11. The location of natural features such as wetlands and treed areas, both within the tract and within one hundred (100) feet of its boundary;

12. The proposed location of all proposed plantings, with a legend listing the botanical and common names, the sizes at the time of planting, the total quantity of each plant, and the location of each plant keyed to the plan or plat;

13. All existing and proposed water courses shall be shown and accompanied by the following information:

    a. When a stream is proposed for alteration, improvement or relocation or where a drainage structure or fill is proposed over, under, in or along a running stream, a report on the status of review by the State Department of Environmental Protection, Division of Water Resources, shall accompany the submission;

    b. Cross-sections of water courses and/or drainage swales at an approximate scale showing the extent of the flood plain, top of bank, normal water levels and bottom elevations at the locations required by the Town Engineer;

    c. The location and extent of drainage and conservation easements and stream encroachment lines; and

    d. The location and type of adequate drainage provisions to reasonably reduce and minimize exposure to flood damage.

14. Existing and proposed contours with intervals of one (1) foot where slopes are less than two percent (2%); with intervals of two (2) feet where slopes are between two percent (2%) and fifteen percent (15%); and with intervals of five (5) feet where slopes exceed fifteen percent (15%). All contour information shall refer to a known datum. Existing contours shall be shown as a dashed line; finished grades shall be shown as a solid line. Slopes fifteen percent (15%) or more in grade shall be shaded;

15. Proposals for soil erosion and sediment control as required by N.J.S.A. 4:24-39 et seq.;

16. The location of all existing structures, both within the tract and within one hundred (100) feet of its boundary, with an indication of existing and proposed front, rear and side yard setback distances and whether the existing structures and uses will be retained or removed;

17. Size, height and location of all proposed structures including, but not limited to, signs, fences and lighting facilities, and of all proposed buildings;

18. All dimensions necessary to confirm conformity to the Ordinance, such as the size of the tract and any proposed lot(s), structure setbacks, structure heights, yard areas and floor area ratios. All tract and lot sizes shall be expressed in acres and square feet and shall include bearings and distances;

19. The proposed location, direction of illumination, power and type of proposed outdoor lighting, including details of lighting poles and luminaries, which information shall be shown on the plat or plan for each light;

20. The proposed screening, buffering and landscaping, including a landscaping plan;

21. The location and design of any off-street parking area, showing size and location of bays, aisles and barriers, curbing and paving specifications;

22. All means of vehicular access and egress to and from the site onto public streets, showing the site and the location of driveways and curb cuts, including the possible utilization of traffic signals, channelization, acceleration and deceleration lanes, sight triangle easements, additional width and other proposed devices necessary to prevent a difficult traffic situation;

23. The application shall include plans and computations for any storm drainage system including the following as may be required by the Town Engineer:

    a. All existing or proposed storm sewer lines within or adjacent to the tract showing size and slope of the lines, direction of flow and the location of each catch basin, inlet, manhole, culvert and headwall.

    b. A map drawn to scale (minimum scale 1" = 100') showing the contributing area to each inlet or cross drain.

    c. A weighted run-off coefficient for each drainage area shall be determined for use in the computations.

24. The location of existing utility structures such as water and sewer mains, utility structures, gas transmission lines and high tension power lines on the tract and within two hundred (200) feet of its boundaries;

25. Plans of proposed improvements and utility layouts including sewers, storm drains and water lines, and feasible connections to gas, telephone and electrical utility systems. If

private utilities are proposed, they shall comply fully with all Town, County, State and Federal regulations. If service will be provided by an existing utility company, in lieu of detailed plans a letter from that company stating that service will be available before occupancy will be sufficient. Additionally, letters from the appropriate County and State agencies granting approval for the extension of utility service(s) under their respective jurisdiction shall be submitted with the application;

26. Plans, typical cross sections and construction details, horizontal and vertical alignments of the centerline of all proposed streets and of all existing streets abutting the tract. The vertical alignments shall be based on U.S.G.S. vertical datum or a more specified datum supplied by the Town Engineer, and shall include curbing, sidewalks, storm drains, drainage structures and cross sections every half and full station of all proposed streets and of all existing streets abutting the tract. Sight triangles, the radius of curblines and street sign locations shall be clearly indicated at the intersections;

27. Any protective covenants or deed restrictions applying to the land being developed shall be submitted with the application and/or indicated on the submitted plat or plan;

28. The location and width of all existing and proposed utility easements, the use(s) for which they are intended to be limited, and the manner in which the easements will be controlled;

29. The proposed permanent monuments shall be shown, in accordance with the Map Filing Law, N.J.S.A. 46:23-9.9;

30. The proposed number of shifts to be worked, the maximum number of employees on each shift, and the hours of operation;

31. Five (5) copies of a certificate from the Town Tax Collector that all taxes and assessments are paid to date;

32. Five (5) copies of the completed application to the Warren County Planning Board, if applicable;

33. Five (5) copies of the completed application to the Hackettstown Municipal Utilities Authority, if applicable.

34. All preliminary major subdivision and/or preliminary major site plan applications shall be accompanied by an Environmental Impact Statement in accordance with the provisions of Section 804 C. of this Ordinance. The applicant may request a waiver of this requirement, either in whole or in part, provided that the applicant states in writing the basis for the variance request. The Board shall act upon the requested waiver at the meeting when it determines whether or not the application is complete.

35. In the case of any subdivision or site plan submission of a planned development, the applicant shall be required to submit all of the required information for all of the properties comprising the planned development, regardless of whether the applicant is seeking approval of the whole or a section of the planned development; specifically, the applicant shall be required to show the interrelationship of each portion of the project with the whole of the project considering land use, traffic, open space, buffering, drainage and surface water management, sewerage, potable water supply and any other specific planning considerations as may be of particular relevance to a particular planned development; and

36. The Board reserves the right to require additional information before granting preliminary approval when unique circumstances affect the tract and/or when the application for development poses special problems for the tract and surrounding area. Such information shall include, but not be limited to, drainage calculations and traffic analyses, provided however, that no application shall be declared incomplete for the lack of such additional information.

37. A grading plan that will include the following information:

    a) Proposed first floor and garage floor elevations of residential dwellings and first floor elevations of all commercial and multi-family residential buildings and proposed outside grades of the building and lot corners.

    b) Top of curb elevations at street intersections and within the turnaround area of a cul-de-sac.

    c) Top of curb and/or gutter elevations at maximum fifty (50) foot intervals in parking areas and at the corner of all parking areas.

    d) Proposed topographic contours shown differently than the existing contours for all areas to be disturbed on-site and off-site as part of a development project with flow arrows indicating the direction of flow of surface waters.

38. The application shall include the submission of all data, reports, and documentation required by Section 601K and application for a personal wireless telecommunication and equipment facility.

39. All preliminary major subdivision applications and preliminary major site plan applications shall include with the application a sixty-year title search dated within 6 months of the application date including copies of all deeds, easements, covenants, restrictions and other items affecting title to the property.

C. Environmental Impact Statement

1. General Provisions

The impact on the environment generated by land development necessitates a comprehensive analysis of the variety of problems that may result and the actions that can be taken to minimize the problems. It is further recognized that the level of detail required for various types of applications will vary depending upon the size of the development, the nature of the site, the location of the development and the information already in the possession of the Town. Therefore, having determined that some flexibility is needed in preparing the Environmental Impact Statement, the requirements for such a document pertaining to different types of development applications are listed below:

a. All agricultural operations conducted in accordance with a plan approved by the Soil Conservation District and all silva culture operations conducted in accordance with a plan prepared by a professional forester are specifically exempt from the Environmental Impact Statement requirements.

b. Any variance applications to the Zoning Board of Adjustment not involving a site plan or subdivision application shall not require an Environmental Impact Statement unless specifically requested by the Board. The Zoning Board of

Adjustment shall inform the applicant regarding any information that may be required.

c. Any application for minor site plan approval, either to the Planning Board or to the Zoning Board of Adjustment, as the case may be, shall not require an Environmental Impact Statement unless specifically requested by the appropriate Board. The Planning Board or Zoning Board of Adjustment, as the case may be, shall inform the applicant regarding any information that may be required.

d. All minor subdivisions, preliminary major subdivision and/or preliminary major site plan applications shall be accompanied by an Environmental Impact Statement.

2. Submission Format

When an Environmental Impact Statement is required, the applicant shall retain one or more competent professionals to perform the necessary work. The qualifications and background of the professionals shall be provided, and the method of investigation shall be described. All applicable material on file in the Town pertinent to evaluation of regional impacts also shall be considered. Furthermore, as much original research as necessary shall be conducted to develop the Environmental Impact Statement. All Environmental Impact Statements shall consist of written and graphic materials which clearly present the required information utilizing the following format:

a. Project Description

Indicate the purpose and scope of the proposed project. Enumerate the benefits to the public which will result from the proposed project and describe the particular suitability of the site for the intended use. A description of the proposed project shall be presented to indicate the extent to which the site must be altered, the kinds of facilities to be constructed and the uses intended. The resident population, working population and visitor population shall be estimated. The compatibility or incompatibility of the proposed project shall be described in relation to the following:

(1) Town Master Plan.

(2) Master Plan of Adjacent Municipalities.

(3) Warren County Master Plan.

(4) State Development and Redevelopment Plan.

(5) Other Pertinent Planning Documents.

b. Site Description and Inventory

Provide a description of the environmental conditions on the site, including the following items:

(1) Types of Soils

List and describe each soil type on the site. If applicable, provide percolation data. Where the proposed area of land disturbance will involve soils with moderate or severe limitations relative to the type of use proposed, a complete mapping of all soil types where the moderate and severe limitations exist shall be provided.

(2) Topography

Describe the topographic conditions on the site.

(3) Geology

Describe the geologic formations and features associated with the site as well as depth to bedrock conditions. Delineate those areas where bedrock is within two feet (2') of the surface as well as major rock outcroppings.

(4) Vegetation

Describe the existing vegetation on the site. A map shall be prepared showing the location of major vegetative groupings such as woodlands, open fields and wetlands. Where woodlands are delineated, the forest types shall be indicated.

(5) Wildlife

Identify and describe any unique habitats of endangered or protected species.

(6) Subsurface Water

Describe the subsurface water conditions on the site both in terms of depth to ground water and water supply capabilities. The location, depth, capacity and water quality of all existing water wells on the site and within five hundred feet (500') of the site shall be indicated.

(7) Distinctive Scenic and/or Historic Features

Describe and map those portions of the site that can be considered to have distinctive scenic and/or historic qualities.

(8) Existing Development Features

Describe any existing features on the site that are not considered to be part of the natural environment including, but not necessarily limited to, roads, driveway accesses, housing units, accessory structures, utility lines, etc.

(9) Miscellaneous

When warranted, an analysis shall be conducted of existing air quality and noise levels as prescribed by the New Jersey State Department of Environmental Protection.

c. Impact

Discuss both the negative and positive impacts during and after construction. Indicate those negative impacts that are unavoidable. The specific concerns that

shall be considered include the following and shall be accompanied by specific quantitative measurements where possible and necessary:

(1) Soil erosion and sedimentation resulting from surface run-off.

(2) Flooding and flood plain disruption.

(3) Degradation of surface water quality.

(4) Ground water pollution.

(5) Reduction of ground water capabilities.

(6) Sewage disposal.

(7) Solid waste disposal.

(8) Vegetation destruction.

(9) Disruption of wildlife habitats of endangered and protected species.

(10) Destruction or degradation of scenic and historic features.

(11) Air quality degradation.

(12) Noise levels.

(13) Energy utilization.

d. Environmental Performance Controls

Describe what measures will be employed during the planning, construction and operation phases which will minimize or eliminate negative impacts that could result from the proposed project. Of specific interest are:

(1) Drainage plans which shall include soil erosion and sedimentation controls.

(2) Sewage disposal techniques.

(3) Water supply and water conservation proposals.

(4) Energy conservation measures.

(5) Noise reduction techniques.

e. Licenses, Permits and Other Approvals Required by Law

The applicant shall list all known licenses, permits and other forms of approval required by law for the development and operation of the proposed project. The list shall include approvals required by the Town, as well as agencies of the County, State and Federal governments. Where approvals have been granted, copies of said approvals shall be attached. Where approvals are pending, a note shall be made to that effect.

f. Documentation

All publications, file reports, manuscripts or other written sources of information which were first consulted and employed in compilation of the Environmental Impact Statement shall be listed. A list of all agencies and individuals from whom all pertinent information was obtained orally or by letter shall be listed separately. Dates and locations of all meetings shall be specified.

3. Disposition by the Board

The Board shall review the information furnished in the Environmental Impact Statement in the context of the overall design of the proposed development and the relationship of the proposed development to the environment. The information is to be used solely to help insure that the proposed development will cause no reasonably avoidable damage to any environmental resource.

D. Action by the Town

1. The Planning Board or Zoning Board of Adjustment, as the case may be, and its professional advisors, shall review the aforesaid application for the purpose of determining, within forty-five (45) days of its submission, whether said application is complete and whether any waiver of check list items will be granted. The Board shall:

a. If said application is found to contain all of the information required by a checklist adopted as part of this Land Development Ordinance and attached hereto following Section 806 of this Ordinance, the Board, or its agent in those specific instances where designated, shall certify that said application is complete.

b. If said application is found to lack some of the information required by the checklist adopted as part of this Land Development Ordinance and attached hereto following Section 806 of this Ordinance, said Board shall either:

(1) Cause the applicant to be notified, in writing, that said application is incomplete, specifying the deficiencies in the application; or

(2) If the Board reasonably concludes that the missing items of information are necessary to make an informed decision on the application, but are not of such significance to cause the application to be deemed incomplete, said Board may declare the application complete, conditioned upon the submission of the missing items of information to the Administrative Officer within ten (10) days; or

(3) If the Board reasonably concludes that the missing items of information are not necessary for it to make an informed decision on the application, said

Board may waive the requirement that said items be supplied as a prerequisite for completeness and certify that the application is complete notwithstanding the missing items.

c. An applicant who has been notified that his application is incomplete may request waiver of one or more of the submission requirements set forth in Section 804 B. and said request shall be the subject of a resubmitted application which shall be acted upon in accordance with Sections 804 D.l.a. or 804 D.1.b. hereinabove.

d. In the event the Board fails to act pursuant to subsections 804 D.1.b(1) or 804 D.1.b(2) hereinabove within forty-five (45) days of the date of submission of the application, said application shall be deemed complete as of the forty-sixth (46th) day following its submission.

2. On the date the aforesaid application is certified complete, or on the forty-sixth (46th) day following the submission of the application, in the event the Board fails to make a determination of completeness, as the case may be, the applicable time period within which the Board must act upon the application shall commence. In any case, the applicant is obliged to prove that he or she is entitled to approval of the application. The Board may subsequently require correction of any information found to be in error, may require submission of additional information not specified in this Ordinance, and/or may require revisions in the application documents; as are reasonably necessary to make an informed decision as to whether the requirements for approval of the application have been met, provided that the application shall not be deemed incomplete for lack of any such additional information or revisions.

3. Promptly after certification of completeness, the application documents shall be distributed by the Administrative Officer to the following:

a. The Planning Board or the Zoning Board of Adjustment, as the case may be, (nine [9] copies each of the preliminary plat or plan, the application, the Environmental Impact Statement, and any protective covenants, easements and/or deed restrictions);

b. Planning Board Attorney (one [1] copy each of the preliminary plat or plan, the application, the Environmental Impact Statement, and any protective covenants, easements and/or deed restrictions);

c. Town Planner (one [1] copy each of the preliminary plat or plan, the application, the Environmental Impact Statement, and any protective covenants, easements and/or deed restrictions);

d. Town Engineer (one [1] copy each of the preliminary plat or plan, the application, the Environmental Impact Statement, and any protective covenants, easements and/or deed restrictions);

e. Zoning Officer (one [1] copy of the preliminary plat or plan);

f. Town Clerk (one [1] copy each of the preliminary plat or plan, the application, the Environmental Impact Statement, and any protective covenants, easements and/or deed restrictions for the Town's files;

g. Town Fire Prevention Official (one [1] copy of the preliminary plat or plan);

h. Town Tax Collector (one [1] copy of the preliminary plat or plan);

i. At the direction of the Planning Board or the Zoning Board of Adjustment, as the case may be, additional copies of the preliminary plat or plan and/or other items of submitted information shall be sent to other Town, County or State agencies and/or to other professional consultants as may be designated by the Board.

4. The Planning Board shall take action on a preliminary major site plan application involving ten (10) acres of land or less and ten (10) dwelling units or less and/or a preliminary major subdivision application involving ten (10) lots or less within forty-five (45) days after the application has been certified complete or within such further time as may be consented to by the applicant. Failure of the Board to act within the prescribed time period shall constitute approval of the application; provided that any preliminary major site plan or preliminary major subdivision application which includes any requested variance relief pursuant to N.J.S.A. 40:55D-60 and Section 801 A.2 of this Ordinance shall be acted upon within one hundred twenty (120) days or within such further time as may be consented to by the applicant.

5. The Planning Board shall take action on a preliminary major site plan application involving more than ten (10) acres of land or more than ten (10) dwellings and/or a preliminary major subdivision application involving more than ten (10) lots within ninety-five (95) days after the application has been certified complete or within such further time as may be consented to by the applicant. Failure of the Board to act within the prescribed time period shall constitute approval of the application; provided that any preliminary major site plan or preliminary major subdivision application which includes any requested variance relief pursuant to N.J.S.A. 40:55D-60 and Section 801 A.2 of this Ordinance shall be acted upon within one hundred twenty (120) days or within such further time as may be consented to by the applicant.

6. The Zoning Board of Adjustment shall take action on a preliminary major site plan application and/or preliminary major subdivision application under its jurisdiction as prescribed in Sections 804 D.4 and 804 D.5 hereinabove unless said preliminary major site plan or preliminary major subdivision application is being considered by the Zoning Board of Adjustment simultaneously with an application for a “use” variance in accordance with N.J.S.A. 40:55D-70d. and Section 702 D. of this Ordinance, in which case the Zoning Board of Adjustment shall act upon all aspects of the application within one hundred twenty (120) days after the application has been certified complete by the Zoning Board of Adjustment or within such further time as may be consented to by the applicant. Failure of the Board to act within the prescribed time period shall constitute approval of the application.

7. Any designated Site Plan/Subdivision Review Committee shall read any written report submitted concerning the application and shall review the submission to ascertain its conformity with the requirements of this Ordinance; the Committee shall offer its recommendations to the Board.

8. Any proposed application for development determined by the Board to be creating, imposing, aggravating or leading to the possibility of an adverse effect upon either the property in question or upon any adjacent properties, may be required to be revised to mitigate any adverse effect(s) prior to further review or approval by the Board, or, where the remaining portion of the original tract is sufficient to be subdivided or further developed, the applicant may be required to submit a sketch of the entire

portion of the tract to indicate a feasible plan whereby the applied for subdivision or development, together with subsequent subdivision(s) or development(s), may be submitted that will not create, impose, aggravate or lead to any such adverse effect.

9. In the case of planned developments only, the Board shall find the following facts and conclusions prior to granting approval:

    a. That departures by the proposed development from zoning regulations otherwise applicable to the subject property conform to the zoning provisions specified in Sections 400 and 600 of this Ordinance, as the case may be, pursuant to N.J.S.A. 40:55D-65c.

    b. That the proposals for maintenance and conservation of the common space are reliable, and the amount, location and purpose of the common open space are 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;

    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.

10. All hearings held on applications for preliminary major subdivision approval and/or preliminary major site plan approval shall require public notice of the hearing. The Board shall set the date, time and place for the public hearing and shall inform the applicant of this at least fourteen (14) days prior to said hearing date. Notice of the hearing shall be given by the applicant at least ten (10) days prior to the date of the hearing (see Section 706 D.).

11. If the Board acts favorably on the preliminary plat or plan, the Town Engineer and the Chairman and Secretary of the Board (or the acting Chairman or Secretary, where either or both may be absent) shall affix their signatures to at least ten (10) copies of the plat or plan with the notification that it has been approved. The applicant shall furnish such copies to the Board.

12. Should minor revisions or additions to the plat or plan be deemed necessary, the Board may grant preliminary approval subject to specified conditions and receipt of revised plans within thirty (30) days from the date of said approval. Should substantial revisions be deemed necessary, the Board shall require that an amended plat or plan be submitted and acted upon as in the case of the original application.

13. If the Board, after consideration and discussion of the preliminary plat or plan, determines that it is unacceptable, a notation shall be made by the Chairman of the Board to that effect on the plat or plan and a resolution adopted in accordance with Section 706 F. of this Ordinance setting forth the reasons for such rejection. One copy of the plat or plan and said resolution shall be returned to the applicant within ten (10) days of the adoption of said resolution.

E. Effect of Preliminary Approval

1. Preliminary approval shall confer upon the applicant the following rights for a three (3) year period from the date of preliminary approval:

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

   b. That the applicant may submit for final approval, on or before the expiration date of preliminary approval, the whole or a section or sections of the preliminary plat or plan; and

   c. That the applicant may apply for and the Board 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.

2. In the case of a subdivision or of a site plan for an area fifty (50) acres or more, the Planning Board may grant the rights referred to in Section 804 E.1 hereinabove for such period of time, longer than three (3) years, as shall be determined by the Board to be reasonable taking into consideration:

   a. The number of dwelling units and non-residential floor area permissible under preliminary approval;

   b. Economic conditions; and

   c. The comprehensiveness of the development.

3. The applicant may apply for thereafter, and the Board may thereafter grant, an extension to preliminary approval for such additional period of time as shall be determined by the Board to be reasonable taking into consideration:

   a. The number of dwelling units and non-residential floor area permissible under preliminary approval;

   b. The potential number of dwelling units and non-residential floor area of the section or sections awaiting final approval;

   c. Economic conditions;

   d. The comprehensiveness of the development; and

   e. Provided that if the design standards have been revised by Ordinance, such revised standards may govern.

805 SUBMISSION OF FINAL MAJOR SUBDIVISION PLATS AND FINAL MAJOR SITE PLANS

A. Procedure For Submitting Final Plats And Final Plans

A final plat or final plan shall be submitted to the Administrative Officer within three (3) years after the date of preliminary approval or any authorized extension thereof. The applicant shall submit to the Administrative Officer at least four (4) weeks prior to the meeting: twenty (20) copies of the final major subdivision plat or final major site plan; twenty (20) copies of the appropriate application(s), which includes the applications for any requested variance(s) and the checklist(s) pursuant to N.J.S.A. 40:55D-10.3 attached to this Ordinance with the items of information required therein; and the fee in accordance with Section 900 of this Ordinance. The application shall contain an acknowledgment signed by the applicant stating that the applicant is familiar with the procedure set forth herein for submitting and acting upon final major subdivision plats and final major site plans, and agrees to be bound by it.

B. Details Required For Final Major Subdivision Plats and Final Major Site Plans

The following information shall be submitted:

1. All details stipulated in Sections 804 B. of this Ordinance.

2. All additional details required at the time of preliminary approval shall be submitted.

3. A section or staging plan, if proposed, indicating the portion of the tract to be considered for final approval as part of the current application and the relationship of the portion of the tract to the remaining land area, including all applicable comparisons such as parking spaces, building coverage, lot coverage, open space areas and number of lots.

4. Detailed architectural and engineering data including:

   a. An architect's design drawing of each building and sign or a typical building and sign showing front, side and rear elevations.

   b. Cross sections, plans, profiles and established grades of all streets, aisles, lanes and driveways, including centerline geometry and horizontal alignments with bearings, radii and tangents.

   c. Plans and profiles of all storm and sanitary sewers and water mains.

   d. All dimensions of the exterior boundaries of any subdivision shall be balanced and closed to a precision of one (1) to five thousand (5,000) and the dimensions of all lot lines to within one (1) to ten thousand (10,000). All dimensions, angles and

bearings must be tied to at least two (2) permanent monuments not less than three hundred (300) feet apart and all information shall be indicated on the plat. At least one corner of the subdivision shall be tied horizontally to the New Jersey State Grid Coordinate System and vertically to the U.S. Geodetic Survey System, with the data on the plat as to how the bearings were determined.

5. The final submission shall be accompanied by the following documents:

   a. Certification from the Town Tax Collector that all taxes and assessments are paid to date;

   b. Letters directed to the Chairman of the Board and signed by a responsible official of the lighting agency, water company, sewer utility and of any other company or governmental authority or district which provides accessory utility service and has jurisdiction in the area, approving each proposed utility installation design and stating who will construct the facility so that service will be available prior to occupancy. The designing engineer(s) shall certify to the Board that the existing cross-section(s) and profile(s) have been run in the field and the field notes shall be forwarded to the Town Engineer;

   c. The applicant shall certify in writing to the Board that he has:

      (1) Installed all improvements in accordance with the requirements of this Ordinance; and/or,

      (2) Posted a performance guarantee in accordance with Section 902 of this Ordinance.

   d. A statement from the Town Engineer that all improvements installed prior to application have been inspected as provided in Section 902 of this Ordinance, and that such improvements installed prior to application for final approval that do not meet or exceed Town standards shall be factored into the required performance guarantee.

C. <u>Action by the Town</u>

1. The Planning Board or Zoning Board of Adjustment, as the case may be, and its professional advisors, shall review the aforesaid application for the purpose of determining, within forty-five (45) days of its submission, whether said application is complete and whether any waiver of check list items will be granted. The Board shall:

   a. If said application is found to contain all of the information required by a checklist adopted as part of this Land Development Ordinance and attached hereto following Section 806 of this Ordinance, the Board, or its agent in those specific instances where designated, shall certify that said application is complete.

   b. If said application is found to lack some of the information required by the checklist adopted as part of this Land Development Ordinance and attached hereto following Section 806 of this Ordinance, said Board shall either:

      (1) Cause the applicant to be notified, in writing, that said application is

incomplete, specifying the deficiencies in the application; or

(2) If the Board reasonably concludes that the missing items of information are necessary to make an informed decision on the application, but are not of such significance to cause the application to be deemed incomplete, said Board may declare the application complete, conditioned upon the submission of the missing items of information to the Administrative Officer within ten (10) days; or

(3) If the Board reasonably concludes that the missing items of information are not necessary for it to make an informed decision on the application, said Board may waive the requirement that said items be supplied as a prerequisite for completeness and certify that the application is complete notwithstanding the missing items.

c. An applicant who has been notified that his application is incomplete may request waiver of one or more of the submission requirements set forth in Section 805 B. and said request shall be the subject of a resubmitted application which shall be acted upon in accordance with Sections 805 C.1.a. or 805 C.1.b. hereinabove.

d. In the event the Board fails to act pursuant to subsections 805 C.1.b(1) or 805 C.1.b(2) hereinabove within forty-five (45) days of the date of submission of the application, said application shall be deemed complete as of the forty-sixth (46th) day following its submission.

2. On the date the aforesaid application is certified complete, or on the forty-sixth (46th) day following the submission of the application, in the event the Board fails to make a determination of completeness, as the case may be, the applicable time period within which the Board must act upon the application shall commence. In any case, the applicant is obliged to prove that he or she is entitled to approval of the application. The Board may subsequently require correction of any information found to be in error, may require submission of additional information not specified in this Ordinance, and/or may require revisions in the application documents; as are reasonably necessary to make an informed decision as to whether the requirements for approval of the application have been met, provided that the application shall not be deemed incomplete for lack of any such additional information or revisions.

3. Promptly after certification of completeness, the application documents shall be distributed by the Administrative Officer to the following:

a. The Planning Board or the Zoning Board of Adjustment, as the case may be (nine [9] copies each of the final plat or plan and the application);

b. Warren County Planning Board (one [1] copy each of the final plat or plan and the application to be sent by the applicant);

c. Planning Board Attorney (one [1] copy each of the final plat or plan and the application);

d. Town Engineer (one [1] copy each of the final plat or plan and the application);

e. Zoning Officer (one [1] copy each of the final plat or plan);

f. Town Clerk (one [1] copy each of the final plat or plan and the application for the Town's files);

g. Town Fire Prevention Official (one [1] copy each of the final plat or plan);

h. Hackettstown Municipal Utilities Authority (one [1] copy each of the final plat or plan to be sent by the applicant);

i. At the direction of the Planning Board or the Zoning Board of Adjustment, as the case may be, additional copies of the final plat or plan and/or other items of submitted information shall be sent to other Town, County or State agencies and/or to other professional consultants as may be designated by the Board.

4. The Board shall take action on final site plan and final subdivision applications within forty-five (45) days after the application has been certified complete or within such further time as may be consented to by the applicant. Failure of the Board to act within the prescribed time period shall constitute approval of the application.

5. Any designated Site Plan/Subdivision Review Committee shall read any written report submitted concerning the application and shall review the submission to ascertain its conformity with the requirements of this Ordinance; the Committee shall offer its recommendations to the Board.

6. If the Board acts favorably on the final plat or plan, the Town Engineer and the Chairman and Secretary of the Board (or the acting Chairman or Secretary, where either or both may be absent) shall affix their signatures to at least ten (10) paper copies of the plat or plan with the notification that it has been approved. The applicant shall furnish such copies to the Board for signing. Moreover, in the case of final subdivisions only, the applicant shall include for signing one (1) cloth copy and at least two (2) mylar copies of the approved plat in addition to the ten (10) paper copies.

7. After approval of the final plat or plan by the Board, the Secretary of the Board shall retain one (1) paper copy of the signed plat or plan and shall furnish other copies to each of the following within ten (10) days from the date of the adoption of a resolution in accordance with Section 706 F. of this Ordinance:

a. Town Clerk (one [1] paper copy);

b. Town Engineer (one [1] paper copy and, in the case of subdivisions only, one [1] mylar copy drawn to the tax map scale of 1" = 100' or 1" = 400' as directed by the Town Engineer);

c. Zoning Officer (one [1] paper copy);

d. Town Tax Assessor (one [1] paper copy);

e. The Applicant (one [1] paper copy and, in the case of subdivisons only, one [1] mylar copy); and

f. Such other Town, County or State agencies and officials as directed by the Board.

8. Within ninety-five (95) days of the date of approval by the Board of a final subdivision plat, the subdivider shall file a copy of same with the Warren County Clerk. In the event of failure to file within said ninety-five (95) days, the approval of the major subdivision shall expire and any further proceedings shall require the filing of a new application as in the first instance. The Board, for good cause shown, may extend the filing for an additional ninety-five (95) days.

9. If the Board, after consideration and discussion of the final plat or plan, disapproves the submission, a notation to that effect shall be made by the Chairman of the Board on the plat or plan. The Secretary of the Board, within ten (10) days of such adoption, shall notify the applicant of such disapproval and forward the applicant a copy of the adopted resolution setting forth the reasons for the disapproval.

10. At the time the Final Plat is submitted for signatures of Municipal Officials, the applicant shall submit a CAD-generated data file(s), directly translatable into an identical image of the final plat, conforming to the following:

    Media: The file(s) shall be submitted on a 5.25”/1.2MG or 3.50”/1.44Mb diskette or compact disk, formatted for IBM PC’s or compatible computer.

    Data Format: The file shall be either:

    a. An AutoCAD drawing file (i.e., a “DWG” Extension file compatible with AutoCAD Release 14 or later);

    b. An ASC11 Drawing Interchange File (i.e. a “DXF” Extension file) compatible with AutoCAD Release 14 or later.

    At the discretion of the applicant, the Town Engineer can be requested to do the required conversation to CAD in accordance with the Town Fee Schedule.

D. Effect of Final Approval

1. Final approval of a subdivision or site plan shall confer upon the applicant the following rights for a period of two (2) years from the date of final approval:

    a. The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer, whether conditionally or otherwise, shall not be changed.

    b. If the developer has followed the standards prescribed for final approval, the Board may extend the period of protection for extensions of one (1) year each, not exceeding three (3) such extensions.

2. In the case of a subdivision or site plan for a planned development or residential cluster of 50 acres or more, or in the case of a conventional subdivision or site plan of 150 acres or more, the Board may grant the rights referred to in Section 805 D.1 herein-above for such period of time, longer than two (2) years, as shall be determined by the Board to be reasonable taking into consideration:

    a. The number of dwelling units and non-residential floor area permissible under final approval;

b. Economic conditions; and

c. The comprehensiveness of the development.

3. The developer may apply for thereafter, and the Board may thereafter grant, an extension to final approval for such additional period of time as shall be determined by the Board to be reasonable taking into consideration:

   a. The number of dwelling units and non-residential floor area permissible under final approval;

   b. The number of dwelling units and non-residential floor area remaining to be developed;

   c. Economic conditions; and

   d. The comprehensiveness of the development

806 HISTORIC PRESERVATION

A. Purpose

It is the expressed intent of these provisions to protect, enhance, perpetuate and preserve, structures and sites of historic, aesthetic, cultural and architectural value within those areas of the Town of Hackettstown designated as an "Historic District" in accordance with N.J.S.A. 40:55D-11 and as delineated on the "Historic District" map accompanying this Ordinance.

It is further the intent of these regulations to safeguard the heritage of the Town of Hackettstown, maintain and improve property values, and foster civic pride in the beauty and accomplishments of the past.

B. Definitions

Addition: The construction of a new improvement as a part of an existing structure when such new improvement changes the exterior appearance of any structure.

Alteration: Any work done on any improvement(s) which:

1. Is not an addition to that improvement; and

2. Changes the appearance of the exterior surface of any improvement.

3. The installation, removal, repair or replacement of signs, awnings, cornices, facades, siding, doors and windows are not to be considered alterations requiring site plan review and approval under Section 806 C.1.

Certificate of Appropriateness: A document that is issued by the Historic Preservation Commission, following a prescribed series of hearings and review procedures, certifying that the proposed development is found to be acceptable in terms of design criteria relating to an Historic District as an entity, or to an individual site, structure or building within an Historic District.

Demolition: The partial or total razing or destruction of any Historic Site or any improvement within an Historic District.

Historic District: The Historic District as delineated on the "Hackettstown Historic District" map within the Comprehensive Master Plan of the Town and the "Historic District" map which accompanies this Ordinance.

Historic Site: Any real property, man-made structure, natural object or configuration, or any portion or group of the foregoing, which have been formally designated as an "Historic Site" within the Comprehensive Master Plan of the Town.

Improvement: Any structure or any part thereof constructed or installed upon real property by human endeavor and intended to be kept at the location of such construction or installation for a period of not less than sixty (60) continuous days.

Repair: Any work done on any improvement(s) which:

1. Is not an addition to that improvement; and

2. Does not change the appearance of the exterior surface of any improvement.

Replacement: Repairs, when a construction permit is required for same.

C. Review Requirements Pertaining To
Site Plan And Subdivision Applications

1. Any new building or structure or any addition or alteration to an existing building or structure designated as an Historic Site or located within an area designated as an "Historic District" shall require review and approval of the Planning Board or Zoning Board of Adjustment, as the case may be, in order to ensure that all architectural design features are appropriate.

2. The Board shall refer any applicable application to the Historic Preservation Commission in accordance with N.J.S.A. 40:55D-110 for their review and comment, which shall be rendered to the Board in writing within thirty (30) days after referral.

3. All applications for site plan or subdivision approval involving Historic Sites or buildings or structures located within an area designated as an "Historic District" shall be accompanied by an "Historic Impact Statement" in accordance with Section 806 E. of this Ordinance hereinbelow. Twenty (20) copies of the Historic Impact Statement shall be submitted and shall be distributed by the Administrative Officer in the following manner:

   a. Planning Board or Zoning Board of Adjustment, as the case may be (9 copies);

   b. Historic Preservation Commission (8 copies);

   c. Planning Board Attorney or Zoning Board of Adjustment Attorney, as the case may be (1 copy);

   d. Town Planner (1 copy); and

   e. Town Clerk (1 copy for files).

D. Review Requirements Pertaining To Sign Permit And Construction Permit Applications

1. Any application for a sign permit or construction permit pertaining to any sign, to any new building or structure, or to any addition or alteration to an existing building or structure involving an Historic Site or located within an area designated as an "Historic District" shall require review and approval of the Historic Preservation Commission when the subject of such sign permit or construction permit has not been approved by the Planning Board or Zoning Board of Adjustment, as the case may be, as part of a subdivision or site plan application approval. The purpose of the review is to ensure that all architectural design features are appropriate. Any "replacement", as defined in Section 806 B. hereinabove, shall not require review by the Historic Preservation Commission, even though a construction permit is required.

2. The Zoning Officer (in the case of sign permits) or the Construction Official (in the case of construction permits) shall refer any applicable application to the Historic Preservation Commission within ten (10) days of its receipt by the Zoning Officer or Construction Official, as the case may be.

   The Historic Preservation Commission shall render a written report pertaining to the sign permit or construction permit to the Zoning Officer or Construction Official, as the case may be, within forty-five (45) days of its referral to the Historic Preservation Commission. If within said forty-five (45) days, the Historic Preservation Commission recommends that a sign permit or construction permit be issued, the Zoning Officer or the Construction Official, as the case may be, shall immediately issue the permit. No applicable permit shall be issued by the Zoning Officer or Construction Official except in accordance with the recommendation of the Historic Preservation Commission, provided that failure of the Historic Preservation Commission to render its written report within said forty-five (45) days shall be deemed to constitute approval of the application as submitted.

3. All applications for a sign permit or construction permit pertaining to any sign, to any new building or structure, or to any addition or alteration to an existing building or structure involving an Historic Site or located within an area designated as an "Historic District" shall be accompanied by an "Historic Impact Statement" in accordance with Section 806 E. of this Ordinance hereinbelow. Ten (10) copies of the Historic Impact Statement shall be submitted and shall be distributed by the Administrative Officer in the following manner:

   a. Historic Preservation Commission (9 copies); and

   b. Town Clerk (1 copy for files).

4. A fee shall be paid in accordance with Section 901 of this Ordinance.

E. <u>Historic Impact Statement</u>

The Historic Impact Statement shall document and discuss the historical and/or architectural value and significance of the building, structure and/or site and its relationship to the historic value of the surrounding area. Additionally, the architectural compatibility of the proposed exterior design and materials to be used shall be specifically addressed in accordance with the following guidelines:

1. Every reasonable effort shall be made to provide a compatible use for the property as permitted by this Ordinance, which requires minimal alteration of the building(s), structure(s), or site and its environment, or to use a property for its originally intended purpose.

2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features shall be avoided when possible.

3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

4. Changes which may have taken place in the course of time are evidence of the history

and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be recognized, respected and treated with sensitivity.

6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement or expansion is necessary, the new materials shall match the materials being replaced or expanded upon in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence.

7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

8. Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to any acquisition, protection, stabilization, preservation, rehabilitation, restoration, or reconstruction project.

9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material and such design is compatible with the size, scale, color, material and character of the property, neighborhood, or environment.

10. Whenever possible, new additions or alterations to structures shall be done in a manner that if the additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

11. The following factors shall be used in determining the visual compatibility of a building or sign with the buildings and places to which it is visually related and shall be known as “visual compatibility factors”.

    a. <u>Height</u>: The height of the proposed building shall be visually compatible with adjacent buildings.

    b. <u>Proportion of building’s front facade</u>: The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings and places to which it is visually related.

    c. <u>Proportion of openings within the facility</u>: The relationship of the width of windows to the height of windows in a building shall be visually compatible with the buildings and places to which it is visually related.

    d. <u>Rhythm of solids to voids in front facades</u>: The relationship of solids to voids in the front facade of a building shall be visually compatible with the building and places to which it is visually related.

    e. <u>Rhythm of the spacing of buildings on streets</u>: The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with the buildings and places to which it is visually related.

f. Rhythm of entrance and/or porch projections: The relationship of entrance and porch projections to the street shall be visually compatible with the building and places to which it is visually related.

g. Relationship of materials, texture and color: The relationship of materials, texture and color of the facade and roof of a building shall be visually compatible with the predominant materials used in the buildings to which it is visually related.

h. Roof shapes: The shape of a building shall be visually compatible with buildings to which it is visually related.

i. Walls of continuity: Appurtenances of a building such as walls, open-type fencing and evergreen landscape masses, shall form cohesive walls of enclosure along a street, to the extent necessary to maintain visual compatibility of the building with the buildings and places to which it is visually related.

j. Scale of building: The size of a building, the mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with the buildings and places to which it is visually related.

k. Directional expression of front elevation: A building shall be visually compatible with buildings and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or non-directional character.

l. Signs: Signs in the Historic District and signs located at Historic Sites shall be of an appearance, color, size, portion, method of attachment, texture of materials and design, which conform to the historical and distinctive character of the historic district or site, and does not injuriously affect it or impair the value of the community of those buildings having architectural or historical worth. In addition, all signs shall conform with all other applicable provisions in this Ordinance.

::::CHECK LIST::::

Details required for

Minor Subdivision Plats and Minor Site Plans

Note: See Section 803 of the Hackettstown Land Development Ordinance for further details of submission requirements and procedures.

Applicant

_____ Application Form (s) and Checklist(s) (20 copies).

_____ Plats or Plans (20 copies) signed and sealed by a N.J.P.L.S. or N.J.P.E., as required, and folded into eighths with title block revealed.

_____ Protective Covenants, Easements and/or Deed Restrictions (10 copies).

_____ Scale of not less than 1" = 50' on one of four of the following standard sheet sizes (8 1/2" x 13"; 15" x 21"; 24" x 36"; or 30" x 42").

_____ Key map at not more than 1"=1000'.

_____ Title block:

_____ Name of subdivision or development, Town of Hackettstown, Warren County, with each sheet specifically titled with appropriately descriptive words;

_____ Name, title, address and telephone number of subdivider or developer.

_____ Name, title, address and license number of the professional or professionals who prepared the plot or plan;

_____ Name, title and address of the owner or owners of record;

_____ North arrow;

_____ Scale (written and graphic); and

_____ Date of original preparation and of each subsequent revision thereof and a list of specific revisions entered on each sheet.

_____ Names and addresses of partners or stockholders as required by Ordinance.

_____Acreage figures (both with and without areas within public rights-of-way).

_____Approval signature lines.

_____Existing block and lot number(s) of the lot(s) to be subdivided or developed as they appear on the Town Tax Map, and proposed block and lot numbers as provided by the Town Tax Assessor upon written request;

_____Tract boundary line (heavy solid line).

_____The location of existing and proposed property lines (with bearings and distances), streets, structures (with their numerical dimensions and an indication as to whether existing structures will be retained or removed), parking spaces, loading areas, driveways, watercourses, railroads, bridges, culverts, drain pipes, any natural features such as wetlands and treed areas, both within the tract and within one hundred feet (100') of its boundary.

_____The location and width of all existing and proposed utility easements, the use(s) for which they are intended to be limited, and the manner in which the easements will be controlled.

_____ Zoning districts affecting the tract, including district names and all area and bulk requirements, with a comparison to the proposed development.

_____Proposed buffer and landscaped areas.

_____Delineation of flood plains, including both floodway and flood fringe areas.

_____Contours as shown on the U.S.G.S. topographic sheets.

_____Marshes, ponds and land subject to flooding within the tract and within one hundred feet (100’) thereof.

_____The names of all adjacent property owners as they appear on the most recent tax list prepared by the Clerk of the Planning Board or Clerk of the Zoning Board of Adjustment, as the case may be.

_____Five (5) copies of a certificate from the Town Tax Collector indicating that all taxes and assessments are paid to date.

_____Five (5) copies of the completed application to the Warren County Planning Board, if applicable.

_____Five (5) copies of the completed application to the Hackettstown Municipal Utilities Authority, if applicable.

_____Concerning minor subdivisions only, existing and proposed monuments.

_____Proposals for soil erosion and sediment control as required by N.J.S.A. 4:24-39 et seq.

_____Concerning minor subdivisions only, an Environmental Impact Statement in accordance with the provisions of Section 804 C.

_____Road right-of-way dedication and improvement, as applicable.

_____Plans of proposed improvements and/or utility layouts as required by Ordinance; and required letters from appropriate State and County agencies granting approval for the extension of utility service(s).

_____Sight triangle easements, as applicable.

_____Deed descriptions (including metes and bounds), easements, covenants, restrictions, and roadway dedications.

_____An Historic Impact Statement, if applicable, in accordance with Section 806 E. of this Ordinance.

_____A sixty-year title search dated within 6 months of the application date including copies of all deeds, easements, covenants, restrictions and other items affecting title to the property.

_____ _____

Signature and Title of person who prepared check list. Date

::::CHECK LIST::::

Details required for
Preliminary Major Subdivision Plats
and
Preliminary Major Site Plans

Note: See Section 804 of the Hackettstown Land Development Ordinance for further details of submission requirements and procedures.

_____Application Form(s) and Checklist(s) (20 copies).

_____Plats or Plans (20 copies) signed and sealed by a N.J. Professional Engineer and folded into eighths with title block revealed.

_____Protective Covenants, Easements and/or Deed Restrictions (20 copies).

_____ Scale of not less than 1" = 100' on one of four of the following standard sheet sizes (8½" x 13"; 15"x 21"; 24"x 36"; or 30" x 42"

_____ Key map at not more than 1"=1000'.

_____ Title block:

_____Name of subdivision or development, Town of Hackettstown, Warren County, with each sheet specifically titled with appropriately descriptive words;

_____ Name, title, address and telephone number of subdivider or developer; Name, title, address and license number of the professional or professionals who prepared the plot or plan;

_____ Name, title and address of the owner or owners of record; North arrow;

_____ Scale (written and graphic);

_____ Date of original preparation and of each subsequent revision thereof and a list of specific revisions entered on each sheet; and

_____ Names and addresses of partners or stockholders as required by Ordinance.

_____ Certification of ownership or authorization to file application.

_____ Approval signature lines.

_____ Acreage to the nearest tenth of an acre (both with and without areas within public rights-of-way).

_____The names and lot and block numbers of all property owners within 200 feet of the extreme limits of the tract as shown on the most recent tax list prepared by the Clerk of the Planning Board or Clerk of the Zoning Board of Adjustment, as the case may be.

_____Existing tax sheet number(s) and existing block and lot number(s) of the lot(s) to be subdivided or developed as they appear on the Town Tax Map, and proposed block and lot numbers as provided by the Town Tax Assessor upon written request.

_____Tract boundary line (heavy solid line).

_____ Zoning districts, affecting the tract, including district names and all area and bulk requirements, with a comparison to the proposed development.

_____The location of natural features such as wetlands and treed areas, both within the tract and within 100 feet of its boundary.

_____The proposed location of all proposed plantings, with a legend listing the botanical and common names, the sizes at time of planting, the total quantity of each plant, and the location of each plant keyed to the plan or plat.

_____Existing and proposed watercourses with required information:

_____When a stream is proposed for alteration, improvement or relocation or when a drainage structure or fill is proposed over, under, in or along a running stream, a report on the status of review by the State Department of Environmental Protection, Division of Water Resources;

_____Cross-sections of watercourses and/or drainage swales at an appropriate scale showing the extent of flood plain, top of bank, normal water levels and bottom elevations at locations required by the Town Engineer;

_____The location and extent of drainage and conservation easements and stream encroachment lines; and

_____The location and type of adequate drainage provisions to reasonably reduce and minimize exposure to flood damage.

_____Existing and proposed contours as required by Ordinance.

_____Proposals for soil erosion and sediment control as required by N.J.S.A. 4:24-39 et seq.

_____The location of all existing structures as required by Ordinance.

_____Size, height and location of all proposed structures and buildings.

_____All dimensions necessary to confirm conformity to the Ordinance requirements.

_____The proposed location, direction of illumination, power and type of proposed outdoor lighting, including details and luminaries.

_____The proposed screening, buffering and landscaping plan, with the information required by Ordinance.

_____The location and design of any off-street parking area, showing size and location of bays, aisles and barriers.

_____All means of vehicular access or egress to and from the site onto public streets, with the information required by Ordinance.

_____Plans and computations for any storm drainage systems as required by the Town Engineer.

_____The location of existing utility structures on the tract and within 200 feet of its boundaries.

_____Plans of proposed improvements and utility layouts as required by Ordinance; and required letters from appropriate State and County agencies granting approval for the extension of utility service(s).

_____Plans, typical cross sections and construction details, horizontal and vertical alignment of the centerline of all proposed streets and of existing streets abutting the tract as required by Ordinance.

_____A copy of any protective covenants or deed restrictions applying to the land being developed or an indication of them on the submitted plat or plan.

_____The location and width of all existing and proposed utility easements, the use(s) for which they are intended to be limited, and the manner in which the easements will be controlled.

_____Proposed permanent monuments.

_____The proposed number of shifts to be worked, the maximum number of employees on each shift, and the hours of operation.

_____Five (5) copies of a certificate from the Town Tax Collector indicating that all taxes and assessments are paid to date.

_____Five (5) copies of the completed application to the Warren County Planning Board, if applicable.

_____Five (5) copies of the completed application to the Hackettstown Utilities Authority, if applicable.

_____ All preliminary major subdivision and/or preliminary major site plan applications shall be accompanied by a grading plan in accordance with Section 804B.37 of this Ordinance.

_____All preliminary major subdivision and/or preliminary major site plan applications shall be accompanied by an Environmental Impact Statement in accordance with Section 804 C. of this Ordinance.

_____An Historic Impact Statement, if applicable, in accordance with Section 806 E. of this Ordinance.

_____A sixty-year title search dated within 6 months of the application date including copies of all deeds, easements, covenants, restrictions and other items affecting title to the property.

_____In the case of any subdivision or site plan submission of a planned development, all of the required information for all of the properties comprising the planned development.

_____The Board reserves the right to acquire additional information before granting preliminary approval when unique circumstances affect the tract and/or when the application for development poses special problems for the tract and the surrounding area. Such information may include, but not be limited to, drainage calculations and traffic analyses, provided however that no application shall be declared incomplete for lack of such additional information.

_____ _____

Signature and Title of person who prepared check list. Date

::::CHECK LIST::::

Details required for
Final Major Subdivision Plats
and
Final Major Site Plans

Note: See Section 805 of the Hackettstown Land Development Ordinance for further details of submission requirements and procedures.

_____ Application Form(s) and Checklist(s)(20 copies).

_____ Plats or Plans (20 copies) signed and sealed by a N.J.P.L.S. or N.J.P.E., as required, and folded into eighths with title block revealed.

_____ Scale of not less than 1" = 100' on one of four of the following standard sheet sizes (8 1/2" x 13"; 15" x 21"; 24" x 36"; or 30" x 42").

_____ All details stipulated in Subsection 804 B. of the Ordinance.

_____ All additional details required at the time of preliminary approval.

_____ A section or staging plan, if proposed.

_____ Detailed architectural and engineering data as required by Ordinance.

_____Certification from the Town Tax Collector indicating that all taxes and assessments are paid up-to-date.

_____Letters directed to the Chairman of the Board and signed by a responsible official of all utility companies, etc., providing service to the tract as required by Ordinance.

_____ Certification in writing from the applicant to the Board that the applicant has:

(a) Installed all improvements in accordance with the requirements of the Ordinance; and/or,

(b) Posted a performance guarantee in accordance with Section 902 of the Ordinance.

_____A statement from the Town Engineer indicating that all installed improvements have been inspected.

_____ _____

Signature and Title of person who prepared check list Date

::::CHECK LIST::::
Details required for
Variance Applications

Note: See Section 802 C. of the Hackettstown Land Development Ordinance for further details of submission requirements and procedures.

_____ Application Form(s) and Checklist(s)(20 copies).

_____ Plats or Plans (20 copies) signed and sealed by a N.J.P.L.S. or N.J.P.E., as required, and folded into eighths with title block revealed.

_____ Scale of not less than 1" = 100' on one of four of the following standard sheet sizes (8 1/2" x 13"; 15" x 21"; 24" x 36"; or 30" x 42").

_____ Key map at less than 1"=1000'.

_____ Title block:

_____ Name of subdivision or development, Town of Hackettstown, Warren County, with each sheet specifically titled with appropriately descriptive words;

_____ Name, title, address and telephone number of subdivider or developer;

_____ Name, title, address and license number of the professional or professionals who prepared the plot or plan;

_____ Name, title and address of the owner or owners of record;

_____ North arrow;

_____ Scale (written and graphic);

_____ Date of original preparation and of each subsequent revision thereof and a list of specific revisions entered on each sheet; and

_____ Names and addresses of partners or stockholders as required by Ordinance.

_____ Acreage figures (both with and without areas within public rights-of-way).

_____ Approval signature lines.

_____ Existing block and lot number(s) of the lot(s) to be subdivided or developed as they appear on the Town Tax Map, and proposed block and lot numbers as provided by the Town Tax Assessor upon written request.

_____ Tract boundary line (heavy solid line).

_____ The location of existing and proposed property lines (with bearings and distances), streets, structures (with their numerical dimensions and an indication as to whether existing structures will be retained or removed), parking spaces, loading areas, driveways, watercourses, railroads, bridges, culverts, drain pipes, any natural features such as wetlands and treed areas, both within the tract and within one hundred feet (100") of its boundary.

_____The location and width of all existing and proposed utility easements, the use(s) for which they are intended, and the manner in which the easements will be controlled.

_____ Zoning districts affecting the tract, including district names and all area and bulk requirements, with a comparison to the proposed development.

_____ Proposed buffer and landscaped areas.

_____ Delineation of flood plains, including both floodway and flood fringe areas. Contours as shown on the U.S.G.S. topographic sheets.

_____ Marshes, ponds and land subject to flooding within the tract and within one hundred feet (100') thereof.

_____ The names of all adjacent property owners as they appear on the most recent tax list prepared by the Clerk of the Planning Board or Clerk of the Zoning Board of Adjustment, as the case may be.

_____ Five(5) copies of a certification from the Town Tax Collector indicating that all taxes and assessments are paid to date.

_____Concerning subdivisions only, existing and proposed monuments.

_____Road right-of-way dedication and improvement, as applicable.

_____ Sight triangle easements, as applicable.

_____ Deed descriptions (including metes and bounds), easements, covenants, restrictions, and roadway dedications.

_____A sixty-year title search dated within 6 months of the application date including copies of all deeds, easements, covenants, restrictions and other items affecting title to the property.

_____ _____

Signature and Title of person who prepared check list Date

SECTION 900

FEES, GUARANTEES, INSPECTIONS & OFF-TRACT IMPROVEMENTS

SECTION 900

FEES, GUARANTEES, INSPECTIONS AND OFF-TRACT IMPROVEMENTS

901 FEES

A. Every application for development shall be accompanied by a check payable to the Town of Hackettstown in accordance with the following schedule; money in excess of $5,000.00 deposited by an applicant for professional services employed by the municipality to review applications for development shall be collected, held and distributed in accordance with N.J.S.A. 40:55D-53.1 and any amendments thereto.

		Application Charge	Escrow Account
1.	Subdivisions		
	(a) Minor Plat	$150	$ 1000
	(b) Preliminary Plat	$500	$1500 plus $75 per lot, provided a minimum $2000 shall be deposited.
	(c) Final Plat	$300	$750 plus $75 per lot, provided a minimum $1000 shall be deposited.
	(d) Informal Presentation (one [1] appearance only)	$ 50	none required
	(e) Concept Plat for Review		
	1) Minor Plat	$ 50	$ 500
	2) Major Plat	$100	$1000
	(f) Amended Preliminary Major Subdivision	$100	$1000
	(g) Amended Final Major Subdivision	$100	$1000

		Application Charge	Escrow Account
2.	Site Plans		
	(a) Minor Plan	$200	$1300
	(b) Preliminary Plan	$300(Residential) $400(Commercial)	1800/acre or part thereof, plus $75/du in the case of multiple-family units and/or $0.05/gross s.f. of building area in the case of non-residential buildings, provided a minimum $2000 shall be deposited.
	(c) Final Plan	$200	$900/acre or part thereof, plus $40/du in the case of multiple-family units and/or $0.025/gross s.f. of building area in the case of non-residential buildings, provided a minimum $1000 shall be deposited.
	(d) Informal Presentation (one [1] appearance only)	$100	none required
	(e) Concept Plan for Review		
	1) Minor Plan	$ 50	$ 500
	2) Major Plan	$100	$1000
	(f) Amended Preliminary Major and/or Final Major Site Plan	$150	$1000
3.	Conditional Uses Not Including Required Site Plan or Subdivision Plan Review	$150	$ 500

		Application Charge	Escrow Account
4.	Variances		
	(a). Appeals (40:55D-70a)	$50	$ 500
	(b). Interpretation (40:55D-70b)	$100	$ 500
	(c). Bulk (40:55D-70c)		
	First Variance	$150(residential)	$ 750
		$300(commercial)	$ 750
	Each additional variance	$ 50	$ 150
	(d) Use (40:55D-70d)	$250(residential)	$1500
		$500(commercial)	$1500
	(e). Permit (40:55D-34 & 35)	$150	$ 500
5.	General Development Plans	None required	None required
6.	Approval of Time Extension	$100	None required
7.	Appeals to Town Council See Section 707 of this Ordinance	$100	None required
8.	Zone Change Request	$150	$500
9.	Certified List of Property Owners See Section 706 of this Ordinance	$0.25/name or $10 whichever is greater	None required
10.	Copy of Minutes, Transcripts or Decisions See Section 706 E. and 708 of this Ordinance	$ .50/page	None required

		Application Charge	Escrow Account
11.	Subdivision Approval Certificate See Section 1003 of this Ordinance.	$50/Certificate	None required
12.	Historic Reviews See Section 806 of this Ordinance.	$25(residential) $75(commercial)	None required None required

13. Zoning Permit	Application Charge	Escrow Account
(a) Residential renovations/additions and accessory structures/buildings (less than $10,000)	$25.00	None Required
(b) Residential renovations/additions and accessory structures/buildings (greater than $10,000)	$50.00	None Required
(c) New single family dwelling	$100.00	None Required
(d) Commercial - New business or Change of Use	$50.00	None Required
(e) Commercial renovations/additions and accessory structures/buildings (less than $100,000)	$75.00	None Required
(f) Commercial renovations/additions and accessory structures/buildings (greater than $100,000)	$100.00	None Required
(g) Commercial Signage		
When covered during board review/approval	No Fee	None Required
When covered by "Change of Message"	No Fee	None Required
Addition of sign or change to signage	$50.00	None Required
(h) Temporary Signs - Grand Opening Banner	No Fee	None Required

(i) Promotional Banner

12 square feet or less	$10.00	None Required
25 square feet or less	$25.00	None Required
Banners permitted under special events permit	No Fee	None Required

14. Drive-Thru Facilities For All Applications — None required — None required

15. Tax Map Revision Fees

In addition to the foregoing fees and escrow account deposits, a fee of $25.00, plus $10.00 per lot or unit shall be assessed for all minor and major subdivision, residential unit site plans or condominium or cooperative residential or commercial development site plans to cover the cost of revising the Town Tax Map. In the case of major subdivision approval, this fee shall be paid prior to the signing of the final plat of the major subdivision by the Chairman and Secretary of the Planning Board and the Town Engineer. In all other cases, this fee shall be paid within 30 days of the date of adoption of the Resolution of Approval.

Where one application for development includes several approval requests, the sum of the individual required fees shall be paid.

B. The application charge is a flat fee to cover Town administrative expenses and is non-refundable.

C. Escrow shall be deposited with the cost of any professional services rendered to the municipality or approving authority for review of applications for development, review and preparation of documents, inspection of improvements or other purposes under the provisions of P.L. 1975, c.291 (C.40:55D-l et seq.). Prior to an application being ruled complete, the escrow amounts set forth in Paragraph A above shall be posted.

Escrow shall be posted with the Town in cash, Certified Check or Money Order.

All funds shall be deposited by the Finance Officer in accordance with N.J.S.A. 40:55D-53.1

All professional charges for review of an application for development, review and preparation of documents or inspection of improvements shall be reasonable and necessary, given the status and progress of the application or construction. Review fees shall be charged only in connection with an application for development presently pending before the approving authority or upon review of compliance with conditions of approval, or review of requests for modification or amendment made by the applicant. A professional shall not review items which are subject to approval by any State governmental agency and not under municipal jurisdiction except to the extent consultation with a State agency is necessary due to the effect of State approvals in the subdivision or site plan.

If the municipality retains a different professional or consultant in the place of the professional originally responsible for the development application review, or inspection of improvements, the municipality or approving authority shall be responsible for all time and expenses of the new professional to become familiar with the application or the project , and the municipality or approving authority shall not bill the applicant or charge the deposit or the escrow account for any such services.

D. Reimbursement. The municipality shall be reimbursed for all payments to independent consultants in accordance with N.J.S.A. 40:55D-53.2. If the salary, staff support and overhead for a municipal professional are provided by the municipality, the charge shall not exceed 200% of the sum of the products resulting from multiplying (1) the hourly base salary, which shall be established annually by ordinance, of each of the professionals by (2) the number of hours spent by the respective professional upon review of the application for development or inspection of the developer's improvements, as the case may be. For other professionals the charge shall be at the same rate as all other work of the same nature by the professional for the municipality when fees are not reimbursed or otherwise imposed on applicants or developers.

E. Definition of Professional. All escrow funds shall be utilized by the appropriate board to pay the cost of any professional fees incurred by the Board for review and/or testimony. The term "professional', as used herein, shall include the services of a duly licensed engineer, surveyor, planner, attorney, appraiser or other expert who would provide professional services to insure that an application complies with the standards set forth in Town ordinances and experts whose testimony may be solicited to give further information to the Approving Board in any area addressed by any of applicant's experts.

F. Refund of Escrow. The following close-out procedure shall apply to all deposits and escrow accounts established under the provisions of P.L. 1975, c.291 (c.40:55D-l et seq.) and shall commence after the approving authority has granted final approval and signed the subdivision plat or site plan, in the case of application

review escrows and deposits, or after the improvements have been approved as provided in section 41 of P.L. 1975, c.291 (C.40:55D-53), in the case of improvement inspection escrows and deposits. The applicant shall send written notice by certified mail to the chief financial officer of the municipality and the approving authority, and to the relevant municipal professional, that the application or the improvements, as the case may be are completed. After receipt of such notice, the professional shall render a final bill to the chief financial officer of the municipality within 30 days, and shall send a copy simultaneously to the applicant. The chief financial officer of the municipality shall render a written final accounting to the applicant on the uses to which the deposit was put within 45 days of receipt of the final bill. Any balances remaining in the deposit or escrow account, including interest in accordance with section 1 of P.L. 1985, c.315 (C.40:55D-53.l), shall be refunded to the developer along with the final accounting. To facilitate the release of escrow applicants are requested to submit a signed escrow release voucher with the development application.

G. Reimbursement for Services. No subdivision plat or deed, or site plan, shall be signed, nor shall any zoning permits, based upon variances or interpretations of the zoning ordinance , building permits, certificates of occupancy or any other types of permits be issued with respect to any approved application for development until:

(a) All bills for reimbursable services have been received by the municipality from professional persons rendering services in connection with such application;

(b) The applicant has reimbursed the municipality the excess by which the amount of the bills exceeds the amount escrowed. The applicant shall place on the record its agreement to be bound by the provisions of the Town's Escrow ordinances.

H. Charge for Services. No professional personnel submitting bills to the Town under this ordinance shall charge for any of the services referred to therein at any higher rate or in any different manner from that which would normally be charged to the municipality for similar work. Payment of any bill rendered by a professional to the municipality with respect to any service for which the municipality is entitled to reimbursement shall in no way be contingent upon receipt of reimbursement by the applicant, nor shall any payment for service be delayed pending reimbursement of the Town by an applicant.

I. Payments. The Chief Financial Officer of a municipality shall make all of the payments to professionals for services rendered to the municipality or approving authority for review of applications for development, review and preparation of documents, inspection of improvements or other purposes under the provisions of P.L. 1975, c. 291 (C.40:55D-l et seq.). Such fees or charges shall be based upon a schedule established by resolution.

The application review and inspection charges shall be limited only to professional charges for review of applications, review and preparation of documents and inspections of development under construction and review by outside consultants when an application is of a nature beyond the scope of the expertise of the professionals normally utilized by the municipality. The only costs that shall be added to any such charges shall be actual out-of- pocket expenses of any such professionals or consultants including normal and typical expenses incurred in processing applications and inspecting improvements. The municipality or approving authority shall not bill the applicant, or charge any escrow account or deposit for any municipal clerical or administrative functions, over head expenses, meeting room charges or any other municipal costs and expenses except as provided herein, nor shall any municipal professional add such charges to his bill.

Each payment charged to the deposit for review of applications, review and preparation of document and inspection of improvements shall be pursuant to a voucher from the professional, which voucher shall identify the personnel performing the service, and for each date the services performed, the hours spent to one-quarter hour increments, the hourly rate and expenses incurred. All professionals shall submit vouchers to the chief financial officer of the municipality on a monthly basis in accordance with schedules and procedures established by the chief financial officer of the municipality. If the services are provided by a municipal employee, the municipal employee shall prepare and submit to the chief financial officer of the municipality a statement containing the same information as required on a voucher , on a monthly basis.

The professional shall send an informational copy of all vouchers or statements submitted to the chief financial officer of the municipality simultaneously to the applicant. The chief financial officer of the municipality shall prepare and send to the applicant a statement which shall include an accounting of funds listing all deposits, interest, earnings, disbursements, and the cumulative balance of the escrow account. This information shall be provided on a quarterly basis, if monthly charges are $1,000 or less, or on a monthly basis if monthly charges exceed $1,000. If an escrow account or deposit contains insufficient funds to enable the municipality or approving authority to perform required applications reviews or improvement inspections, the chief financial officer of the municipality shall provide the applicant with a notice of the insufficient escrow or deposit balance. In order for work to continue on the development or the application, the applicant shall within fourteen (14) days post a deposit to the account in an amount to be agreed upon by the municipality or approving authority and the applicant. In the interim, any required health and safety inspections shall be made and charged back against the replenishment of funds.

J. Dispute of Charges.

1 . An applicant shall notify in writing the governing body with copies to the chief financial officer, the approving authority and the professional whenever the applicant disputes the charges made by a professional for services rendered to the municipality in reviewing applications for development, review and preparation of documents, inspection of improvements, or other charges made pursuant to the provisions of P.L. 1975, c.291 (C.40:55D-1 et seq.) The governing body, or its designee, shall within a reasonable time period attempt to remediate any disputed charges. If the matter is not resolved to the satisfaction of the applicant, the applicant may appeal to the county construction board of appeals established under section 9 of the P.L. 1975, c.217 (C.52:27D-127) any charge to an escrow account or a deposit by any municipal professional or consultant, or the cost of the installation of improvements estimated by the municipal engineer pursuant to section 15 of P.L. 1991, c,256 (C.40:55D-53.4). An applicant or his authorized agent shall submit the appeal in writing to the county construction board of appeals. The applicant or his authorized agent shall simultaneously send a copy of the appeal to the municipality, approving authority, and any professional whose charge is the subject of the appeal. An applicant shall file an appeal within 45 days from receipt of the informational copy of the professional's voucher required by subsection c. of section 13 of P.L. 1991, c.256 (C.40:55D-53.2), except that if the professional has not supplied the applicant with an informational copy of the professionals voucher, then the applicant shall file his appeal within 60 days from receipt of the municipal statement of activity against the deposit or escrow account required by subsection c. of section 13 of P.L. 1991, c.256 (C 40:55-53.2). An applicant may file an appeal for an ongoing series of charges by a professional during a period not exceeding six months to demonstrate that they represent a pattern of excessive or inaccurate charges . An applicant making use of this provision need not appeal each charge individually.

2. The county construction board of appeals shall hear the appeal, render a decision thereon, and file its decision with a statement of the reasons therefore with the municipality or approving authority not later than 10 business days following the submission of the appeal, unless such period of time has been extended with the consent of the applicant. The decision may approve, disapprove, or modify the professional charges appealed from. A copy of the decision shall be forwarded by certified or registered mail to the party making the appeal, the municipality, the approving authority, and the professional involved in the appeal. Failure by the board to hear an appeal and render and file a decision thereon within the time limits prescribed in this subsection shall be deemed a denial of the appeal for purposes of a complaint, application, or appeal to a court of competent jurisdiction.

3. The county construction board of appeals shall provide rules for its procedure in accordance with this section. The board shall have the power to administer oaths

and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, and the provisions of the "County and Municipal Investigations Law." P.L. 1953, c.38 (C.2A:6AA-1 et seq.) shall apply.

4. During the pendence of any appeal, the municipality or approving authority shall continue to process, hear, and decide the application for development, and to inspect the development in the normal course, and shall not withhold, delay, or deny reviews, inspections, signing of subdivision plats or site plans, the reduction or the release of performance or maintenance guarantees, the issuance of construction permits or certificates of occupancy, or any other approval or permit because an appeal has been filed or is pending under this subsection. The chief financial officer of the municipality may pay charges out of the appropriate escrow account or deposit for which an appeal has been filed. If a charge is disallowed after payment, the chief financial officer of the municipality shall reimburse the deposit or escrow account in the amount of any such disallowed charge or refund the amount to the applicant. If a charge is disallowed after payment to a professional or consultant who is not an employee of the municipality is made, the professional or consultant shall reimburse the municipality in the amount of any such disallowed charge.

902 GUARANTEES AND INSPECTIONS

Money in excess of $5,000.00 deposited by an applicant for professional services employed by the municipality for inspections or deposited by an applicant to satisfy the guarantee requirements of this Ordinance, shall be collected, held and distributed in accordance with N.J.S.A. 40:55D-53.1 and any amendments thereto.

A. Requirements Specific To Subdivisions

1. No final major subdivision application (whether for an entire tract or a section thereof) shall be approved by the Board until the satisfactory completion and performance of all required public improvements has been certified to the Board by the Town Engineer unless the owner shall have performed the following:

   a. Satisfactorily completed all required utility installations and their appurtenances, including water mains, drainage and detention facilities, culverts, storm sewers, sanitary sewers or dry sewers and public improvements of open space;

   b. Satisfactorily completed all required grading and the "macadam base course" surfacing of all streets;

   c. Satisfactorily completed the construction of all required curbs; and,

   d. Filed with the Town a performance guarantee in accordance with Section 902 C. of this Ordinance, sufficient in amount to cover the cost of all remaining required improvements, as estimated by the Town Engineer, and

assuring the installation of said improvements on or before an agreed date and as hereinafter provided.

2. Except as hereafter provided, the remaining required improvements shall be at least fifty percent (50%) completed as to each category set forth in the performance guarantee within one (1) year from the date of final approval or by such time as fifty percent (50%) of the lots in the section in question have been conveyed in any manner by the applicant, whichever shall first occur. At least seventy-five percent (75%) of the remaining required improvements shall be completed as to each category as set forth in the performance guarantee within eighteen (18) months from the date of final approval, or at such time as seventy-five percent (75%) of the lots in the section in question have been conveyed in any manner by the applicant; whichever shall first occur. Such improvements shall be one hundred percent (100%) completed and accepted by the Town within two (2) years from the date of final approval or at such time as all of the lots in the section in question have been conveyed in any manner by the applicant, whichever shall first occur. It is the intention of the Town Council that this requirement will provide to those living in each new section of a subdivision a lot that is as complete as possible with respect to tract and individual lot improvements.

B. Requirements Specific To Site Plans

No final major site plan application (whether for an entire tract or a section thereof) shall be approved by the Board unless: 1) the Town Engineer has certified to the Board that all public improvements required by the preliminary site plan approval have been satisfactorily completed or, 2) the applicant, with the approval of the Planning Board or Zoning Board of Adjustment, as the case may be, has entered into a developer's agreement with the Town in a form satisfactory to the Town Attorney and authorized by the governing body, requiring the installation and maintenance by the applicant (and the applicant's successors in interest) of the public improvements, imposing such limitations upon, and/or staging of, the development of the site as are necessary to ensure orderly construction of the public improvements, and assuring the installation of the public improvements on or before an agreed date by the filing of a performance guarantee in accordance with Section 902 C. of this Ordinance.

For purposes of this Ordinance section, the term "public improvements" shall mean streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyor's monuments, water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, erosion control and sedimentation devices, landscaping, public improvements of open space, and other on-site improvements.

C. Performance Guarantee

1. A performance guarantee estimate shall be prepared by the applicant's engineer and submitted to the Town Engineer for review and approval, setting forth all required improvements as determined by the Board and their estimated cost. Any adjustment in the amount of the performance guarantee shall be approved by resolution of the Town

Council in accordance with N.J.S.A. 40:55D-53. The Developer may appeal the engineer's estimate to the County Construction Board of Appeals.

2. The applicant shall present two (2) copies of the performance guarantee in an amount equal to one hundred twenty percent (120%) of the approved performance guarantee estimate for approval as to form and execution by the Town Attorney; additional copies of the performance guarantee shall be forwarded by the owner to the Planning Board Attorney or Zoning Board of Adjustment Attorney, as the case may be.

3. The performance guarantee shall be made payable and deposited to the Town of Hackettstown and shall be in the form of cash, irrevocable letter of credit or certified check or a performance bond in which the applicant shall be principal, the bond to be provided by an acceptable surety company licensed to do business in the State of New Jersey. The Town shall issue its receipt for such deposits and shall cause the same to be deposited in the name of the Town to be retained as security for completion of all requirements and to be returned to the owner on completion of all required work or, in the event of default on part of the applicant, to be used by the Town to pay the cost and expense of obtaining completion of all requirements.

4. Ten percent (10%) of the amount of the approved performance guarantee shall be deposited by the applicant in cash with the Town. The remaining ninety percent (90%) may be in cash, irrevocable letter of credit or surety bond. In the event of default, the ten percent (10%) cash shall be first applied to the completion of the requirements and any bidding and legal costs associated therewith, and the remaining ninety percent (90%) cash, letter or credit, or surety bond shall thereafter be resorted to, if necessary, for the completion of the requirements and any additional bidding and legal costs associated therewith.

D. Start of Construction

Construction pursuant to preliminary or final approval of a minor or major site plan or minor or major subdivision approval shall not commence until:

1. The applicant has paid all fees required by this Ordinance;

2. The applicant has received all other governmental approvals required by the Board's resolution of memorialization granting subdivision and or site plan approval;

3. All revisions to the submitted plat or plan required by the Board at the time of subdivision or site plan approval have been filed with and approved by the Town Engineer and any other individual or group as may have been specified by the Board in the applicable resolution of memorialization granting subdivision and/or site plan approval;

4. The applicant's construction plans have been filed with and approved by the Town Engineer;

5. The applicant has had a preconstruction meeting with the Town Engineer in accordance with Section 1002 A. of this Ordinance for the purpose of

forecasting and resolving problems that may arise during the time of construction;

6. The applicant has posted the performances guarantees required by Section 902C; and

7. The applicant has complied with and satisfied all conditions of approval.

E. Inspection and Tests

1. All site improvements and utility installations for site plans, subdivisions, plot plans and other realty improvements shall be inspected during the time of their installation under the supervision of the Town Engineer to insure satisfactory completion. The cost of said inspection shall be the responsibility of the owner who shall pay to the Town Treasurer a sum equal to four percent (4%) of the amount of the estimated developer construction costs as approved by the Town Engineer.

2. In no case shall any paving work be done without permission from the Town Engineer. At least two (2) working days notice shall be given to the Town Engineer prior to any construction so that he or a qualified representative may be present at the time the work is to be done.

3. Streets shall not be paved with a top course until all heavy construction is completed and, if determined by the Town Engineer to be necessary, the macadam base course has first been restored. Shade trees shall not be planted until all grading and earth moving is completed. The placing of surveyor's monuments shall be among the last operations.

4. The Town Engineer's office shall be notified at least two (2) days prior to the commencement of the following phases of work so that he or a qualified representative may inspect the work:

   a. Road subgrade.
   b. Curb and gutter forms.
   c. Curbs and gutters.
   d. Road paving.
   e. Sidewalk forms.
   f. Sidewalks.
   g. Drainage pipes and other drainage construction.
   h. Street name signs.
   i. Monuments.
   j. Sanitary sewers.
   k. Detention and/or retention basins.
   l. Topsoil, seeding and planting.
   m. Underground utilities.

5. Any improvement installed contrary to the plan or plat approval by the Town shall constitute just cause to void the municipal approval.

6. Any improvement installed without notice for inspection pursuant to Section 902 D.4. hereinabove shall constitute just cause for:

    a. Removal of the uninspected improvement;

    b. The payment by the developer of any costs for material testing;

    c. The restoration by the developer of any improvements disturbed during any material testing; and/or

    d. The issuance of a 'stop work' order by the Town Engineer pending the resolution of any dispute.

7. Inspection by the Town of the installation of improvements and utilities shall not operate to subject the Town of Hackettstown to liability for claims, suits or liability of any kind that may at any time arise because of defects or negligence during construction or at any time thereafter; it being recognized that the responsibility to maintain safe conditions at all times during construction and to provide proper utilities and improvements is upon the owner and his contractor, if any.

8. Upon the completion or substantial completion of all required appurtenant utility improvements, and the connection of same to the public system, the obligor may notify the Town Council in writing, by certified mail in care of the Town Clerk, of the completion or substantial completion of the improvements and shall simultaneously send a certified copy thereof to the Town Engineer. Within ten (10) working days of receipt of the notice, the Town Engineer shall inspect all the improvements of which such notice has been given and file a detailed report, in writing, with the Town Council, indicating either approval, partial approval or rejection of such improvements, with a statement of the reasons for any rejection. The costs of the improvements as approved or rejected shall be set forth.

F. <u>Release</u>

The Town Council shall approve, partially approve or reject the improvements, on the basis of the report from the Town Engineer, and shall notify the obligor, in writing, by certified mail, of the Engineer's report and the action of the Town Council, not later than sixty-five (65) days after the receipt of the notice of the obligor of the completion or substantial completion of the improvements. Failure of the Town Council to send or provide such notification to the obligor within the sixty-five (65) days shall be deemed to constitute approval of the improvements and the obligor and the surety, if any, shall be released from all liability pursuant to the performance guarantee for such improvements.

1. Where partial approval is granted, the obligor shall be released from all liability pursuant to the performance guarantee for such improvements, except for that portion adequately sufficient to secure provision of the improvements not yet approved; provided that thirty percent (30%) of the performance guarantee posted may be retained to ensure the completion of all improvements and that said thirty percent (30%) may be applied against all improvements, regardless of when completed.

2. If any portion of the required improvements is rejected, the obligor shall complete such improvements and, upon completion, shall notify the Town Council as specified in Section 902 E.8. of this Ordinance and the same procedures shall be followed as in the first instance.

3. Bonds, if any, shall be released first; cash shall be released last.

G. Conditions and Acceptance of Improvements

The approval of any application for development by the Town shall in no way be construed as acceptance of any street or drainage system or other improvement. No improvements shall be accepted by the Town Council unless and until all of the following conditions have been met:

1. The Town Engineer shall have certified in writing that the improvments are completed and that they comply with the requirements of this Ordinance;

2. The final application for development shall have been approved by the Board;

3. The owner shall have filed with the Town Council a maintenance guarantee in an amount equal to and not more than fifteen percent (15%) of the cost of installing the improvements. The maintenance guarantee shall run for a period of two (2) years. The procedures and requirements governing such maintenance guarantee shall be identical with the procedures and requirements for a performance guarantee set forth in this Ordinance. The requirements for a maintenance guarantee may be waived by the Town Council only if the Town Council determines that the improvements are minimal in nature and the Town Engineer certifies that it is the Engineer's opinion that the guarantee may be waived without significant risk to the Town; and

4. An "as built" plan and profiles of all utilities and roads (three [3] black and white prints plus a mylar copy to be sent to the Town Engineer), with certification signed and sealed by a New Jersey licensed professional engineer as to the actual construction as approved by the Town Engineer, shall be provided.

H. Extension of Time

The time allowed for the installation of the improvements for which the performance guarantee has been provided may be extended by the Town Council by resolution, provided that the current cost of installation of such improvements shall first be redetermined by the Town Engineer, and if such current cost is found to be greater than the cost as originally determined, the applicant shall be required to increase the amount of the performance

guarantee to an amount equal to one hundred twenty percent (120%) of the installation cost as redetermined. In the event that the redetermined cost shall be less than the cost as originally determined, and in further event that the applicant's performance guaranty exceeds 120% of such redetermined costs, the applicant shall be entitled to a reduction of the performance guaranty to an amount equal to 120% of such redetermined costs.

903 OFF-TRACT IMPROVEMENTS

A. Required Improvements

Applicants shall be required, as a condition for approval of a subdivision, site plan or conditional use, to pay their pro rata share of the cost of providing reasonable and necessary street improvements and/or water, sewerage and drainage facility improvements, and any necessary easements thereof, located outside the property limits of the subject premises, but indicated in the Town Master Plan and necessitated or required by construction or improvements within such subdivision or development. The following criteria shall be utilized in determining the developer's proportionate pro rata monetary share for the necessary off-tract developments.

B. Improvements to be Constructed at the Expense of the Developer

In cases where the need for an off-tract improvement is reasonably created by the proposed subdivision or development and where no other property owners receive a special benefit thereby (as opposed to a mere incidental benefit), the applicant may be required, as a condition of approval and at the applicant's sole expense, to acquire and/or improve lands outside the tract and dedicate such lands to Hackettstown Town or Warren County or, in lieu thereof, require the subdivider or developer to deposit with the Town a sum of money sufficient to allow the Town to acquire and/or improve such lands on conditions it may deem appropriate under the circumstances.

C. General Standards for Other Improvements

In cases where the need for any off-tract improvement to be implemented now or in the future is reasonably necessitated by the proposed development application, and where it is determined that properties outside the development also will be benefited by the improvement, the following criteria, together with the provisions or rules and regulations of Hackettstown Town or any department thereof, may be utilized in determining the developer's proportionate share of such improvements:

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

    a. The capacity and the design of the sanitary sewer system shall be based on the Rules and Regulations for the Preparation and Submission of Plans for Sewerage Systems, New Jersey State Department of Environmental

Protection, and all Hackettstown Town sewer design standards, including infiltration standards.

b. Developer's pro rata share:

(1) The capacity of the existing system to serve the entire improved drainage area shall be computed. If the system is able to carry the total development drainage basin, no improvement or enlargement cost will be assigned to the developer although some charges including, but not limited to, capacity charges may be imposed. If the existing system does not have adequate capacity for the total development drainage basin, the pro-rated enlargement or improvement share shall be computed as follows:

$$\frac{\text{Developer's Pro Rated Share}}{\text{Total Enlargement or Improvement Cost}} = \frac{\text{Development gpd}}{\text{Total Tributary gpd}}$$

(2) If it is necessary to construct a new system in order to develop the subdivision or development, the pro-rated enlargement share to the developer shall be computed as follows:

$$\frac{\text{Developer's Pro Rated Share}}{\text{Total Project Cost}} = \frac{\text{Development Tributary gpd}}{\text{Total Tributary gpd to New System}}$$

(3) Specific plans for the improved system or the extended system shall be prepared by the developer's engineer and submitted to the Planning Board or Zoning Board of Adjustment, as the case may be, during the time period when the Board is reviewing the proposed subdivision and/or site plan application. The total cost for the improvement and the developer's pro-rated share of the total cost shall be calculated by the developer's engineer, submitted to the Board, reviewed by the Town Engineer, and approved by the Planning Board or Zoning Board of Adjustment, as the case may be, with any reasonable adjustments to the estimated costs, at the time when preliminary approval of the application for development is granted.

2. Roadways. For street widening, alignment, channelization of intersections, construction of barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvement uncovered elsewhere, the construction or reconstruction of new or existing streets and other associated streets or traffic improvements, the applicant's proportionate cost shall be determined as follows:

a. The applicant's engineer shall provide the Town Engineer with the existing and anticipated peak-hour volumes which impact the off-tract areas in question, which volumes shall analyze pedestrian, bicycle and motor vehicle traffic.

b. The applicant shall furnish a plan for the proposed of f-tract improvements,

which shall include the estimated peak-hour traffic generated by the proposed development. The ratio of the peak-hour traffic generated by the proposed development to the future peak-hour traffic shall form the basis of the proportionate share. The pro-rated share shall be computed as follows:

$$\frac{\text{Developer's Pro-Rated Share}}{\text{Total Cost of Roadway Improvement and/or Extension}} = \frac{\text{Additional Peak-Hour Traffic Generated by the Development}}{\text{Future Total Peak-Hour Traffic}}$$

c. Specific plans for the roadway improvement and/or extension shall be prepared by the developer's engineer and submitted to the Planning Board or Zoning Board of Adjustment, as the case may be, during the time period when the Board is reviewing the proposed subdivision and/or site plan application. The total cost for the improvement and/or extension and the developer's prorated share of the total cost shall be calculated by the developer's engineer, submitted to the Board, reviewed by the Town Engineer, and approved by the Planning Board or Zoning Board of Adjustment, as the case may be, with any reasonable adjustments to the estimated costs, at the time when preliminary approval of the application for development is granted.

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

   a. The capacity and design of the drainage system to accommodate stormwater run-off shall be based on a method described in Urban Hydrology for Small Watersheds, Technical Release 55, Soil Conservation Service USDA, January 1975, as amended, and shall be computed by the developer's engineer and approved by the Town Engineer.

   b. The capacity of the enlarged, extended or improved system required for the subdivision or development and areas outside of the subdivision or development shall be computed by the developer's engineer and be subject to the approval of the Town Engineer. The plans for the improved system shall be prepared by the developer's engineer and the estimated cost of the enlarged system shall be calculated by the Town Engineer. The pro-rated share for the proposed improvement shall be computed as follows:

$$\frac{\text{Developer's Pro Rated Share}}{\text{Total Enlargement Cost}} = \frac{\text{Development cfs}}{\text{Total Tributary cfs Improvement Cost of Drainage Facilities}}$$

   c. Specific plans for the enlargement or improvement of the drainage facilities

shall be prepared by the developer's engineer and submitted to the Planning Board or Zoning Board of Adjustment, as the case may be, during the time period when the Board is reviewing the proposed subdivision and/or site plan application. The total cost for the enlargement or improvement and the developer's pro-rated share of the total cost shall be calculated by the developer's engineer, submitted to the Board, reviewed by the Town Engineer, and approved by the Planning Board or Zoning Board of Adjustment, as the case may be, with any reasonable adjustments to the estimated costs, at the time when preliminary approval of the application for development is granted.

4. Water. See Section 516 of this Ordinance for requirements.

D. Escrow Accounts

Where the proposed off-tract improvement is to be undertaken at a future date, funds required for the improvement shall be deposited to the credit of Hackettstown Town in a separate account until such time as the improvement is constructed. In lieu of a cash escrow account, developer may present irrevocable letters of credit for the term required in a form acceptable to the Town Attorney. If the off-tract improvement is not begun within ten (10) years of the deposit, all monies and interest shall be returned to the applicant or the letter of credit, as the case may be, surrendered. An off-tract improvement shall be considered "begun" if Hackettstown Town has taken legal steps to provide for the design and financing of such improvements.

E. Referral to Town Council

1. Where applications for development suggest the need for off tract improvements, whether to be installed in conjunction with development in question or otherwise, the Planning Board or the Zoning Board of Adjustment, as the case may be, shall forthwith forward to the Town Council a list and description of all such improvements together with a request that the Town Council determine and advise the Board of the procedure to be followed in construction or installation thereof, including timing. The Board shall defer final action upon the subdivision or site plan until receipt of the Town Council determination or the expiration of ninety (90) days after the forwarding of such list and description to the Town Council without determination having been made, whichever comes sooner.

2. The Town Council, within ninety (90) days after receipt of said list and description, shall determine and advise the Planning Board or Zoning Board of Adjustment, as the case may be, concerning the procedure to be followed and advise the Board with regard to suggested conditions of approval, if any, to adequately protect the municipality.

3. In the event that the Planning Board or Zoning Board of Adjustment, as the case may be, is required by statute to act upon the application prior to receipt of the Town Council's determination as to construction of off-tract improvements, it shall request the applicant to consent to an extension of time within which to act, of sufficient duration to enable the Town Council to make the aforesaid determination. In the event that the applicant is unwilling to consent to the requested extension of time, the Planning Board or Zoning Board of Adjustment, as the case may be, shall, in its discretion, either itself determine the procedure to be followed in constructing the aforesaid improvements, or shall condition its approval upon the subsequent determination of the Town Council.

F. Implementation of Off-Tract Improvements

1. In all cases, developers shall be required to enter into an agreement or agreements with the Town Council in regard to of f-tract improvements, within one (1) year from the date of municipal subdivision and/or site plan approval and in accordance with this Ordinance and any other ordinances, policies, rules and regulations of the Town of Hackettstown, Warren County and the State of New Jersey and any departments, authorities or agencies thereof.

   Should such an agreement or agreements not be entered into within the aforesaid one (1) year time period, or within such extended time period as may be granted by the Town Council the municipal subdivision and/or site plan approval shall be deemed null and void.

2. Where properties outside the subject tract will be benefited by the improvements, the Town Council may require the applicant to escrow sufficient funds, in accordance with Section 903 D. hereinabove, to secure the developer's pro rata share of the eventual cost of providing future structural improvements based upon the standards expressed herein.

3. Where properties outside the subject tract will benefit by the improvements, the Town Council may determine that the improvement or improvements are to be installed by the municipality as a general improvement, the cost of which is to be borne as a general expense. If the Town Council shall determine that the improvement or improvements shall be constructed or installed as a general improvement, the Town Council may direct the Planning Board to estimate, with the aid of the Town Engineer or such other persons who have pertinent information or expertise, the amount, if any, by which the total cost thereof will exceed the total amount by which all properties, including the subject tract, will be specifically benefited thereby, and the subdivider or developer shall be liable to the municipality for such expense.

4. If the Town Council shall determine that the improvement or improvements shall be constructed or installed as a local improvement, all or a part of the cost of which is to be assessed against properties benefited thereby in proportion to the benefits conferred by the improvements in accordance with Chapter 56 of Title 40 of the Statutes of the State of New Jersey, the developer may be required to sign an agreement acknowledging and agreeing to this procedure and, in addition, the Town Council may require that the developer shall be liable to the municipality, in addition to the amount of any special assessments against the subject property for benefits conferred by the improvement or improvements, the difference between the total cost actually incurred and the total amount by which all properties, including the subject tract, are specially benefited by the improvement as the same may be determined by the Board of Improvement Assessors.

5. If the Town Council shall determine that the improvements are to be constructed or installed by the applicant, such agreement may contain provisions, consistent

with the standards in this Ordinance and any other rules, regulations or policies of the Town of Hackettstown County of Warren and the State of New Jersey and any departments, authorities or agencies thereof with jurisdiction therein, whereby the applicant shall be reimbursed by the municipality or otherwise, as a result of any participation fees, connection charges, charges paid in regard to developer's agreements with other applicants and the like, all in accordance with an agreement between the Town Council and the applicant.

6. In determining the procedures to be followed in the event of the submission of a list and request from the Planning Board, the Town Council shall be guided by the following standards and considerations:

   a. The local trends in regard to the probability of development within the drainage or circulation area in question and the intensity of such development;

   b. The risk and exposure that neighboring areas are subject to in the event that the improvements to be required are delayed;

   c. The extent to which temporary measures may sufficiently alleviate the condition or conditions requiring the off tract improvement and the likelihood that larger, regional or sub-regional facilities will be required in the future to serve the development tract and the general area of the municipality in which the same is located; and

   d. The extent to which the health, safety and welfare of the residents, both current and future, depend upon the immediate implementation of the off-tract improvement.

SECTION 1000

ADMINISTRATION, WAIVERS, ENFORCEMENT, VIOLATIONS & PENALTIES

SECTION 1000

ADMINISTRATION, WAIVERS, ENFORCEMENT, VIOLATIONS AND PENALTIES

1001 ADMINISTRATION

These rules, regulations and standards shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of Hackettstown Town. Any action taken by the Town under the terms of this Land Development Ordinance shall give primary consideration to the above mentioned matters and to the welfare of the entire municipality.

1002 ENFORCEMENT

It shall be the duty of the Town Engineer, the Town Construction Official and the Town Zoning Officer to administer and enforce the provisions of this Ordinance.

A. Town Engineer

1. It shall be the duty of the Town Engineer to monitor all land disturbances and all land improvements undertaken in the Town pursuant to approval of a subdivision and/or site plan in accordance with the applicable provisions of this Ordinance.

2. Prior to the commencement of any land disturbance or any land improvement, the developer shall arrange for and attend a pre-construction meeting with the Town Engineer. At said meeting, the subject subdivision plat and/or site plan shall be identified, marked and dated by the Town Engineer with an acknowledgement as to its conformity to the subdivision and/or site plan approved by the Planning Board or Zoning Board of Adjustment, as the case may be, including any conditions of approval written in the approval resolution. Thereafter, the marked and dated subdivision and/or site plan shall be filed in the office of the Town Clerk.

3. The Town Engineer shall issue a written communication to the developer within ten (10) days after the pre-construction meeting, either:

   a. Authorizing the commencement of land disturbance and/or land improvement in accordance with the approved plat or plan, including any conditions of approval written in the approval resolution, and in accordance with any and all limitations and/or conditions as deemed appropriate by the Town Engineer specifically enumerated; or

   b. Denying the commencement of land disturbance and/or land improvement, with the reasons for such denial specifically enumerated.

A copy of the written communication shall be immediately filed in the office of the Town Clerk, and additional copies shall be immediately forwarded to the Chairman of the Planning Board or to the Chairman of the Zoning Board of Adjustment, as the case may be, and to the Board's Attorney.

4. In accordance with Section 902 D. of this Land Development Ordinance, all improvements for both site plans and subdivisions shall be inspected during the time of their installation under the supervision of the Town Engineer. At the time of inspection, in addition to an evaluation and determination of the sufficiency of the engineering aspects of the improvements, the Town Engineer shall evaluate and determine the correctness of the improvements relative to all aspects of the approved subdivision and/or site plan. Should any improvement, whether completed or under construction, be found by the Town Engineer to be contrary to the subdivision and/or site plan as approved by the Planning Board or Zoning Board of Adjustment, including any imposed conditions, such fact shall immediately be orally communicated to the developer or his/her appropriate representative on-site and, thereafter, shall be communicated by the Town Engineer in writing to the developer or his/her attorney.

   A copy of the written communication shall be immediately filed in the office of the Town Clerk, and additional copies shall be immediately forwarded to the Chairman of the Planning Board or to the Chairman of the Zoning Board of Adjustment, as the case may be, and to the Board's Attorney.

5. On the day following the oral communication to the developer or his/her representative, the improvement found by the Town Engineer to be contrary to the subdivision and/or site plan shall be corrected so as to conform to the approved subdivision and/or site plan, or the Town Engineer shall:

   a. Issue a 'stop work' order pending the correction of said improvement or the resolution of any dispute; and/or

   b. Refer the matter via a written communication to the Planning Board or Zoning Board of Adjustment, as the case may be, for its review of the matter and reconsideration of its prior approval(s).

6. The developer immediately shall comply with any issued 'stop work' order and/or any other conditions imposed by the Town Engineer; otherwise the Town Engineer shall communicate in writing within two (2) working days the particulars of the developer's non-compliance to the Attorney of the Planning Board or to the Attorney of the Zoning Board of Adjustment, as the case may be.

B. Construction Official

1. It shall be the duty of the Construction Official to monitor the construction of any building or structure in the Town. No new structure and no improvement to the interior of any existing structure exceeding two thousand dollars ($2,000) in cash value shall be undertaken until a construction permit is obtained from the Construction Official in accordance with Section 1002 D. of this Ordinance.

2. It shall be the duty of the Construction Official to keep a record of all applications and all construction permits which are either issued or denied, with notations of any conditions involved, including the actual elevation (NGVD) of the lowest floor area of any structure and/or the elevation to which a structure has been flood-proofed in flood plain areas, which data shall form a part of the Town public records. A monthly report of construction permits shall be filed with the Tax Assessor and the Town Council.

3. Should any construction, whether completed or in process, be found by the Construction Official to be contrary to the approved construction plans and/or the Uniform Construction Code of the State of New Jersey, such fact shall immediately be orally communicated to the landowner or his/her appropriate representative on-site and, thereafter, shall be communicated by the Construction Official in writing to the landowner or his/her attorney.

   A copy of the written communication shall be immediately filed in the office of the Town Clerk, and additional copies shall be immediately forwarded to the Mayor and to the Town Attorney.

4. On the day following the oral communication to the landowner or his/her representative, the construction improvement found by the Construction Officer to be contrary to the approved construction plans and/or the Uniform Construction Code shall be corrected so as to conform to the applicable construction requirements, or the Construction Official shall:

   a. Issue a ‘stop work’ order pending the correction of said construction or the resolution of any dispute; and/or

   b. Revoke the applicable construction permit.

5. The landowner immediately shall comply with any issued ‘stop work’ order and/or any other conditions imposed by the Construction Official; otherwise the Construction Official shall communicate in writing within two (2) working days the particulars of the landowner’s non-compliance to the Town Attorney.

C. Zoning Officer

1. It shall be the duty of the Zoning Officer to inspect the uses, land and structures in the Town and order the owner in writing to remedy any condition found to exist in violation of any provision of this Ordinance and/or any approved subdivision and/or site plan by the Planning Board or Zoning Board of Adjustment, as the case may be, including any conditions of approval written in the approval resolution; no structure or land shall be used in violation of this Ordinance and/or any approved subdivision and/or site plan.

2. Should any use, land or structure be found by the Zoning Officer to exist in violation of any provision of this Ordinance and/or any approved subdivision and/or site plan, such fact shall immediately be orally communicated to the landowner or his/her appropriate representative on-site and, thereafter, shall be communicated by the Zoning Officer in writing to the landowner or his/her attorney.

   A copy of the written communication shall be immediately filed in the office of the Town Clerk, and additional copies shall be immediately forwarded to the Town Attorney and to the Chairman of the Planning Board or to the Chairman of the Zoning Board of Adjustment, as the case may be, and to the Board's Attorney.

3. On the day following the oral communication to the landowner or his/her representative, the use, land or structure found by the Zoning Officer to exist in violation of any provision of this Ordinance and/or any approved subdivision and/or site plan, shall be corrected so as to conform to this Ordinance and any subdivision and/or site plan approval, or the Zoning Officer may revoke the Certificate of Occupancy and, in any case, shall notify the Town Attorney and the Town Engineer of the violation via a written communication.

D. Construction Permits

1. Every application for a construction permit shall be accompanied by two sets of plans drawn in ink or a blueprint showing the actual shape and dimensions of the lot to be built upon; the exact location, size and height of all existing and proposed structures and substructures; all

existing easements; a delineation of any and all "critical areas" as defined in Section 200 of this Ordinance; the existing or intended use of each structure; the number of dwelling units the structure is designed to accommodate; the number and location of off-street parking spaces and off street loading areas; and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Land Development Ordinance. All dimensions on these plans relating to the location and size of the lot to be built upon shall be based on an actual survey of the lot by a licensed surveyor in the State of New Jersey.

2. The fee for each construction permit shall be governed by the terms of the ordinance entitled "An Ordinance of the Town of Hackettstown in the County of Warren establishing a State Uniform Construction Code Enforcing Agency and A Construction Fee Schedule, pursuant to Chapter 217, Laws of New Jersey 1975 and Title 5, Chapter 23 of the New Jersey Administrative Code", including any amendments or supplements which may from time to time be adopted.

3. A construction permit shall be granted or denied in writing within ten (10) days of a complete application unless additional time is agreed upon in writing by the applicant. One copy of such plans shall be returned to the owner when such plans have been approved or denied by the Construction Official together with such permit as may be granted.

4. The lot and the location of the structure(s) thereon shall be staked out on the grounds before construction is started and a copy of the construction permit shall be posted conspicuously on the premises affected whenever construction work is being performed thereon.

5. No construction permit shall be issued for any structure until prior site plan, subdivision and variance approvals, as may be necessary, have been granted by the appropriate Federal, State, County, or municipal agency or agencies in accordance with the provisions of this Ordinance and until all review and inspection fees and all local taxes and assessments on the property have been paid and performance guarantees posted.

E. <u>Certificate of Occupancy</u>

1. It shall be unlawful to use or permit the use of any structure or part(s) thereof until a Certificate of Occupancy shall have been issued by the Construction Official. Any change of use from one category of permitted use to another category of permitted use, in accordance with the applicable listings of permitted uses in Sections 400 and/or 600 of this Ordinance, shall require a new Certificate of Occupancy.

Additionally, any use requiring site plan approval pursuant to Section 800 of this Ordinance shall require a new Certificate of Occupancy. It shall be the duty of the Construction Official to issue a Certificate of Occupancy only when:

a. The structure or part(s) thereof and the proposed use conform to this Ordinance and all other applicable codes and ordinances of the Town;

b. Prior site plan, subdivision and variance approvals, as may be necessary, have been granted by the appropriate municipal agency or municipal agencies in accordance with the provisions of this Ordinance;

c. All local taxes and assessments on the property have been paid; and

d. A letter from each utility company has been received by the Town stating that the utility has been installed and has been inspected in accordance with the approved plan and is ready for use.

2. The fee for a Certificate of Occupancy shall be in the amount of ten percent (10%) of the new construction permit fee which would be charged by the department pursuant to these regulations. The minimum fee shall be $65.00, except for one or two-family (use group R-3 of the building subcode) structures of less than 5,000 square feet in area and less than thirty feet (30') in height and/or structures on farms used exclusively for the storage of food or grain or the sheltering of livestock; in such cases the minimum fee shall be $35.00.

3. Unless additional time is agreed upon by the applicant in writing, a Certificate of Occupancy shall be granted or denied in writing within twenty (20) days from the date that a written notification and a certified location or field survey, signed and sealed by a New Jersey State Licensed Surveyor, is filed with the Construction Official stipulating that the erection of the structure and all required site improvements are completed.

4. With respect to any finally approved subdivision and/or site plan or subsection thereof, a Certificate of Occupancy shall be issued only upon the completion of the following improvements as such improvements may be required as part of subdivision and/or site plan approval:

a. Curbs.
b. All utilities.
c. Water supply and sewerage treatment facilities, which shall be functioning and servicing the property in question.
d. Storm drainage facilities.

e. Final grading of the property.
f. Base course (in the case of subdivisions) or final course (in the case of site plans) of the street or streets serving the property.
g. Base course (in the case of subdivisions) or final course (in the case of site plans) of driveways and parking areas.
h. Landscaping.
i. Any other improvements required as part of subdivision and/or site plan approval.

5. With respect to any individual residential lot within a subdivision or any building containing townhouses or apartments, a Certificate of Occupancy shall be issued only upon the completion of the following improvements, in addition to those listed in subsection 1002 E.4. hereinabove, to the extent the same are required as part of a subdivision and/or site plan approval:

   a. Sidewalks.
   b. Driveway aprons.
   c. Street names and regulatory signs.

6. A copy of any issued Certificate of Occupancy shall be kept on file at the premises affected and shall be shown to the Construction Official upon request. Additionally, a copy of an issued Certificate of Occupancy shall be provided by the Construction Official to the Clerk of the Planning Board or to the Clerk of the Zoning Board of Adjustment, as the case may be, for placement in the applicable site plan or subdivision application file.

7. Should the Construction Official decline to issue a Certificate of Occupancy, his reason for doing so shall be stated on two (2) copies of the application and one (1) copy shall be returned to the applicant.

8. A Temporary Certificate of Occupancy may be issued for any new structure or use for which approval has been granted although not all conditions of said approval have been complied with. Such Temporary Certificate of Occupancy shall be issued only in extenuating circumstances and only with the concurrent written approval of the Town Engineer, Construction Official and Zoning Officer who, together, shall establish specific terms and conditions, including, but not limited to, a timetable not exceeding ninety (90) days for the installation of the incompleted improvements, and the receipt of a performance guarantee assuring the installation of the improvements as indicated on the approved plat or plan, whether or not said improvements were included within a performance bond in accordance with Section 902 of this Ordinance. Any Temporary Certificate of Occupancy beyond a ninety (90) day time period may only be granted by the Planning Board or Zoning Board of Adjustment, as the case may be.

9. A monthly report of the Certificates of Occupancy issued shall be filed with the Tax Assessor. A record of all Certificates of Occupancy shall be kept in the office of the Construction Official and copies shall be furnished on request to any person having a proprietary or tenancy interest in the structure or land affected. The charge for each copy shall be established by resolution of the Town except that there shall be no charge to a municipal agency.

10. The following shall be prohibited until a Certificate of Occupancy is issued by the Construction Official:

    a. Occupancy and use of a structure erected, constructed, restored, altered or moved, when such erection, construction, restoration, alteration or movement required a construction permit.

    b. Occupancy, use or change in use of vacant land, other than for agricultural purposes.

    c. Any change of use from one category of permitted use to another category of permitted use, in accordance with the applicable listings of permitted uses in Sections 400 and/or 600 of this Ordinance.

    d. Any change in the use of a non-conforming use or nonconforming structure.

F. <u>Zoning Permits</u>

1. A zoning permit shall be issued by the Zoning Officer simultaneously with or before the issuance of any construction permit or Certificate of Occupancy.

2. Any person requesting a zoning permit shall complete a written application on a form prescribed by the municipality. For purposes of N.J.S.A. 40:55D-18, a person shall be deemed to have requested a zoning permit only when each of the following has occurred: (a) the applicant for a zoning permit has completed a written application for a zoning permit on a form prescribed by the municipality, and the said application has been deemed complete by the Zoning Officer, or his or her designee. (b) the fee for the zoning permit has been paid to the municipality; and (c) the applicant has supplied the Zoning Officer with all supporting data reasonably requested by the Zoning Officer.

3. Upon the applicant's satisfaction of the requirements of subsection (2) hereof, the application for a zoning permit shall be deemed complete and the Zoning Officer shall issue to the applicant a written notice or date stamp the application "Complete" indicating: (a) that the application is complete; and (b) the date on which the application was deemed complete.

1003 SUBDIVISION APPROVAL CERTIFICATES

A prospective purchaser, prospective mortgagee or any other person interested in any land in the Town which has been part of a subdivision since July 14, 1973 may apply in writing to the Administrative Officer for the issuance of a certificate certifying whether or not such subdivision has been duly approved by the Planning Board.

1. Such application shall contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof. A fee in accordance with Section 901 of this Ordinance shall be paid to the Administrative Officer, on behalf of the Town, for the requested certificate.

2. The Administrative Officer shall make and issue such certificate within fifteen (15) days after receipt of the written application and accompanying fee. The Administrative Officer shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fee received, in a binder as a permanent record in his or her office.

3. Each certificate shall be designated a "Certificate as to Approval of Subdivision of Land" and shall certify:

   a. Whether there exists a duly established Planning Board and whether there is a duly adopted ordinance controlling the subdivision of land;

   b. Whether the subdivision, as it relates to the land shown in the application, has been approved by the Planning Board and, if so, the date of such approval, any conditions attached to such approval and any extensions and terms thereof showing that the subdivision, of which the subject lands are a part, is a validly existing subdivision; and

   c. Whether such subdivision, if the same has not been approved, is statutorily exempt from the requirements of approval as provided in N.J.S.A. 40:55D-1 et seq. and as defined in this Ordinance.

1004 PENALTIES

A. Fines

1. Any violation of any provision of this Ordinance shall be punishable by a fine not to exceed $1000.00 for each offense and/or imprisonment for a term not exceeding ninety (90) days. The following individuals shall be subject to potential punishment:

   a. The owner, general agent, contractor or occupant of a building, premises or part thereof where such a violation has been committed or does exist; and

   b. Any agent, contractor, architect, engineer, builder, corporation or other person who commits, takes part or assists in the violation.

2. Each day that a violation continues shall constitute a separate offense.

3. The imposition of penalties herein shall not preclude the Town or any other person from instituting an action to prevent an unlawful construction, reconstruction, alteration, repair, conversion, or use or to restrain, correct or abate a violation, or to prevent the illegal occupancy of a building, land or premises.

B. Injunctive Relief

In addition to the foregoing, the Town may institute and maintain a civil action for injunctive relief.

1005 SELLING LAND BEFORE FINAL SUBDIVISION APPROVAL

1. If before final subdivision has been granted, 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 in accordance with the provisions of this Ordinance, except pursuant to an agreement expressly conditioned on final subdivision approval, such person shall be subject to a penalty not to exceed $1,000.00, and each lot disposition so made may be deemed a separate violation.

2. In addition to the foregoing, the Town may institute and maintain a civil action:

   a. For injunctive relief.

   b. To set aside and invalidate any conveyance made pursuant to such a contract or sale, if a certificate of compliance has not been issued in accordance with N.J.S.A. 40:55D-56.

1006 WAIVERS

The Planning Board or Zoning Board of Adjustment, as the case may be, when acting upon an application for development, shall have the power to grant exceptions from the requirements specified in Sections 500 and 800 of this Ordinance for such application for development if an applicant or his or her agent can clearly demonstrate that, because of peculiar conditions pertaining to his or her land, the literal enforcement of one or more of said requirements is impracticable or will exact undue hardship; however, any exception granted by the Planning Board or Zoning Board of Adjustment, as the case may be, must be reasonable and within the general purpose and intent of the rules, regulations and standards established by this Ordinance.

SECTION 1100

DISTRICT CHANGES & ORDINANCE AMENDMENTS

SECTION 1200

VALIDITY OF ORDINANCE

SECTION 1300

REPEALER

SECTION 1400

EFFECTIVE DATE

SECTION 1100
DISTRICT CHANGES AND ORDINANCE AMENDMENTS

This Ordinance may be amended from time to time by the Town Council after the appropriate referrals, notices, hearings and other requirements of law.

SECTION 1200
VALIDITY OF ORDINANCE

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

SECTION 1300
REPEALER

All sections of the Town Code which contain provisions contrary to the provisions of this Ordinance shall be and hereby are repealed.

SECTION 1400
EFFECTIVE DATE

This Ordinance shall take effect immediately upon passage and publication, and a filing of a copy thereof with the Warren County Planning Board, as provided by law.