

1. Public Meeting Agenda

Documents: [PM9.11.12.PDF](#)

2. Conference Meeting Agenda

Documents: [CA9.11.12.PDF](#)

3. Ordinances On Second And Final Reading

Documents: [2359-12 WEST ORANGE ZONING-FINAL.PDF](#), [2360-12.GREGORY AVE.PDF](#)

4. Ordinance(S) On First Reading

Documents: [2361-12 AUTH ENTRY ON TO PROPERTY TO ABATE GRASS SNOW ICE-FINAL.PDF](#), [2361-12 CHECKLIST RE ABATEMENT OF SNOW ICE OR GRASS VIOLATION - DRAFT.PDF](#), [2361-12 SUPPORTING MATERIAL SECTION CODE 14-8 1 AND 14-8 2.PDF](#)

5. Resolution(S)

Documents: [167-12 RAFFLE LICENSES-9.11.12.PDF](#), [168-12 EXTENDING TIME-SALE OF BACHMAN TERRACE BLOCK 152 19 LOT 1154.PDF](#), [169-12 NON-COMMERCIAL REAL ESTATE TAX APPEALS.PDF](#), [169-12 AGREEMENT WITH STEPHEN SCHWARTZ-NON-COMMERCIAL REAL ESTATE TAX APPEALS.PDF](#), [170-12 COMMERCIAL REAL ESTATE TAX APPEALS.PDF](#), [170-12 AGREEMENT-BLAU BLAU RE COMMERCIAL REAL ESTATE TAX APPEALS.PDF](#)

5.I. Resolutions- Continued

Documents: [171-12 RESOLUTION FOR SENIOR GROUPS RECREATIONAL SERVICES 2012.PDF](#), [171-12 AGREEMENT WOMENS CLUB SENIOR CITIZENS.PDF](#), [171-12 AGREEMENT-EAGLE ROCK SENIOR CITIZENS.PDF](#), [171-12 AGREEMENT-JCC COUNCIL OF SENIOR CITIZENS.PDF](#), [171-12 AGREEMENT-KNITTING CLUB SENIOR CITIZENS.PDF](#), [171-12 AGREEMENT-PLEASANTDALE SENIOR CITIZENS.PDF](#), [171-12 AGREEMENT-PRIME TIMERS SENIOR CITIZENS.PDF](#), [171-12 AGREEMENT-WOODLAND VALLEY SENIOR SOCIAL GATHERING.PDF](#)

5.I.i. Resolutions - Continued 2

Documents: [172-12 HIRING OF GRYGIEL-EXPERT2.PDF](#), [173-12 SEEKING ADDITIONAL EXTENSION OF TIME TO SELL CLIFF STREET PROPERTY TO MARC SHAPIRO.PDF](#), [174-12 AUTHORIZING CHANGE ORD. 4 + 5-CONQUEST IND..PDF](#), [173-12 + 174-12ATTACHMENT-DOWNTOWN WO STREETSCAPE NJDOT CHANGE ORDER NO 3-4-5.PDF](#), [175-12 EXTENDING CONTRACT TIME-CONQUEST.PDF](#), [176-12 APPROVING SETTLEMENT WITH CONQUEST \(2\).PDF](#), [176-12 STIPULATION OF SETTLEMENT BETWEEN CONQUEST AND TOWNSHIP \(2\).PDF](#), [177-12 APPROVING NJAI LICENSE AGREEMENT WITH OSPAC.PDF](#), [177-12 LICENSE AGREEMENT - NJAI.PDF](#), [177-12 SUBLICENSE AGREEMENT - NJAI.PDF](#)

5.I.ii. OSPAC Rules & Regulations

Documents: [177-12 OSPAC RULES - NJAI.PDF](#)

AGENDA
September 11, 2012
Council Chambers-66 Main Street
West Orange, NJ
7:00 p.m.

This is to inform the general public that this meeting is being held in compliance with Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975. A notice of this meeting was mailed to the Star Ledger and the West Orange Chronicle on August 23, 2012. A notice of this meeting was also posted on the Bulletin Board in the Municipal Building, West Orange and filed in the office of the Municipal Clerk of the Township of West Orange on August 23, 2012.

Statement of Decorum

In all matters not provided for in subsection 3-15.1 and except upon consent of the Council President, each person addressing the Council pursuant to this subsection shall be required to limit his or her remarks to five (5) minutes, and shall at no time engage in any personally offensive or abusive remarks.
The chair shall call any speaker to order who violates any provision of this rule.
(1972 Code § 3-15.2)

Roll Call – Councilman Guarino, Councilman Krakoviak, Councilwoman McCartney, Councilwoman Spango, Council President Cirilo (Mayor Parisi)

2. General Matters Pending

3. Public Comment

*4. Consent Agenda

*5. Approval of Minutes of Previous Meeting-Public Meeting July 1, 2012

*6. Reading of Petitions and Communications and Bids-None

*7. Report of Township Officers-None

*8. Bills

*9. Resolutions

- a. 167-12 Resolution Authorizing Raffle Licenses
- b. 168-12 Resolution Authorizing Extending the Time Period to Close on the Sale of Township Owned Land - Bachman Terrace, Block 152.19, Lot 1154 for an Additional 60 Days from the Date of Adoption of this Resolution
- c. 169-12 Resolution Authorizing an Agreement with The Steven Schwartz Law Firm, LLC for Non Commercial Real Estate Tax Appeal Services on a Flat Fee Basis of \$2,750.00 Per Month for One Year Totalling \$33,000.00
- d. 170-12 Resolution Authorizing an Agreement with Blau & Blau for Commercial Real Estate Tax Appeal Services on a Flat Fee Basis of \$5,000.00 Per Month for One Year Totalling \$60,000.00
- e. 171-12 Resolution Awarding Contracts for the Provision of Recreation, Social and Educational Services to the Senior Citizens of the Township of West Orange in the Amount of \$2,000.00
This Resolution is for the amount of \$2,000 for an agreement between eight senior citizen organizations listed to receive \$250.00 each to perform recreation programs and educational events for their senior citizen members in 2012.
- f. 172-12 Resolution Authorizing the Retention of Paul Grygiel, Phillips, Preiss, Grygiel, LLC, Hoboken, NJ, an Expert Professional Planner to Analyze the Planning Aspects of the West Essex Highlands, Inc. Litigation and to Prepare an Expert Report on Behalf of the Defendants, and to Provide Expert Testimony if Necessary at a Cost NTE \$10,000.
(Contract to follow)
- g. 173-12 Resolution Authorizing Extending the Time Period to Close on the Sale of Township Owned Land –Block 176.08, Lot 14- Marmon Terrace, Block 176.08, Lot 8- Arnold Terrace, Block 176.04, and Lot 15.01- Arnold Terrace
- h. 174-12 Resolution Authorizing Change Order No. 4 and Change Order No. 5 authorizing an increase to the contract amount with Conquest Industries, LLC, 32 Woodland Avenue, Westwood, NJ to \$1,848,981.93 for the Downtown West Orange Streetscape and Traffic Improvement Program.
Change Order No. 4 represents an increase of \$113,947.13 and Change Order No. 5 represents a decrease of \$9,117.35 for a net increase of \$104,829.78 over the previously authorized amount of \$1,744,152.15. This increase is for changes to the plans resulting from field conditions, and additional Uniform Traffic Director

Agenda Material Subject to Change Prior to Meeting

hours required by traffic volumes and complex traffic patterns along the Main Street corridor at St. Mark's and Lourdes/Eagle Rock areas.

- i. 175-12 Resolution Authorizing Change Order No. 3 with Conquest Industries, LLC, 32 Woodland Avenue, Westwood, NJ, authorizing an adjusted completion date of October 31, 2012 for the Downtown West Orange Streetscape and Traffic Improvement Program.
The original completion date was October 25, 2011, and by Change Order No. 1 it was extended 30 days to November 24, 2011. This Project is funded by a Federal Earmark Grant administered by the New Jersey Department of Transportation. The Governing Body of the contracting agency must extend the contract time to Receive reimbursement for eligible expenses for work performed during the construction period.
- j. 176-12 Resolution Authorizing a Stipulation of Settlement between Conquest and the Township regarding the Downtown West Orange Streetscape and Traffic Improvement Program
- k. 177-12 Resolution Authorizing a License Agreement Between the Township of West Orange and New Jersey Arts Incubator (NJAI) for the Use of the Oskar Schindler Performing Arts Center (OSPAC) for a Term of Five (5) Years

10. Ordinances on Second and Final Reading

- a. 2359-12 An Ordinance Amending and Supplementing Chapter XXV, Section 25-30, of the Revised General Ordinances of the Township of West Orange, Entitled Historic Preservation Commission
(This ordinance was heldover at the August 21, 2012 meeting)
- b. 2360-12 An Ordinance Amending and Supplementing Chapter 7, Traffic, Subsection 7-26.1, Bus Stops – Northfied Avenue Eastbound/Gregory Avenue

11. Ordinances on First Reading

- a. 2361-12 An Ordinance Creating New Township Code Section 14, Section 8.2A and Revising the Revised General Ordinances of the Township of West Orange to Allow for Snow, Ice and Grass Removal on Privately Owned Properties by Township Employees or Agents

12. ABC Hearing

- a. 491-12 Person to Person Transfer from Murphigans t/a Halligans Public House to The Pour House, LLC

13. Adjournment

**The Council President may at his/her discretion modify with consent the order of business at any meeting of the Council if he/she deems it necessary and appropriate.
(1972 Code § 3-8; Ord. No. 726-84; Ord. No. 1157-93; Ord. No. 2128-07 § II)**

MEMO

COUNCIL COMMITTEE CONFERENCE MEETING
Council Chambers - 66 Main Street, West Orange, NJ
September 11, 2012

TO: Members of the Township Council, Mayor Parisi
Mr. Sayers, Mr. Gross, Mr. Trenk and Mr. Kayser

FROM: OFFICE OF THE MUNICIPAL CLERK

6:30 P.M.

- Mayor's Presentation - Sam Sicoli
- Recreation Department Update

7:00 P.M.

- Public Meeting

8:00 P.M.

- ABC Hearing
 - a. **491-12** Person to Person Transfer from Murphigans t/a Halligans Public House to The Pour House, LLC

Revised General Ordinances of the Township of West Orange

CHAPTER XXV LAND USE REGULATIONS

CHAPTER XXXI TREES

CHAPTER XXXII LAND SUBDIVISION

Adopted by the Township Council: June 26, 2012

Effective Date: July 16, 2012

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SECTIONS 1-14

Article I General Development Regulations

25-1 TITLE.

This chapter shall be known as "The Land Use Regulations of the Township of West Orange." (Ord. No. 904-88 § 25-1)

25-2 PURPOSE AND INTENT.

25-2.1 Purpose.

This chapter is adopted pursuant to the N.J.S.A. 40:55D-1 et seq. to promote and protect the public health, safety, morals, and general welfare and in furtherance of the following related and more specific purposes.

- a. To guide and regulate the orderly growth, development, and redevelopment of the Township in accordance with a comprehensive plan and with long-term objectives, interests and welfare of the people.
- b. To protect the established character and the social and economic well-being of both private and public property.
- c. To promote, in the public interest, the utilization of land for its most appropriate purposes.
- d. To secure safety from fire, flood, panic and other natural and manmade disasters.
- e. To provide adequate light, air and open space.
- f. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of the environment.
- g. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight.
- h. To promote a desirable visual environment through creative development techniques and good civic design and arrangements.
- i. 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.
- j. To encourage residential clusters and planned unit residential developments which incorporate the best features of design and relate the type, design and layout of residential and recreational development to the particular site.
- k. To conserve the value of buildings and to enhance the value of land throughout town.
- l. To encourage senior citizen community housing construction.
- m. 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.
- n. 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.

- o. To protect, conserve and preserve the unique character and history of the Township's residential areas. Particular attention is drawn to the area known as the Llewellyn Park, America's first planned residential community and the Prospect Ridge area with its scenic beauty and natural wooded geological resources.
(Ord. No. 904-88 § 25-2.1; Ord. No. 941-88)

25-2.2 Intent.

- a. This chapter is intended to reflect and comply with the enabling act, N.J.S.A. 40:55D-2, et seq. and the Master Plan adopted by the Planning Board, except where specifically noted to the contrary. All questions as to the meaning or intent of a particular section, paragraph or term in this chapter shall be resolved by referring to the Municipal Land Use Law and the Master Plan.
- b. No provision contained herein shall be construed as justifying the encroachment of any building or structure within any street lines now or hereafter laid down on the Township map, nor as justifying the infringement or setting aside of any regulation or decision adopted by the Planning Board or Zoning Board.
(Ord. No. 904-88 § 25-2.2)

25-3 ZONE DISTRICTS AND MAP.

25-3.1 Zone Districts.

For the purposes of this chapter the Township is divided into twenty-four (24) districts as follows:

R-1 District	One-family dwellings on 80,000 square foot lots
R-2 District	One-family dwellings on 40,000 square foot lots
R-3 District	One-family dwellings on 20,000 square foot lots
R-3AH District	One-family dwellings (See Section 25-31 for size of lots)
R-4 District	One-family dwellings on 15,000 square foot lots
R-5 District	One-family dwellings on 10,000 square foot lots
R-6 District	One-family dwellings on 6,000 square foot lots
R-T District	Two-family dwellings on 7,500 square foot lots
R-G District	Garden apartments
R-M District	Multi-family residences
OB-1 District	Office building
OB-2 District	Office building
B-1 District	Retail business
B-2 District	General business
P-C District	Planned Commercial
O-R District	Office Research
I District	Industry
PURD District	Planned Unit Residential Development

RC District	Residential Cluster Development
C District	Conservation (Over Lay Zone)
CBD District	Central Business District (Over Lay Zone)
West Orange Downtown Redevelopment Area	
Organon Redevelopment Area	
Valley Road Area (Harvard Press) Redevelopment Area	

(Ord. No. 904-88 § 25-3.1; Ord. No. 1144-92; Ord. No. 1337-95 § 1)

25-3.2 Zone Map and Table of District Regulations.*

- a. District locations and boundaries are established as shown and delineated on the "Zoning District Map of the Township of West Orange," referred to as "Zoning District Map." The map accompanying this chapter is hereby declared to be part hereof and the Zone Districts so bounded and defined are hereby established. The bulk and use regulations for each district are established in the Table of District Regulations which also accompanies this chapter.
- b. District boundary lines follow the center lines of streets and similar rights-of-way, or lot lines, unless a specified dimension on the Zoning Map indicates otherwise.
- c. In case of uncertainty as to the true location of a district boundary line, the determination shall be made by the Zoning Officer. An appeal may also be taken to the Zoning Board as provided in N.J.S.A. 40:55D-70.
- d. Any use not specifically permitted in a zoning district established by this chapter is hereby expressly prohibited from that district.

25-4 DEFINITIONS.

- a. *Meaning of Certain Terms.*
 1. The word "use" and the word "used" refer to any purpose for which a lot or land or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use; and to any purpose for which a building or structure or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use, or erected, reconstructed, altered, enlarged, moved or rebuilt with the intention or design of using the same.
 2. The term "shall" indicates a mandatory requirement, and the term "may" indicates a permissive action.
 3. Any word or term not defined in this chapter or the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-3–40:55D-7, shall be used with a meaning of standard usage for the context in which the word is used.

- b. *Specific Definitions.*

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

***Editor's Note:** The official Zoning District Map and the Table of District Regulations of the Township of West Orange are found at the end of this chapter.

Accessory use shall mean use naturally and normally incident and subordinate to the principal use of the premises or lot. The following uses are not accessory uses and are prohibited:

1. The dismantling, assembly or repair of a vehicle other than one belonging to a member of the resident household in any Residential Zoning District and any Nonresidential Zoning District where such use is not permitted.
2. The outdoor storage of motor vehicle parts or accessories in any Residential Zone.
3. An airport, aircraft landing strip, or heliport in any Zoning District.
4. Outdoor bins for the collection of used clothing, shoes, household items or other goods.

Administrative officer for purposes of this chapter shall mean the Director of Planning and Development.

Alteration of building or structure shall mean a change in the supporting members of a building or structure; an addition, diminution, or the moving of a building from one (1) location to another.

Antenna shall mean any device specifically designed for the reception or transmission or both of radio frequency signals, but not including receivers, transmitters and transmission lines.

1. *Antenna support* shall mean any mechanical or structural elements whose specific purpose is to support and maintain an antenna at an elevated point.
2. *Commercial antennas* shall mean any combination of antenna support, accessory structures and buildings, and antennas designed in whole or in part for the reception and/or transmission of radio frequency energy as a part of a licensed radio, TV or microwave facility employed for commercial use. Commercial antennas shall include such services as are employed by nonprofit or religious stations not licensed under the amateur or CB regulations of the Federal Communications Commission, but shall not include wireless telecommunications antennas.
3. *Height.* The height of any antenna shall be measured from the mean grade of the surrounding terrain to a radius of fifty (50) feet and up to and including the highest point of the antenna or antenna support whichever is more elevated. Height shall be measured from mean grade ground level regardless of whether or not the antenna support is mounted on an existing structure or extends to ground level.
4. *FCC Application* shall mean and include any application or other request to the Federal Communications Commission for a license, certificate, waiver, special temporary authorization, or any other instrument of authorization issued by the FCC pursuant to Title I and/or Title II of the Communications Act of 1934.
5. *FCC filing* shall mean and include any application including all attachments, exhibits, appendices, memoranda, amendments, supplements, and comments, correspondence (addressed to the Commission individual comments or objections of other parties, including but not limited to informal objections, petitions to deny, proposed findings of fact, conclusions of law, and briefs on appeal), initial decisions of administrative law judges, decision of Commission, notices of appeal, briefs (including other documents on appeal), and all other matters.
6. *Personal Communications Antenna* shall mean an antenna used exclusively for the reception and transmission of radio frequency signals by an individual or association licensed under 47 C.F. R Part 95 (Citizens Band) of the regulations issued by the FCC or any amendments, revisions or substitutions thereof.
7. *Radiating element* shall mean the part of an antenna which is connected to the transmission line and directly radiates electromagnetic energy into space.

8. *Wireless telecommunications antenna* shall mean a type of antenna that is used specifically for the purpose of providing wireless telecommunications services.
9. *Wireless telecommunications services* shall mean the offering of personal wireless telecommunications, as regulated in the Federal Telecommunications Act of 1996, for a fee directly to the public, or to such classes of users as to be effectively available directly to the public. Wireless telecommunications services include those services such as cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or may be developed in the future.

Applicant shall mean an individual, partnership, corporate or other legal entity, submitting an application for development.

Application for development shall mean the application form and all accompanying documents required by ordinance for approval of subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to N.J.S.A. 40:55D-34 or 40:55D-36 of the Municipal Land Use Law.

As built drawings shall mean a site plan, building plans and elevations of the site and building or structure, drawn by a New Jersey licensed land surveyor, New Jersey licensed engineer, or a New Jersey licensed architect, whoever is appropriate, which depicts the project as it is built and indicates all the deviations, if any, from the approved site plan and the resolution memorializing the approval of the Planning Board or the Zoning Board. The deviations must be listed in a box on each sheet where such deviations occur. The "as built" drawings shall indicate all structures and all site improvements, including but not limited to, signs, curbs, utilities, sewers, parking areas, landscaping and lighting.

Assisted living shall mean a facility which is licensed by the State of New Jersey, as an Assisted Living Facility, to provide apartment style housing and congregate dining and to assure that assisted living services are available when needed, for four (4) or more adult persons unrelated to the proprietor. Apartment units offer at a minimum, one (1) furnished room, a private bathroom, a kitchenette without a stove, and a lockable door on the unit entrance.

Awning shall mean a roof-like cover generally made of cloth, canvas or similar material that projects from the wall of a building for the purpose of shielding a doorway or window and which may be retractable.

Bar shall mean a place of business duly licensed by the Alcoholic Beverages Control Board for the sale and on-premises consumption of alcoholic beverages by the drink as the principal or primary use, whether or not food service is also provided. For the purposes of this chapter, a "bar" shall also be deemed a "restaurant" only if food is prepared, served and consumed on the premises.

Basement shall mean that portion of a building, which is partly below and partly above grade, and having more than one-half (1/2) its height above grade.

Bedroom shall mean any separate room other than a living room, dining room, kitchen or bathroom.

Board of Adjustment — see *Zoning Board of Adjustment*.

Buffer strip shall mean an area located adjacent to a property line which shall be suitably landscaped and planted to provide an attractive year-round visual and physical separation between the buildings and uses on the property and adjoining lots and streets.

Building shall mean a combination of materials to form a construction adapted to permanent, temporary, or continuous occupancy and having a roof.

Building ground coverage shall mean the horizontal area of the ground floor of all buildings, measured between exterior faces of foundation walls, but excluding the area of unroofed porches and terraces.

Billboard shall mean a nonconforming sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location or locations other than the premises on which the sign is located.

Canopy shall mean a non-retractable structure that permanently projects from the wall of a building, to shield a doorway, window or sidewalk, generally made of rigid building materials and supported by a metal frame.

Car wash shall mean a building or premises used for the washing of automobiles.

Cell antenna — see *wireless telecommunications antenna* within definition of *antenna*.

Cellar shall mean that portion of a building, which is partly or completely below grade or having at least one-half (1/2) its height below grade.

Central Business District shall mean the area located within the boundaries of the Central Business District as shown on the Township's Zoning Map.

Check cashing facility shall mean a business or service, other than a State or Federal regulated or chartered bank, savings bank, savings and loan institution, credit union or other financial institution which has as its primary, secondary or accessory purpose the honoring or cashing of checks, drafts or money orders for a fee or other remuneration.

Commercial antennas — see *commercial antennas* within definition of *antenna*.

Commercial recreation shall mean a building, group of buildings or outdoor facilities used for recreational purposes and operated as a business and open to the public for a fee, including skating and roller rinks, indoor batting cages, indoor play areas, sports fields, recreation centers, and indoor swimming pools or tennis courts.

Commercial vehicle shall mean any motor vehicle, truck, pickup truck or van licensed, designated for use or used for commercial purposes on the streets and highways of New Jersey such as the providing and delivery of goods, wares, merchandise and services.

Common open space shall mean an open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

Common ownership shall mean ownership of two (2) or more contiguous parcels of real property by one (1) person or by two (2) or more persons owning the property jointly as tenants by the entirety, joint tenants or tenants in common.

Conditional use shall mean a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in the zoning ordinance; and upon the issuance of an authorization therefor by the Planning Board.

Congregate care shall mean housing which is specially designed multi-unit housing for independent to semi-independent people including community social and dining facilities. Individual living units include at a minimum, a living room/bedroom, bathroom, and kitchenette. These facilities must offer at least one (1) hot meal per day to each occupant and some housekeeping services within each unit.

Construction equipment shall mean machinery or equipment used in the building, construction or excavating industries such as a backhoe or bulldozer.

Continuous nursing coverage shall mean nursing services as required by the New Jersey Department of Health for the operation of a long term health care facility.

Conventional development shall mean development other than planned development.

Corner lot shall mean a lot at the junction of, and having frontage on, two (2) or more intersecting streets. The front door of the structure determines the front and rear yard setbacks and street address.

County Master Plan shall mean a composite of the master plan for the physical development of Essex County, together with the accompanying maps, plats, charts and descriptive and explanatory matter adopted by the Essex County Planning Board pursuant to N.J.S.A. 40:27-2 and N.J.S.A. 40:27-4.

County Planning Board shall mean the Essex County Planning Board.

Days shall mean calendar days.

Density shall mean the permitted number of dwelling units per gross acre of land to be developed.

Developer shall mean the legal or beneficial owner or owners of a lot or of any land 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.

Development shall mean the division of a parcel of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to this chapter or the Municipal Land Use law.

Development regulations shall mean a zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land or amendment thereto adopted and filed pursuant to the Municipal Land Use Law.

Display surface shall mean the total area made available, by the sign structure or otherwise, upon, against, or through which the message of the sign is exhibited.

Drainage shall mean the removal of surface water or groundwater from land by drains, grading or other means and includes control of runoff to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen nonpoint pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage, and the means necessary for water supply preservation or prevention or alleviation of flooding.

Dwelling shall mean a structure, or any part of a structure, arranged, intended or designed to be occupied as a residence.

Dwelling, one-family shall mean a building containing one (1) dwelling unit.

Dwelling, two-family shall mean a building containing two (2) dwelling units.

Dwelling unit shall mean any single unit providing living facilities for one (1) or more persons including facilities for living, sleeping, eating, cooking, and sanitation.

Environmental Commission shall mean the West Orange Environmental Commission established by Section 2-19 of the Revised General Ordinance of the Township of West Orange as amended and supplemented.

Erect shall mean to build, construct, attach, place, suspend, or affix and shall also include the painting of wall signs and the painting of signs or displays on the exterior surface of a building, structure, or natural surface.

Facade shall mean the front, side and rear building planes visible from adjoining streets, sidewalks and parking areas.

Family day care home shall mean the private residence of a family day care provider which is registered as a family day care home pursuant to the "Family Day Care Provider Registration Act," P.L.1987, c.27 (C.30:5B-16 et seq.). Pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-66.5b, family day care homes shall be a permitted use in all residential districts. The requirements for family day care homes shall be the same as for single family dwelling units located within such residential districts.

Fast food restaurant shall mean the retail sale of ready-to-eat foods and beverages for on and/or off premises consumption, whenever the foods and beverages are available upon a short waiting time, and orders are placed by the customer at a counter, and primarily served in or on disposable wrappers, containers or plates, and where there is a seating capacity of more than fifteen (15) individuals. This does not include restaurants which have "take-out" as accessory to a traditional restaurant.

Flat bed truck shall mean an open back truck designed primarily for the transportation or removal of motor vehicles temporarily or permanently incapable of being operated on the street or highway.

Floor area shall mean the area of all floors computed by measuring the inside dimension of the outside walls in a building, excluding the floors of the following: crawl spaces, cellars, porches, breezeways, patios, terraces, garages, and carports. The floor area of a second floor room or attic shall be included if the ceiling height is at least seven (7) feet, notwithstanding that the room or attic has minor ceiling slopes, provided that these walls are at least five (5) feet in height.

Functional sign shall mean direction, information, or public service signs, such as signs advertising locations of rest rooms, telephone, or similar facilities of public convenience; and signs located on mechanical dispensing equipment that identify its product.

Garage, private shall mean an accessory building or portion of a building housing motor vehicles strictly for the benefit of the resident.

Garden apartment shall mean a multi-family residence not to exceed three (3) stories in which not more than four (4) families are served by two (2) entrances and all the livable space for each apartment is on one (1) floor or level.

"Go-Go" entertainment business shall mean restaurants, private clubs, snack bars, night clubs, juice bars and businesses of a similar nature, whether serving alcoholic beverages on the premises or not, which include dancing and/or dancing exhibitions by male and/or female entertainers, commonly referred to as "go-go entertainment."

Green roof shall mean a self-sustaining, vegetated roof system that does not require watering or maintenance of the plant material but may require periodic maintenance to prevent the non-living components of the roof system from deteriorating.

Gross floor area shall mean the total area of a building, expressed in square feet, and derived by measuring the outside perimeter of the walls at each and every floor or level, including each story at floor level, the basement or any area below grade if the ceiling is higher than six (6) feet. There shall be no deduction made for hall areas, staircases or elevator areas, closets, storage areas, utility rooms, bathrooms, conference rooms, or reception areas.

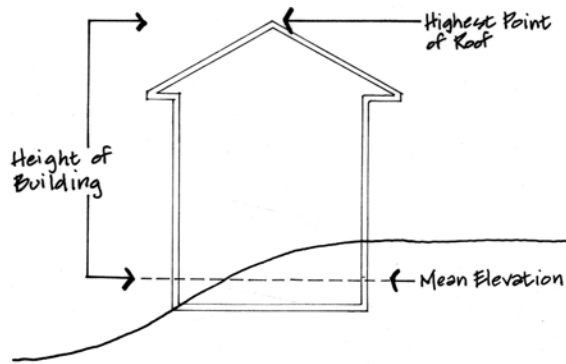


Figure 1: Height of Building

Height of a building shall mean the vertical distance measured from the mean elevation of the finished grade adjacent to the building foundation to the highest point of the roof. See Figure 1.

Heliport shall mean an area, either at ground level or on a structure, licensed by the federal government or an appropriate state agency and approved for the loading, landing and takeoff of helicopters and including auxiliary facilities, such as parking, waiting room, fueling and maintenance equipment.

Helistop shall mean a heliport but without auxiliary facilities, such as parking, waiting room, fueling and maintenance equipment.

Home occupation shall mean any lawful activity not otherwise prohibited by this chapter performed in a legal owner-occupied one-family residence, including without limitation, consulting, telemarketing, dressmaking, manicuring, craft making or drafting. Home cooking for commercial purposes is not permitted.

Home professional office shall mean the use of a single family residence owned and occupied by a person also for his or her professional office where clients or patients are seen in his or her practice of any one of medicine or a related health care profession, law, dentistry, architecture, engineering, psychiatry, psychology, chiropractics, actuary science, physical therapy, certified social work, or accounting.

Hotel or motel shall mean a facility offering transient lodging accommodations to the general public and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services and recreational facilities.

House of worship shall mean an institution such as a church, synagogue, temple, mosque or other facility that is used for the assembly of persons of similar beliefs for religious or spiritual worship, prayer and/or meditation.

Industry, light shall mean the assembly, packaging, storage and distribution of products from finished products or parts..

Lot shall mean a designated parcel, tract or area of land established by a plat or otherwise as permitted by law, to be used, developed or built upon as a unit. The word "lot" includes the word "plot."

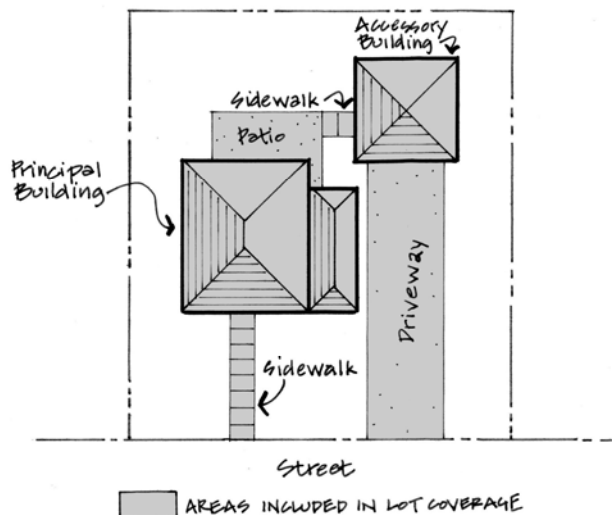


Figure 2: Lot Coverage

1. *Lot coverage* shall mean that portion of a lot which is covered by parking areas and any impervious surface including but not limited to principal and accessory, structures, driveways, patios, sidewalks, etc. See Figure 2.

2. *Lot depth* shall mean the dimension from the rear lot line to the front lot line measured between the mid-points of the rear and front lot lines. See Figure 3.

3. *Lot frontage* shall mean the distance measured between side lot lines at the street line of the lot. Every lot must front on a dedicated and accepted street and the minimum street frontage for any lot must be forty (40) feet or seventy-five (75%) percent of the required lot

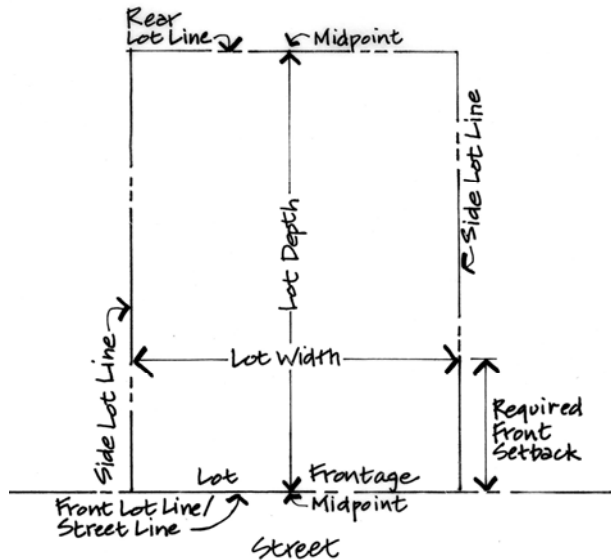


Figure 3: Lot Depth and Lot Width

width, whichever is greater.

4. *Lot interior* shall mean a lot other than a corner lot.

5. *Lot line* shall mean any established boundary of a lot. Any lot line which is neither a rear line nor a front line shall be deemed a side line.

6. *Lot width* shall mean the shortest distance between side lines measured at a point along the required front set-back line of the lot. Where the Table of District Regulations does not require a minimum front yard the lot width shall be measured at the street line of the lot. All lots shall be required to have a minimum width at all points in the lot of forty (40) feet or seventy-five (75%) percent of the required lot width, whichever is greater. See Figure 3.

Marquee shall mean a permanent non-retractable cover made of rigid building materials constructed as an integral part of the building, the supports of which are part of the original structure, which extends from the building over an entrance or sidewalk to shield a doorway, window or sidewalk from the elements..

Marquee sign shall mean a sign which is attached to or printed upon a marquee.

Massage, bodywork and somatic therapies shall mean and refer to systems of activity of structured touch which include, but are not limited to, holding, applying pressure, positioning and mobilizing soft tissue of the body by manual technique and use of visual, kinesthetic, auditory and palpating skills to assess the body for purposes of applying therapeutic massage, bodywork or somatic principles. Such applications may include, but are not limited to, the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, external application of herbal or topical preparations not classified as prescription drugs, movement and neural myofascial education and education in self-care and stress management. Massage, bodywork and somatic therapies do not include the diagnosis or treatment of illness, disease, impairment or disability.

Massage, bodywork and somatic therapist shall mean any person, male or female, who administers massage, bodywork and/or somatic therapies for any form of consideration.

Massage, bodywork or somatic therapy establishment shall mean any establishment or operation wherein massage, bodywork or somatic therapies are administered or are permitted to be administered, when such therapies are administered for any form of consideration.

Message shall mean the information promoted by a sign.

Master Plan shall mean a composite of one (1) or more written or graphic proposals for the development of this municipality as set forth in and adopted by the Planning Board pursuant to N.J.S.A. 40:55D-28.

Mixed use shall mean dual use of a single parcel of land. All parking, yard, buffer and other requirements applicable to each individual use shall be applied to the combined use.

Motor vehicle shall mean and include all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles.

Motor vehicle fueling station shall mean a building or other structure or premises used for the retail dispensing or sales of vehicular fuels, including the retail sales of oil, grease, anti-freeze, tires, batteries, and automobile accessories.

Motor vehicle service station shall mean a repair shop for motor vehicles including major repairs and clearly accessory services, including the retail dispensing or sales of vehicular fuels, but not including spray booths for painting of vehicles.

Multi-family development or *multi-family residential* shall mean a building containing three (3) or more dwelling units occupied or intended to be occupied by persons living independently of each other, or a group of such buildings.

Municipal Land Use Law shall mean Chapter 291 of the Public Laws of New Jersey, 1975 codified at N.J.S.A. 40:55-1 et seq. and its amendments.

Natural open space shall mean any area that is designated as such will be left free from any construction, roads, or developed recreational use. The area will be maintained by the property owner with trees, shrubs, and other fill in planting and paths. Sewer and water line easements may cross this designated "Natural Area."

Nonconforming lot or *preexisting nonconforming lot* shall mean a lot, the area, dimension or location of which was lawful prior to the adoption, revision or amendment of this chapter, but fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

Nonconforming structure or *preexisting nonconforming structure* shall mean a structure the size, dimension or location of which was lawful prior to the adoption, revision or amendment of this chapter, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

Nonconforming use or *preexisting nonconforming use* shall mean a use or activity which was lawful prior to the adoption, revision or amendment of this chapter, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

Nursing home and/or long-term care residential healthcare facility shall mean a facility, licensed by the Department of Health of the State of New Jersey as a facility, to provide health care under medical supervision and continuous nursing supervision and nursing home level care for twenty-four (24) or more consecutive hours to two (2) or more residents who are not related to the governing authority by marriage, blood, or adoption. The residents require continuous nursing care and services above the level of room and board because of their physical condition.

Nursing home-level care shall mean care provided to individuals who have chronic medical condition(s) required by the New Jersey Department of Health for the operation of a long term health care facility.

Official County Map shall mean the map, with changes and additions thereto adopted and established, from time to time by resolution of the Board of Chosen Freeholders of Essex County pursuant to N.J.S.A. 40:27-5 and its amendments.

Off-site sign shall mean a sign which is located on a lot other than that to which it refers. (See Billboard)

Open space shall mean any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such area may be improved with only those buildings, structures, streets and

off-street parking and other improvements that are designed to be incidental to the natural openness of the land.

Outdoor cafe shall mean an outdoor designated area that is located on the property of an existing restaurant, bar or retail store or on the public sidewalk or the right-of-way immediately adjacent to the property of an existing restaurant, bar or retail store and where food and beverages that are normally offered to the public inside the restaurant, bar or retail store are offered and served to the public in the designated outdoor area.

Outdoor sale shall mean any temporary out of doors display by a merchant, on a public sidewalk and contiguous to the merchant's place of business, of goods, merchandise, wares, produce, vegetables, baked goods, food or food stuffs with the intention to sell or dispose of or offer to vend, sell, dispose of or display goods, merchandise, wares, produce, vegetables, food or food stuffs. It shall include "sidewalk sales," "bargain sales," or any other occasional sales held wholly or partly out of doors by any person, business, merchant, group, firm, club, charitable organization or institution in a commercial or business zone. It is not intended to include what are commonly known as carnivals, parades, street fairs and the like.

Outdoor seasonal sale shall mean a temporary out of doors display of seasonal items with the intention to sell such items.

Park or parking shall mean the standing or waiting on a street, road or highway of a vehicle not actually engaged in receiving or discharging passengers or merchandise, unless in obedience to traffic regulations or traffic signs or signals.

Parking area shall mean an open area other than a street, public way or access driveway, but including aisles that serve parking spaces, used for the parking of motor vehicles and available for use whether for a fee or privilege for clients, customers, suppliers, residents or employees.

Parking space shall mean an off-street space available for the parking of one (1) motor vehicle within a public or private parking facility.

Personal service store or studio shall mean an establishment primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.

Pickup truck shall mean a truck or other motor vehicle with an open back designed, used or maintained primarily for the regular transportation of property or delivery of services.

Planned development shall mean Planned Unit Residential Development or Residential Cluster.

Planned unit residential development shall mean an area with a specified minimum contiguous acreage of twenty (20) acres or more to be developed as a single entity according to a plan containing one (1) or more residential clusters, which may include appropriate public or quasi-public uses all primarily for the benefit of the residential development. The maximum allowable residential density shall be four (4) units per acre, exclusive of buffer area which is to be determined by the Planning Board. Each development may contain a variety of housing types including but not limited to single family structures, townhouses, garden apartments and multiple family dwellings, which the second and third choice each shall be at least fifteen (15%) percent of the total units constructed.

Planning Board shall mean the Municipal Planning Board established pursuant to Section 25-46.

Pole trailer shall mean every vehicle without motor power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or

irregularly shaped loads, such as poles, pipes, or structural members, capable, generally, of sustaining themselves as beams between the supporting connections.

Portable storage container shall mean any container, storage unit or portable structure (commonly known as PODS) designed to be used on a temporary basis and without a foundation for the purpose of storing tangible property and not for occupancy by persons.

Principal sign shall mean any sign which is used to identify the place of business and primary service or type merchandise sold on the premises. The address, phone number, and name of the proprietor may be displayed. As all "off-site signs" or "billboards" are prohibited, all commercial signs allowed in the Township must be principal signs.

Principal use shall mean the primary use and purpose of a lot or structure.

Private club shall mean a nonprofit or public building and related facilities owned or operated by a corporation, association or group of individuals established for the fraternal, social, educational, recreational or cultural enrichment of its members, which is not conducted as a business, and whose members pay dues and meet certain prescribed qualifications for membership,

Private recreation facility shall mean a recreation court and/or related structures provided as an accessory use on the same lot as a residence and designed to be used by the occupants of the residence and their guests.

Private swimming pool shall mean a water-filled enclosure having a depth of more than eighteen (18) inches below the level of the level of the surrounding land, or an above-surface pool, having a depth of more than 30 inches, designed, used and maintained for swimming by the occupants of the residence and their guests.

Professional office building shall mean a building which is used solely for professional offices, which shall include the office or studio of a physician, dentist, optometrist, optician, chiropractor, lawyer, professional engineer, land surveyor, registered architect or teacher and similar licensed professionals. Professional office does not include the purchase or sale of goods, dance instructions, band instrument or voice instructor in groups, tea rooms, beauty parlors, hairdressing and manicuring establishments, convalescent homes or mortuary establishments.

Public area shall mean (1) public parks, playgrounds, trails, paths and other recreational areas; (2) other public open spaces; (3) scenic and historic sites; and (4) sites for schools and other public buildings and structures.

Public drainage way shall mean the land reserved or dedicated for the installation of storm water sewers or drainage ditches, or required along a natural stream or watercourse for preserving the biological as well as drainage function of the channel and providing for the flow of water to safeguard the public against flood damage, sedimentation and erosion and to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical and to lessen nonpoint pollution.

Public open space shall mean an open space area conveyed or otherwise dedicated to the municipality, a municipal agency, the Board of Education, State or County Agency, or other public body for recreational or conservation uses.

Public utility building or structure shall mean a building or structure necessary for the furnishing of utility services, such as electric, gas, telephone, water and sewer, to the public.

Reconstruction shall mean the act or process of reproducing by new construction the exact form and detail of a vanished building, structure or object or part thereof as it appeared when the structure was originally constructed.

Recreation vehicle shall mean any motor vehicle primarily designed and used as a travel trailer, camper, camping trailer, motor home or tent trailer and any boat, snowmobile, jet-ski, off-road motorcycle, vehicle intended for the purpose of racing and/or their respective trailer(s).

Recycling area shall mean space allocated for collection and storage of source separated recyclable materials.

Rehabilitation shall mean the act or process of returning the exterior of a property to a state of utility which makes possible an efficient contemporary use while preserving those features of the building to reflect the original historical, architectural, and cultural value of the building.

Residential cluster or cluster development shall mean 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. Each development shall contain an area of a minimum of ten (10) contiguous acres and a maximum allowable residential density of four (4) units per acre. All residential housing units within each development shall be limited to single family detached and townhouse structures.

Residential health care shall mean a facility which furnishes food and shelter to four (4) or more persons who are unrelated to the owner or administrator and which provides any personal care or service beyond food, shelter, and laundry. It serves as a substitute for the residents' own home by providing in addition such services, equipment and safety features required for safe and adequate care of residents at all times. In such facilities, the patients' rooms shall not contain kitchens or kitchenettes.

Restaurant shall mean a public establishment which serves food and drink primarily or exclusively for consumption on the premises and is not a "fast food restaurant" as defined in this chapter. For the purposes of this chapter, a "bar" shall also be deemed a "restaurant" only if food is prepared, served and consumed on the premises.

Restoration shall mean the act or process of accurately recovering the form and detail of the exterior of a property and its setting as it appeared at a particular period and time by means of removal of later work or by replacement of missing earlier work.

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

Retail store shall mean an establishment engaged in the selling or rental of 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..

Road tractor shall mean every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry and load thereon either independently or any part of the weight of a vehicle or load so drawn.

Roof sign shall mean any sign erected, constructed, or maintained wholly upon or over the roof of any building with the principal support on the roof structure.

School shall mean any building or part thereof that is designed, constructed or used for education or instruction in any branch of knowledge.

1. *Business or vocational school* shall mean a secondary or higher education or training establishment primarily teaching usable skills that prepares students for jobs in a business or trade and meeting state requirements as a business or vocational facility.
2. *Private school* shall mean any school that meets state requirements for elementary or secondary education and which does not secure the major part of its funding from any governmental agency.
3. *Public school* shall mean any school that meets state requirements for elementary or secondary education and which secures the major part of its funding from any governmental agency.

Security enclosures shall mean any rolling, solid, swinging, sliding or accordion-type enclosure, solid or not solid, closing vertically or horizontally, installed as a theft prevention measure on any non-residential building or storefront opening; this does not include garage doors.

Self-storage facility shall mean a building containing separate, individual and private storage spaces available for lease or rent for varying periods of time.

Semitrailer shall mean every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

Senior Citizens Housing Project shall mean any Senior Citizens Housing Project, financed by the U.S. Department of Housing and Urban Development under Section 202 program for Housing for the Elderly with Supportive Service and the applicable Interim Regulations published in the Federal Register, dated June 12, 1991, 24 CFR Part 889.

Separate buildings shall mean if two (2) or more buildings are connected by exterior passageways, plazas or sub-surface passageways, they shall be considered separate buildings.

Sign shall mean any device for visual communication which is used to direct, identify, inform, advertise, attract attention to or promote the interest of any person, place, activity, institution, organization, business or product when the same is placed in view of the general public.

Sign, awning or canopy shall mean a sign which is attached to or printed upon the farthest extended edge of the material.

Sign, changeable shall mean a sign with the capability of content change by means of manual or remote input.

1. *Manually activated changeable sign* shall mean a changeable sign whose message copy or content can be changed manually on a display surface.
2. *Electrically activated changeable sign* shall mean a changeable sign, such as a light-emitting diode (LED) electronic message board or digital display, whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display.

Sign, façade shall mean a sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than eighteen (18) inches from the building or structure wall. Also includes signs affixed to architectural projections that project from a building provided the copy area of such signs remains on a parallel plane to the face of the building façade or to the face or faces of the architectural projection to

which it is affixed. They shall advertise only the permitted use, products or services on the premises on which they are displayed.

Sign, freestanding or pylon shall mean a sign principally supported by one or more columns, poles or braces placed in or upon the ground. Freestanding signs shall advertise only the permitted use, products or services conducted on the premises.

Sign, monument shall mean a sign for which the entire bottom is in contact with or is close to the ground.

Sign, permanent window shall mean any sign made of a material other than paper or cardboard that is visible from the window area, or that is applied or adhered directly to the window glazing or etched into that glazing.

Sign, sidewalk shall mean an “A-frame” shaped sign that identifies or advertises a place of business and that consists of two sign boards that are hinged together at the top.

Sign, temporary shall mean a sign erected for a limited period of time as required elsewhere in this chapter.

Sign, temporary window shall mean any sign visible from the window display area or adhered to window or door glazing, other than permanent window graphics, including community flyers, signs advertising a sale or promotion, or any other nonprofessionally manufactured sign. All paper and cardboard signs are considered to be temporary window graphics. No temporary graphics may be adhered to the exterior of a building.

Sign, wall shall mean all painted signs and flat signs of solid-face construction and/or appearance which are placed against a building or other structure and attached to the exterior front, rear, or side wall of any building or other structure and attached to the exterior front, rear, or side wall of any building or other structure.

Sign height measurement shall mean the vertical height of the background upon which the lettering, illustration or display is presented, including the supporting members of any sign.

Single family detached dwelling shall mean a detached house designed for or intended to contain only one (1) dwelling unit and having no party wall in common with an adjacent dwelling structure.

Site shall mean any plot, parcel or tract of land.

Store shall mean keeping for safe care or custody whether temporarily or permanently.

Story shall mean the space of a building between the surface of a floor and any floor next above it, or if there be no floor above it, then the space between the floor and the ceiling above it. A story shall also be constituted between a floor and roof above when sixty (60%) percent of

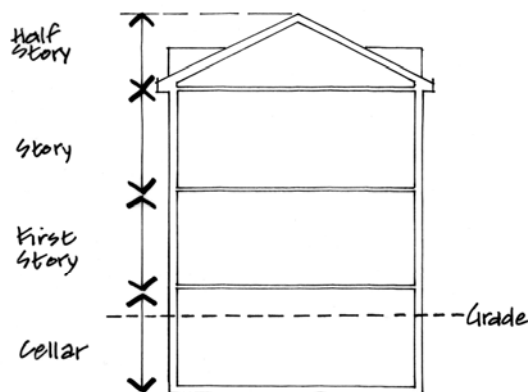


Figure 4: First Story Above Cellar

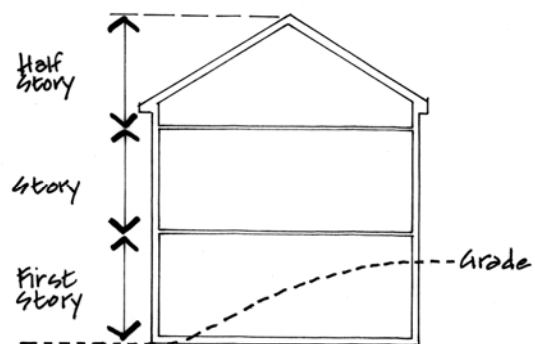


Figure 5: Basement as First Story

the total floor area has a minimum ceiling height of seven (7) feet six (6) inches. See Figures 4 and 5 for illustrations of story, half story and first story.

1. *Story, half* shall mean an area under a sloping roof with less than sixty (60%) percent but more than twenty-five (25%) percent of its total floor area having a minimum ceiling height of seven (7) feet six (6) inches and with no portion of the area used for residential living purposes having a minimum ceiling height of less than three (3) feet six (6) inches.
2. *Story, first* shall mean any story having its finished floor surface entirely above grade, except a basement shall be considered a story above grade when the distance from the grade to the finished surface of the floor above the basement is more than six (6) feet for more than fifty (50%) percent of the total perimeter or for more than twelve (12) feet at any point.

Street shall mean a road, highway, avenue, street, lane or other way, public or private, set aside and commonly used for travel purposes, and shown on the Township map or upon a filed subdivision plat.

Street line shall mean the dividing line between the street right-of-way and a lot, tract, or parcel of land which street line shall be no less than twenty-five (25) feet from the center line of the street to right-of-way.

Structure shall mean 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, but not including a driveway, sidewalk or path. The word "structure" shall include the word "building."

Teacher shall mean a person giving individual instruction to students of a musical instrument, voice or in academic or scientific subjects to a single pupil at a time.

Theater shall mean a facility used to show motion pictures or for drama, dance, musical or other live performance. A facility consisting of more than one auditorium or other room used as a theater shall be considered a single theater for the purposes of this chapter.

Through lot shall mean a lot other than a corner lot having frontage on two (2) streets.

Tow truck shall mean any vehicle manufactured or designed for the purpose of towing and for removing motor vehicles.

Townhouses shall mean single family attached dwelling units with common walls.

Trailer shall mean every vehicle with or without motor power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

Truck shall mean every motor vehicle designed, used or maintained primarily for the regular transportation of property or delivery of services.

Truck tractor shall mean every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

Van shall mean an enclosed motor vehicle designed, used or maintained primarily for the regular transportation of property or delivery of services.

Variance shall mean permission to depart from the literal requirements of this chapter pursuant to N.J.S.A. 40:55D-40(b), 40:55D-60 and 40:55D-70(c) and (d) and amendments.

Vehicle shall mean every device in, upon or by which a person or property is or may be transported upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks or motorized bicycles.

Video arcade or amusement arcade shall mean any structure or part of a structure open to the public whose primary or main business is the offering of mechanical amusement devices as defined in Chapter 6-13, other similar player-operated amusement devices, or the playing of pool or billiards to the public for use at a charge; provided, however, that a "jukebox" shall not be considered a mechanical amusement device or other similar player-operated amusement device.

Wholesale business shall mean an establishment primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Yard shall mean and include:

1. *Front* shall mean an open space, on the same lot with a building, between the front street line of the lot and the front line of the nearest roofed portion of the building and extending from side property line to side property line.
2. *Rear* shall mean an open space on the same lot with a building, between the rear line of the lot and the rear line of the nearest roofed portion of the building and extending from side property line to side property line.
3. *Side* shall mean an open space, on the same lot with a building, between the side line of the lot and the building, between the side line of the lot and the building and extending from the front yard or from the front street line where no front yard exists, to the rear yard.
4. *Side front* shall mean a yard on the side street frontage of a corner lot.

See Figures 6 and 7 for illustrations of yards.

Zone boundary line shall mean all lines drawn between zones shall follow the property line unless a specified dimension on the zoning map indicates otherwise. If the boundary of a zone is determined by a street, then it shall be measured from the center line of the street.

Zoning Board of Adjustment shall mean the Board established pursuant to N.J.S.A. 40:55D-69 and Section 25-47 as amended and supplemented.

Zoning permit shall mean a document

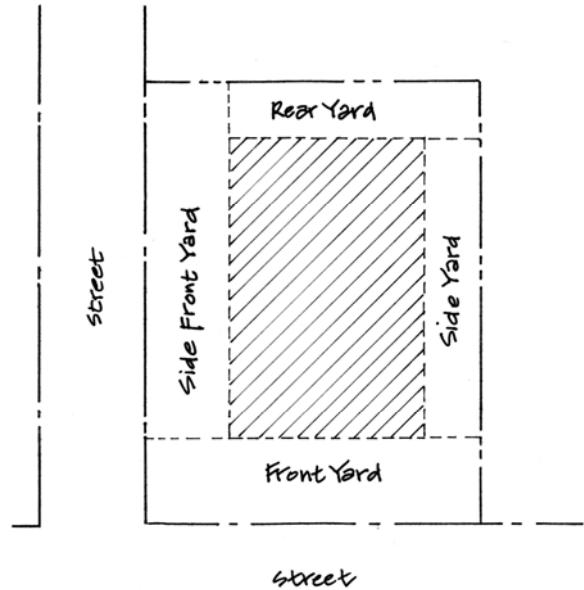


Figure 6: Yard Locations, Interior Lot

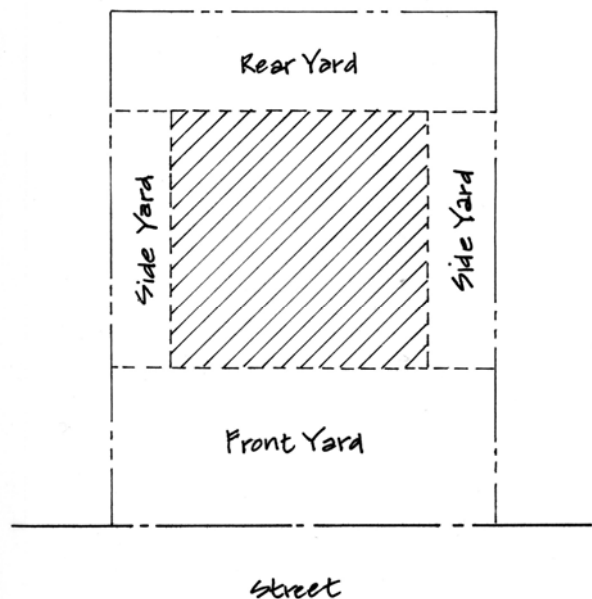


Figure 7: Yard Locations, Corner Lot

signed by the Zoning Officer.

1. Which is required by ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building; and
2. Which acknowledges that such use, structure or building complies with the provisions of the municipal zoning ordinance or variance therefrom duly authorized by a municipal agency pursuant to N.J.S.A. 40:55D-60 or 40:55D-70 and their amendments.
(Ord. No. 904-88 § 25-4.2—25-4.143; Ord. No. 927-88; Ord. No. 990-89; Ord. No. 992-89; Ord. No. 1036-90; Ord. No. 1053-91; Ord. No. 1093-91; Ord. No. 1100-91; Ord. No. 1139-92; Ord. No. 1167-93; Ord. No. 1189-93; Ord. No. 1209-93; Ord. No. 1215-93; Ord. No. 1218-93; Ord. No. 1224-93; Ord. No. 1227-93; Ord. No. 1237-94; Ord. No. 1316-95 § 1; Ord. No. 1335-95; Ord. No. 1337-95 § 13; Ord. No. 1346-95; Ord. No. 1408 § 1; Ord. No. 1419 § 1; Ord. No. 1488-97 § 1; Ord. No. 1491-98 § 1; Ord. No. 1634-99 § 1; Ord. No. 1636-99 § 1; Ord. No. 1711-00 § 1)

25-5 - 25-6 RESERVED.

25-7 GENERAL REGULATIONS AND PROVISIONS.

25-7.1 Zoning District Regulations.*

The general regulations for each zoning district pertaining to permitted uses, accessory uses, conditional uses, height, lot area and other bulk requirements are contained in "The Table of District Regulations" which is declared to be a part of this chapter. Every use established after the adoption of this ordinance shall conform in total to the requirements contained herein unless otherwise exempted by a specific provision of this ordinance.

- a. Pursuant to Section XII (Relationship to Municipal Development Regulations) of the West Orange Downtown Redevelopment Plan, the Redevelopment Plan supersedes use, bulk and design standards and provisions of the Township Development regulations.* See the West Orange Downtown Redevelopment Plan for applicable regulations.
- b. Pursuant to Section V (Administrative Provisions) of the Organon Redevelopment Plan, the Redevelopment Plan supersedes use, bulk and design standards and provisions of the Township Development regulations. See the Organon Redevelopment Plan for applicable regulations.
- c. Pursuant to Section 10 (Proposed Land Uses and Building Requirements in the Redevelopment Area) of the Valley Road Area (Harvard Press) Redevelopment Plan, the Redevelopment Plan supersedes use, bulk and design standards and provisions of the Township Development regulations. See the Valley Road Area (Harvard Press) Redevelopment Plan for applicable regulations.

25-8 SUPPLEMENTAL PROVISIONS FOR ALL DISTRICTS.

In addition to the provisions of Section 25-8, every use shall be further subjected to all of the following applicable supplemental provisions: (Ord. No. 904-88 § 25-5.2)

***Editor's Note:** The zoning map and Table of District Regulations may be found at the end of this chapter.

***Editor's Note:** The West Orange Downtown Redevelopment Plan, as adopted by Ordinance No. 1864-03, is on file in the office of the Township Clerk and available for public inspection.

25-8.1 Setbacks of Accessory Uses.

In any district no accessory structure, building, storage area, off-street parking area or truck loading space shall be permitted within five (5) feet of a property line. The following additional restrictions shall apply to certain structures and uses:

- a. No accessory uses shall be located within any minimum required front yard or side yard.
- b. If any such accessory use is located in B, I, or I-B district and a property line which is the district boundary line abuts a residential district, then the minimum required distance from such property line shall be ten (10) feet.
- c. Parking areas, in an OB-2 or O-R district shall be not less than seventy-five (75) feet from the property line, except where such property line is the district boundary line which abuts a residential district, in which case the required distance shall be not less than one hundred (100) feet from such property line.
- d. A private swimming pool, a private recreation facility and any related structures shall comply with the required side yard setbacks for a principal structure in the zone in which they are located and shall not be permitted within ten (10) feet of a rear property line.
- e. No accessory building shall be located within fifteen (15) feet of any principal building, except as otherwise provided in this chapter.
- f. An accessory building in a residential zone shall not be taller than one and one-half (1 ½) stories or fifteen (15) feet, shall not cover more than one-third (1/3) of the minimum required rear yard, and shall not be used as living or sleeping quarters.

25-8.2 Yard Encroachments.

In all districts, the space in a required front, side, side front yard or rear yard shall be open and unobstructed except for:

- a. An unroofed terrace projecting not more than eight (8) feet into the required rear yard.
- b. Steps projecting not more than six (6) feet leading to a basement or first floor.
- c. Doorways, windows, sills, lintels, wall ornaments or leaders projecting not more than two (2) feet. A variance shall be required for any feature that projects more than two (2) feet into a required yard.
- d. Fire escapes required by law, and chimneys, not over four (4) feet wide, provided that the Building Inspector shall determine that such projections are so placed as not to obstruct light or ventilation.
- e. An existing private garage for a one-family or two-family dwelling may be rebuilt within its same footprint.

25-8.3 Front Yards on Through Lots.

In all districts, through lots lying wholly or partly within any district, in which a front yard is required shall be considered as having two (2) frontages, each of which shall be subject to the front yard regulation contained in the Table of District Regulations. (Ord. No. 904-88 § 25-5.2C)

25-8.4 Walls and Fences.

Walls and fences are permitted under the following conditions:

- a. Walls and fences which are not more than fifty (50%) percent solid are permitted anywhere on the property, in all districts, provided they are not higher than four (4) feet.

- b. Solid walls and fences not higher than six (6) feet are permitted in the rear yard and on the side property line up to the rear line of the applicant's house. If the distance on each side of such a fence is more than five (5) feet to each adjacent house, such solid fence may be located in the side property up to the front of the applicant's house.
- c. In all nonresidential districts, fences or walls not exceeding six (6) feet in height shall be permitted in the side and rear yards provided the fence or wall is not closer than five (5) feet at any point to a principal building in a residential district.
- d. In all nonresidential districts, a fence or wall to be used for screening may not exceed six (6) feet in height. If a property owner desires to exceed the six (6) feet limitation, the property owner shall apply to the Planning Board for technical review. An informal sketch will be required so as to permit the Technical Review Committee to evaluate the location of the fence and determine the appropriateness of the proposed use.
- e. In all districts the finished side of the fence must face away from the applicant's property.
- f. The use of barbed and/or razor wire is prohibited in all districts. If a property owner desires to use barbed and/or razor wire, the owner shall apply to the Planning Board for technical review. An informal sketch will be required so as to permit the Technical Review Committee to evaluate the location of the fence and determine the appropriateness of the proposed use.
- g. Electrical wire fence is prohibited in all districts.
- h. No fence as described in this section may be constructed in any district without a written application being made to the Zoning Officer who shall issue a permit after compliance with the following fee schedule:
 - 1. A fifty (\$50.00) dollar fee for erection in any residential district.
 - 2. A one hundred (\$100.00) dollar fee for erection in any nonresidential district.
(Ord. No. 904-88 § 25-5.2D; Ord. No. 1081-91; Ord. No. 1356-95 § 1; Ord. No. 1389-96 § 1)

25-8.5 Accessory Uses in Relation to Stream or Drainageways.

In any district, no building or accessory building and no wall or fence shall be permitted within fifteen (15) feet of the center line of any stream, water course, or other natural drainage line which carries storm water run-off, in order that access by the duly constituted authorities or the Township may be assured for the purpose of cleaning, dredging and otherwise maintaining such drainage line. In the application of this subsection to a particular lot the Township Engineer shall determine whether access to the stream, intermittent watercourse or natural drainage line which forms a part of such is necessary in the public interest. (Ord. No. 904-88 § 25-5.2E)

25-8.6 Infrastructure Requirements.

No site plan shall be approved for development unless sufficient capacity exists in the public sanitary sewers, and storm sewers, or will be made available prior to the start of construction and that there is adequate access to public streets. (Ord. No. 904-88 § 25-5.2F)

25-8.7 Commercial Antennas.

Commercial antennas are absolutely prohibited in all districts except in those districts in which they are permitted as a conditional use. The conditional use requirements for commercial antennas are set forth in Section 25-24.2b(2)(e).

25-8.8 Personal Communications Antenna.

- a. Personal communications antenna utilized by an individual or association duly licensed in the Citizens Radio Service under 47 C.F.R., Part 95 of the regulations of the Federal Communications Commission, or any amendment, revision or substitution thereof, shall not exceed a height of sixty (60) feet or any lower height limitation that may from time to time be prescribed by Federal law for such radio service.
- b. Personal communications antennas utilized by an individual or association duly licensed in the Citizens Radio Service under 47 C.F.R., Part 97 of the regulations of the Federal Communications Commission, or any amendment, revision or substitution thereof, shall not exceed a height of one hundred (100) feet.
- c. All personal communications antennas as herein defined shall be considered accessory uses in all residential zones.
(Ord. No. 904-88 § 25-5.2H)

25-8.9 Other Antennas.

- a. Antennas designed solely for the reception of radio and TV signals shall not exceed a height of twenty (20) feet above the height of the principal structure, without approval of the Planning Board or Board of Adjustment. Such approval may be granted upon a showing that due to topography, configuration of buildings or surrounding structures or trees adequate reception is not possible below twenty (20) feet above the height of the principal structure to which the antenna and or antenna support is to be affixed.
- b. All other antennas, except those employed for specially licensed experimental uses and those utilized by governmental agencies, Civil Defense and the First Aid Squad, are prohibited in all districts of West Orange.
(Ord. No. 904-88 § 25-5.2I)

25-8.10 Construction Trailers.

All construction trailers shall be removed within seventy-two (72) hours of the issuance of a Certificate of Occupancy or the cessation of active construction for a period of thirty (30) days, whichever is sooner. This thirty (30) day period may be extended for an additional thirty (30) days upon application to the construction official. Construction trailers shall not be parked within areas to be conveyed for roadway purposes or right-of-way. (Ord. No. 904-88 § 25-5.2J)

25-8.11 Green Roofs.

Green roofs shall be permitted in all zone districts. Green roofs shall be installed in accordance with the following criteria:

- a. A green roof shall consist of four layers: a waterproof membrane, a layer of insulation, a drainage layer, and the growing medium (substrate). Additionally, a protective layer of PVC or other suitable material may be placed beneath the growing medium to protect against roots penetrating the waterproofing layer.
- b. The growing medium shall be a thin, lightweight medium suitable for planting wildflowers or grasses; for example, a mix of expanded shale and/or sand with 10 percent humus.
- c. Plantings on green roofs shall be shallow-rooted, drought-tolerant species that thrive in thin, nutrient-poor soils and will not require irrigation; for example, mosses and grasses.
- d. Green roofs shall be subject to approval by the Township Engineer and shall be subject to periodic inspection.

25-8.12 Principal Uses.

There shall be no more than one (1) principal use upon any single lot, except:

- a. In B-1 and B-2 Districts, residential uses shall be permitted on the second floor or above in a building which has a permitted commercial or retail use on the first floor.
- b. All proposed mixed-uses must comply with all health and building code regulations, including Certificate of Continued Occupancy requirements. Off-street parking shall be provided as required for each individual use, except that shared parking shall be permitted for a mixed-use development containing a residential use, per Section 25-12.2a3.
- c. All commercial/retail uses currently on the street level cannot be converted to residential use.
- d. Mixed uses and multiple principal uses on one lot shall be permitted in the B-1, B-2, P-C, O-R and I Districts.
(Ord. No. 904-88 § 25-5.2L; Ord. No. 1035-90; Ord. No. 1336-95 § 1)

25-8.13 As Built Drawings.

As built drawings shall be submitted to the Engineering and Building Departments of the Township for all commercial and industrial projects, and for all residential projects with more than five (5) dwelling units in a subdivision. All such drawings shall be certified by a New Jersey State licensed engineer, architect or surveyor under seal, whoever is appropriate. No final Certificate of Occupancy shall be issued until an "as built" drawing or drawings for the project are submitted and approved by the Construction Official, Township Engineer and Zoning Officer. (Ord. No. 904-88 § 25-5.2M; Ord. No. 1216-93)

25-8.14 Recycling Facilities.*

- a. There shall be included in any new multifamily housing development that requires subdivision or site plan approval an indoor or outdoor recycling area for the collection and storage of residentially-generated recyclable materials. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located. The dimensions of the recycling area and the bins or containers shall be determined in consultation with the municipal recycling coordinator, and shall be consistent with the district recycling plan adopted pursuant to N.J.S.A. 13:1E-99.13 and any applicable requirements of the Municipal Master Plan, adopted pursuant to section 26 of P.L. 1987, c.102.
- b. The recycling area shall be conveniently located for the residential disposition of source separated recyclable materials, preferably near, but clearly separated from, a refuse dumpster.
- c. The recycling area shall be well lit, and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling area, and the bins or containers placed therein, against theft of recyclable materials, bins or containers.
- d. The recycling area or the bins or containers placed therein shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable.

***Editor's Note:** See also Chapter XXXII, Land Subdivision, Section 32-13, Recycling Area Requirements.

Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered, so as to keep the paper or cardboard dry.

- e. Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.
- f. Landscaping and fencing shall be provided around any outdoor recycling area and shall be developed in an aesthetically pleasing manner.
(Ord. No. 904-88 § 25-5.2; Ord. No. 1209-93)

25-8.15 Utility Screening.

In all districts, utility boxes and other ground level utility structures shall be screened on at least three (3) sides by landscaping that will conceal the box throughout all seasons of the year, while permitting access by the utility company. Such provision should be reflected in the landscape plan portion of all preliminary and final site plans. (Ord. No. 1522-98 § 1)

25-8.16 Roofleaders, Downspouts and/or Other Storm Drainage Systems.

Every homeowner within all districts of the Township of West Orange shall maintain any roofleaders, downspouts, and/or any other storm drainage system so that runoff is not directed onto any neighboring properties.

25-9 SUPPLEMENTAL PROVISIONS FOR RESIDENTIAL DISTRICTS.

In addition to the provisions of the Table of District Regulations, every use in a residential district shall be further subjected to all of the following applicable supplemental provisions. (Ord. No. 904-88 § 25-5.3)

25-9.1 Horticultural or Agricultural Buildings.

In any residential district, a horticultural or agricultural building may be constructed or maintained only as an accessory to the main building on the same lot; and no heating plant in conjunction therewith shall be located within twenty (20) feet of any lot line, and no fertilizer shall be stored within twenty-five (25) feet of any lot line. (Ord. No. 904-88 § 25-3.3A)

25-9.2 Housing of Animals.

In any residential district on a lot of two (2) acres or more, a building or enclosure for the housing of animals may be constructed or maintained only as an accessory to the main building on the same lot. No building or enclosure shall be used for the housing of more than three (3) domestic or farm animals and such building or enclosure shall not be within fifty (50) feet of any lot line. See Section 10-12 of Chapter X, Animals, of the Revised General Ordinances of the Township of West Orange for additional regulations for household pets and other animals.

25-9.3 Public Buildings.

Federal, State, County or Township buildings shall be permitted, except that workshops, storage facilities and other uses similar to those normally permitted only in industrial districts shall be excluded from residential districts. (Ord. No. 904-88 § 25-5.3C)

25-9.4 Underground Utility Lines.

Except where clearly demonstrated that it is physically impossible all utility lines shall be placed underground in all developments in all Zoning Districts. (Ord. No. 904-88 § 25-5.3D)

25-9.5 Garden Apartments.

- a. When the dwelling units in a garden apartment building are separated by party walls, no facade of such building shall be more than eighty (80) feet long.
- b. Contiguous lots occupied by a group of garden apartments or garden apartment buildings shall be considered as one (1) lot or tract of land.
- c. Not more than forty (40%) percent of the area used for residential living purposes in a half story above the second floor shall have a ceiling height of less than seven (7) feet six (6) inches, and no portion of such area shall have a ceiling height less than five (5) feet.
- d. Roofs of garden apartment buildings shall be of gambrel, hip, gable, or mansard type construction.
- e. No space may be used for dwelling purposes below the first floor of a garden apartment building, except that in the basement provision may be made for living quarters for employees of the owner necessary to the maintenance of the building. Such living quarters, when provided, shall be included in the computation of minimum required lot area per unit.
- f. Garages shall conform in architectural design with the garden apartment building to which they are accessory. Each of the dwelling units shall be provided with one (1) fully enclosed garage of not less than two hundred (200) square feet clear area in addition to the exterior parking of one and one-half (1 1/2) parking space for each apartment.
- g. No parking space in a garage or parking area shall be rented or sublet to anyone other than a resident of the garden apartment buildings, and shall be located between such buildings and their detached accessory uses.
- h. Garden apartment project sites shall contain two (2) acres or more.
(Ord. No. 904-88 § 25-5.3E)

25-9.6 Offices in R-G District.

The following supplemental district regulations shall apply to offices located within an R-G District on a site of five (5) acres or more.

- a. *Use of Front and Rear Yards.* No use shall be made of any required yard except that entrance and exit driveways may cross the front yard. Further, automobile parking is permitted so as to encroach upon the required rear yard, subject to the subsection 25-8.1. The foregoing notwithstanding, in no cases shall more than fifty (50%) percent of the required front yard be paved for driveways.
- b. *Parking.* Off-street parking shall be provided on the same site as the structure developed under the provisions of this chapter.
- c. *Landscaping and Site Plan.* The grounds of an office building site shall be suitably landscaped and maintained and shall be suitably screened from the adjoining residential districts, if any. A landscape plan prepared by a professional landscape architect shall be submitted for review by the Environmental Commission.
- d. *Building Type.* All buildings erected under the provisions of this section concerning offices shall have an exterior design so as to present the appearance of a residential structure.
(Ord. No. 904-88 § 25-5.3F)

25-9.7 Design of Buildings in Residential Districts R-1 Through R-T.

The Township Council finds that uniformity in the exterior design and appearance of dwellings erected in the same residential neighborhood tends to adversely affect the desirability of the immediate and neighboring areas for residential purposes and impairs existing residential property in such areas; tends to impair the value of both improved and unimproved real property in such areas with attendant deterioration or conditions affecting the health, safety and morals of the inhabitants and the Township at large; and tends to deprive the Township of tax revenue and destroys a proper balance between the taxable value of real property in such areas and the cost of municipal services provided therefor. It is the purpose of this subsection to prevent these and other harmful effects of uniformity in the design and appearance of dwellings erected in any subdivision or development in the same residential district and thus to promote and protect the health, safety, morals and general welfare of the community.

- a. *Distance between Dwellings.* Except as herein provided, no building permit shall be issued for any structure or residence to be erected in an R-1 through and including an R-4 District if the proposed dwelling is substantially alike in exterior design and appearance with any neighboring dwelling situated on the same or opposite sides of the street within one hundred ninety-nine (199) feet of a dwelling then in existence or for which a building permit has been issued or is pending; that no building permit shall be issued for any dwelling or residence to be erected in an R-5, R-6 or R-T District if the proposed dwelling is substantially alike in exterior design and appearance with any neighboring dwellings situated on the same or opposite sides of the street within one hundred forty-nine (149) feet of a dwelling then in existence or for which a building permit has been issued or is pending. The distance herein specified shall be construed to mean the distance between the street property lines of the respective properties.
- b. *Dwelling Characteristics.* Dwellings and residential buildings within such specified distance from each other shall be considered uniform in exterior design and appearance if they have any four (4) of the following characteristics:
 1. The same basic roof design as it may affect the main roof ridge in length and height above the plate. All flat roofs shall be deemed identical in dimension above the plate.
 2. The same basic dimensions and floor plans are used without substantial differentiation of the front elevation in texture and material.
 3. The same basic dimensions and floor plans are used without substantial differentiation in setback. A setback with a difference of four (4) feet or more shall not be considered to be the same.
 4. The same basic dimensions and floor plans are used without substantial differentiation in the front elevation in location, height and design of porches, if any.
 5. The same basic dimensions and floor plans are used without substantial differentiation as it affects either the architectural design or locations of entrances, doors and windows.
- c. *Lot Dimension Requirements.* The Construction Official and/or Zoning Officer is directed to require, before the issuance of a building permit in any subdivision or part thereof approved by the Planning Board and Township Council prior to the adoption date of this ordinance, that the terms and conditions hereof shall be followed.
- d. *Administration.* The Construction Official and/or Zoning Officer shall be charged with the responsibility of administering and enforcing the provisions of this section and in the event a building permit is denied by the Construction Official, for reason that the proposed dwelling does not comply with the terms of this section, the reason for the denial shall be stated in writing.

(Ord. No. 904-88 § 25-5.3G)

25-9.8 Minimum Residential Floor Area.

The requirements contained in this section are designed to promote and protect the public health, to prevent overcrowded living conditions, to guard against the development of substandard neighborhoods, to conserve established property values and to contribute to the general welfare.

- a. *Minimum Schedules.* Every dwelling or residence building, other than a hotel, erected or remodeled to accommodate additional families shall provide a minimum residential living area per unit on finished floors, in conformity with the following schedules for specific types of residence buildings in the various districts. The minimum stipulated herein shall be deemed to be exclusive of porches, breezeways, garage area, basement, cellar areas and laundry rooms; that in the case of a dwelling with living accommodations on two (2) or more levels, commonly known as a split level or bi-level, any room, the floor of which averages more than two (2) feet below the outside ground level, shall not be considered as part of the residential living area.

1. One story one-family dwelling:

R-1 District	2,200 square feet
R-2 District	1,800 square feet
R-3 District	1,500 square feet
R-3AH District	1,500 square feet
R-4 District	1,400 square feet
R-5 District	1,300 square feet
R-6 District	1,000 square feet
I-B District	1,500 square feet

2. One and one-half (1 1/2) story one-family dwelling, with unfinished attic floor:

R-1 District	2,200 square feet
R-2 District	1,800 square feet
R-3 District	1,500 square feet
R-3AH District	1,500 square feet
R-4 District	1,400 square feet
R-5 District	1,300 square feet
R-6 District	1,000 square feet
I-B District	1,500 square feet

3. One and one-half (1 1/2) one-family dwelling, with finished attic floor:

R-1 District	3,000 square feet
R-2 District	2,500 square feet
R-3 District	2,200 square feet
R-3AH District	2,200 square feet
R-4 District	2,200 square feet
R-5 District	1,500 square feet
R-6 District	1,450 square feet
I-B District	2,200 square feet

4. Two (2) story one-family dwelling, with unfinished second story:

R-1 District	2,200 square feet
R-2 District	1,700 square feet
R-3 District	1,400 square feet
R-3AH District	1,400 square feet
R-4 District	1,400 square feet
R-5 District	1,300 square feet

- | | | |
|--|--------------|-------------------|
| | R-6 District | 1,000 square feet |
| | I-B District | 1,500 square feet |
5. Two (2) story one-family dwelling with finished second floor:
- | | | |
|--|----------------|-------------------|
| | R-1 District | 3,000 square feet |
| | R-2 District | 2,500 square feet |
| | R-3 District | 2,200 square feet |
| | R-3AH District | 2,200 square feet |
| | R-4 District | 2,200 square feet |
| | R-5 District | 1,600 square feet |
| | R-6 District | 1,450 square feet |
| | I-B District | 2,200 square feet |
6. One-family dwelling, more than two (2) stories in height:
- | | | |
|--|----------------|-------------------|
| | R-1 District | 3,000 square feet |
| | R-2 District | 2,500 square feet |
| | R-3 District | 2,200 square feet |
| | R-3AH District | 2,200 square feet |
| | R-4 District | 2,200 square feet |
| | R-5 District | 1,600 square feet |
| | R-6 District | 1,450 square feet |
| | I-B District | 2,200 square feet |
7. Two-family dwellings:
- | | | |
|--|--------------|----------------------------|
| | R-T District | 1,100 square feet per unit |
| | R-M District | 1,100 square feet per unit |
| | I-B District | 1,100 square feet per unit |
8. Twin dwelling:
- | | | |
|--|--------------|----------------------------|
| | R-T District | 1,100 square feet per unit |
| | R-M District | 1,100 square feet per unit |
| | I-B District | 1,100 square feet per unit |
9. Multi-family residence/garden apartment dwelling unit:
- | | | |
|--|--------------------------|-------------------|
| | Efficiency Apartments | 600 square feet |
| | One Bedroom Apartments | 800 square feet |
| | Two Bedroom Apartments | 1,000 square feet |
| | Three Bedroom Apartments | 1,100 square feet |
- Any rooms other than those designated or to be designated as living room/one bedroom combination, kitchen and bath in garden apartment shall be considered for the purposes of this chapter as bedrooms.
10. A dwelling with living accommodations on two (2) or more levels, commonly known as a split level or bi-level:
- | | | |
|--|--------------|-------------------|
| | R-1 District | 3,000 square feet |
| | R-2 District | 2,500 square feet |
| | R-3 District | 2,200 square feet |
| | R-4 District | 2,100 square feet |
| | R-5 District | 1,800 square feet |
| | R-6 District | 1,500 square feet |
11. Senior Citizen Housing Apartments:
- | | | |
|--|------------------------|-----------------|
| | One Bedroom Apartments | 515 square feet |
|--|------------------------|-----------------|

Two Bedroom Apartments

780 square feet

- b. *Applicability.* This paragraph shall only affect dwellings or buildings to be erected or remodeled on any lot or parcel which shall become part of any subdivision, approved by the Planning Board after the adoption date of this ordinance. Any lot or parcel presently appearing on the tax maps of the Township or appearing on any map or plat heretofore approved, the minimum requirements as to house sizes existing at the time of the amendment shall prevail.
(Ord. No. 904-88 § 25-5.3H; Ord. No. 1144-92; Ord. No. 1227-93; Ord. No. 1337-95 § 12)

25-9.9 Home Occupations.

No home occupation may be conducted in a legal owner-occupied one (1) family residence unless the following conditions are met:

- a. A simplified site plan indicating the location of the use on the premises within the principal structure and written description of the occupation to be conducted shall be submitted to the Technical Review Committee of the Planning Board for approval. A Certificate of Continued Occupancy, Certificate of Occupancy, or Certificate of Habitability shall be required for home occupations.
- b. The proposed activity shall comply with the following:
1. Only one such activity shall be permitted on the premises within the principal structure; and such use must not be incompatible with or disturb the adjacent residential neighborhood.
 2. The activity shall be conducted solely by a person or persons, and members of his/her immediate family, all of whom shall be residing full-time and permanently on the premises, and by no other person or persons living off the premises.
 3. Not more than twelve and one-half (12.5%) percent or one-eighth (1/8) of the floor area of the principal structure shall be used for such activity.
 4. No display or advertising of products or services shall be visible from outside of the principal structure in which the activity takes place.
 5. No outside storage any way related to the activity shall be visible from outside of the principal structure in which the activity takes place.
 6. No pick-up or delivery or materials to or from the premises in which the activity takes place shall be made, except by private passenger vehicle, licensed package delivery service, or US Postal Service.
 7. The activity, including deliveries as described in paragraph 6, shall be conducted only between the hours of 8:00 a.m. and 8:00 p.m.
 8. The activity shall not give rise of the need for on-street parking which shall interfere with the residential parking on the street adjacent to the principal structure in which the activity is permitted.
- c. The following activities related to home occupations are prohibited:
1. Any activity which creates noise, smells or sights, which are ascertainable outside of the principal structure in which the activity takes place;
 2. Any activity which causes interference with electrical or electronic equipment off the premises in which the activity takes place;
 3. A retail or wholesale salesroom(s) or showroom(s);
 4. Any activity which involves the use or storage of hazardous materials as defined by law.

(Ord. No. 904-88 § 25-5.3I; Ord. No. 1140-92 § 1)

25-9.10 Home Professional Office.

A home professional office must meet the following conditions:

- a. The home must be located on one of the following streets or roadways: Pleasant Valley Way, Mount Pleasant Avenue, State Highway 10, Northfield Avenue, Main Street, Prospect Avenue, Gregory Avenue, Old Short Hills Road, Eagle Rock Avenue, Park Avenue, Washington Street, Harrison Avenue, Valley Road or South Valley Road.
- b. The professional use must be located on the entry level, and shall not occupy (i) more than fifty (50%) percent of the entry level and (ii) shall not exceed one thousand (1,000) square feet.
- c. A site plan indicating the part of the premises, with square footage, to be used shall be submitted to the Technical Review Committee of the Planning Board for approval. A Certificate of Continued Occupancy, or Certificate of Occupancy, shall be required. Amended site plan approval and a new Certificate shall be required for any change of the profession practiced on the premises.
- d. The applicant shall submit evidence that he or she has the degree, certificate or license of the profession for which the premises are to be used.
- e. Not more than three (3) people, including the resident of the home and staff, can work in the professional activity on the premises.
- f. A sufficient number of spaces shall be provided for off-street parking for residents of the home and staff personnel.
- g. A name plate, not exceeding one (1) square foot in area, may be used after obtaining a sign permit from the Planning Department. No interior illuminated lighting in the sign shall be permitted; and only the name of the professional and the profession shall appear on the sign which shall be within the property lines not more than five (5) feet high, and shall be located within the property lines of the site. No signs shall be posted in windows.
- h. If a home is located on a corner lot, and one of the adjacent streets is listed in paragraph a, a home professional office, otherwise subject to the requirements of this ordinance is permitted.

25-9.11 Portable Storage Containers.

The use of portable storage containers is permitted on a temporary basis and must meet the following conditions:

- a. Portable storage containers shall be placed on property within a residential zone for no more than 30 days unless used in conjunction with a construction permit, in which event, it shall be permitted to remain for the duration of the construction permit, but no more than one year.
- b. A property owner may apply for an extension of the 30 day limitation to the Zoning Officer for good cause, but in no event for more than an additional 30 days.
- c. No portable storage container shall be placed in any area on a residential property not meeting the accessory structure setback requirements of the zone and in no event shall a portable storage container be placed in a front yard, the public right-of-way, or at any location which obstructs traffic visibility. All portable storage containers shall be placed on a driveway, where possible.
- d. There shall be a limit of one portable storage container per property.

- e. The size of a portable storage container shall not exceed ten feet in height and ten feet by twenty feet in width and length.
- f. The portable storage container and the area surrounding it shall be kept in a neat and clean condition.
- g. Persons intending to place a portable storage container on a residential property shall first obtain a permit therefor following completion of the relevant application form and payment of a fee of \$75.00.

25-10 SUPPLEMENTAL PROVISIONS FOR PLANNED DEVELOPMENT DISTRICTS.

25-10.1 Objectives.

The Township Council has determined that West Orange contains many unique geological, topographical and environmentally sensitive conditions within its boundaries. Furthermore, the diminishing amount of open space and changes in land development techniques require that new land use control methods be employed to insure that environmentally sensitive areas be protected and that future growth be consistent with the character of the community as a whole and with the goals described by the Revised Comprehensive Master Plan of the Township. Therefore, in order that the public's health, safety and general welfare be furthered and the conservation and more efficient use of energy, materials and open space be encouraged and that a more efficient use of the land and public services be fostered, together with the need to lessen the demand on the community's infrastructure, the Township does hereby provide for the following planned development districts. (Ord. No. 904-88 § 25-5.4A)

25-10.2 Planned Residential Developments.

The areas within which the controls of this section shall apply are delineated on the Township Zoning Map and are entitled "Planned Unit Residential Development" (PURD) and "Cluster" (RC) Districts of the Township of West Orange, Essex County, New Jersey, which map is adopted simultaneously herewith.

a. Standards of Development.

1. Permitted Uses. The following uses shall be permitted within PURD and RC Districts.
 - (a) Single-family, detached dwelling in the RC District only.
 - (b) Townhouses.
 - (c) Garden Apartments in the PURD District only.
 - (d) Multi-family development in the PURD District only.
 - (e) Common open space.
 - (f) Developed recreational facilities.
 - (g) Uses ancillary and accessory to the above.
 - (h) Retail and service facilities for the project only with no signs or exterior advertising.
2. Permitted Density. The density shall be computed on the basis of the entire contiguous tract owned by the applicant. The density of the development need not be uniformly applied to the entire site for which an application for a Planned Development is submitted, provided that all site design objectives and staging limitations established elsewhere in this section are adhered to by the applicant. The maximum density in the RC and PURD Districts shall be four (4) dwelling units per gross acre.

3. Open Space Credit. "If a portion of land being part of a contiguous area, or adjacent to a P.U.R.D. or Cluster zone is dedicated or restricted by the owner as a transitional strip, buffer or common open space, then the density for the area of the lands remaining in the P.U.R.D. zone or Cluster zone may be computed by the Planning Board on the basis of the total acreage owned by the proposed developer to the allocations of such land for the transitional strip, buffer or common open space. In no case shall such transitional strip, buffer or common open space exceed thirty (30%) percent of the total land area included as part of the application." If the area has been used in the calculation of open spaces or buffering elsewhere, the area cannot be used again. Explanation: This provision allows, under certain circumstances, areas adjacent to P.U.R.D. or Cluster zones to be included in the density computations for the P.U.R.D. or Cluster project.
- b. *Common Open Space.* Common open space shall be provided as part of any Planned Residential District. The minimum amount of common open space to be provided shall be calculated and determined as follows:
1. The total amount of common open space within a Planned Residential District, including sidewalks, decorative paved areas, swimming pools, tennis courts and other recreational facilities, shall be not less than twenty (20%) percent of the total tract being considered.
 2. The maximum impervious coverage (which term includes all roof areas, curbing, streets, roads, driveways and paved parking areas, but which does not include sidewalks, recreational areas, such as tennis courts, swimming pools, etc. or decorative paved areas) shall not exceed fifty (50%) percent of the total tract being considered.
 3. Anything in the foregoing subparagraphs to the contrary notwithstanding, not less than twenty (20%) percent of the total tract shall be natural open space which shall not contain any roads, parking lots or structures, or consist of required back yards.
 4. All land which would be required for single house lots, under the minimum size requirements of this section, but is not so used under the permitted lot sized reduction provisions of this section, but is not so used under the permitted lot sized reduction provisions of this section must be devoted instead to common open space.
 5. The location of common open space shall be subject to approval by the Planning Board or Zoning Board in accordance with the guidelines established under the site and design objectives included elsewhere in this section and in the Site Plan and Subdivision Ordinances.
 6. Improvements to the common open space shall be determined by the Planning Board or Zoning Board with "D" variance and may include but shall not be limited to grading, drainage, planting, walkways, lighting and recreational facilities.
 7. The municipality, by affirmative action of the Council, may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance. Common open space need not be dedicated to or made available for public use, in which instance the landowner shall provide for and establish an organization for the ownership and maintenance of any common open space and such organization shall not be dissolved nor shall it dispose of any common open space, by sale or otherwise (except to an organization conceived and established to own and maintain the common open space), without first offering to dedicate the same to the Township or other governmental agency.

In the event that the organization established to own and maintain common open space or any successor organization shall at any time after establishment of the "Planned Development" (PURD or RC) fail to maintain the common open space in reasonable order and condition in accordance with the plan, the Township may serve written notice upon such organization or upon the residents, owners, developers or mortgagees of the

development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. The notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof, and shall state the date and place of hearing thereon which shall be held within fourteen (14) days of the notice. At such hearing the Township may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof are not cured within fifty (50) days or any extension thereof, then the Township, in order to preserve the taxable values of the properties within the development and to prevent the common open space from becoming a public nuisance, may enter upon the common open space and maintain the same for a period of one (1) year. The entry and maintenance shall not vest in the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the residents and owners. Before the expiration of the year, the Township shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization, or to the residents and owners of the planned development, to be held by the municipal authority, at which hearing such organization or the residents and owners of the planned development shall show cause why such maintenance by the Township shall not, at the option of the Township, continue for a succeeding year. If the municipal authority shall determine that such organization is not ready and able to maintain the common open space in reasonable condition, the municipality may, at its discretion, continue to maintain the common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter. The decision of the municipal authority in any such case shall constitute a final administrative decision subject to judicial review.

The cost of such maintenance by the Township shall be assessed ratably against the properties within the planned development that have a right of enjoyment of the common open space, and shall become a tax lien on the properties. The Township, at the time of maintenance, shall file a notice of such lien in the office of the County Clerk upon the properties affected by such lien within the planned development.

- c. *Private Roads.* The required width of pavement and graded rights-of-way cross section shall be the same as that required for public streets and meet the Township's standards.
- d. *Other Standards.*
 - 1. Requirements for single family detached dwellings shall be as follows:
 - (a) Minimum lot size—1 acre
 - (b) Minimum front yard—35 feet
 - (c) Minimum rear yard—45 feet
 - (d) Minimum side yard—20 feet by 20 feet
 - (e) Maximum building height—35 feet
 - (f) Minimum lot width—125 feet
 - (g) Maximum coverage—20 percent
 - (h) Minimum off-street parking spaces—2.5 per dwelling unit
 - 2. Townhouses (RC District) shall be permitted provided that the requirements of the subdivision ordinance are met, as well as the following:
 - (a) Total minimum parcel—10 contiguous acres
 - (b) Minimum lot size—2,500 square feet

- (c) Minimum front yard—30 feet
 - (d) Minimum lot depth—100 feet
 - (e) Maximum structural height—3 stories or 35 feet
 - (f) Minimum off-street parking spaces—2.0 per dwelling unit
3. Requirements for mixed forms of dwelling units in a PURD District.
- (a) Total minimum parcel size—20 contiguous acres
 - (b) Minimum lot size per dwelling unit—2,500 square feet
 - (c) Minimum building size per structure—1,800 square feet
 - (d) Minimum floor area per dwelling unit within a multi-family structure—600 square feet
 - (e) Maximum building height—35 feet
 - (f) Minimum distance between buildings—50 feet
 - (g) Maximum number of dwelling units per grouping—6
 - (h) Minimum off-street parking stalls per dwelling unit—2.0
4. In all cases where an RC District or a PURD District abuts any other residential zone, there shall be provided within the tract being developed as a PURD or RC, a natural state buffer zone consisting of only upgraded natural land contours and natural or filled in planting, of not less than fifty (50) feet contiguous to the border of the other residential zone. The Planning Board may permit the following alterations to the natural state and none other.
- (a) The erection of a fence in a size and form acceptable to the Planning Board.
 - (b) Replacement planting to restore any growth damaged or destroyed during construction.
- e. *Townhouse Residential Cluster Developments.* A townhouse residential cluster development shall be permitted in the R-3 District as a conditional use under all the requirements and conditions of subsection 25-24.2b(1)(k).
- f. Townhouse/low-rise residential cluster developments shall be permitted in the R-5 District as a conditional use under all the requirements and conditions of subsection 25-24.2b(1)(l) as amended.
(Ord. No. 904-88 § 25-5.4B; Ord. No. 1859-02; Ord. No. 1932-04 § III)

25-11 SUPPLEMENTAL PROVISIONS FOR NON-RESIDENTIAL DISTRICTS AND USES.

In addition to the provisions of the Table of District Regulations, every use in a nonresidential district shall be further subjected to all of the following regulations. (Ord. No. 904-88 § 25-5.5)

25-11.1 Limitations on Machine Shops and Research Laboratories.

In an industrial district, machine shops and research laboratories, experimental or testing, shall be permitted, provided that:

- a. All phases of the operation, including processing, shipping and employee parking, are accommodated on the same lot.
- b. Only electric motor power is to be used.
- c. There is no open storage of waste or scrap material outside of building.

- d. There is no light, sound, vibration, or odor emission beyond the property lines.

25-11.2 Side Yards.

Side yards of nonresidential buildings on lots which are contiguous to the boundary of any residential district shall have a minimum required width of seventy-five (75) feet. (Ord. No. 904-88 § 25-5.5C)

25-11.3 Buffer Strips in All Nonresidential Districts and for Residential Developments of Ten Acres or Greater.

- a. In addition to the setback requirements listed in subsection 25-5.1 of the Table of District Regulations, along any side or rear property line which is also the boundary line between a nonresidential district and a residential district or is contiguous to a residential use in a residential zone, a buffer strip shall be planted and maintained in perpetuity with trees and shrubbery of such sizes and densities as to adequately screen the buildings from such abutting residential district or use in a residential zone. The required buffer width shall be fifty (50) feet in all nonresidential zones. These requirements shall also apply to a residential subdivision or site plan on a property that is 10 acres or greater in area, as well as to any residential use permitted by use variance in a non-residential zone.
- b. The above requirements shall be reduced for lots that are less than 40,000 square feet in area and/or less than 300 feet in width. On such smaller lots, the required buffer width shall be 10 percent of lot width or depth, but not less than 20 feet.
- c. On wooded sites, existing trees should be saved within buffer strips to the maximum extent possible. Where existing trees would be removed in buffer strips, replacement trees and landscaping shall be provided to form a continuous natural landscape edge. Berming, evergreen trees and/or fencing shall be provided along the interior edge of the buffer (i.e., closest to new development on the site) when adequate natural buffering cannot be provided.
- d. Aboveground stormwater management facilities shall not be permitted in buffer strips.
- e. A landscaping plan shall be submitted and approved by the Township Planner and the approved plan shall be kept on file in the Department of Planning and Development. (Ord. No. 904-88 § 25-5.5D; Ord. No. 1062-91; Ord. No. 1458-97 § 1)

25-11.4 Waste Disposal in P-C, O-R, or I District.

In a P-C, I or O-R District, every building or group of buildings shall make adequate provisions for the proper disposal of wastes within a screened enclosure. Such provision should be reflected in the preliminary site plan. (Ord. No. 904-88 § 25-5.5E; Ord. No. 1337-95 § 5)

25-11.5 Retail Sales in OB-1, OB-2 and PURD Districts.

Retail sales or service permitted as an accessory use in the OB-1, OB-2 and PURD Districts shall be an integral part of the permitted building, shall be limited to sales or services designed for the convenience of the employees, visitors and tenants of the permitted building and no goods, advertisements or other evidence of such sales or services shall be visible from the street. Such use shall not consist of more than fifteen (15%) percent of the total first floor area in the OB-1 and PURD Districts or ten (10%) percent of the gross floor area of the buildings or three thousand (3,000) square feet whichever is less in the OB-2 District and shall be designated on the preliminary site plan. (Ord. No. 904-88 § 25-5.5H)

25-11.6 Open Space in OB-1 and OB-2 Districts.

In the OB-1 and OB-2 Districts, one (1) square foot of open space shall be provided for each square foot of building area except that no more than forty (40%) percent of the lot in the OB-1 District nor thirty (30%) percent in the OB-2 District may be covered by buildings or structures. Off-street parking areas are not permitted within open space areas, except for "overflow" parking spaces that are specifically approved by the Planning or Zoning Board and are constructed in a manner acceptable to the Township Engineer. Furthermore, no accessory structure or off-site parking area shall be located within the required front yard no closer than twenty-five (25) feet to the side or rear property lines in the OB-1 District or ten (10) feet to the side or rear property lines in the OB-2 District. (Ord. No. 904-88 § 25-5.5J)

25-11.7 All Uses in the O-R District.

A research laboratory such as an experimental or testing laboratory or a pharmaceutical laboratory for research, processing and compounding of drugs and medicines shall be permitted in the O-R District, provided that:

- a. The use will not create any nuisance beyond the boundaries of its lot by reason of the emission of dust, odors, fumes, noises, vibrations or excessive light.
- b. The use does not involve production of any commodity for sale or distribution at that location nor regular receipt of material and shipment of products, except, however, that the foregoing limitations and restrictions on the production, sale and distribution of commodities and the receipt and shipment of materials and products shall not apply in the case of a pharmaceutical laboratory for research development, processing and compounding of drugs and medicines, provided that such pharmaceutical laboratory shall comply in all respects to the other requirements of this chapter and all other applicable Township ordinances.
- c. Provision shall be made for adequate and suitable access facilities for traffic from public streets and sidewalks, and for directional signs, so as to assure the public safety and avoid traffic congestion.
- d. Provision shall be made for adequate and suitable planting and screening in buffer zone, pursuant to subsection 25-11.15.
- e. Provision shall be made for adequate and suitable planting and screening within the property adjacent to any street lines which bound the property, which screening and planting should be an appropriate mixture of evergreen and deciduous plant material so as not to conceal the buildings from the street. Furthermore, no plantings are to be located in the exit driveways which would interfere with the motorists' line of sight.
- f. Provision shall be made in the preliminary site and building plans for truck loading bays, which shall be enclosed entirely within the building, including interior truck service areas and driveways, and which shall be provided with entry and exit driveways for trucks on the rear facade of the building, i.e., on the side opposite from the principal public entrance.
- g. Provision shall be made in the preliminary site plan for the general landscaping of all areas not specifically assigned to buildings, streets, private driveways and parking areas, and for the screening of parking areas and landscaping thereof as provided in subsection 25-12.1 between abutting lanes of parking spaces; all of which landscaping shall be compatible with landscaping standards that are customary for a residential estate type of development.
- h. *Indoor Storage and Loading.* In an O-R District, no visible display of waste, trash or scrap and no open storage of material of any kind shall be permitted and in such districts provision shall be made for properly enclosed truck loading areas and bays entirely within the structure.

25-11.8 Roof Equipment.

Roof equipment including but not limited to elevator towers, air conditioning units, satellite dishes, and similar equipment in any zoning district other than single family shall be screened with either a solid or decorative shield. Such equipment should be located in the center of the roof when possible. No roof equipment shall exceed fifteen (15) feet in height. (Ord. No. 904-88 § 25-5.5M)

25-11.9 P-C District.

- a. *Indoor Storage and Loading.* In a P-C district, no visible display of waste, trash, scrap or material of any kind shall be permitted except that items offered for sale may be displayed in accordance with an overall plan to be included as part of the preliminary site plan, and in such districts provisions shall be made for properly enclosed truck loading areas and bays located entirely within the structure.
- b. *Shopping Centers.* There shall be only one grouping of free standing signs identifying various businesses within the center. Individual standing signs are prohibited.
(Ord. No. 904-88 § 25-5.50)

25-11.10 Sidewalk Cafes in the B-1 and B-2 Districts.

Sidewalk cafes shall be permitted subject to the standards and conditions of Section 5-10 of Chapter V, General Licensing, of the Revised General Ordinances of the Township of West Orange and in conjunction with the following conditions:

- a. Adequate access for emergency response personnel must be allowed to the main entrance of the serving establishment from the outdoor serving area as defined by Township fire regulations.
- b. Adequate sidewalk access (at least four (4) feet) must be maintained for easy passage of pedestrians on any public sidewalk or right-of-way.
- c. Some form of formal space delineation, such as a removal fence, may be required during cafe business hours to define sidewalk space from cafe space.
- d. Outdoor or patio type furniture must be used; upholstered furniture is prohibited.
- e. Street furniture (seating, tables, fencing, etc.) must be moved into the serving establishment when the outdoor cafe is not open for business.
- f. Cleanliness of the outdoor serving area is the responsibility of the serving establishment.
- g. Signage, in addition, to that permitted for the serving establishment pursuant to Section 25-15, is prohibited.
- h. All proposed sidewalk cafes shall be subject to review and approval of the West Orange Planning Board Technical Review Subcommittee (TRS).
- i. A sketch showing the proposed location of tables, chairs and umbrellas shall be prepared and submitted to the Director of Planning and Development for approval prior to the use of the sidewalk area.
- j. The use of the described locations shall be authorized by a sidewalk cafe permit issued by the Director of Planning upon compliance by the applicant with the requirements of this paragraph and the payment of an annual fee of fifty (\$50.00) dollars.
- k. Any permit issued by the Director of Planning shall designate the hours of operation of any sidewalk cafe but in no event may a sidewalk cafe remain open after 11:00 p.m. on Sunday through Thursday or after 12:00 midnight on Friday, Saturday and legal holidays.

1. Nothing herein shall be deemed to be a waiver of the provisions of any health and/or licensing ordinance regulating the operation of a sidewalk cafe.
(Ord. No. 904-88 § 25-5.5Q; Ord. No. 1166-93)

25-11.11 Outdoor Sales.

- a. It shall be unlawful for any person, firm, corporation, merchant, club, association, group, charitable institution or organization to conduct an outdoor sale as defined herein within any business or commercial zone district without first having obtained a permit from the Zoning Officer for that purpose as hereinafter provided:
 1. An application for a permit to conduct an outdoor sale shall be made at least fifteen (15) days prior to the sale, and shall be issued for not more than three (3) consecutive days. No person or entity shall be entitled to more than three (3) permits during a twelve (12) month period. Appropriate provisions for alternate days because of inclement weather shall be made at the time of application for the permit. No applicant, who has already been issued a permit shall be issued a permit for a period to commence within fifteen (15) days of the termination of any previously issued permit to that applicant for a particular location. The following information shall be provided and filed with the Zoning Officer prior to the issuance of a permit:
 - (a) The name, address and phone number of the person, firm, corporation, club, association, group, charitable institution or organization conducting the sale.
 - (b) The name, address and phone number of a designated "contact person." This person will be contacted if there are any violations of this subsection during the sale. The contact person shall sign the application.
 - (c) The name and address of the owner of the property on which the sale is to be conducted, together with the consent in writing by the owner.
 - (d) The location and times of such sale.
 - (e) The date or dates of the sale.
 - (f) An affirmation or sworn statement by the person signing that the information given is true and correct.
 2. The fee for a permit for an outdoor sale for a commercial or any for profit organization shall be one hundred (\$100.00) dollars. The fee for a permit for a bona fide not for profit organization or charity shall be twenty-five (\$25.00) dollars. If more than one (1) person, firm, corporation, merchant, club, association, group, charitable institution or organization is participating in the sale, each participant shall pay a permit fee. Each permit shall be posted so as to be at the location, and for the duration, of the sale.
 3. No street or vehicle right-of-way within the confines of the location of the sale shall be blocked or obstructed by any merchandise offered for sale. A three (3) foot passageway for pedestrians on public sidewalks shall be left open, and merchandise shall be securely and adequately placed so that it will not endanger passersby. Such sales shall not be operated in any manner which would cause a nuisance or create a fire hazard.
 4. Outdoor sales shall be conducted only in commercial and business zoning districts and only between the hours of 9:00 a.m. and 9:00 p.m., exclusively of set up and disassembling time.
 5. Any signage specifically for the outdoor sale shall require a temporary sign permit which shall be in effect only for three (3) days prior to, and the days of, the permitted sale and any signage shall comply with the rules and regulations regarding signage in the Land

Use Regulations for the Township, and shall be removed within twenty-four (24) hours after the end of such permit.

6. The following persons and sales shall be excepted from this subsection: Persons selling goods according to an order or process of a court of competent jurisdiction; persons acting in accordance with their duties and powers as public officials; those conducting "garage sales" in residential zones in accordance with the "Garage Sale Ordinance."
7. If food or food stuffs will be sold, an additional permit therefor shall be obtained from the Township Health Department.
8. This subsection shall be enforced by the Zoning Officer or his or her designee and the Police Department. It shall be the duty of the Zoning Officer and/or Police Department to investigate any possible violations of this subsection. It shall also be the duty of all departments, officers and employees of the Township to bring to the attention of the Zoning Officer any violations of this subsection of which they become aware.
9. The holder of a permit and any agents, servants or employees of the holder shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity.
10. Any person, firm, corporation, merchant, club, association, group, charitable institution or organization who shall violate any of the terms or regulation of this subsection may have their permit summarily revoked by the Zoning Officer. In addition, any person, firm, corporation, merchant, club, association, group, charitable institution or organization conducting any such outdoor sale or similar activity without having the necessary permit or who shall violate any of the terms or regulations of this subsection shall also, upon conviction of any violation thereof, be fined not more than one thousand (\$1,000.00) dollars for each violation. Each day, or part thereof, during which a sale without the required permit or in violation hereof shall continue, shall be considered a separate violation.
11. The Township Council may in its discretion designate Township wide or area wide celebration days during which an outdoor sale may be held and such sale shall not be subject to the limitations of paragraph 1. of this subsection.
(Ord. No. 1317-95 § 1)

25-11.12 Outdoor Seasonal Sales.

- a. It shall be unlawful for any person, firm, corporation, merchant, club, association, group, charitable institution or organization to conduct an outdoor seasonal sale as defined herein without first having obtained a permit from the Zoning Officer for that purpose as hereinafter provided:
 1. An application for a permit to conduct an outdoor seasonal sale shall be made at least fifteen (15) days prior to the sale, and shall be issued for not more than forty-five (45) consecutive days. The following information shall be provided and filed with the Zoning Officer prior to the issuance of a permit:
 - (a) The name, address and phone number of the person, firm, corporation, club, association, group, charitable institution or organization conducting the sale.
 - (b) The name, address and phone number of a designated "contact person." This person will be contacted if there are any violations of this subsection during the sale. The contact person shall sign the application.
 - (c) The name and address of the owner of the property on which the sale is to be conducted, together with the consent in writing by the owner.

- (d) The location and times of such sale.
 - (e) The date or dates of the sale.
 - (f) An affirmation or sworn statement by the person signing that the information given is true and correct.
2. The fee for a permit for an outdoor seasonal sale for a commercial or any for profit organization shall be one hundred (\$100.00) dollars per day. The fee for a permit for a bona fide not for profit organization or charity shall be twenty-five (\$25.00) dollars. If more than one (1) person, firm, corporation, merchant, club, association, group, charitable institution or organization is participating in the sale, each participant shall pay a permit fee. Each permit shall be posted so as to be at the location, and for the duration, of the sale.
 3. No street or vehicle right-of-way within the confines of the location of the sale shall be blocked or obstructed by any merchandise offered for sale. A three (3) foot passageway for pedestrians on public sidewalks shall be left open, and merchandise shall be securely and adequately placed so that it will not endanger passersby. Such sales shall not be operated in any manner which would cause a nuisance or create a fire hazard.
 4. Outdoor seasonal sales shall be conducted only in commercial and business zoning districts and only between the hours of 9:00 a.m. and 9:00 p.m., exclusively of set up and disassembling time, except that a bona fide not for profit organization or charity may conduct outdoor seasonal sales on a non-residential property located in a residential zoning district.
 5. Any signage specifically for the outdoor sale shall require a temporary sign permit which shall be in effect only for three (3) days prior to, and the days of, the permitted sale and any signage shall comply with the rules and regulations regarding signage in the Land Use Regulations for the Township, and shall be removed within twenty-four (24) hours after the end of such permit.
 6. This subsection shall be enforced by the Zoning Officer or his or her designee and the Police Department. It shall be the duty of the Zoning Officer and/or Police Department to investigate any possible violations of this subsection. It shall also be the duty of all departments, officers and employees of the Township to bring to the attention of the Zoning Officer any violations of this subsection of which they become aware.
 7. The holder of a permit and any agents, servants or employees of the holder shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity.
 8. Any person, firm, corporation, merchant, club, association, group, charitable institution or organization who shall violate any of the terms or regulation of this subsection may have their permit summarily revoked by the Zoning Officer. In addition, any person, firm, corporation, merchant, club, association, group, charitable institution or organization conducting any such outdoor sale or similar activity without having the necessary permit or who shall violate any of the terms or regulations of this subsection shall also, upon conviction of any violation thereof, be fined not more than one thousand (\$1,000.00) dollars for each violation. Each day, or part thereof, during which a sale without the required permit or in violation hereof shall continue, shall be considered a separate violation.

25-11.13 Massage, Bodywork or Somatic Therapy Establishments.

A massage, bodywork or somatic therapy establishment shall be permitted in the B-1 and B-2 Districts and shall meet the following conditions:

- a. The massage, bodywork or somatic therapy establishment shall be licensed and inspected annually by the Township of West Orange Department of Health.
- b. Each massage, bodywork and somatic therapist shall be certified/licensed by State of New Jersey.

25-12 PARKING AND LOADING SPACE REQUIREMENTS.

25-12.1 General Provisions for Off-Street Parking.

In all districts off-street parking spaces for the storage or parking of passenger vehicles of occupants, employees and patrons of main buildings and structures hereafter occupied or used shall be provided in accessory private garages or in accessory parking areas in amounts not less than specified in this section, provided that nothing in this section shall prevent the repairing, reconstruction or rebuilding and continued use, pursuant to Section 25-24, of any nonconforming building or structure lawfully existing. All parking areas in all uses other than one (1), two (2) and three (3) family houses shall meet all of the following requirements:

- a. All off-street parking areas shall be surfaced with an asphalt, bituminous, or cement binder pavement which shall be graded and drained to dispose of all surface water as provided by the Township Engineer. There shall be a five (5) foot wide sidewalk at least five (5) inches above the parking area level between any building and a parking area or drive used by the public.
- b. The entire perimeter of all parking areas and the edges of all entrance and exit drives shall be enclosed with a concrete or granite block curb at least six (6) inches above the paving surface. Curbing shall not be less than five (5) feet from any fence or screening nor less than five (5) feet from any structure. Where required, concrete wheel stops shall be provided.
- c. All parking spaces within a parking area shall be clearly marked showing the parking arrangement and traffic direction within the parking area, and such marking shall be continuously maintained.
- d. Any lighting in connection with off-street parking shall conform with Section 25-14 of this chapter.
- e. Any parking area shall be screened on any side which adjoins or faces premises situated in any residence district by a fence, wall, berm, evergreen or hedge maintained in good condition as required. The fences as required by this subsection may be waived by the Planning Board or the Zoning Board if in the Board's judgment, because of the topography or other extraordinary or exceptional conditions, the fence is not necessary to protect the adjoining property.
- f. All parking areas shall be so designed that vehicles are not compelled to back directly onto a public right-of-way.
- g. Such parking area shall be used solely for the parking of passenger automobiles and no repair work or service of any kind shall be conducted in the parking lot. No permitted sign shall be larger than two (2) square feet in area.
- h. All parking areas shall be designed with service aisles to meet the following standards:
 - 1. Parallel parking, twelve (12) foot aisle width.
 - 2. Thirty (30°) degree angle parking, eleven (11) foot aisle width. One way.
 - 3. Forty-five (45°) degree angle parking, thirteen (13) foot aisle width. One way.
 - 4. Sixty (60°) degree angle parking, eighteen (18) foot aisle width. One way.
 - 5. Ninety (90°) degree angle parking, twenty-four (24) foot aisle width. Two way.

6. All driveways for two way traffic shall be a minimum of twenty-four (24) feet wide and in no case shall a driveway be less than fourteen (14) feet wide.
- i. Each entrance or exit from such parking area shall be at least fifty (50) feet from any residential district.
- j. Every off-street parking area shall be subject to site plan approval by the Planning Board or Board of Adjustment to insure its adequacy, relation to traffic safety and protection of the adjacent properties.
- k. Off-street parking facilities as required by this chapter shall be provided on the same lot as the principal building or use that they serve, except that off-site parking facilities for non-residential uses in the B-1, B-2, OB-1 and OB-2 Districts may be provided on properties within 250 feet of the lot on which the principal building is located.
- l. Off-street parking facilities may be placed in any required yard in the I, I-B, P-C and O-R Districts, provided the parking area, placed in the front yard, is at no point closer to the public right-of-way than one-half (1/2) the setback requirement or fifty (50) feet whichever is less. No parking in the side yard shall be closer than one-half (1/2) the side yard requirements to the side property line or ten (10) feet whichever is greater. In the O-B and B Districts, off-street parking may be placed in the side or rear yard only.
- m. The parking requirement for a building or development with a mix of non-residential uses shall be the total of the requirements of the component uses, computed separately in accordance with the provisions of this subsection. Shared parking shall be permitted for a mixed-use development containing a residential use, per Section 25-12.2a3.
- n. The amount of parking area to be improved as required by subsection 25-12.2 may be reduced by the Planning Board or Board of Adjustment if it can be clearly demonstrated by the applicant that the full amount of parking area is not necessary, however, the area to remain unimproved shall at all times be available for parking in the event that future conditions should so require, shall be fully graded and suitably landscaped in keeping with the remainder of the site. The approved site plan shall show the location of all required parking stalls and shall designate those spaces which meet the definition of compact size as described in paragraph p. below. The Board, in its discretion, may allow up to twenty-five (25%) percent of the total number of required spaces to be designated as compact size if the applicant presents adequate proof that such spaces will not adversely affect the health, safety or welfare of the Township and/or the users of the subject property.
- o. All new uses or expansion of existing uses in nonresidential districts shall provide curbs, sidewalks and shade trees within the street right-of-way. All such facilities shall be installed in accordance with Township specifications as adopted by the Township Council.
- p. Landscaped plans shall be submitted for detailed planting within the parking area. There shall be a minimum of one (1) tree plus ground level planting for each ten (10) parking stalls proposed.
- q. Standard size parking spaces shall have minimum dimensions of nine (9) feet by eighteen (18) feet measured perpendicular to the axis of the length with adequate provision for ingress and egress to all parking spaces. Compact size spaces shall not be less than eight (8) feet by fifteen (15) feet, if approved by the Planning Board or Board of Adjustment.
(Ord. No. 904-88 § 25-5.6A; Ord. No. 1337-95 § 8)

25-12.2 Minimum Required Number of Parking Spaces.

- a. Residential uses.
 1. The number of off-street parking spaces required for residential uses shall be determined pursuant to N.J.A.C. 5:21, as amended, and by reference to Parking Schedule I below.

Alternative parking standards to those shown in the Schedule below shall be accepted if the applicant demonstrates these standards better reflect local conditions. Factors affecting minimum number of parking spaces include household characteristics, availability of mass transit, urban versus suburban location, and available off-site parking sources.

Parking Schedule I Parking Requirements for Residential Land Uses	
Housing Unit Type/Size	Parking Requirement (per unit)
One-family and two-family ^a	
2 Bedroom	1.5
3 Bedroom	2.0
4 Bedroom	2.5 ^c
5 Bedroom	3.0
Garden apartment ^b	
1 Bedroom	1.8
2 Bedroom	2.0 ^c
3 Bedroom	2.1
Townhouse ^{b, d}	
1 Bedroom	1.8
2 Bedroom	2.3 ^c
3 Bedroom	2.4
Mid-rise ^b	
1 Bedroom	1.8
2 Bedroom	2.0 ^c
3 Bedroom	2.1
High-rise ^b	
1 Bedroom	0.8
2 Bedroom	1.3 ^c
3 Bedroom	1.9
Retirement community	Values shall be commensurate with the most appropriate housing type and size noted above that the retirement community resembles
Senior citizens housing project	1.48
Notes:	
a. A minimum of one parking space for a single-family detached dwelling shall be provided in a garage. b. Requirements for attached units (apartment/condominium/townhouse) include provisions for guest parking (0.5 spaces per dwelling unit). Guest parking must either be provided for on street or in common parking areas. c. If applicant does not specify the number of bedrooms per unit, this parking requirement shall apply. d. Three-family dwellings shall be subject to the parking requirements for townhouse development.	

2. Garage and driveway combinations shall be counted as follows:

- a. Each garage car space shall be counted as 1.0 off-street parking space regardless of the dimensions of the driveway.
 - b. A one-car garage and driveway combination shall count as 2.0 off-street parking spaces, provided the driveway measures a minimum of 18 feet in length between the face of the garage door and the right-of-way.
 - c. A two-car garage and driveway combination shall count as 3.5 off-street parking spaces, provided a minimum parking area width of 20 feet is provided for a minimum length of 18 feet as specified for a one-car garage and driveway combination.
3. When housing is included in mixed-use development, a shared parking approach to the provision of parking shall be permitted.
 4. When, in the judgment of the Planning Board or Board of Adjustment, on-street parking is available, then only that proportion of the parking requirement which is not available on the street shall be provided in off-street parking facilities. A length of 23 feet per on-street parking space shall be used in calculating the number of available on-street parking spaces.
 5. For projects containing dwelling units required by the New Jersey Uniform Construction Code's Barrier Free Subcode (N.J.A.C. 5:23-7), to be accessible, parking spaces for people with disabilities shall be provided in accordance with the requirements of the Barrier Free Subcode and shall be considered part of the total number of required spaces.
- b. Non-residential uses.
 1. The number of off-street parking spaces required for any non-residential use shall be determined by reference to Parking Schedule II below.

Parking Schedule II Parking Requirements for Non-Residential Uses	
Use	Required Parking Spaces
Assisted living or congregate care facility	1 per bed
Car wash	3 per washing lane
Child care facility, day care center or nursery school	1 for each 350 square feet of gross square feet plus 1 for each employee and cooperative adult assistant on the premises at the same time during peak periods. Such uses shall also provide for additional off-street areas for loading and unloading of school buses.
Bank	1 for each 300 square feet of gross floor area
Billiard parlor	2 per billiard table
Bowling alley	2.5 per lane
Commercial recreation	1 per 150 square feet of gross floor area, plus 5 per each outdoor court or field

Motor vehicle fueling station or motor vehicle service station	5, plus 2 for each service bay and 1 for each 200 square feet of gross floor area of retail space. Vehicles that are on the premises to be repaired shall be parked in standard or compact parking spaces that are appropriately striped.
Hospital, nursing home or long -term care residential health care facility	1 per bed, plus 1 per every 2 nonresident employees and 1 per every resident employee
Hotel	1 per room, plus 1 space for each 1,000 square feet of gross floor area of ballrooms, conference rooms or similar space
Light industrial, laboratory and research uses	1 for each 400 square feet of gross floor area
Medical, dental, psychiatric and chiropractic offices	1 for each professional person, plus 1 for each employee plus 2 per examination room, not including a room for x-ray examination in a medical or chiropractic office, plus 2 additional parking spaces for each dental chair, or 1 for each 200 square feet of gross floor area, whichever requirement is greater
Office, other than medical, dental, psychiatric and chiropractic offices	1 per 250 square feet of gross floor area
Places of worship, community buildings, social halls and places of indoor public assembly	1 for each 3 seats of fixed capacity or 1 for each 45 square feet of floor area available to patrons. Benches and pews shall be considered as 1 seat for each 2 linear feet of seating space.
Private clubs, community center buildings and swim clubs	1 for each 45 square feet of gross floor area. For outdoor swim clubs, 1 for each 45 square feet of gross floor area, plus 1 for each 2 registered members.
Public, private, business or vocational school	1 for each employee on the premises at the same time during peak hours, plus 1 for each 5 pupils in the eleventh and twelfth grade, plus 1 parking space for each 2 pupils over 18 years of age who are not in the eleventh and twelfth grades. Additional parking spaces shall be provided for any other activity and use on the premises, such as an assembly hall in accordance with the provisions of this ordinance.
Restaurant, bar, cabaret and catering facilities	1 for each 3 seats or stools or 1 for each 45 square feet of floor area available to patrons. Benches shall be considered as 1 seat for each 2 linear feet of seating space.
Retail stores and personal service stores or studios not separately listed	1 per 250 square feet of gross floor area. Food service uses such as delis, bakeries and coffee shops with on-site seating shall add one additional space for every 3 seats.
Storage yard, machine shop, research laboratory, steam laundry, dry cleaning plant, publishing or printing plant or public utility building	1 per 300 square feet of gross floor area
Theater	1 for each 3 seats

Warehouse, storage and self-storage, wholesale business	1 per 600 square feet of gross floor area
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2. **Unscheduled uses.** Off-street parking requirements for uses not listed in Parking Schedule II shall be established by the approving authority, based upon accepted industry standards.
3. **Fractional spaces.** Whenever the application of Parking Schedule II results in a fractional parking space in excess of one-half, a full space shall be required.
4. **Joint parking facilities.** Persons developing property in the B-1 and B-2 Districts may meet the required parking provisions of this subsection by participation in a joint parking program of two (2) or more business uses, provided plans for such a joint program have been approved by the Planning Board and further provided that the area of the parking facilities equals the total parking area requirements of each use participating therein. Furthermore, a joint parking agreement establishing the rights and obligations of all parties to the agreement shall be signed and submitted to the Board. The agreement shall be conditioned on approval by the Board and the filing of same with the County as a recorded easement.

25-12.3 Loading Spaces.

a. Number of Spaces.

1. In all districts, for every building, or part thereof, which is to be occupied by retail stores requiring the receipt in vehicles of materials or merchandise, there shall be provided and maintained on these premises with such building, off-street loading spaces. Design of off-street loading spaces shall be such that vehicles will not be required to maneuver on any public right-of-way except to drive directly onto and off of the site. Retail stores under two thousand five hundred (2,500) square feet are exempted. The minimum number of spaces shall be determined in relation to gross floor area as follow:
 - (a) Two thousand five hundred to nine thousand nine hundred ninety-nine (9,999) square feet, one (1) space.
 - (b) One (1) additional space for each additional ten thousand (10,000) square feet or part thereof.
2. In all districts for every building or part thereof, which is to be occupied by manufacturing storage, goods, display, wholesale store or warehouse, market, hospital, laundry, dry cleaning or other use similarly requiring the receipt of distribution in vehicles of materials or merchandise, there shall be provided and maintained of the same premises with such buildings, off-street loading spaces. The minimum number of which shall be determined in relation to the gross floor area as follows:
 - (a) Up to fifteen (15) thousand square feet, one (1) space.
 - (b) Fifteen (15) to thirty thousand (30,000) feet, two (2) spaces.
 - (c) Thirty thousand (30,000) to one hundred thousand (100,000) square feet, three (3) spaces.
 - (d) One (1) additional space for each additional forty thousand (40,000) square feet or part thereof.

b. Size and Location of Spaces.

1. Each loading space shall be at least ten (10) feet in width, forty (40) feet in length and have a fourteen (14) foot overhead clearance.

2. The space is only permitted in the side or rear yard provided no part of the space is nearer than five (5) feet from any side or rear property line.
3. Parking areas and off-street truck-loading spaces shall be suitably paved, drained, lighted, appropriately planted and fenced for the protection of adjacent properties in accordance with specifications of the Township, and shall be arranged for convenient ingress, egress and safety of vehicles and pedestrians. The facilities shall be maintained in good condition by the owner.
(Ord. No. 904-88 § 25-5.6C)

25-12.4 Supplemental Parking and Loading Space Regulations.

a. *In All Districts:*

1. No garage shall be erected so as to encroach on a minimum required front yard, side yard or side front yard, except that an existing private garage for a one-family or two-family dwelling may be rebuilt within its same footprint as per Section 25-8.2e.
2. An access drive to an off-street parking area or truck-loading space may be located within a required side yard, but shall not be located within five feet of a side lot line.
3. Parking or storage of disabled, unlicensed, unregistered or obviously wrecked vehicles for a period of more than forty-eight (48) hours is expressly prohibited in any zoning district except on property specifically designated for that purpose.
4. Required parking areas shall be on the same lot with the main building or use to which they are accessory, except in the B-1 and B-2 Districts per Section 25-12.2b4.
5. Parking areas and truck-loading spaces shall have safe and adequate access to a public street either by a driveway on the same lot or by means of a permanent easement across any adjoining lot.
5. No trailer, semitractor, pole trailer, road tractor, truck tractor or vehicle with dual rear wheels shall be parked or stored on property in any district except as hereinafter provided.
 - (a) A trailer, semitrailer, pole trailer, road tractor, truck tractor or vehicle with dual rear wheels may be parked or stored on property in an industrial district during the hours of 9:00 p.m. and 7:00 a.m. without being completely housed in a garage.
 - (b) Nothing herein shall be deemed to prohibit the parking or storing of a trailer, semitrailer, pole trailer, road tractor, truck tractor or vehicle with dual rear wheels on property in any district while it is being used in the transaction of business with the owner or occupant of the property. In no event shall the time period authorized by this subsection exceed four (4) hours.
 - (c) The provisions of this subsection shall not apply to any vehicle parked or stored for the purpose of installing, maintaining or performing public utility services.
 - (d) Enforcement and Penalty.
 - (1) Enforcement of the provisions of these regulations shall be the joint responsibility of the Zoning Officer and/or the Police Department.
 - (2) Any person, firm, partnership, association, corporation or other entity convicted of violating these regulations shall be liable to a fine of fifty (\$50.00) dollars for each such violation and each day in which such violation continues shall constitute a separate violation or offense. In addition to the foregoing remedies the Township Attorney may maintain an action in any

court of competent jurisdiction to enjoin, restrain, abate, correct or remove any violation of these regulations.

b. *In Residential Districts.*

1. Private garages and parking areas shall be utilized only as an accessory to the principal use, except that one (1) parking space in a private garage accessory to a dwelling may be rented to a person who is not a resident of the main building.
2. Not more than thirty (30%) percent of the area of a minimum required front yard, rear yard or side yard shall be used as a parking area. For Senior Citizens Projects not more than sixty-five (65%) percent of the area of the minimum required front yard, rear yard or side yard shall be used as a parking area.
3. No commercial vehicle as defined in subsection 25-4b, pickup truck, truck, van or equipment related thereto, shall be parked or stored in any residential district between 9:00 p.m. and 7:00 a.m. unless the following conditions are satisfied:
 - (a) If there is a garage on the premises into which the vehicle fits in its stripped down fashion (i.e. without accessories), the vehicle must be parked or stored in the garage with the doors closed.
 - (b) If the premises has a garage into which the commercial vehicle fits in its stripped down fashion, there cannot be another ungaraged commercial vehicle on the premises.
 - (c) If the residence is multi-family, there can be only one (1) ungaraged commercial vehicle per property provided however that all commercial vehicles that can fit in a garage in their stripped down fashion must be parked or stored in a garage if the premises has a garage. In a multi-family residence, the property owner shall designate in writing the sole permitted commercial vehicle.
 - (d) If the vehicle is permitted by this section to be parked outside of a garage, all removable equipment such as pipes, pipe racks, ladders and all racks and equipment must be removed from the vehicle when parked and unexposed to public view.
 - (e) If the vehicle is permitted by this section to be parked outside of a garage, any signage or commercial markings that are permanently affixed to the vehicle must be covered with a blank metallic cover that is the same color as the body of the vehicle when the vehicle is parked.
 - (f) If the vehicle is permitted by this section to be parked outside of a garage, any signage or commercial markings, such as magnetic lettering, that is not permanently affixed to the vehicle must be removed when the vehicle is so parked.
 - (g) Any vehicle that does not fit within a garage as per paragraph a., may be parked in the driveway on the premises in the area of the driveway which is least visible from the nearest adjacent street or roadway.
 - (h) Any vehicle permitted to be parked outside a garage by this section must have a single axis chassis body with not more than four (4) wheels, it shall not be more than twenty (20) feet long and seven (7) feet high and shall not exceed six thousand (6,000) pounds registered gross vehicle weight.
 - (i) The vehicle must be owned and/or operated by a Township resident who is the property owner or tenant who actually resides at the property.
 - (j) Exception. Nothing herein shall be deemed to prohibit the parking or storing of a commercial vehicle, or equipment related thereto, in a residential district while it

is being used in the transaction of business with the owner or occupant of any residential property or is in the area for the purpose of installing, maintaining or performing public utility services.

- (k) Enforcement. Enforcement of these regulations shall be the joint responsibility of the Zoning Official or the Planning Director's designee and/or the Police Department. Both the vehicle owner and property owner/ occupant may be found responsible under this paragraph b,3.
 - (l) Exemption. The Zoning Official or the Planning Director's designee shall grant an exemption, to any resident who provides proof of the following:
 - (1) That the commercial vehicle is properly registered and meets all the requirements of the State of New Jersey including all appropriate weight and other restrictions.
 - (2) That the appearance of the commercial vehicle is clean, free of all graffiti, exterior is finely finished, and all other criteria set forth in paragraphs (d), (e), (f), (i), (j) are met.
 - (3) That the size of the driveway is sufficient or appropriate to permit the storage of the commercial vehicle. The driveway must be of sufficient size to permit the commercial vehicle to be parked with three (3) feet of paving on each side and at least twenty (20) feet from the sidewalk, if applicable, and/or the street whichever is further. The driveway shall be in good condition.
 - (4) That no other housing, health or other violations of the Township Ordinances and other laws exist.
 - (5) Show an inability to find alternate parking for the commercial vehicle.
 - (6) The exemption shall only be available for one (1) commercial vehicle per residence and shall be approved for the particular vehicle only.
 - (7) In granting the exemption, the Zoning official or the Planning Director's designee may impose such reasonable provisions or restrictions as he or she deems necessary and appropriate.
 - (8) Upon issuance of an exemption and payment of a permit fee of fifty (\$50.00) dollars per year, a sticker shall be affixed to the exempted vehicle's rear bumper and may not be transferred to any other vehicle without Zoning Board approval.
 - (m) Violation. Any person, firm, partnership, association, corporation or other entity convicted of violating these regulations shall be liable to a fine of up to one thousand two hundred fifty (\$1,250.00) dollars for each such violation and each day in which such violation continues shall constitute a separate violation or offense. In addition to the foregoing remedies, the Township Attorney may maintain an action in any court of competent jurisdiction to enjoin, restrain, abate, correct or remove any violation of these regulations.
- 4. Interior roadways or access drives leading to off-street parking facilities in multiple family developments shall be designated fire lanes and no parking shall be allowed.
 - 5. The parking of house, tent and utility trailers, campers, boats, motor homes and other vehicles, notwithstanding any other provision of this chapter, is expressly prohibited in any front yard or side front yard. In any event vehicles may not be parked or stored for more than a period of forty-eight (48) hours unless owned or leased by the property owner. Portable storage containers shall only be permitted in accordance with the requirements of Section 25-9.11.

6. No tow truck, flat bed truck, or construction equipment may be parked or stored on property in any residential district.
 - (a) Exceptions. Nothing herein shall be deemed to prohibit the parking or storing of a tow truck, flat bed truck or construction equipment on property in any district while it is being used in the transaction of business with the owner or occupancy of the property or when such vehicle has been summoned to the property by the Police Department. In no event shall the time period authorized by this subsection exceed four (4) hours.
 - (b) Enforcement; Penalty.
 - (1) Enforcement of the provisions of these regulations shall be the joint responsibility of the Zoning Officer and/or the Police Department.
 - (2) Any person, firm, partnership, association, corporation or other entity convicted of violating these regulations shall be liable to a fine of fifty (\$50.00) dollars for each such violation and each day in which such violation continues shall constitute a separate violation or offense. In addition to the foregoing remedies the Township Attorney may maintain an action in any court of competent jurisdiction to enjoin, restrain, abate, correct or remove any violation of these regulations.
- c. A parking area may be situated in whole or in part on the roof of the main building to which it is accessory providing the parking area is properly and adequately screened.
(Ord. No. 904-88 § 25-5.6D; Ord. No. 1217-93; Ord. No. 1219-93; Ord. No. 1227-93; Ord. No. 1347-95 §§ 1—4; Ord. No. 1795-01 § II; Ord. No. 1963-04 § I)

25-12.5 Nonapplicability to Existing Buildings and Uses.

The provisions of subsection 25-12.3 and 25-12.4 shall not apply to any building or use in existence on January 25, 1978 whether continued as a permitted or a nonconforming use, or thereafter converted or changed to a different lawful use. (Ord. No. 904-88 § 25-5.6E)

25-13 ENVIRONMENTAL IMPACT ANALYSIS.

25-13.1 General Provisions.

The environmental impact generated by a land development project necessitates a comprehensive analysis of the variety of problems that may result and the actions that can be taken to minimize those problems. This constitutes an environmental impact statement. In evaluating the environmental impact, the Planning Board and the Zoning Board shall not approve any submission until it determines and finds that the proposed development:

- a. Will not result in appreciable harmful effects to the environment.
- b. Has been designed and conceived with a view toward the protection of the regional resources.
- c. Will not place a disproportionate or excessive demand upon the total resources available for such proposal and for any future proposals.

In order to accomplish these goals, the Board shall condition any approval upon the implementation of those performance controls deemed necessary to assure the protection of the environment. Any approval shall also be conditioned upon the receipt of licenses, permits or other approvals required by law. Those factors outlined in subsection 25-13.4e. along with supplemental requirements adopted by the Board shall be used to determine the environmental performance controls that are necessary.

25-13.2 General Requirements.

It is further recognized that the level of detail required for various types of applications will vary depending on the size of the proposal, the nature of the site and the location of the project. Therefore, having determined that some flexibility is needed in preparing the environmental impact statement, the requirements for such a document are listed as follows:

- a. Any application for a single one-family or two-family home, whether a new dwelling or a modification to an existing dwelling, is specifically exempt from the environmental impact statement requirements. In addition, all minor subdivisions and site plans that will not result in potential new construction or alteration to the site shall be exempt.
- b. A preapplication conference shall be held with the Planning Director to determine the content of the environmental impact statement as outlined in subsection 25-13.4 along with any supplemental guidelines adopted by the Board. Waivers of specific environmental impact statement requirements or of preparation of an environmental impact statement shall be appealed to the Board.
- c. When the environmental impact statement is prepared by an individual other than the applicant, the credentials and expertise of that individual shall be submitted with the environmental impact statement. All applicable material on file in the office of the West Orange Department of Planning and Development pertinent to local conditions shall be consulted. Any additional material pertinent to the evaluation of potential regional impacts shall also be considered.
- d. Twenty (20) copies of each environmental impact statement shall be submitted with the appropriate development application. One (1) copy of the environmental impact statement shall be forwarded to the Environmental Commission for review and comment. The Environmental Commission shall submit its comments expeditiously to the Board. Four (4) copies of the environmental impact statement shall be circulated among the municipal departments that participate in the application review process. The remaining copies shall be retained by the Department of Planning and Development and the Planning Board members or Zoning Board members, and shall be made available for review and comment.
- e. The environmental impact statement shall consist of written and graphic materials which will clearly present the information that is required. The scale of all maps shall be one (1) inch equals fifty (50) feet, unless the Planning Director and/or Board agree to another scale. Contours, when required, shall be provided at two (2) foot intervals for slopes of less than ten (10%) percent and at five (5) foot intervals for slopes ten (10%) percent or greater.

(Ord. No. 904-88 § 25-5.7B)

25-13.3 Applicability.

- a. All proposals for development shall obtain all required approvals and permits pertaining to environmental protection from the Township of West Orange, County of Essex, State of New Jersey and other entities, including, but not limited to, regulations for air quality, floodplains, natural features and habitats, soil conservation and protection, steep slopes, stormwater, stream corridors, sewage, and wetlands, and address all applicable environmental requirements of the development application procedures in Section 24-51 and the application checklists.b. All preliminary and final major subdivision applications and preliminary and final site plan applications, consisting of five (5) acres or more, shall be accompanied by an environmental impact statement. The information required shall be determined by the Planning Board or Zoning Board in consultation with the Planning Director.

- c. Any application requiring a variance pursuant to N.J.S.A. 40:55D-70d may be required, at the discretion of the Zoning Board, to be accompanied by an environmental impact statement. The information required shall be determined by the Zoning Board in consultation with the Planning Director.
(Ord. No. 904-88 § 25-5.7C)

25-13.4 Format.

When an environmental impact statement is required, the following format shall be utilized and the information requested shall be provided.

- 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 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, how they are to be considered 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. Township Master Plan
 2. Master Plan of any adjacent municipality located within 500 feet of the proposed project
 3. Essex County Master Plan
- b. *Site Description and Inventory.* Provide a description of environmental conditions on the site which shall include, but not be limited to the following items:
 1. Types of Soils. List and description of each soil type located on the site. Relative to the type of project proposed, a complete mapping of all soil types on the site shall be required indicating where those moderate and severe limitations exist.
 2. Topography. Description of the topographic conditions within the site and extending two hundred (200) feet beyond the property lines. When fifteen (15%) percent or more of the proposed area of land disturbance encompasses slopes in excess of ten (10%) percent, the following slope ranges shall be mapped for the entire site: ten (10) to fifteen (15%) percent; fifteen (15) to twenty (20%) percent; twenty (20%) percent and up.
 3. Geology. Description of the geologic formations and features associated with the site as well as depth to bedrock conditions. Delineation of those areas where bedrock is in close proximity to the surface, within two (2) feet of the surface as well as major bedrock outcroppings.
 4. Vegetation. Description of the existing vegetation on the site. When required, sketch the location of major vegetation grouping such as woodland, open field and wetland.
 5. Surface Water. Description of existing watercourses and water bodies that are partially or totally on the site and their relationship to the area of land disturbance. Existing surface runoff from the site shall be calculated using methods approved by the Township Engineer. When the natural drainage pattern will be significantly altered, an analysis shall be conducted which will investigate flow, depth, capacity and water quality of receiving waters. When required, floodplain areas shall be mapped in consultation with the New Jersey Department of Environmental Protection. Existing drainage structures shall be mapped and the capacity of the drainage network shall be determined.
 6. Subsurface Water. Description of the subsurface water conditions on the site, in terms of depth to ground water shall be provided.

7. Unique, Scenic and/or Historic Features. Description and a map of those portions of the site that can be considered to have unique, scenic and/or historic qualities.
 8. Existing Development Features. Description of any existing features on the site that are not considered to be part of the natural environment. This may include, but not necessarily be limited to, roads, housing units, accessory structures, and utility lines.
 9. Miscellaneous. When warranted, an analysis shall be conducted of existing air quality and noise levels as prescribed by the New Jersey Department of Environmental Protection or the West Orange Health Department.
- c. *Area and Regional Description.* A description of the surrounding environs shall be provided as well as the existing land use pattern. When required, the existing infrastructure, with respect to the drainage and transportation network, as well as any central sewerage and water supply facilities shall be described in detail. An appropriate regional analysis relative to the proposed subject shall be included.
- d. *Impact.* Discuss the negative and the positive on- and off-site impacts as they affect the items listed in paragraphs b. and c. above. Indicate those negative impacts that are unavoidable. Indicate those resources affected by the proposal which will be irretrievably lost and those resources which are renewable. The specific concerns that shall be considered include, but are not limited to the following:
1. Soil erosion and sedimentation resulting from surface runoff.
 2. Flooding and floodplain disruption.
 3. Degradation of surface water quality.
 4. Groundwater pollution.
 5. Sewage disposal.
 6. Solid waste disposal.
 7. Destruction of vegetation.
 8. Disruption of wildlife habitats.
 9. Destruction of scenic and historic features.
 10. Air quality degradation.
 11. Noise levels.
 12. Energy utilization.
 13. Neighborhood deterioration.
 14. Effect on public services, such as schools, fire police.
 15. Traffic congestion.
 16. Health, safety and welfare of existing residents.
 17. Regional development policies.
- e. *Recommendation to Mitigate Adverse Environmental Impact.* Describe in detail what measures will be employed during the planning, construction and operation phases which will minimize or eliminate negative impacts on and off-site that could result from the proposed project. Of specific interest are:
1. Drainage plans which shall include, but not be limited to, soil erosion and sedimentation controls. Every effort should be made to limit off-site runoff to predevelopment levels.
 2. Sewage disposal techniques.

3. Water supply and water conservation proposals.
 4. Site design techniques sensitive to the natural environment which should include innovative landscape, building and circulation design.
 5. Energy conservation measures.
 6. Noise reduction techniques.
 7. Construction schedule.
 8. Miscellaneous on-site and off-site public improvements.
- f. *Alternatives.* Discuss what alternatives were considered both in terms of site design and project location. Indicate why an alternative was rejected if it would have resulted in less of a negative impact than the subject proposal.
 - g. *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 construction and operation of the proposed project. This list shall include, but will not be limited to approval required by the Township, as well as agencies of the County, State and Federal governments. Where approvals have been granted, copies of such approvals shall be attached. Where approvals are pending, a note shall be made to that effect.
 - h. *Documentation.* All publications, file reports, manuscripts or other written sources of information related to the project, the project site and the Township which were consulted and employed in compilation of the environmental impact statement shall be listed.
(Ord. No. 904-88 § 25-5.7D)

25-14 LIGHTING.

25-14.1 Scope and Details of Site Lighting.

All areas of the site as depicted on the site plan shall be identified as to the minimum level of illumination in compliance with subsection 25-14.2. The fixture spacing, type mounting height, wattage, photometric pattern shall be shown and calculated for each type of fixture used. A plot of the minimum design illumination shall show the location of each fixture by a symbol and the limits of the isolux/isocandela trace. The lighting for off-street parking shall be designed to direct light downward towards the parking areas. Shields or cutoffs when necessary shall be installed to prevent spillover of light onto residential areas and public streets. (Ord. No. 904-88 § 25-5.8A)

25-14.2 Minimum Levels of Illumination.

<i>Minimum Levels of Illumination</i>	<i>Pedestrian Walkways</i>	<i>Parking Areas</i>	<i>Streets</i>
RG	4/0.4	5/0.5	4/0.4
RM	4/0.4	5/0.5	4/0.4
Cluster	4/0.4	5/0.5	4/0.4
PURD	4/0.4	5/0.5	4/0.4
OB-1	6/0.6	16/1.5	6/0.6
OB-2	6/0.6	16/1.5	6/0.6
B-1	10/0.9	20/2.0	13/1.2
B-2	10/0.9	20/2.0	13/1.2
PC	10/0.9	16/1.5	13/1.2
OR	4/0.4	11/1.0	6/0.6

I	4/0.4	11/1.0	6/.06
Parking Garage*	75/7.5	54	
Circulation Aisles	110/10		
*Day Con- ditions are listed; Night Conditions		54/5	
<u>Lux/Foot Candles</u>			

The levels shown are measured in lux/foot candles. The minimum standards are based on the level of light that will be available for new lamps and clean luminaries. When by test or other means it has been determined that less than eighty (80%) percent of the light specified in the minimum standards is attained or a significant number of burnouts are evident the owner shall be notified and he will have thirty (30) days in which to correct the lighting level to the minimum standards. (Ord. No. 904-88 § 25-5.8)

SECTIONS 15-27

25-15 SIGNS.

25-15.1 Findings.

It is hereby determined that the number, location and design of signs in the Township are excessive and unduly distracting to motorists and pedestrians, create a traffic hazard, contribute to the deterioration and need for the rehabilitation of the area, and in some places reduce the effectiveness of signs needed to direct the public. It is also determined that the number of distracting and aesthetically unattractive signs ought to be reduced in order to reduce and eliminate the aforementioned effects. Furthermore, the signs of least value to people within the Township are those which carry commercial messages other than those necessary to advertise any product, service, event, person, institution, or business located on the premises where the sign is located or the sale or rental of such premises. It is also determined that the number, location, and design of signs in the Central Business District of the Township are especially deleterious to the economic and social viability and appearance of the Township as a whole. It is also determined that the regulations contained in this chapter are the minimum amount of regulation necessary to achieve its purpose. (Ord. No. 904-88 § 25-5.9A)

25-15.2 General Signage Objectives.

- a. To restrict private signs and lights which overload the public's capacity to receive information, which violate privacy, or which increase the probability of accidents by distracting attention or obstructing vision.
- b. To encourage signing and lighting and other private communications which aid orientation, identify activities, express local history and character, or serve other educational purposes.
- c. To reduce conflict among private signs and lighting and between the private and public environmental information systems.

25-15.3 Allowed Signage.

- a. Signs whose subject matter relates exclusively to the premises on which they are located, or to products, accommodations or activities on those premises shall be allowed.
- b. *Signs in Residential Zones.* Within these zones, no sign shall be erected or maintained, in whole or in part, unless it complies with the following limitations and regulations:
 1. No more than one (1) permanent sign per lot shall be permitted for each use or activity permitted in this zone, unless otherwise specified herein.
 2. A nameplate, situated within the property lines and not exceeding one (1) square foot in area, shall be permitted.
 3. A single nonilluminated temporary sign advertising the sale or rental of the premises upon which it is located is permitted provided it shall not exceed six (6) square feet in area and provided that it is maintained in good condition and removed not more than three (3) days after consummation of a lease or sales transaction.
 4. Temporary signs announcing or advertising any educational, charitable, civic, professional, religious or like campaign or event, for a consecutive period not to exceed thirty (30) days, in any calendar year, are permitted providing they do not exceed four (4) square feet in size.
 5. Nonilluminated temporary signs on new construction sites not exceeding twelve (12) square feet in total area are permitted provided they shall be removed within seven (7)

days after completion of the construction work. Signs advertising major subdivisions that have received preliminary plot approval by the Planning Board shall not exceed two (2) in number, shall not exceed a combined total of eighty (80) square feet in area, and shall be removed within ninety (90) days after completion of the construction work.

6. Signs identifying a permitted professional office or home occupation shall bear only the name of the person residing on the premises, the profession or home occupation being conducted on the premises, shall not be neon or electric, shall be situated within the property lines of the premises it identifies and shall not exceed two (2) square feet in area.
 7. One (1) project identification sign on each side of a multi-family development which has frontage on a public street and which may bear only the name of the project, the address, and the presence or lack of vacant units. Such signs shall not exceed fifty (50) square feet in area on either side and six (6) feet in height, and shall be situated not closer than forty (40) feet to any street or property line but shall not be attached to any building.
 8. Temporary signs announcing any political campaign or event or supporting any candidate running for election for a consecutive period not to exceed thirty (30) days prior to the election or event. If any political campaign or election results in a "run-off" election, then such temporary signs may remain at their location until the date of the run-off elections. All such signs must be removed no later than two (2) days after the election or "run-off" election. No such sign may exceed four (4) square feet in size. The limitations of this subsection shall not apply to any location or structure designated by the candidate as his/her campaign headquarters; provided, however, that a candidate may designate only one (1) location as the campaign headquarters.
- c. *Signs in Business Zones.* Within these zones, no signs shall be erected or altered in whole or in part unless it complies with the following regulations:
1. In the Main Street/Neighborhood Business Zones, (all OB-1, OB-2, and B-1 Zones) none other than the following signs shall be permitted:
 - (a) Those signs permitted in residential zoned areas.
 - (b) Facade Signs.
 - (1) Each commercial use may have a combined sign area limited to a size of one and one-half (1.5) square feet of sign area for each one (1) foot of the width of the building, including window and door area, up to a maximum of two hundred (200) square feet for each facade fronting a street, sidewalk, or parking area. For example, a business with twenty (20) linear feet of street frontage would allow thirty (30) square feet of allowable signage. The maximum height of any facade sign shall be two (2) feet.
 - (2) Sign area not utilized on one (1) facade may not be transferred to another facade.
 - (3) Persons may use a combination of the following sign types to obtain the combined sign area: awning, canopy, marquee, projecting, window or wall signs.
 - (4) Permanent window signs shall not occupy more than twenty five percent (25%) of the total area of the window in which displayed, including the windows of glazed doors.
 - (5) Temporary window signs shall not occupy more than twenty five percent (25%) of the total window area in which displayed. Temporary window signs must be removed within two days after the close of the sale or special event

that they advertise and in no event may be displayed for more than thirty (30) days. Accordingly, all temporary window signs must have a removal date indicated on their back side.

- (6) Except as permitted by Section 25-15.3c1(f), any temporary sign or other advertising material shall be removed within two days after the expiration of the event, sale or special event and in no event may be displayed for more than thirty (30) days, whichever shall have occurred sooner. "Grand Opening" signs may be displayed for no more than fourteen (14) days.
- (c) Sidewalk Signs.
 - (1) Use of sidewalk signs, commonly known as "sandwich" style signs, in these zones shall be limited to businesses that do not exceed 3,000 square feet of gross floor area.
 - (2) The sign shall be limited to seven (7) square feet, and shall not be taller than four (4) feet.
 - (3) The sign shall only be permitted when the business is open and shall be stored inside the business at all other times.
 - (4) The placement of the sign shall not obstruct pedestrian or vehicular traffic or visibility.
 - (5) The sign shall be secured in a fashion so that it will not move during a change in weather conditions.
 - (6) A sketch of the sign with all dimensions as well as the dimensions, width and height, of the building, shall be submitted to the Township Zoning Officer for approval. Approval shall be deemed granted if no action is taken by the Director of Planning, Zoning Official or their designee within ten (10) business days of submission.
 - (7) A sidewalk sign may only be erected upon the granting of final approval of the Township Zoning Officer and upon the payment of a fee of ten (\$10.00) dollars.
- (d) Signs required by law to be exhibited by the occupants of the premises.
- (e) No sign, except such direction devices as may be required by the Federal Aviation Administration, shall be placed, inscribed, or supported upon the roof or upon any structure in such a fashion as will cause the sign to extend above the roof of any building by more than ten (10) feet.
- (f) A single nonilluminated temporary sign advertising the prospective or complete sale or rental of the premises upon which it is located shall not exceed twenty-five (25) square feet in area or fifteen percent (15%) of the facade of the building on which the sign is located, whichever is less, and shall not remain on the premises for more than one hundred eighty (180) days. One extension shall be permitted for an additional period of not more than one hundred eighty (180) days. No sign permitted in accordance with this subsection shall be permitted beyond three hundred sixty (360) days.
- (g) Freestanding or Monument Signs. One (1) freestanding or monument sign shall be permitted on a property with a minimum lot frontage of one hundred (100) feet, in accordance with the following:

Location	Front yard only
Minimum Setbacks	5 ft. from front property line, 15 ft. from side property line
Maximum Area	35 sq. ft.
Height	Minimum of 2 ft. and maximum of 8 ft. above the ground
Maximum Width	6 ft. (including supporting structure)

2. In Business/Office Zones (B-2, P-C, and O-R Zones), none other than the following signs shall be permitted:

- (a) Those signs permitted in this section.
- (b) Each permitted use or unit of occupancy may have a sign located on, or attached to, the principal facade of the use. Such sign shall not project more than one (1) foot beyond the building line, and shall not exceed an area equal to fifteen (15%) percent of the front wall area, including window and door area on which, or in front of which, they are displayed, or one hundred twenty (120) square feet, whichever is less.
- (c) No sign, except such direction devices as may be required by the Federal Aviation Administration, shall be placed, inscribed, or supported upon the roof.
- (d) Freestanding or Monument Signs. One (1) freestanding or monument sign shall be permitted on a property with a minimum lot frontage of one hundred (100) feet, in accordance with the following:

	Freestanding	Monument	Shopping Center
Location	Front yard only	Front yard only	Front yard only
Minimum Setbacks	10 ft. from front property line, 25 ft. from side property line	10 ft. from front property line, 25 ft. from side property line	50 ft. from front or side property line
Maximum Area	50 sq. ft.	50 sq. ft.	150 sq. ft.
Height	Minimum of 8 ft. and maximum of 16 ft. above the ground	Minimum of 2 ft. and maximum of 8 ft. above the ground	Maximum of 20 ft. above the ground
Maximum Width	6 ft. (including supporting structure)	6 ft. (including supporting structure)	15 ft. (including supporting structure)

- (e) Signs required by law to be exhibited by the occupants of the premises.
- (f) A single nonilluminated temporary sign advertising the prospective or completed sale or rental of the premises upon which it is located shall not exceed twenty-five (25) square feet in area or fifteen percent (15%) of the facade of the building on which the sign is located, whichever is less, and shall not remain on the premises

for more than one hundred eighty (180) days. One extension shall be permitted for an additional period of not more than one hundred eighty (180) days. No sign permitted in accordance with this subsection shall be permitted beyond three hundred sixty (360) days.

- (g) In the B-2 Zone only, sidewalk signs in accordance with the regulations of subsection 25-15.3c1(c).

- d. *Signs in Industrial Zones.* Within these zones, no sign shall be erected or altered in whole or in part unless it complies with the following regulations:

In Industrial Zones, none other than the following signs shall be permitted:

1. Those signs permitted by this subsection.
2. Each main building in an industrial park or center may have one (1) monument sign that shall comply with the following:

Location	Front yard only
Minimum Setbacks	10 ft. from front property line, 25 ft. from side property line
Maximum Area	40 sq. ft.
Height	Minimum of 2 ft. and maximum of 10 ft. above the ground
Maximum Width	6 ft. (including supporting structure)

3. A single nonilluminated temporary sign advertising the prospective or completed sale or rental of the premises upon which it is located shall not exceed twenty-five (25) square feet in area or fifteen (15%) percent of the facade of the building on which the sign is located.
- e. *Motor Vehicle Fueling Stations.* Motor vehicle fueling stations may display the following special signs which are deemed customary and necessary to their relative businesses:
 1. One (1) freestanding or pylon sign advertising the name of the station or the principal products sold on the premises, including any special company or brand-name insignia or emblem, provided that the sign shall not exceed thirty-five (35) square feet in area on each side. The portion of the sign showing pricing information required by State law shall be considered a permitted changeable copy sign, which shall be limited to such pricing information and shall not include any other information.
 2. The height of the sign shall not exceed twenty-five (25) feet and the bottom of the sign shall not be less than eight (8) feet above the ground.
 3. The location of the sign shall not be closer to the front street property line than one-half (1/2) the setback required for the principal building.
 - f. *Signs in PURD and Cluster Zones.* Monument signs in any PURD and Cluster Zoning District shall be permitted for identification purposes only, provided such signs meet the following conditions as determined by the Construction Official or Zoning Officer.
 1. Such sign shall be set back at least twenty-five (25) feet from the right-of-way line of the abutting street, road or highway.

2. Such sign shall not exceed six (6) feet in height including its supporting members.
3. The maximum number of signs which shall be visible and abutting the main thoroughfare shall be two (2) in number.
4. The total square foot area of any such sign shall not exceed thirty-two (32) square feet as measured in accordance with subsection 25-15.5e.
5. No such signs shall be flashing nor shall they use any interior lighting. Indirect light shall be from an exterior source.
6. Nonillumination directional signs, not exceeding four (4) square feet, shall be permitted in these zones as well as a sign on the face of any building housing community facilities provided same does not exceed twenty (20) square feet.
(Ord. No. 904-88 § 25-5.9C; Ord. No. 1214-93; Ord. No. 1832-02 § II; Ord. No. 1907-03 § II; Ord. No. 1908-03 § II; Ord. No. 2064-06 § II)

25-15.4 General Regulations.

The following general regulations shall be applicable to all zones except as specifically limited:

- a. No more than four (4) signs of all types, permitted under the provisions of this chapter, shall be erected or maintained at any time per each two hundred fifty (250) feet of street frontage on any one (1) premises in a single and separate ownership, provided that in the Main Street/Neighborhood Business, Business/Office, and Industrial zones, where portions of premises are used or leased by separate persons, firms, or corporations, signs shall be permitted for each separate establishment.
- b. There shall be a minimum distance of fifty (50) feet between the nearest portions of the separate pylon or free-standing ground or post signs erected under the provisions of this chapter. No property with a frontage of less than fifty (50) feet shall have erected upon it a pylon or free-standing ground or post sign in any zone.
- c. No sign shall be placed in such a position that it will cause danger to traffic on a street, or which is entering a street, by obscuring the view. In no case shall any sign, other than an official sign, or functional sign be erected within the official right-of-way of any street unless specifically authorized by other ordinance or regulations of the Township. All signs over six (6) square feet in size, other than those permitted within the street right-of-way shall either be erected with the bottom of the sign at least eight (8) feet above the level of the road centerline, or shall be set back from the edge of the improved cartway for a distance of not less than twenty (20) feet or shall be at least fifty (50) feet from the side of any street or driveway intersection.
- d. The following signs are prohibited in all zones:
 1. A flashing, blinking, twinkling, animated or moving sign of any type, other than an electrically activated changeable sign as regulated by Section 25-15.4q.
 2. Signs with any lighting or control mechanism which may cause radio or television interference.
 3. Any sign so erected, constructed or maintained as to obstruct or be attached to any fire escape, window, door, or opening used as a means of egress or ingress or for firefighting purposes, or placed so as to interfere with any opening required for legal ventilation.
 4. Any sign which is such a form, character, or shape as to confuse or dangerously distract the attention of the operator of a motor vehicle.
 5. Signs which in any way simulate official, functional, directional, or warning signs erected or maintained by the State of New Jersey, County or Municipality thereof, or by any

- railroad, or public utility or similar agency concerned with the protection of public health, safety, or welfare.
6. Any sign located on a lot other than the lot occupied by the primary use, event, or product which the sign advertises.
 7. Any sign attached to or painted on trees, fences, utility poles, rocks, curbs, walks, lamps, hydrants or bridges.
 8. Any sign that obstructs driving vision, traffic signals, traffic, directional and identification signs, other places of business or other signs. Obstruction is to be determined by the line of sight for three hundred (300) feet, from a height of four (4) to ten (10) feet, oriented from the stop line of any intersection of streets and/or driveways.
- e. Every sign permitted in this section must be constructed of durable material and must be kept in good condition and repair. All free-standing signs either permanent or temporary in nature, must be anchored in the ground.
 - f. In order that no sign may be injurious to public interest or endanger the interest of public safety or morals, all unlicensed signs shall be removed upon receipt of written or hand-delivered notice of violation served by the Zoning Officer to the landowner or lessor or lessee of the sign. Such violations shall be discontinued immediately.
 - g. No sign shall be illuminated between the hours of 10:00 p.m. and 7:00 a.m. the following morning, unless the business or use so advertised is open to the public later than 10:00 p.m., in which event any such establishment may keep the sign illuminated until the business is closed to the public, but not thereafter. This prohibition shall not apply to an electrically activated changeable sign as regulated by Section 25-15.4q
 - h. No sign shall be erected, containing information on it which states or implies that a property may be used for any purpose not permitted under the provisions of the Township Zoning Ordinance in the zoning district in which the property to which the sign relates is located.
 - i. All signs shall be permanently fixed to the ground or attached to a building or structure in a manner conforming to the Township Building Code.
 - j. All freestanding and monument signs shall require a building permit.
 - k. Signs advertising a use no longer in existence or a product no longer available shall be promptly removed.
 - l. No portion of an awning or canopy or its sign may extend below six and a half (6.5) feet when extended or retracted, and may not extend more than six (6) feet from the building line when open. An awning or canopy sign may not exceed eight (8) inches in height, but may run the entire length of the allowable edge.
 - m. A projecting sign shall not project out more than four (4) feet and may have an area of not more than nine (9) square feet. In addition, it is to have a minimum distance of eight (8) feet from the ground surface to the bottom edge of the sign or its frame.
 - n. Marquee signs shall not exceed eight (8) inches in height, or be positioned less than six and a half (6.5) feet above the ground surface.
 - o. Signs advertising work performed by a contractor shall be removed within seven (7) days of the substantial completion of the work performed.
(Ord. No. 904-88 § 25-5.9D; Ord. No. 2101-06 § II)
 - p. Manually activated changeable signs shall be permitted as part of a permitted sign for a public or private school or house of worship.

- q. Electrically activated changeable signs shall only be permitted as part of a permitted freestanding sign in a business zone, which sign is located along a lot frontage abutting a State or County road.

25-15.5 Permits.

It shall be unlawful for any person, firm, or corporation to erect, alter, relocate, or maintain within the Township any sign as set forth and defined in this chapter, except those exempted, without first making application for a permit from the Zoning Officer which shall be in addition to any other licenses or permits which may be required by other ordinances.

- a. Applications for permits shall be made on forms supplied by the Township and shall contain the following information:
 - 1. Name, address, and telephone number of the applicant and the sign erector.
 - 2. Location of the building, structure, or lot to which the sign is or is to be attached or erected.
 - 3. Position of the sign in relation to nearby buildings or structures.
 - 4. Name of person, firm, corporation, or association erecting the sign if new construction.
 - 5. Name of owner of property on which sign is located and written consent of owner if other than applicant.
 - 6. Scale drawing of the sign, showing all details, including message, color, lighting, structural design, and anchorage.
 - 7. Such other information as the Zoning Officer shall require to show full compliance with this and all other ordinances of the Township.
- b. *Procedure.* The Zoning Officer, upon receipt of an application, shall examine or cause to be examined, the application and, when necessary, examine, or cause to be examined, the lands and/or premises upon which the sign is erected or proposed to be erected, replaced, or altered as to change the dimensions or information displayed, and determine whether the structure or proposed structure is in compliance with all of the requirements of this chapter and all other laws and ordinances of the Township. The Zoning Officer's determination shall be noted in the application. If the determination is favorable, a permit will be issued; if the determination is unfavorable, the application shall be rejected. Signs requiring a building permit under this section, or any other ordinance or law of the Township, shall not be issued a sign permit until the requirements for a building permit(s) have been met.
- c. *Temporary Signs: Applications and Procedure.* Applications for temporary sign permits shall be made by the fee owner or lease holder of the land on which the sign will be located and the application shall be deemed to grant permission to the Township to enter upon the applicant's land and remove the sign if, upon five (5) days notice by ordinary mail that the permit has expired, the applicant has failed to remove same. The application for permit shall be made on Township forms and shall contain the same information required of all permits, except in addition, shall also require a deposit of one (\$1.00) dollar per square foot of sign. The deposit shall be held by the Township until the sign is removed, at which time it shall be returned to the applicant. The Township may use the deposit in order to cover the cost of removing the sign should the applicant fail to do so when the permit expires. Use of the deposit will not limit the Township's ability to use other legal means to recover costs above and beyond the deposited amount.
- d. *Fees and Expirations.* The fee for permits issued hereunder for new signs shall be twenty-five (\$0.25) cents per square foot of surface area of the sign with a minimum of five (\$5.00) dollars and a maximum of fifty (\$50.00) dollars per sign.

e. *Computation of Sizes and Signs.*

1. In Residential and other Non-Corporate, Non-Business, and Non-Industrial Zones, the size of any sign for the purposes of determining its compliance with the provisions of this chapter shall be computed by multiplying its greatest height by its greatest length, exclusive of supporting structures, unless such supporting structure is illuminated or is in the form of a symbol or contain advertising copy.
2. In Business, Shopping Center, Industrial, and Corporate Zones, the size of any sign shall be computed by multiplying its greatest height by its greatest length, exclusive of supporting structures, unless such supporting structure is illuminated or is in the form of a symbol or contains advertising copy, but for the purpose of making such determination, the applicant may block off portions of the sign into not more than three (3) rectangles in order to exclude large areas of open space caused by the peculiar design or shape of that symbol, copy or structure.
3. Multiple-side signs carrying the same message on all sides shall be considered to be a size equivalent to the sum of all the sides/signs, except that a two-sided sign with identical information on both sides of the sign shall only have one side included in the calculation of sign area.
(Ord. No. 904-88 § 25-5.9E; Ord. No. 940-88)

25-15.6 Nonconforming Signs.

- a. It is the intent of this chapter that all existing signs not conforming to the provisions of this chapter be eliminated or brought to conform with this chapter.
- b. Any signs existing at the time of the passage of this section which violate any provisions thereof shall be deemed a nonconforming sign and may be continued, maintained and repaired upon the present premises or location; provided that such sign was lawful under any prior ordinance and that required permits and inspections were obtained.
- c. Upon abandonment of a nonconforming sign by the existing owner or lessee, said sign must be removed within 30 days by the landlord or tenant.

25-15.7 Design and Site Location Review.

Any sign which requires a building permit shall be subject to the provisions of design and site location review by the Planning Board, except that temporary signs otherwise permitted under this chapter may be erected at the risk of the permittee prior to such review and approval. In such cases, a permit shall first be secured from the Township Construction Official, provided that the application shall subsequently be subject to review, approval, or disapproval by the Planning Board in accordance with its building permit procedure stated on such permit.

25-15.8 Exceptions.

This chapter does not apply to any sign which is not visible to motorists or pedestrians on any public highway, street, or alley, nor to any specific information panel for the direction of motorists which may be located, under authority of any Statute, on any highway property of the State of New Jersey, its subdivisions, or the Federal Government. (Ord. No. 904-88 § 25-5.10H)

25-16 FACADE DESIGN STANDARDS.

25-16.1 Statement of Purpose.

The aesthetic value of the Central Business District is especially important to the historic, economic, social and viability of the Township as a whole. Although public initiative is an important incentive for rehabilitation, private investment development is the key for redeveloping the Main Street Corridor and Valley areas to reflect what is unique about West Orange. The amount of interest and variety of private development requires organization and a structured approach. A coordinated effort produces better results more efficiently. (Ord. No. 904-88 § 25-5.10A)

25-16.2 Identity.

West Orange has a unique multi-nodal downtown with five (5) distinct sections, the Valley, St. Mark's area, Edison, Tory Corner and the Lourdes. Each of these areas is represented by a landmark or collection of uses that have served to identify the area in history. The Valley and Main Street areas are separated by Highway 280 and are perceived as being more distinctly separated than the Main Street areas. The important point to consider is that the downtown stores form a single business community which is characterized by a single identity. (Ord. No. 904-88 § 25-5.10B)

25-16.3 Cooperative Spirit.

In shopping and specialty centers across the country, private development is strictly controlled to everyone's advantage. Downtown West Orange has no such mandate for strict control, but rather seeks to join in with a cooperative spirit. This cooperative spirit is developed through a public/private partnership and is best utilized to understand what is mutually advantageous, and to build a dynamic and coordinated downtown. This alliance of property owners with clear team spirit is essential to success. (Ord. No. 904-88 § 25-5.10C)

25-16.4 Aesthetics.

Historical perspective, a building's relationship to its surroundings and sensitivity to detail are the key building blocks to coordinated design. There is great freedom for individual expression and design within these guidelines. Understanding the guidelines provides a basis for unity with great variety. The ultimate benefit is an economically dynamic downtown with harmonious but diversified charm, character and attractiveness. (Ord. No. 904-88 § 25-5.10D)

25-16.5 Usage of Standards.

These standards will serve to classify building types, and assist in a determination of the best architectural approach. Furthermore, they will provide a means for materials selection, coloration, and usage, with an end result of a creative yet harmonious design solution. They wish to encourage the generation of well-conceived building and remodeling. They provide directions, suggest positive benefits from historic respect and simplify paths towards sound planning, good design and craftsmanship. It is not the intent of these standards to inhibit creative expression, but to provide a context for diverse yet unified architecture and design. (Ord. No. 904-88 § 25-5.10E)

25-16.6 Rehabilitation and New Construction.

- a. *Restoration.* Restoration is quite literally the act of returning a building to its original condition and appearance. This technique is usually reserved for buildings of significant historical or architectural interest or importance. An accurate, well-crafted restoration requires a great deal of research, time, tenacity and expense on the part of the owner. Usually parts of the building, such as ornamentation, glazing, finishes, etc., must be carefully reproduced to match existing detailing to insure the best end product. Historic photographs have been proven to be the best source of visual information to be referenced for accurate restoration or remodeling.

A historically accurate restoration would be a valuable addition to any area of West Orange, and these guidelines encourage such efforts.

- b. *Remodeling.* Remodeling is the category into which most of the redevelopment in the Valley and Main Street, West Orange, can be placed. Remodeling ranges from an attempt to recapture the spirit of the building as it was in its original condition to a simple clean-up job accompanied by a well-designed paint scheme.

Remodeling may entail the addition or introduction of elements that are non-historical but that, if well-designed in themselves, can relate well to older parts of the building fronts. The key to the remodeling classification is that the original form of the remodeled building is still apparent, but changed.

- c. *Redesign.* Redesign is at the opposite end of the scale from restoration. Redesign usually results in a completed building that bears little resemblance to the building as it was prior to the commencement of the work. This approach is most appropriate with buildings that have been changed over the years and have been stripped of their architectural character or heritage. Redesign can replace lost personality in a building front or modify a building whose original function has changed.

The Redesign approach is appropriate for buildings of unattractive design, built or faced with unacceptable materials, or for buildings whose intended use is totally different from their original use.

Redesign should be sensitive to neighboring buildings and the elements of the massing, scale, line, texture and color discussed under the Design Criteria.

In many instances, the material that was part of the original facade and formed the frame around the building front has been covered. Often iron columns and lintels in good condition are underneath paint or other materials. It is well worthwhile to expose and clean them. Original materials may have been damaged by overlays of newer materials, but not so seriously that they cannot be patched or restored. If the original materials have been removed or severely damaged at any level, redesign may be necessary. Ideally, this would be carried out with materials relating to the remaining building facade.

- d. *New Design and Construction.* New Design and Construction, where an existing building stands, should be looked upon as a last alternative only after all other options have been thoroughly explored. In most cases an existing building can be adapted to suit the new use, even if the facade is the sole remaining original building element.

There are, however, a few buildings with Main Street frontage that have been modified so many times that they lack the slightest vestige of their original architectural design. In many cases, it would be more difficult to modify one of these structures to a new use than it would be to demolish and begin anew.

- e. *New Buildings and Their Setting.* If new construction is to be undertaken, the design solution must be sensitive to its context. This will require design relationships that will affect the final design of the building. When viewed in a positive manner, this approach creates buildings that enhance one another but yet allow for individual expression.
(Ord. No. 904-88 § 25-5.10F)

25-16.7 Design Criteria.

- a. *The Designer.* Although architects and designers consciously shape a building, anyone making a decision affecting the usefulness or appearance of a building becomes the designer. It may be a quick idea given to a contractor or simply the selection of a color, but in all cases the building is affected by someone. Decisions made with an understanding of overall design impact and responsibility will be more conscientious and produce a better design.

It should be emphasized that a good design solution strives for maximum effect with minimum expenditure. It also creates and sustains the long-term value of a building.

- b. *Basic Elements.* The Valley and Main Street areas have inherited more vintage buildings than any other area. This legacy contains untold wealth in the form of generous spaces and graceful details, much of which cannot be reproduced at any price. This treasure is there for people who are aware of it. It can be cultivated by understanding the basic elements of this architecture and applying them in any type of redevelopment. These elements are simple, straightforward ideas that are easy to use.

By understanding these basic elements, an owner or tenant is better prepared to produce a well-designated, integrated building renovation. New construction requires the same understanding and insight to assure a building that respects its older neighbors and enhances the small-scale, intimate ambiance of Main Street.

What follows is a discussion of these features.

- c. *Massing.* The term massing refers to two (2) things. One is the visual weight relationships of the various components of a building. The second refers to the relationship of the visual volume of one (1) building to its neighbors.

Main Street buildings are for the most part perceived more in terms of their facade than they are as three dimensional solids. So when massing is referred to, the term means the potential visual relationship of one (1) building's front to another.

Main Street buildings are typically two (2) story structures with an occasional three (3) story building and some one (1) story buildings. The width of the building is generally twenty-five (25) feet with some multiples of twenty-five (25) feet. Continuity and the need for visual balance requires the careful use of mass that does not inappropriately interrupt the Main Street facades with the mass of a building. A recommendation of this guideline is that the height limitation never exceed thirty-five (35) feet on Main Street frontage. If an amended height ordinance allows selected variance, a setback should be required from Main Street. This would allow taller buildings to stand one-quarter (1/4) to one-half (1/2) block away from the Main Street massing plane.

- d. *Proportion.* Proportion is the ratio or relative size of dimensions within a building. It can refer to specific details such as height to width of a window or a door, or the relationship between the height and width of the entire facade.

Generally speaking, proportions should be varied and suitably contrasted for greater design interest. The use of the ratio 1:1 virtually never occurs in the historic type architecture of the Valley and Main Street areas. When proportions are carefully studied, new construction can easily be made to relate to the remaining original architecture.

Good proportions cost no more than bad and are therefore one of the designer's most effective tools.

- e. *Scale.* Scale is another form of proportion—expressed as the relationship of the "apparent" size of a building or element upon the building as it relates to the size of a human being. Large scale buildings and building elements look impressive and imposing. A smaller scale is more suitable to the people atmosphere of Main Street and the Valley areas. Scale should suit a business and be conscious of its effect on people. Human scaled buildings are comfortable and create a friendly atmosphere.
- f. *Apparent Scale.* It is important to note the use of the word *apparent* when speaking of scale, because buildings can be made to seem larger or smaller, depending upon the proportional relationships of the elements that make up the building front.
- g. *Bigger or Better.* A building can be said to have good scale if the building does not look "too big for its size". Giant two (2) story Grecian columns would be inappropriate for a small shop

front, not only from a detailing point of view but also because of the discontinuity of apparent scale that would result. Often, when a person wishes to make a storefront more important or impressive, some "big building" details result. Making a small building look larger is a fundamentally inappropriate architectural approach and should be avoided. Doors, hardware, roof overhangs, sidings, moldings, light fixtures and details easily affect the scale of buildings and should be considered carefully.

- h. *Signage.* Signage can also influence the scale of the building, or its apparent size. A large sign on a small building front has the effect of making the facade seem even smaller than it may be. So, a large sign designed to impress can result in an opposite effect -- that of a very small business trying to look bigger than it is.
- i. *Texture and Patterns.* The building surfaces along Main Street are largely composed of textures and patterns. The play of light and shadow on these textures and the color created by architectural patterns create great surface interest on building facades.

Texture is the visual and tactile degree of roughness and smoothness of surfaces. From glass to stonework all materials have a texture that can be used to blend or contrast and enhance a building design.

Pattern is a regular repetition of a design, shape, form or void. Pattern creates a visual texture at a certain scale. Bricks form a pattern of repeated rectangles separated by regular widths of mortar. At a distance this pattern creates a visual texture. Pattern should be used as carefully as texture to enhance a design and give interest to surfaces as needed.

A predominant pattern on Main Street is created by brick masonry. One appropriate approach for new construction to relate to older patterns would be to use brick.

Some buildings have portions of textures and patterns covered over or destroyed. Rather than introducing a totally new design element a better approach would be to uncover or replace the existing textures and patterns.

- j. *Applied Textures.* The stamped steel Victorian Fronts of some Main Street buildings although applique in nature, do not look "stuck on." This is because each piece was considered part of a whole integrated building front sensitive to proportion, scale, texture and pattern. Sensitivity to these relationships will minimize superficial or cosmetic solutions.

During the 1940's and 1950's slick materials with jazzy textures such as uncoated aluminum and glass curtain walls were promoted and used as remodeling dream materials. Another inappropriate contrast is the use of rustic shingles on an urban street. All these only serve to cover-up good honest masonry and other perfectly good surfaces.

- k. *Line.* The term "line" refers to the vertical and horizontal alignment of architectural features that occur on individual building fronts and on consecutive building fronts. Line may be the uppermost edge of a series of cornices on a row of buildings. The line may also be created by a series of window sills, building to building. The consistent termination of the first floor levels of a series of buildings forms a horizontal alignment.

These lines or alignments serve to unify and formalize the building fronts along Main Street. All efforts should be made to reinforce these lines and alignments in work carried out on Main Street building fronts.

The careful consideration of linear alignments is especially important with relations to new construction. A new building or new facade must conform to the major alignments suggested by flanking buildings to insure continuity of the storefronts along Main Street.
(Ord. No. 904-88 § 25-5.10G)

25-16.8 Historic Respect.

Downtown redevelopment must be respectful of its surrounding if an overall positive ambiance is to be created and preserved. Construction need not be imitative or quasi-Victorian in style; to the contrary, poor imitations, such as ersatz mansard roofs, awkwardly designed cupolas and inappropriate appliques are worse, cheapening and debasing the overall look of the downtown area. Contemporary construction and remodeling can be totally positive by using the language and essential substance of nineteenth-century architecture to guide the designer in massing, proportion, scale, texture, pattern and line. (Ord. No. 904-88 § 25-5.10H)

25-16.9 Contrast.

Another design approach and one of the ways to deal with the needs for new construction in an historic setting involved a harmonious juxtaposition of old contrasted with new; harmonious in terms of sensitivity to the essential substance of the historic precedent described above yet consciously contrasting in style and vernacular. This approach is difficult to master and should be considered only on a limited basis with acute concern for the enhancement of downtown. While the contrast must be strong, it must also fit its surrounds and not appear as an isolated, foreign element. (Ord. No. 904-88 § 25-5.10I)

25-16.10 Exterior-Interior Relationship.

A good exterior design solution should be an expression of what is going on within. This approach will result in a quality end product that is more than simply "cosmetics."

Good design can begin with an efficient and attractive exterior and follow through with good detailing of such elements as window openings and entrances that lead to rooms and spaces of good proportions and shapes. The quality of the interior should fulfill the promise of a well-done exterior.

Certain interior materials, through commercial over-use or residential saturation, almost always are disappointing and should be avoided. A few are shag-rugs, multi-colored or not; gold-flecked mirror tiles; veloured wall paper; barnwood, imitative stained glass; wood shingles; and simulated or imitative materials of any kind. These materials generally lack quality (plastic wood grains), soon show wear (shag carpets) and are hard to clean (wood shingles).

Another consideration with these types of interior materials is that they are faddish and have no sense of duration or permanence. This is generally inconsistent with exteriors that carry the dignity of years.

A prime example of the importance of exterior-interior relationship is evidence in the expression of the ceiling height as it relates to storefront windows. In the past, standard ceiling heights were much higher than they are today. In the case of remodeling, it is desirable to remove the once popular dropped ceiling thus restoring the original ceiling height on the interior and restoring the original window height on the exterior. If factors do not permit raising the ceiling, it may be possible to turn the ceiling up for a few feet just inside the window. (Ord. No. 904-88 § 25-5.10J)

25-16.11 Preferred Materials and Finishes.

Some materials and building techniques are more appropriate than others for use on facades and the visible portions of interiors. Good craftsmanship can make the most of inexpensive materials, while conversely, bad craftsmanship can ruin the effect of even the finest most expensive materials. (Ord. No. 904-88 § 25-5.10K)

25-16.12 Inappropriate Materials.

The following is an inventory of materials, the use of which should be avoided because of historical inappropriateness, maintenance problems or appearance:

Imitation metal "rock work"
 Imitation masonry of any kind
 Plastic molded imitations of any conventional building materials
 Corrugated metal
 Corrugated fiberglass
 Mirror or metalized reflective glass in quantities exceeding ten (10) square feet
 Stucco treated as "Hacienda" or "Mediterranean" texture
 Expanded metal
 Silver or clear anodized aluminum sheets
 Silver or clear aluminum extensions for windows and doorways
 Imitation wood siding
 Flat or molded plastic sheeting in quantities exceeding five (5) square feet
 Coarsely finished "Rustic" materials such as wood shakes, shingles, barnwood or stained fir plywood
 Poorly crafted or "Rustic" woodworking and finishing techniques
 Antique or old brick with partial paint, mottled light, variegated brick, oversized brick and white brick mortar
 Wrought Iron, "New Orleans" style grille and rail work
 Astro-turf
 Indoor-outdoor carpeting
 (Ord. No. 904-88 § 25-5.10L)

25-16.13 Appropriate Materials.

Quality materials help insure good appearance as the years pass. Labor is generally the most costly aspect of a construction project. If interior materials are used and fail, the cost of labor must be incurred again to correct material failure. Quality materials will age with dignity and represent a long-term commitment to the architectural quality of West Orange.

All well-finished, carefully crafted, traditional building material should be used in a manner sympathetic to the scale and the architectural character of the Valley and Main Street area.

Traditional red brick and natural stone masonry using traditional coursing treatments and laying techniques such as running bond, soldier coursing, Flemish bond, English bond, Ashlar and random Ashlar stone facing are all acceptable. Use of conventional size bricks is important. The brick-red traditional color correctly relates to existing brick work in appearance. White mortar creates too much contrast and a harsh texture. Mortar tinted the same color as the brick was used traditionally in fine brick masonry and creates a rich, solid feeling.

Milled and shaped lumber and siding have a long-standing precedence for use in urban settings as they were the most popular building material in the late 19th century.

Steel and iron finely-scaled, carefully finished steel and ironwork is historically appropriate. This material is traditionally used for sashwork, handrails, construction hardware and ornament. Black finish is recommended for all metalwork. Scroll and ornamental wrought-ironwork is inappropriate and not recommended. Decoration must enhance the functional nature and straightforward character of ironwork.

Glass is an historically appropriate material that contributes directly to added architectural interest, revealing interior activity to the passer-by and reflecting movement and animation.

Ceramic tiles. Ceramic tiles were used in the later nineteenth century to introduce color accent to a building front. Care must be exercised not to over-do this kind of detailing.

Brick, clay and ceramic tile pavers.

Slate, terne-metal, glazed ceramic and tile roofs.

Concrete as lintels and columns.

(Ord. No. 904-88 § 25-5.10M)

25-16.14 Inappropriate Finishes.

Avoid artificial preservation finishes such as fiberglass, resin coating or laminated plastics.

Avoid "rustic" or "antique" surface finishes.

Avoid faddish or temporary surface finishes. It is important that the finish connote permanence and quality, rather than shabbiness or transience.

Avoid any finish that calls excessive attention to itself and does not complement surrounding buildings. (Ord. No. 904-88 § 25-5.10N)

25-16.15 Appropriate Finishes.

Quality materials do not guarantee a quality job. The method of finishing the chosen materials determines apparent quality. "Finish" means exactly what it says—it is the last thing done before use begins. The last thing done is the first thing people see and experience.

- a. *Paint.* Painted, well-finished wood and metal were the most characteristic finish materials of the late nineteenth and early twentieth century. Painted wood that has been properly prepared and finished presents a handsome, extremely durable and colorful surface for all buildings.

Semi-gloss alkyd enamel paint, when applied to a properly prepared surface, forms the best protection possible for wood and metal. Semi-gloss finish is recommended because it is easily cleaned, it enhances the color, yet does not severely highlight defects or surface irregularities. Labor is the costly factor in painting. Buying good quality materials insures a lower labor cost over a long period because of the extended life that can be expected from good quality materials.

Painting is as difficult to do well as any other aspect of the building trades. A roller does not yield the kind of finished, silky-painted surface that a good china bristle brush produces in the hands of a skilled craftsperson. The last coat of paint is the first thing seen. Good craftsmanship in this final step will guarantee a noticeable quality appearance.

Recent years have seen the popularity of unpainted, unfinished wood increase. Unfinished woods tend to have a more rustic look, which is less appropriate in the traditionally business-oriented mercantile section of West Orange than it would be in the more rural areas of town.

Well-finished materials give a more formal, "dressed" appearance to a portion of town where this "dress" has traditionally been the case.

Color decisions, although very subjective, can use objective criteria for narrowing choices and reducing the possibility of random and harmonious selection.

- b. *Color Surfaces.* Color can be applied to almost any material and surface; walls, roofs, doors, windows, fascias, downpipes, cornices, lintels, brackets and sills. Generally two (2) basic colors need to be selected: the base color which is the predominating amount of color and usually will be applied to walls and the accent color for trim, hardware, doors, etc.
- c. *Traditional Base Colors.* Much of the color in downtown is the original color of the buildings. These durable colors are in the natural materials themselves, such as brick and stone. The natural color of brick and stone is beautiful and appropriate to downtown West Orange.

Painted brick may be restorable by chemical washing, hand cleaning or sandblasting. Sandblasting may cause a resultant coarse and porous surface.

Brick and stone begin to define a family of colors that go well with them. Colors which are natural or muted such as beige, terra cotta, brick-red, blue gray, warm gray, etc.

The selection of a base color is also affected by considering how large a surface it is going to cover. A bright or loud color is difficult to harmonize with its neighbors as it screams for attention. This type of glaring obtrusion is not respectful of its surroundings and creates a color rudeness.

- d. *Surrounding Natural Color.* Another guide to colors that go well with natural materials are the colors found in the landscape around West Orange. The dark green of forests, the gray brown of mountains, all relate well to bricks and masonry. Large areas are quickly made handsome by using these subdued and respectful natural shades of color.
- e. *Deep and Pastel Colors.* Strong deep color such as navy blue, dark green and chocolate brown can be used effectively on buildings. Their relation to the block should be carefully studied however to prevent them from creating a dark "hole" in the building plane.

Pastel colors are used in more tropical areas because they tend to look weak in winter. Colors containing violet tinting quickly fade and chalk. They are not recommended because of their higher maintenance.

- f. *Trim and Detailing.* Wood and metal trim surrounding surfaces, doors and windows allow the use of a second color.

The color used to border a wall surface can create different effects. This color can be on first and second floor cornices, window sashes and trim frames. A light to medium light color such as off-white creates a snappy, crisp, clean look. Dark brick-red, black and deep tones go well with red brick and natural stone to create a rich harmonious blend. Windows should be considered as black volumes. A light color will feature them; a dark color will subdue them. Light colors on window sashes reflect more light into an interior and require more cleaning. Window lintels, sills and sashes should be painted a different color than their wall surface.

Contemporary aluminum door and window frames should seldom be left as unfinished silver aluminum color. Bronze or black anodized or painted finishes are recommended.

- g. *Bright Color.* Bright and glossy colors can be used as focal points such as a door, architectural and window pinstriping, and details, such as focal points of stamped steel facades. White is the brightest of all colors and should be used with careful consideration of its glare and effect on surrounding buildings. White always required high maintenance.

Faddish color schemes such as psychedelic combinations of color and design are inappropriate to the Township's character and heritage. Respect of it with regard to color application will yield better, more honest solutions. People sense an artificial or misplaced decor. If it is necessary to reflect a business in exterior decor, it is best confined to signage.

(Ord. No. 904-88 § 25-5.100)

25-16.16 General Rules.

Color selection should be respectful of its surroundings. Subdued colors work best as a base overall color. Brighter colors work best as focal points.

Color should enhance the visual appeal of a building. It can affect the proportions and mood of a building greatly.

Often the quickest way to a decision is to build a rough cardboard model of the building. Details are not necessary. General masses and amounts of paint should be proportionate. Windows should

be represented as black volumes and can be cut out of black paper placed over the painted cardboard building front. Buying a pint or quart of test paint and trying it on the building is a next step.

It is well to remember that small sample chips look darker than when covering a wall. (Ord. No. 904-88 § 25-5.10P)

25-16.17 Applicability of Standards throughout the Township.

The Planning Board or Zoning Board shall have the discretion of applying the design controls established in this section to any site plan or variance application within the Township if, in the opinion of the Board, the application of such controls will be in the best interest of the community.

25-16.18 Security Enclosures.

The following provisions apply:

- a. No security enclosures are permitted in or on any nonresidential building or storefront opening in any OB-1, OB-2, B-1, B-2, P-C, O-R, I or I-B District.
- b. Nonsolid grill work is permitted inside nonresidential buildings and store fronts at a minimum of two (2) feet from any front window.
- c. A permit is required from the Construction Official and a twenty-five (\$25.00) dollar permit fee must be paid prior to the installation of any security enclosure. Before a permit will be issued, written notification must be filed with the Fire Subcode Official.
(Ord. No. 904-88 § 25-5.10R; Ord. No. 1094-91; Ord. No. 1337-95 § 10)

25-17 MISCELLANEOUS DESIGN STANDARDS AND SUBDIVISION CONTROLS.

Provisions of Chapter XXXII, Land Subdivision, Section 32-1 through subsection 32-12.10 shall apply, except where a standard or requirement in this chapter may conflict with other Township Ordinances, in which case the higher of the two standards or requirements shall govern.

Exception: This provision may be modified by the Township Engineer based on sound engineering practices. (Ord. No. 904-88 § 25-5.11)

25-18 AFFORDABLE HOUSING; LOW/MODERATE HOUSING PROVISIONS.*

***Editor's Note:** Prior ordinance history includes portions of Ordinance Nos. 1362-95, 2002-05, 2013-05, 2020-05, 2025-05, 2030-05, 2075-06, 2077-06 AND 2090-06.

25-18.1 Municipal Fair Share Obligation.

The fair share obligation in West Orange consists of a 324-unit rehabilitation obligation, a 226-unit prior round obligation and a 341-unit growth share obligation that represents one (1) affordable unit for every four (4) market rate residential units receiving a certificate of occupancy subsequent to January 1, 2004 plus one (1) affordable housing unit for every sixteen (16) jobs created through the expansion or creation of nonresidential development in accordance with the schedule determined by the New Jersey Council on Affordable Housing (COAH).

West Orange shall provide a regional preference for all households that live and/or work in COAH Housing Region 2 comprised of Essex, Morris, Union and Warren. (Ord. No. 2250-09 § II)

25-18.2 Definitions.

Administrative agent shall mean the entity responsible for administering the affordability controls of this section with respect to specific restricted units, as designated pursuant to N.J.A.C. 5:80-26.14.

Affordability average shall mean an average of the percentage of median income at which restricted units in an affordable development are affordable to low- and moderate-income households.

Affordable shall mean, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6 and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12.

Affordable development shall mean a housing development all or a portion of which consists of restricted units.

Agency shall mean the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.) and in, but not of, the DCA.

Age-restricted unit shall mean a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population where the head of the household is a minimum age of either sixty-two (62) years, or fifty-five (55) years and meets the provisions of the 42 U.S.C. §§3601 et seq., except that due to death, a remaining spouse of less than fifty-five (55) years of age shall be permitted to continue to reside.

Assisted living residence shall mean a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four (4) or more adult persons unrelated to the proprietor and offer, at a minimum, one (1) unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

Balanced housing shall mean the Neighborhood Preservation Balanced Housing Program of the DCA as set forth at N.J.S.A. 52:27D-320 and N.J.A.C. 5:43.

Certified household shall mean a household that has been certified by an administrative agent as a low-income household or moderate-income household.

COAH shall mean the Council on Affordable Housing in, but not of, the DCA, established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

DCA shall mean the State of New Jersey Department of Community Affairs.

Fair Share Round shall mean any one (1) of three (3) periods in time during which the Council established municipal obligations to provide affordable housing and the first round was from 1987-1993 and the second period was from 1993-1997 and the third is for 1999-2018.

HAS shall mean the Housing Affordability Service, formerly known as the "Affordable Housing Management Service," at the New Jersey Housing and Mortgage Finance Agency.

Low-income household shall mean a household with a total gross annual household income equal to fifty (50%) percent or less of the median income.

Low-income unit shall mean a restricted unit that is affordable to a low-income household.

Median income shall mean the median income by household size for an applicable county, as adopted annually by COAH.

Moderate-income household shall mean a household with a total gross annual household income in excess of fifty (50%) percent but less than eighty (80%) percent of the median income.

Moderate-income unit shall mean a restricted unit that is affordable to a moderate-income household.

MONI shall mean the Agency's Market Oriented Neighborhood Investment Program, as it may be authorized from time to time by the Agency.

95/5 unit shall mean a restricted ownership unit that is part of a housing element that received substantive certification from COAH pursuant to N.J.A.C. 5:93 before October 1, 2001.

Non-exempt sale shall mean any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary; and the transfer of ownership by court order.

Random selection process shall mean a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one (1) applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

Regional asset limit shall mean the maximum housing value affordable to a four-person household with an income at or above eighty (80%) percent of the regional median as defined by the Council's annually adopted income limits.

Rent shall mean the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

Restricted unit shall mean a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, but does not include a market-rate unit financed under UHORP or MONI.

UHORP shall mean the Agency's Urban Homeownership Recovery Program.
(Ord. No. 2250-09 § III)

25-18.3 Affordable Housing Program.

West Orange has determined that it will use the following programs to satisfy its affordable housing obligation:

- a. *Rehabilitation Program.* Group homes, family redevelopment, age-restricted rentals, family rentals, for-sale family housing, in redevelopment, market to affordable program of family rentals and accessory apartments.

The following general guidelines apply to all developments that contain low- and moderate-income units, and any future developments that may occur.
(Ord. No. 2250-09 § IV)

25-18.4 Rehabilitation.

- a. *The Rehabilitation Program.*
 1. West Orange's rehabilitation program is designed to renovate deficient housing units occupied by low-and moderate-income households and after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
 2. West Orange has designated Community Action Services and the Essex County Home Improvement Program as the administrators of the rehabilitation program.

3. Both renter occupied and owner occupied units are eligible for rehabilitation funds.
4. Both renter occupied and owner occupied units must remain affordable to low- and moderate-income households for a period of ten (10) years. For owner occupied units this control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.
5. West Orange will dedicate a minimum of ten thousand (\$10,000.00) dollars for units rehabilitated through this program.
6. West Orange has created a rehabilitation manual for this rehabilitation program, which is available for inspection at the West Orange Planning Department and is on-file with COAH.
(Ord. No. 2250-09 § V)

25-18.5 Phasing Schedule for Zoning.

West Orange has adopted a redevelopment plan that includes affordable housing.

If future zoning is adopted, there will be a set-aside for affordable housing. Payment in lieu of development funds will be used within West Orange for the creation of affordable housing units.

In inclusionary zones, including zones subject to a growth share ordinance, the following schedule shall be followed:

<i>Percentage of Market-Rate Units Completed</i>	<i>Minimum Percentage of Low- and Moderate-Income Units</i>
25	0
25+1	10
50	50
75	75
90	100

(Ord. No. 2250-09 § VI)

25-18.6 New Construction.

a. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

1. The fair share obligation shall be divided equally between low- and moderate-income households.
2. In each affordable development, at least fifty (50%) percent of the restricted units within each bedroom distribution shall be low-income units.
3. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (a) The combined number of efficiency and one-bedroom units is no greater than twenty (20%) percent of the total low- and moderate-income units;
 - (b) At least thirty (30%) percent of all low- and moderate-income units are two (2) bedroom units;
 - (c) At least twenty (20%) percent of all low- and moderate-income units are three (3) bedroom units; and
 - (d) The remainder may be allocated at the discretion of the developer.
 - (e) Age-restricted low- and moderate-income units may utilize a modified bedroom distribution and at a minimum, the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the affordable development.

b. *Accessible Townhouse Units.*

1. The first floor of all townhouse dwelling units and of all other multistory dwelling units for which credit is sought pursuant to P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.), on or after October 1, 2006, the effective date of P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.), and for which an application for a construction permit has not been declared complete by the enforcing agency pursuant to P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and which were included in a prior round fair share plan or in a third round fair share plan and for which credit continues to be sought shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.
2. To receive Council credit for a townhouse unit or other multistory dwelling unit that is attached to at least one other dwelling unit West Orange shall ensure that:
 - (a) Townhouses or other multistory dwelling units that are attached to at least one other dwelling unit for which credit is sought for low- or moderate-income housing shall have the following features:
 - (1) An adaptable toilet and bathing facility on the first floor;
 - (2) An adaptable kitchen on the first floor;
 - (3) An accessible route of travel;
 - (i) An interior accessible route of travel shall not be required between stories;
 - (4) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - (5) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that West Orange has collected funds from the development sufficient to make ten (10%) percent of the adaptable entrances in the development accessible;
 - (b) In the case of a unit or units which are constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed;
3. The builder of the unit or units shall deposit funds, sufficient to adapt ten (10%) percent of the affordable units in the projects which have not been constructed with accessible entrances, with West Orange, for deposit into the municipal affordable housing trust fund;
4. The funds under paragraph b,3 above shall be available for the use of West Orange for the purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance;
5. The developer of the affordable project subject to P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) shall submit the design with a cost estimate for conversion to West Orange; and
6. Once West Orange has determined that the plans to adapt the entrances of the townhouse or other multistory unit meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, the West Orange Chief Financial Officer shall ensure that the funds are deposited into that fund.
7. Full compliance with this section shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

c. *Maximum Rents and Sales Prices.*

1. West Orange hereby establishes that the maximum rent for affordable units within each affordable development shall be affordable to households earning no more than sixty (60%) percent of median income and the average rent for low- and moderate-income units shall be affordable to households earning no more than fifty-two (52%) percent of median income.
2. The developers and/or municipal sponsors of restricted rental units shall establish at least one (1) rent for each bedroom type for both low-income and moderate-income units, provided that at least thirteen (13%) percent of all low- and moderate-income units shall be affordable to households earning no more than thirty (30%) percent of median income.
3. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than seventy (70%) percent of median income and each affordable development must achieve an affordability average of fifty-five (55%) percent for restricted ownership units and in achieving this affordability average, moderate-income ownership units must be available for at least three (3) different prices for each bedroom type, and low-income ownership units must be available for at least two (2) different prices for each bedroom type.
(Ord. No. 2250-09 § VII)

25-18.7 Utilities.

- a. Affordable units shall utilize the same type of heating source as market units within the affordable development.
- b. Those tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.
(Ord. No. 2250-09 § VIII)

25-18.8 Occupancy Standards.

- a. Occupancy standards for affordable housing units are pursuant to N.J.A.C. 5:80-26.4:
 1. In determining the initial rents and initial sales prices for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four and one-half-person household;
and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
 2. For assisted living facilities, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half-person household;
 - (c) A two-bedroom unit shall be affordable to a two-person household or to two (2) one-person households.

3. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the administrative agent shall strive to:
 - (a) Provide an occupant for each unit bedroom;
 - (b) Provide children of different sex with separate bedrooms; and
 - (c) Prevent more than two (2) persons from occupying a single bedroom.
(Ord. No. 2250-09 § IX)

25-18.9 Control Periods for Ownership Units and Enforcement Mechanisms.

Control periods for ownership units are pursuant to N.J.A.C. 5:80-26.5 and each restricted ownership unit shall remain subject to the requirements of this ordinance until West Orange elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1 and prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1 for at least thirty (30) years.

- a. At the time of the first sale of the unit, the purchaser shall execute and deliver to the administrative agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the requirements of this section, an amount equal to the difference between the unit's nonrestricted fair market value and its restricted price and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- b. All conveyances of restricted ownership units shall be made by deeds and restrictive covenants pursuant to N.J.A.C. 5:80-26.1.
- c. The affordability controls set forth in this section shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- d. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Municipal Building Inspector stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a).
(Ord. No. 2250-09 § X)

25-18.10 Price Restrictions for Ownership Units, Homeowner Association Fees, and Resale Prices.

Price restrictions for ownership units are pursuant to N.J.A.C. 5:80-26.1, including:

- a. The initial purchase price for a restricted ownership unit shall be approved by the administrative agent. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying costs of the unit, including principal and interest (based on a mortgage loan equal to ninety-five (95%) percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed twenty-eight (28%) percent of the eligible monthly income of an appropriate household size as determined under N.J.A.C. 5:80-26.4; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3.
- b. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- c. The master deeds of affordable developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers, although condominium

units subject to a municipal ordinance adopted before October 1, 2001, which provides for condominium or homeowner association fees and/or assessments different from those provided for in this subsection shall have such fees and assessments governed by said ordinance.

- d. The owners of ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom.

(Ord. No. 2250-09 § XI)

25-18.11 Buyer Income Eligibility.

Buyer income eligibility for ownership units is pursuant to N.J.A.C. 5:80-26.1, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to fifty (50%) percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than eighty (80%) percent of median income.

The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees as applicable) does not exceed thirty-three (33%) percent of the household's eligible monthly income. (Ord. No. 2250-09 § XII)

25-18.12 Control Period for Rental Units.

Each restricted rental unit shall remain subject to the requirements of this section until West Orange elects to release the unit from such requirements, however, prior to such a municipal election, a restricted rental unit must remain subject to the requirements of this ordinance for a period of at least thirty (30) years.

- a. Deeds of all real property that include restricted rental units shall contain deed restriction language, the deed restriction shall have priority over all mortgages on the property and the deed restriction shall be filed by the developer or seller with the records office of the county and a copy of the filed document shall be provided to the administrative agent within thirty (30) days of the receipt of a Certificate of Occupancy.
 - b. A restricted rental unit shall remain subject to the affordability controls of this section, despite the occurrence of any of the following events:
 1. Sublease or assignment of the lease of the unit;
 2. Sale or other voluntary transfer of the ownership of the unit; or
 3. The entry and enforcement of any judgment of foreclosure.
- (Ord. No. 2250-09 § XIII)

25-18.13 Price Restrictions for Rental Units and Rent Increases; Leases.

The initial rent for a restricted rental unit shall be approved by the Administrative Agent and shall be calculated so as not to exceed thirty (30%) percent of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3.

- a. Rents may be increased annually based on the Housing Consumer Price Index for the United States, as published annually by COAH. Rents may not be increased more than once a year.

- b. A written lease is required for all restricted rental units, except for units in an assisted living residence, and tenants are responsible for security deposits and the full amount of the rent as stated on the lease.
- c. No additional fees or charges may be added to the approved rent (except, in the case of units in an assisted living residence, for the customary charges for food and services) without the express written approval of the Administrative Agent and application fees (including the charge for any credit check) may not exceed five (5%) percent of the monthly rental of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls in this section as applicable to the unit.
(Ord. No. 2250-09 § XIV)

25-18.14 Tenant Income Eligibility Pursuant to N.J.A.C. 5:80-26.1.

Pursuant to N.J.A.C. 5:80-26.13, tenant income eligibility shall be determined as follows:

- a. Low-income rental units shall be reserved for households with a gross household income less than or equal to fifty (50%) percent of median income. Moderate-income rental units shall be reserved for households with a gross household income less than eighty (80%) percent of median income. Very-low-income rental units shall be reserved for households with a gross household income of thirty (30%) percent or less of median income.
- b. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed thirty-five (35%) percent (forty (40%) percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - 1. The household currently pays more than thirty-five (35%) percent (forty (40%) percent for households eligible for age-restricted units) of its gross household income for rent and the proposed rent will reduce its housing costs;
 - 2. The household has consistently paid more than thirty-five (35%) percent (forty (40%) percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - 3. The household is currently in substandard or overcrowded living conditions;
 - 4. The household documents the existence of assets, with which the household proposes to supplement the rent payments; or
 - 5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the administrative agent and the owner of the unit.
- c. The applicant shall file documentation sufficient to establish the existence of the circumstances in paragraph b. above with the Administrative Agent, who shall counsel the household on budgeting.
(Ord. No. 2250-09 § XV)

25-18.15 Municipal Housing Liaison.

- a. COAH requires West Orange to appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering its affordable housing program, including affordability controls and the Affirmative Marketing Plan, and, where applicable, supervising any Administrative Agent. West Orange adopted an ordinance creating the position of Municipal Housing Liaison. West Orange adopted a resolution on May 23, 2006 appointing a

Municipal Housing Liaison. Subject to the approval of COAH, the Municipal Housing Liaison shall be appointed by the Governing Body and may be a full or part time municipal employee.

- b. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for West Orange, including the following responsibilities which may not be contracted out, exclusive of paragraph 6 which may be contracted out:
 1. Serving as West Orange'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 West Orange'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 West Orange.

West Orange will 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 West Orange, except for those responsibilities which may not be contracted out as described above. If West Orange will contract 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.

(Ord. No. 2250-09 § XVI)

25-18.16 Administrative Agent for West Orange's Affordable Housing Units.

The affordability controls set forth in this section shall be administered and enforced by the Administrative Agent. The primary responsibility of the Administrative Agent shall be to ensure that the restricted units under administration are sold or rented, as applicable, only to low- and moderate-income households.

- a. The Administrative Agent shall create and shall publish in plain English, and in such other languages as may be appropriate to serving its client base, a written operating manual, as approved by COAH, setting forth procedures for administering such affordability controls, including procedures for long-term control of restricted units; for enforcing the covenants of N.J.A.C. 5:80-26.18 and for releasing restricted units promptly at the conclusion of applicable control periods. The Administrative Agent shall have authority to take all actions necessary and appropriate to carrying out its responsibilities hereunder. The operating manual shall have a separate and distinct chapter or section setting forth the process for identifying applicant households seeking certification to restricted units, for reviewing applicant household eligibility, and for certifying applicant households in accordance with the household certification and referral requirements set forth in N.J.A.C. 5:80-26.16.
- b. The Administrative Agent shall establish and maintain a ready database of applicant households as a referral source for certifications to restricted units, and shall establish written procedures to ensure that selection among applicant households be via the database, and in accordance with a uniformly applied random selection process and all applicable State and Federal laws relating to the confidentiality of applicant records.
- c. The municipality in which restricted units are located shall select one or more Administrative Agents for those units. A municipality itself (through a designated municipal employee,

department, board, agency or committee) may elect to serve as the Administrative Agent for some or all restricted units in the municipality, or the municipality may select HAS or an experienced private entity approved by the Division, the Agency or COAH to serve as Administrative Agent for some or all restricted units in the municipality. The foregoing approval by COAH or the Division is to be based on the private entity's demonstration of the ability to provide a continuing administrative responsibility for the length of the control period for the restricted units.

- d. The Administrative Agent shall have the authority to discharge and release any or all instruments, as set forth in this section, filed of record to establish affordability controls.
(Ord. No. 2250-09 § XVII)

25-18.17 Affirmative Marketing.

The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the COAH Housing Region in which the municipality is located and covers the period of deed restriction.

- a. The Administrative Agent shall assure the affirmative marketing of affordable units.
- b. If the municipality does not designate a municipal staff person, it shall contract with other experienced Administrative Agents approved by COAH to administer the affirmative marketing plan. Where a municipality contracts with another Administrative Agent to administer the affirmative marketing plan, the municipality shall appoint a Municipal Housing Liaison who shall supervise the contracting Administrative Agent. In addition, where the contracting Administrative Agent is not responsible for the entire affirmative marketing plan, the municipality shall outline who or what municipal agent is responsible for the remaining portion of the affirmative marketing plan. The municipality has the ultimate responsibility for the proper administration of the affirmative marketing program, including initial sales and rentals and resales and rerentals.
- c. In implementing the affirmative marketing plan, Administrative Agents shall designate an experienced staff person approved by COAH 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.
- d. The affirmative marketing plan shall describe the media to be used in advertising and publicizing the availability of housing. In developing the plan, the Administrative Agent shall consider the use of language translations.
- e. The affirmative marketing process for available affordable units shall begin at least four (4) months prior to expected occupancy.
- f. Applications for affordable housing shall be available in several locations, including, at a minimum, the county administrative building and/or the county library for each county within the housing region; the municipal administrative building(s) and the municipal library in the municipality in which the units are located; and the developer's sales office. Applications shall be mailed to prospective applicants upon request.
- g. COAH shall review and assess the effectiveness of West Orange's affirmative marketing program.
(Ord. No. 2250-09 § XVIII)

25-18.18 Household Certification and Referral; Related Project Information.

No household may be referred to a restricted unit, or may receive a commitment with respect to a restricted unit, unless that household has received a signed and dated certification and has executed a certificate.

- a. The sources of income considered by the Administrative Agent shall be the types of regular income reported to the Internal Revenue Service and which can be used for mortgage loan approval.
- b. If the applicant household owns a primary residence with no mortgage on the property valued at or above the regional asset limit as published annually by COAH, a certificate of eligibility shall be denied unless the applicant's existing monthly housing costs exceed thirty-eight (38%) percent of the household's eligible monthly income.
- c. The Administrative Agent shall employ a random selection process when referring households for certification to affordable units.
(Ord. No. 2250-09 § XIX)

25-18.19 Enforcement of Affordable Housing Regulations.

By submitting to the jurisdiction of COAH, a municipality shall be deemed to have delegated to its Administrative Agent the day-to-day responsibility for implementing practices and procedures designed to ensure effective compliance with the controls set forth in this section. The municipality, however, shall retain the ultimate responsibility for ensuring effective compliance with this section.

- a. Administrative Agent practices and procedures shall include, but shall not necessarily be limited to, the following:
 1. 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.
 2. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates.
 3. 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.
 4. If the unit is owner-occupied, that the unit may be resold only to a household that has been approved in advance and in writing by the Administrative Agent.
 5. That no sale of the unit shall be lawful, unless approved in advance and in writing by the Administrative Agent, and that no sale shall be for a consideration greater than regulated maximum permitted resale price, as determined by the Administrative Agent.
 6. That no refinancing, equity loan, secured letter of credit, or any other mortgage obligation or other debt secured by the unit may be incurred except as approved in advance and in writing by the Administrative Agent, and that at no time will the Administrative Agent approve any debt, if incurring the debt would make the total of all such debt exceed ninety-five (95%) percent of the then applicable maximum permitted resale price.
 7. That the owner of the unit shall at all times maintain the unit as his or her principal place of residence, which shall be defined as residing at the unit at least two hundred sixty (260) days out of each calendar year.

8. That, except as set forth in N.J.A.C. 5:80-26.18(c)4vii, at no time shall the owner of the unit lease or rent the unit to any person or persons, except on a short-term hardship basis, as approved in advance and in writing by the Administrative Agent.
9. That the maximum permitted rent chargeable to affordable tenants is as stated in the notice required to be posted in accordance with N.J.A.C. 5:80-26.18(d)3, a copy of which shall be enclosed, and that copies of all leases for affordable rental units must be submitted annually to the Administrative Agent.
10. No individual or owner shall permit any bank or other lending institution from issuing any loan secured by the real property subject to the affordability controls set forth in this section, if such loan would be in excess of amounts permitted by the restriction documents recorded in the deed or mortgage book in the County in which the property is located.
(Ord. No. 2250-09 § XX)

25-18.20 Appeals.

Appeals from all decisions of an Administrative Agent appointed pursuant to this ordinance shall be filed in writing with the Executive Director of COAH. (Ord. No. 2250-09 § XXI)

25-18.21 Accessory Apartments.

a. *Definition.*

Accessory apartment shall mean a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

b. *Conditions for Accessory Apartments as Conditionally Permitted Uses.*

1. Conditions: Accessory apartments shall meet the following conditions:
 - (a) The application submitted to the Construction Office shall include the following:
 - (1) Name and address of owner.
 - (2) Name, address, date of birth, income verification of the proposed occupant of the accessory unit (if known).
 - (3) Floor plan of sketch
 - (4) Current property survey.
 - (b) Accessory apartments shall be allowed in all residential zones.
 - (c) The minimum lot size and dimensional requirements shall be in accordance with the zone in which the property is located for accessory apartments constructed in new dwellings.
 - (d) Accessory apartments may be created within existing single-family residences or accessory buildings, provided there is no expansion of the existing structure's exterior outline.
 - (e) There shall be no more than one (1) accessory apartment per single-family dwelling on each lot.
 - (f) The structures shall be in full compliance with all applicable health and construction codes.

- (g) Construction of accessory apartments shall be in full compliance with all applicable environmental regulations including West Orange Township's Stormwater Management Ordinance.
- (h) Each accessory apartment shall be no larger than eight hundred fifty (850) square feet. It may not occupy more than thirty-five (35%) percent of the total square footage of the house.
- (i) Each accessory apartment shall have a minimum of two (2) rooms and provide living, sleeping, cooking and bathroom facilities. Direct access to the outside or a hall with direct access to the outside shall be provided. The access door shall not alter the character of the exterior facade of the house.
- (j) The occupant shall meet the established income limitations of the low- or moderate-income guidelines for West Orange.
- (k) The owner shall submit an affidavit of continuing use every two (2) years to the West Orange Township Clerk.
- (l) Parking shall be consistent with the parking requirements of West Orange.
- (m) West Orange acknowledges the need to provide its fair share of housing for low- and moderate-income households.

Any property owner applying for an accessory apartment under this section shall affirmatively demonstrate that the accessory apartment is to be rented to and occupied by households meeting COAH's affordable housing criteria.
- (n) Accessory apartment rents shall be consistent with COAH rules.
- (o) Ten (10) year affordability controls shall be imposed via a deed restriction or other instrument acceptable to the Township Attorney and COAH.
- (p) In the event that the accessory apartment is located in a structure which is detached from the primary residence, the property owner shall explicitly affirm via deed restriction that the property may not be further subdivided to separate the accessory apartment and any associated land as a new building lot unless such subdivision can be accomplished in full accordance with West Orange Township's density requirements, minimum setbacks, dimensional requirements, and all other applicable subdivision constraints.
- (q) The property owner shall demonstrate that required deed restrictions are properly filed with the Essex County Clerk's Office prior to issuance of zoning or building permits.
- (r) If, following completion of the ten (10) year affordability controls period, an accessory apartment constructed in accordance with this section of the West Orange Township Zoning Ordinance is no longer subject to COAH requirements or restrictions, the apartment shall be considered a permitted conditional use subject to the remaining conditions established within this ordinance section.
- (s) Accessory apartments shall be affirmatively marketed with random selection of the occupants.
(Ord. No. 2251-09 § II)

25-18.22 Development Fees.

a. Purpose.

1. In *Holmdel Builder's Association V. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by

the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.

2. Pursuant to P.L. 2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from nonresidential development.
 3. This subsection establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L. 2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this subsection shall be used for the sole purpose of providing low- and moderate-income housing. This subsection shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.
- b. *Basic Requirements.*
1. This subsection shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.
 2. The Township of West Orange shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.
- c. *Definitions.* The following terms, as used in this subsection, shall have the following meanings:
- Affordable housing development* shall mean a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one hundred (100%) percent affordable development.
- COAH* or the *Council* shall mean the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.
- Developer* shall mean the legal or beneficial owner or owners of a lot or of any land 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.
- Development fee* shall mean money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.
- Equalized assessed value* shall mean the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).
- Green building strategies* shall mean those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.
- d. *Residential Development Fees.*

1. Imposed Fees.

- (a) Within all residential district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and one-half (1 1/2%) percent of the equalized assessed value for residential development provided no increased density is permitted.
- (b) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of six (6%) percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four (4) units to be constructed on a site that was zoned for two (2) units, the fees could equal one (1%) percent of the equalized assessed value on the first two (2) units; and the specified higher percentage up to six (6%) percent of the equalized assessed value for the two (2) additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

2. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Development.

- (a) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- (b) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- (c) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

e. *Nonresidential Development Fees.*

1. Imposed Fees.

- (a) Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5%) percent of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
- (b) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5%) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
- (c) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and one-half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the

pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

2. Eligible Exactions, Ineligible Exactions and Exemptions for Nonresidential Development.

- (a) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the two and one-half (2.5%) percent development fee, unless otherwise exempted below.
- (b) The two and one-half (2.5%) percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- (c) Nonresidential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
- (d) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three (3) years after that event or after the issuance of the final Certificate of Occupancy of the nonresidential development, whichever is later.
- (e) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this subsection within forty-five (45) days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Township of West Orange as a lien against the real property of the owner.

f. *Collection Procedures.*

- 1. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the Construction Official responsible for the issuance of a building permit.
- 2. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- 3. The Construction Official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
- 4. Within ninety (90) days of receipt of that notice, the Municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.

5. The Construction Official responsible for the issuance of a final Certificate of Occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
 6. Within ten (10) business days of a request for the scheduling of a final inspection, the Municipal Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
 7. Should the Township of West Orange fail to determine or notify the developer of the amount of the development fee within ten (10) business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L. 2008, c.46 (C.40:55D-8.6).
 8. Fifty (50%) percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of Certificate of Occupancy.
 9. Appeal of Development Fees.
 - (a) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Township of West Orange. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - (b) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within forty-five (45) days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of West Orange. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- g. *Affordable Housing Trust Fund.*
1. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
 2. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (a) Payments in lieu of on-site construction of affordable units;
 - (b) Developer contributed funds to make ten (10%) percent of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (c) Rental income from municipally operated units;
 - (d) Repayments from affordable housing program loans;

- (e) Recapture funds;
 - (f) Proceeds from the sale of affordable units; and
 - (g) Any other funds collected in connection with the Township of West Orange's affordable housing program.
3. Within seven (7) days from the opening of the trust fund account, the Township of West Orange shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
 4. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.
- h. *Use of Funds.*
1. The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Township of West Orange's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or State standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
 2. Funds shall not be expended to reimburse the Township of West Orange for past housing activities.
 3. At least thirty (30%) percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third (1/3) of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning thirty (30%) percent or less of median income by region.
 - (a) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
 - (b) Affordability assistance to households earning thirty (30%) percent or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning thirty (30%) percent or less of median income. The use of development fees in this manner shall entitle the Township of West Orange to bonus credits pursuant to N.J.A.C. 5:97-3.7.
 - (c) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

4. Township of West Orange may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
 5. No more than twenty (20%) percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than twenty (20%) percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.
- i. *Monitoring.* The Township of West Orange shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Township of West Orange's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.
 - j. *Ongoing Collection of Fees.* The ability for the Township of West Orange to impose, collect and expend development fees shall expire with its substantive certification unless the Township of West Orange has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If the Township of West Orange fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L. 1985, c.222 (C.52:27D-320). The Township of West Orange shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall the Township of West Orange retroactively impose a development fee on such a development. The Township of West Orange shall not expend development fees after the expiration of its substantive certification or judgment of compliance.
(Ord. No. 2252-09 § II)

25-19 - 25-23 RESERVED.

25-24 EXCEPTIONS AND SPECIAL PROVISIONS.

25-24.1 Nonconforming Uses, Structures and Lots.

- a. The following shall be deemed lawful nonconforming uses.
 1. Any lawful building or structure, or the lawful use of any lot or land which existed on January 25, 1978, and which at that time did not comply with regulations of this chapter or any amendments thereto.

2. All variances granted pursuant to this chapter.
- b. The following shall be deemed conforming:
 1. Any building or structure, or the use of any lot or land which complies with the regulations of this chapter or any amendments.
 2. All conditional uses granted pursuant to this chapter or pursuant to a previous zoning ordinance.
- c. No unlawful structure or use of a structure, lot or land that existed on January 25, 1978, shall be deemed to be a lawful nonconforming structure or use.
- d. Any nonconforming use or structure existing at adoption of this chapter may be continued upon the lot or in the building so occupied and any such structure may be restored or repaired in the event of destruction of not more than fifty (50%) percent of the total value of the structure.
- e. A nonconforming use shall not be enlarged or extended. A nonconforming use shall be changed only to a conforming use.
- f. A nonconforming use shall be deemed to have been abandoned:
 1. When it is changed to a conforming use.
 2. When it has been voluntarily discontinued for a period of twelve (12) consecutive months. Any nonconforming use that has been abandoned shall not thereafter be reinstated.
- g. In any residential district, notwithstanding any stipulations of district regulations governing minimum required lot area, lot width and lot area per unit, a one (1) family dwelling may be erected on any lot separately owned and not adjacent to any lot in the same ownership on September 7, 1977.
- h. Reserved.
- i. Prior to the issuance of a building permit or certificate of occupancy for any permitted or nonconforming use the applicant shall apply for site plan approval to the board having the proper jurisdiction. Any one (1) or two (2) family dwellings located in a residential district which do not require any bulk variances shall be exempt.
(Ord. No. 904-88 § 25-6.1; Ord. No. 991-89; Ord. No. 1486-97 § 1)

25-24.2 Conditional Uses.

- a. *General Requirements.* Pursuant to the provisions of the Municipal Land Use Law, the Planning Board shall have the power to grant conditional uses on particular sites, according to the definite specifications and standards set forth in Section 25-24.2b. Such use shall be one which is specifically authorized as a conditional use by the Table of District Regulations, for the location in the district within which such particular site is located.
- b. *Specific Requirements.* Subject to the stipulations, guiding principles and conditions contained in this section, the Planning Board shall have the power to grant conditional uses authorized by the Table of District Regulations, in specified districts, as follows:
 1. In districts where only residential uses are authorized except as noted.
 - (a) Public Utility Buildings and Structures/Telephone Exchanges.
 - (1) The minimum front yard shall be fifty (50) feet.
 - (2) The minimum side yards shall be twenty five (25) feet and twenty five (25) feet.
 - (3) The minimum rear yard shall be fifty (50) feet.

- (4) There shall be a twenty five (25) foot wide buffer adjacent to all residential property lines, within the required setback, which shall consist of natural vegetation and, if required by the Planning Board or Board of Adjustment, new vegetation to supplement the existing vegetation.
 - (5) All structures shall be designed to be complementary to, or sufficiently screened from, a residential neighborhood.
- (b) Additional Off-Street Parking. In R-5, R-6, R-T, R-G and R-M Districts, additional off-street parking shall be permitted upon approval of the same as a conditional use by the Planning Board. Such conditional use shall have all existing front, rear and side yard requirements of the district in which it is located applied to it. All abutting residential property shall be screened by a fence of solid wood or masonry, or a combination thereof, and backed with maintained evergreen planting. The front yards shall be screened with evergreen plantings or hedges. Parking shall be prohibited within all required front, rear and side yard setbacks.
- (c) Private Club.
 - (1) Parking lot entrances and exits shall be clearly visible from the public street and shall not be located within seventy-five (75) feet of a street intersection.
 - (2) There shall be a twenty five (25) foot wide buffer adjacent to all residential property lines, within the required setback, which shall consist of natural vegetation and, if required by the Planning Board or Board of Adjustment, new vegetation to supplement the existing vegetation.
 - (3) All structures shall be designed to be complementary to a residential neighborhood.
 - (4) A landscape plan, which provides substantial buffering of the parking area, must be approved by the Planning Board or Board of Adjustment and kept on file in the Department of Planning and Development. All plantings shall be maintained in perpetuity and all plants must be replaced in kind when necessary.
- (d) Public/Private Schools. In any residential district, except an R-M District, a public or private school subject to approval by the Planning Board with respect to the location of such facility in relation to the present and anticipated needs of the Township and to the Master Plan or any portion thereof which has been adopted by the Planning Board, and further subject to the following conditions:
 - (1) The minimum lot area shall be five (5) acres.
 - (2) All buildings and outdoor recreation facilities shall be set back at least one hundred twenty-five (125) feet from any property line and all parking areas, parking access aisles and accessory buildings shall be set back at least seventy-five (75) feet from any property line.
 - (3) There shall be a fifty (50) foot wide buffer adjacent to all property lines, within the required setback, which shall consist of natural vegetation and, if required by the Planning Board or Board of Adjustment, new vegetation to supplement the existing vegetation.
 - (4) The required setbacks and buffers for outdoor recreation facilities that are lighted for evening use shall be increased by one hundred percent (100%) over the above requirements. The use of outdoor recreation facilities shall not be permitted after 11:00 p.m.

- (5) A landscape plan, which provides substantial buffering of the parking area, must be approved by the Planning Board or Board of Adjustment and kept on file in the Department of Planning and Development. All plantings shall be maintained in perpetuity and all plants must be replaced in kind when necessary.
- (e) Hotels and Restaurants. In any R-5 District, a hotel on a land area of ten (10) acres or more in extent, and located on a County road, provided that such use shall be approved by the Department of Health and Welfare. In addition such use shall be subject to conditions and safeguards imposed by the Planning Board including but not limited to:
- (1) The location and adequacy of entrances and exits for vehicular traffic and the safety of customers and guests.
 - (2) Adequate buffers including a landscaped buffer of one hundred fifty (150) feet around the sides and rear of the property line.
 - (3) A maximum building coverage of twenty (20%) percent.
 - (4) A maximum of forty (40%) percent impervious surface coverage.
 - (5) If any adjoining lot is in a residential district there must be a three hundred fifty (350) foot rear and side yard set- back to any hotel or restaurant or accessory use or structure.
- (f) Banquet and Conference Center. A development consisting of a banquet and dining facility, conference center and guest rooms for overnight accommodations in one (1) or more buildings shall be permitted in the R-4 District as a conditional use subject to the following requirements:
- (1) The minimum lot size shall be twenty-five (25) acres and the minimum lot depth shall be one thousand five hundred (1,500) feet.
 - (2) The property shall have frontage on a County road.
 - (3) The maximum building ground coverage shall be ten (10%) percent and the maximum lot coverage shall be twenty-five (25%) percent. In no case shall the gross floor area of all buildings exceed one hundred thirty-six thousand (136,000) square feet.
 - (4) The maximum building height shall be the same as for the R-4 District except that existing buildings shall be exempt from this requirement.
 - (5) The total number of guest rooms for overnight accommodations shall not exceed fifty (50) rooms.
 - (6) All principal buildings shall be set back at least one hundred twenty-five (125) feet from any property line and all parking areas, parking access aisles and new accessory buildings shall be set back at least fifty (50) feet from any property line.
 - (7) There shall be a fifty (50) foot wide buffer adjacent to all property lines which shall consist of natural vegetation and, if required by the Planning Board, new vegetation to supplement existing vegetation. Roadways, driveways and existing structures shall be permitted within such buffer areas provided they are designed to minimize disruption of such areas, except that a seventy-five (75) foot wide buffer shall be required adjacent to any existing multifamily development and no roadways, driveways or structures shall be allowed in the seventy-five (75) foot wide buffer area.

- (8) The minimum number of parking spaces shall be in accordance with Section 25-12.2 with guest rooms being considered hotel rooms for the purpose of determining required parking spaces except that the total amount of required parking may be reduced where the applicant demonstrates to the satisfaction of the approving authority that the parking demands for the different permitted uses are not additive and that the shared parking provided is reasonable and accommodates the anticipated demand.
 - (9) Permitted accessory uses on the same lot shall include those normally incident and subordinate to permitted principal uses and shall include retail sales, recreation, dining, personal services, a gatehouse, existing single-family dwellings for employees and one (1) new resident manager's dwelling associated with the principal use or uses.
- (g) Nursing Home/Long-Term Care Residential Healthcare Facility. In an R-T, R-G, R-M, OB-1 and OB-2 District, a nursing home or long-term care residential healthcare facility shall be permitted only as a conditional use authorized in each case by the Planning Board and subject to the following conditions:
- (1) Lot Area. The minimum lot area shall be five (5) acres.
 - (2) Lot Width. The lot width at both the street line and the building setback line shall be not less than three hundred fifty (350) feet.
 - (3) Front Yard. There shall be a front yard of not less than one hundred fifty (150) feet of natural vegetation or landscaping. No parking of motor vehicles shall be permitted in the front yard.
 - (4) Side Front Yard. There shall be a side front yard of not less than one hundred fifty (150) feet of natural vegetation or landscaping. No parking of motor vehicles shall be permitted in the front side yard.
 - (5) Side Yards. There shall be two (2) side yards, each with a one hundred fifty (150) foot buffer of natural vegetation or landscaping.
 - (6) Rear Yard. There shall be a rear yard or not less than one hundred fifty (150) feet of natural vegetation or landscaping. The off-street parking of motor vehicles as required may be permitted in the rear yard, except not within the required one hundred fifty (150) foot buffer area.
 - (7) Building Height. The building height shall not be more than thirty-five (35) feet and two and one-half (2 1/2) stories.
 - (8) Building Coverage. The building coverage shall not exceed twenty-five (25%) percent.
 - (9) Lot Coverage. The lot coverage shall not exceed thirty-five (35%) percent.
 - (10) Street Frontage. The site must have three hundred fifty (350) feet of street frontage.
 - (11) Storage of Vehicles. No resident shall be permitted to store or park a motor vehicle(s) at the facility, either permanently or temporarily, unless the motor vehicle(s) is used on a regular basis to conduct the normal daily affairs of that resident.
- (h) Assisted Living/Congregate Care. In an R-G, R-M, OB-1, OB-2, R-C and PURD District, an assisted living or congregate care facility shall be permitted only as a conditional use authorized in each case by the Planning Board and subject to the following conditions:

- (1) Lot Area. The minimum lot area shall be five (5) acres.
 - (2) Lot Width. The lot width at both the street line and the building setback line shall be not less than three hundred fifty (350) feet.
 - (3) Front Yard. There shall be a front yard of not less than one hundred fifty (150) feet of natural vegetation or landscaping. No parking of motor vehicles shall be permitted in the front yard.
 - (4) Side Front Yard. There shall be a side front yard of not less than one hundred fifty (150) feet of natural vegetation or landscaping. No parking of motor vehicles shall be permitted in the front side yard.
 - (5) Side Yards. There shall be two (2) side yards, each with a one hundred fifty (150) foot buffer of natural vegetation or landscaping.
 - (6) Rear Yard. There shall be a rear yard of not less than one hundred fifty (150) feet of natural vegetation or landscaping. The off-street parking or motor vehicles as required may be permitted in the rear yard, except not within the required one hundred fifty (150) foot buffer area.
 - (7) Building Height. The building height shall not be more than thirty-five (35) feet and two and one-half (2 1/2) stories.
 - (8) Building Coverage. The building coverage shall not exceed twenty-five (25%) percent.
 - (9) Lot Coverage. The lot coverage shall not exceed thirty-five (35%) percent.
 - (10) Storage of Vehicles. No resident shall be permitted to store or park a motor vehicle(s) at the facility, either permanently or temporarily, unless the motor vehicle(s) is used on a regular basis to conduct the normal daily affairs of that resident.
 - (11) Street Frontage. The site must have three hundred fifty (350) feet of street frontage.
- (i) Commercial Recreation.
- (1) All buildings and outdoor recreation facilities shall be set back at least one hundred twenty-five (125) feet from any property line and all parking areas, parking access aisles and accessory buildings shall be set back at least seventy-five (75) feet from any property line.
 - (2) There shall be a fifty (50) foot wide buffer adjacent to all property lines, within the required setback, which shall consist of natural vegetation and, if required by the Planning Board or Board of Adjustment, new vegetation to supplement the existing vegetation.
 - (3) The required setbacks and buffers for outdoor recreation facilities that are lighted for evening use shall be increased by one hundred percent (100%) over the above requirements. The use of outdoor recreation facilities shall not be permitted after 11:00 p.m.
 - (4) A landscape plan, which provides substantial buffering of the parking area, must be approved by the Planning Board or Board of Adjustment and kept on file in the Department of Planning and Development. All plantings shall be maintained in perpetuity and all plants must be replaced in kind when necessary.
- (j) House of Worship.

- (1) All houses of worship and their accessory uses shall be set back at least one hundred twenty-five (125) feet from any property line and all parking areas, parking access aisles and accessory buildings shall be set back at least seventy-five (75) feet from any property line.
 - (2) There shall be a fifty (50) foot wide buffer strip adjacent to all property lines, within the required setback, which shall consist of natural vegetation and, if required by the Planning Board or Board of Adjustment, new vegetation to supplement the existing vegetation.
 - (3) A landscape plan, which provides substantial buffering of the parking area, must be approved by the Planning Board or Board of Adjustment and kept on file in the Department of Planning and Development. All plantings shall be maintained in perpetuity and all plants must be replaced in kind when necessary.
 - (4) Ingress and egress to the property shall be clearly marked and shall not be located within seventy-five (75) feet of a street intersection.
 - (5) Parking requirements must be considered for the use for religious services as well as for accessory uses such as parochial schools. When calculating the parking requirements, the requirements for each use or building shall be aggregated.
 - (6) Parking for the house of worship shall be on the same lot as the main structure.
- (k) Townhouse Residential Cluster Development. A townhouse residential cluster development shall be permitted in the R-3 District as a conditional use in order to provide flexibility in residential unit type and design, to encourage preservation of open space, to facilitate land development activities that respect site constraints and sensitive environmental features, and to provide opportunity for development of appropriate recreational facilities and other public uses. A townhouse residential cluster development shall be developed as a single entity, although it may be phased, and shall provide for an integrated development of townhouses, together with a substantial amount of open space and recreational facilities. A townhouse residential cluster development shall satisfy the following requirements:
- (1) The tract shall have frontage on and access from a State roadway.
 - (2) The minimum tract size shall be one hundred fifty (150) acres.
 - (3) The maximum gross density shall be 1.25 units per gross acre prior to any dedication of land as set forth in Section 12 below, and not exceed two hundred fifty (250) total units.
 - (4) The maximum number of units in a townhouse structure shall be five (5).
 - (5) The minimum distance between townhouse structures shall be seventy-five (75) feet rear to rear and thirty (30) feet side to side.
 - (6) A townhouse structure shall be set back a minimum of twenty-five (25) feet from any right-of-way line.
 - (7) The maximum height of any townhouse unit shall be forty-five (45) feet.
 - (8) The maximum number of stories shall be three (3).
 - (9) The maximum building coverage for the entire tract prior to any dedication of land shall be twenty (20%) percent.

- (10) The maximum impervious coverage for the entire tract prior to any dedication of land shall be thirty-five (35%) percent.
- (11) There shall be a buffer strip around the perimeter of the tract being developed which is at least seventy-five (75) feet in width, which buffer strip shall consist of existing vegetation and, where deemed necessary by the Planning Board, supplemental vegetation (or fencing where appropriate), subject to the following:
 - (i) The perimeter buffer strip shall permit roadway and utility crossings within the buffer except where adjacent to existing improved residential properties; provided, however, that said disturbance shall be limited to a linear distance of no more than four hundred (400) feet in any one location, and an area no greater than three (3) acres in size collectively when all areas of disturbance are combined;
 - (ii) Where adjacent to existing improved residential properties, the perimeter buffer strip shall remain undisturbed in its natural state such that existing grading and vegetation is preserved; provided that a temporary intrusion into the buffer strip of up to twenty-five (25) feet in width measured from the interior buffer boundary (the "intrusion area") shall be permitted where required to excavate and grade for utility construction purposes as long as the intrusion area is regraded and replanted with evergreen vegetation and, where appropriate, berms so as to restore and establish the seventy-five (75) foot buffer strip and grading to substantially the same condition as existed prior to the intrusion; and provided further that while the utility right-of-way may be located partially within the intrusion area, under no circumstance will the actual utility lines be located within any part of the buffer strip where adjacent to existing improved residential properties;
 - (iii) Where the buffer strip abuts any part of the tract that will be dedicated to and accepted by the Township for open space preservation purposes and the dedicated lands are adjacent to existing property owned by the Township, the buffer strip may be reduced in width or eliminated; and
 - (iv) Where the buffer strip abuts existing unimproved property owned by the Township, a portion of the buffer strip may be disturbed for roadway and utility purposes, provided that said disturbance is [a] located no closer than twenty-five (25) feet to the property line, [b] has a linear distance of no more than six hundred (600) feet, and [c] has a total area of no greater than two (2) acres.
- (12) A minimum of forty (40%) percent of the tract shall be set aside as open space. Such open space may be either voluntarily dedicated to the Municipality for public use or may be reserved for the benefit of the residents of the development. If such open space is dedicated to the Municipality for public use, then the following standards must be met in order for the Municipality to accept the dedication:
 - (i) A minimum of twenty (20%) percent of the total tract must be dedicated for public use.
 - (ii) The area dedicated for public use shall have frontage on and access from a State roadway.
 - (iii) The area dedicated for public use shall be substantially suitable for parks, playgrounds, soccer fields, ballfields, schools, libraries, or any

other community or recreational facility deemed appropriate by the Township Council.

- (iv) Any area dedicated for public use that is intended for recreation shall be improved by the developer in accordance with a plan to be memorialized in a developer's agreement approved by the Township Council.
- (13) For any open space that is not dedicated to the Municipality, such common open space shall be designed as an integral part of the development and shall include, to the extent practicable, natural assets such as woodlands, wetlands and stream corridors.

Common area lands developed for the benefit of residents in the development may be devoted to recreation, including, but not limited to, a clubhouse, swimming pool, tennis courts, jogging/fitness trails and walking paths. Any privately-owned open space, beyond the recreational improvements, drainageways and/or detention basins and/or utility lines, shall be maintained as a passive open space in its natural state to benefit the community in general and the natural environment. For any common open space reserved for the benefit of the residents of the development, the developer shall establish an organization for the ownership and maintenance of the common open space, and such organization shall not be dissolved nor shall it dispose of any common open space by sale or otherwise (except to an organization conceived and established to own and maintain the common open space) without first offering to dedicate the same to the Township.

- (14) Off-street parking and street design standards shall be in compliance with Residential Site Improvement Standards (RSIS).
- (l) Townhouse/Low-Rise Residential Cluster Development. A townhouse/low-rise residential cluster development shall be permitted in the R-5 District as a conditional use in order to provide flexibility in residential unit type and design, to encourage open space, to facilitate land development activities that respect site constraints and sensitive environmental features, to provide for the establishment of both on- and off-site open space, and to provide for the regional transportation needs of the Township. The township/low-rise residential cluster development shall satisfy the following requirements:
 - (1) The minimum tract size shall be 20 acres.
 - (2) Density and Buffer Requirements:
 - (i) The maximum base density shall be three (3) units per acre in the R-5 Zone. A set-aside of not less than thirty (30%) percent of the gross tract area as permanent common open space for use of the resident owners and/or the general public shall be required.
 - [a] A minimum fifty (50) foot landscape buffer shall be required along the front, side and rear yards.
 - (ii) Cluster bonus density of up to fifty (50%) percent of the base or a maximum of four and one-half (4.5) units per acre shall be permitted if not less than forty (40%) percent of the gross tract area is preserved as permanent common open space.
 - [a] A seventy-five (75) foot minimum landscape buffer strip shall be required along the front, side and rear yards.

- (iii) Alternatively, up to a fifty (50%) percent maximum bonus density of up to not more than four and one-half (4.5) units per acre may be granted for cluster housing developments that offer permanent preservation and protection of land and improvements with historically and/or culturally significant features. Such land and improvements with historically and/or culturally significant features may be on tract or located off tract.
 - [a] A continuous landscape buffer strip of not less than thirty (30) feet shall be required along the front, side and rear yards. The buffer may be penetrated by access roads provided that there shall be a minimum of a fifty (50) foot buffer from any such road to any existing residential dwelling.
- (3) The maximum height of any townhouse unit shall be thirty-five (35) feet as measured from the average grade around the perimeter of the building to the midpoint of the roof.
- (4) The maximum number of stories in the townhouse units shall be three (3).
- (5) For the low-rise buildings, each apartment unit within the building shall have a minimum unit size of two thousand five hundred (2,500) square feet.
- (6) The maximum height of the low-rise building shall be fifty-five (55) feet when measured from the average grade around the perimeter of the building to the midpoint of the roof.
- (7) The maximum number of stories for the low-rise building shall be four and one-half (4 1/2) stories over one (1) story of parking.
- (8) The maximum building coverage for the entire tract prior to any dedication of land shall be thirty-five (35%) percent.
- (9) The maximum impervious coverage for the entire tract prior to any dedication of land shall be fifty (50%) percent.
- (10) In satisfaction of all or part of its obligation, the developer may donate a portion of its property, or other property off-site, for such public or quasi-public purpose as may be acceptable to the Township that has historically and/or culturally significant features; provided, however, that such donation from the gross area of the tract shall not affect the gross acreage for density purposes.
 - (i) In the event of a donation as set forth in this paragraph (10), the recipient of the R-5 District property, in lieu of the bulk or dimensional requirements for such use as set forth in subsection 25-24.2 hereof, shall satisfy the following requirements:
 - [a] The maximum building coverage shall be thirty-five (35%) percent.
 - [b] The maximum impervious coverage shall be sixty-five (65%) percent.
 - [c] Minimum setbacks from any adjoining nonresidential uses shall be as follows:
 - [1] Fifty (50) feet from any structure on the property to be developed hereunder, to the property line.
 - [2] Twenty (20) feet from any parking lot to be used in connection with any such structure, to the property line.

- [3] For either usage, the minimum setback as provided for herein shall include a twenty (20)-foot landscaped buffer, which will provide a year-round visual screen.
 - [d] Minimum setbacks from any residential uses shall be as follows:
 - [1] One hundred twenty-five (125) feet from any structure on the property in the development hereunder, to the property line.
 - [2] Fifty (50) feet from any parking lot to be used in conjunction with any such structure, to the property line.
 - [3] For either usage, the minimum setback as provided for herein shall include a fifty (50)-foot landscaped buffer, which will provide a year-round visual screen.
 - [e] The maximum building height shall be fifty-five (55) feet, when measured from the average grade around the perimeter of the building to the midpoint of the roof.
 - [f] The maximum number of stories shall be three (3).
 - (11) For any common open space reserved for the benefit of the residents of the development, the developer shall establish an organization for the ownership and maintenance of the common open space, and such organization shall not be dissolved nor shall it dispose of any common space by sale or otherwise (except to an organization conceived and established to own and maintain the common open space without first offering to donate same to the Township).
2. Business and Industrial Districts.
- (a) Theater. In a Business District, a theater, provided that the location of such use is deemed by the Board to be appropriate to its immediate neighborhood and subject to such conditions and safeguards as the Board may impose with respect to, among other matters, the location and adequacy of entrances and the exits to parking area required by this chapter, so as to assure the public safety, and provided further that when such use abuts any residential district, the parking area or areas shall be suitably screened as to protect adjacent residential properties.
 - (b) Bowling Alley or Billiard Parlor in an Industrial District. A billiard parlor or a bowling alley or a combination thereof, provided that the location of the use is deemed by the Planning Board to be appropriate to its immediate neighborhood, and subject to such conditions and safeguards as the Board may impose with respect to, among other matters, the location and adequacy of entrance and exits to parking areas required by this chapter, so as to assure the public safety, and further provided that when such use abuts any residential district, the parking area or areas shall be suitably screened so as to protect adjacent residential properties.
 - (c) Commercial Recreation.
 - (1) All buildings and outdoor recreation facilities shall be set back at least one hundred twenty-five (125) feet from any property line and all parking areas, parking access aisles and accessory buildings shall be set back at least seventy-five (75) feet from any property line.
 - (2) There shall be a fifty (50) foot wide buffer adjacent to all property lines, within the required setback, which shall consist of natural vegetation and, if required by the Planning Board or Board of Adjustment, new vegetation to supplement the existing vegetation.

- (3) The required setbacks and buffers for outdoor recreation facilities that are lighted for evening use shall be increased by one hundred percent (100%) over the above requirements. The use of outdoor recreation facilities shall not be permitted after 11:00 p.m.
- (4) A landscape plan, which provides substantial buffering of the parking area, must be approved by the Planning Board or Board of Adjustment and kept on file in the Department of Planning and Development. All plantings shall be maintained in perpetuity and all plants must be replaced in kind when necessary.
- (d) Hotel. In any B (Business) District, a hotel on a land area of five (5) acres or more in extent, provided that such use be approved by the Public Health Department, and subject to such conditions and safeguards as the Planning Board may impose with respect to, among other matters, the location and adequacy of entrances and exits so as to assure the safety of vehicular traffic, and the provision of buffers or minimum required lot area of two thousand five hundred (2,500) square feet per guest room or suite, a maximum building coverage of twenty (20%) percent and a maximum of forty (40%) percent impervious surface.
- (e) Commercial antenna. In a business, commercial or industrial district, a commercial antenna shall be permitted as a conditional use and shall satisfy the following requirements:
 - (1) The applicant shall submit a site plan and appropriate engineering drawings, as well as a statement certified by a qualified engineer indicating the projected effective radiated power of all transmitted signals, the probable radiation pattern and an analysis of any potential for reception interference by electronic receiving devices of good design to the Planning Board or Board of Adjustment ("the Board"), as appropriate. Approval shall not be denied on the grounds of reception interference. Approval of a commercial antenna may be granted by the Board upon a finding that the proposed commercial antenna is structurally sound, that the antenna does not result in an undue concentration of commercial antennas in a particular location, and that the antenna meets the height limitations hereinafter set forth.
 - (2) Applications to the Board for approval of a commercial antenna shall clearly state the number, location and size of all radiating elements. The addition or change in location of any radiating element or elements after Board approval shall be preceded by the submission of a new application for approval which shall set forth the number, location and size of any such addition or change in location of a radiating element and any necessary amendments to prior documents, including the engineering report with respect to radiation.
 - (3) Each application for Board approval hereunder shall include, if not heretofore placed on file with the Board, a true copy of applicant's FCC approvals relating to existing or proposed operation with the Township of West Orange obtained within three (3) years of the application. After the date of filing of the application with the Board and thereafter, unless approval is finally denied, applicant shall promptly serve on the Board a true copy of each FCC approval made by applicant.
 - (4) No commercial antenna shall exceed a height of two hundred (200) feet.
 - (5) The minimum setback for a commercial antenna from all property lines shall be one and one-half times the height of the antenna.

- (f) Senior Citizens Housing Project. In an R-G, R-M, OB-2, B-1 and B-2 District, a senior citizen housing project shall be permitted only as a conditional use authorized in each case by the Planning Board and subject to the following conditions:
- (1) A senior citizen housing project shall be specifically designed and constructed for the use of elderly or handicapped families, the head of which and/or his or her spouse is sixty-two (62) years of age or older or is handicapped; and such term also means a single person who is sixty-two (62) years of age or older, or is handicapped. A person shall be considered handicapped if he or she has a physical impairment as defined by Regulations published by the Social Security Administration.
 - (2) Uses incidental, necessary and appropriate to such housing for the benefit and well being of the occupants thereof shall also be permitted.
 - (3) A Senior Citizens Housing Project shall meet the following requirements:
 - (i) Each structure shall have a maximum height of thirty-five (35) feet.
 - (ii) The minimum lot area for each structure shall be two (2) acres.
 - (iii) The minimum lot area per unit shall be five hundred (500) square feet.
 - (iv) The minimum lot width shall be one hundred fifty (150) feet.
 - (v) The minimum front yard shall be thirty (30) feet.
 - (vi) The minimum side yards shall be thirty (30) feet and thirty (30) feet.
 - (vii) The minimum rear yard shall be thirty (30) feet.
 - (viii) The maximum building coverage shall be nineteen (19%) percent.
 - (ix) Adequate provision for parking shall be provided in accordance with Section 25-12 of this chapter.
- (g) Motor Vehicle Fueling Stations.
- (1) Applications for conditional uses as motor fuel filling stations shall be governed by all other applicable provisions of this chapter.
 - (2) Anything in this chapter to the contrary notwithstanding, the Planning Board shall not order, direct or authorize the issuance of a permit to use any building, structure or premises as or for a motor fuel filling station unless:
 - (i) The lot or parcel of land so to be used has a street frontage of at least one hundred fifty (150) feet and an average depth of at least one hundred seventy-five (175) feet except in the case of a corner lot where the street frontage and depth shall each be at least one hundred seventy-five (175) feet.
 - (ii) The walls of the building or structure are set back at least forty (40) feet from the front street property line and at least twenty-five (25) feet from every adjoining property line.
 - (iii) The entrance and exit driveway or driveways are at least twenty-five (25) feet wide and ten (10) feet from the adjoining property line and at least fifty (50) feet from the point of intersection of the right-of-way lines.
 - (iv) Every gasoline, diesel or oil tank, pump, lift, filling, greasing or other device, appliance or apparatus is located at least twenty-five (25) feet from any street right-of-way line and at least fifteen (15) feet from the side and rear lines of the premises.

- (v) All storage tanks shall be installed below ground level with the exception of drainings, which may be stored in tanks or drums outside the building, until removed from the premises.
 - (vi) The nearest boundary line of the lot or parcel of land so to be used is at least five hundred (500) feet, measured in a straight line from any boundary line of property which is used as, or upon which is erected:
 - A public or private school
 - A church or other place of worship
 - A hospital
 - A public library, public art museum or other public building
 - A firehouse or fire station
 - A senior citizen housing project
 - A nursing home
 - (vii) No facilities shall be installed or maintained for the servicing of vehicles upon the public street. No work shall be performed on any vehicle on a public street. No vehicle shall be stored or parked on a public street or right-of-way while awaiting repairs.
 - (viii) The Board may impose such conditions and safeguards as it deems appropriate with respect to, among other matters, the minimizing of traffic congestion by appropriate arrangement of entrances and exits to assure public safety, and the provision of screening so as to protect adjacent residential properties.
- (h) Video Arcade or Amusement Arcade. A video arcade or amusement arcade shall be a conditional use in an I, PC, B1 and 2 Zoning District subject to the following conditions:
- (1) The structure housing a video arcade or amusement arcade shall be a minimum of one thousand two hundred fifty (1,250) feet from the property line to property line at the nearest point of any school and/or house of worship.
 - (2) There shall be no more than one (1) video arcade or amusement arcade in any structure.
 - (3) A maximum of five (5) of any combination of mechanical amusement devices or other similar player-operated amusement devices shall be permitted in a video arcade or amusement arcade.
 - (4) Appropriate lighting, both indoor and outdoor, to insure the safety of patrons must be provided.
 - (5) The video arcade or amusement arcade shall comply with all West Orange ordinances with respect to signage. In addition, there will be no signs illuminated in any manner so as to make them appear to be flashing.
 - (6) The operation of the video arcade or amusement arcade shall not cause a disturbance to the public including but not limited to noise, nuisance or loitering.
 - (7) A video arcade or amusement arcade shall be monitored during all hours of operation by an individual whose duties shall include assuring the safety of arcade patrons.
 - (8) A video arcade or amusement arcade shall contain a minimum of fifty (50) square feet of floor area per each mechanical amusement device or similar player operated device.

- (i) Fast Food Restaurant. A fast food restaurant shall be permitted in a B-1 or B-2 District as a conditional use if the following requirements are satisfied:
- (1) A site plan, prepared by a New Jersey licensed architect or engineer, shall be submitted to the Planning or Zoning Board, as required by this chapter and State law, and the plan shall show all standards, established herein for fast food restaurant operation as a conditional use, have been satisfied.
 - (2) No part of any building or structure used as a fast food restaurant nor any driveway entrance or exit to or from the same shall be located within five hundred (500) feet of any line of any lot upon which is located another fast food restaurant.
 - (3) No part of any building or structure used as a fast food restaurant shall be located within one thousand (1,000) feet of any residential district boundary line.
 - (4) The minimum size for any lot upon which any fast food restaurant is located shall be thirty thousand (30,000) square feet, and the minimum street frontage of such lot shall be two hundred (200) feet. If a fast food restaurant is located on a corner lot, the minimum street frontage on each street shall be two hundred (200) feet.
 - (5) Entrance and exit driveways to and from any lot upon which is located a fast food restaurant shall have an unrestricted width of not less than twenty-four (24) feet nor more than thirty (30) feet, shall be located not nearer than twenty (20) feet to any lot line and shall be so designed to avoid the need for any existing vehicle to back across or into any portion of a public sidewalk or street.
 - (6) The minimum distance between driveways on a lot upon which is located a fast food restaurant shall be one hundred (100) feet, measured from the two (2) closest driveway curbs.
 - (7) The minimum distance of any driveway into the street, of a lot upon which a fast food restaurant is located, from a street intersection shall be one hundred (100) feet, measured from the nearest end of the curb radius of the intersection to the nearest end of the curb radius of the driveway.
 - (8) Lanes for automobile service windows of fast food restaurants shall be physically separated from the traffic circulation system on the site by concrete curbed and landscaped islands with a minimum width of five (5) feet for landscaping. The lanes shall permit the stacking of a minimum of ten (10) vehicles at one (1) time.
 - (9) All fast food restaurants shall provide suitable areas for storage of trash, designed and constructed to allow no view of the trash storage from the street, to prevent trash from blowing around the site onto adjacent properties or public rights-of-way and to permit safe removal of trash.
 - (10) All fast food restaurants shall provide parking (i) at a ratio of at least one (1) off-street parking space for every thirty (30) square feet in the entire establishment (kitchen, storage, etc.) or (ii) one (1) space for every three (3) seats, whichever is greater.
 - (11) Any lot on which is located a fast food restaurant must comply with the front yard, side yard, and rear yard requirements for the B-1 or B-2 District in which the lot is located.
- (j) Sexually Oriented Businesses.

- (1) Purpose. The purpose of this ordinance is to limit offenses against public order, health and decency in the Township of West Orange (the "Township"). This ordinance is enacted pursuant to N.J.S.A. 2C:34-2.
- (2) Definitions. For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings indicated below:

Adult arcade shall mean any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electricity or mechanically controlled still or motion-picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

Adult bookstore or *adult video store* shall mean a commercial establishment which as one (1) of its principal business purposes, offers for sale or for rental, or for any form of consideration, any one (1) or more of the following:

- (i) Books, magazines, periodicals or other printed material or photographs, films, motion pictures, video cassettes or video productions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; and/or
- (ii) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities; and/or
- (iii) Video stores whose inventory of adult videos is less than twenty (20%) percent of the total number of videos offered for sale or rent are not an adult video store for purposes of this section.

Adult cabaret shall mean a nightclub, bar, restaurant or similar commercial establishment, which regularly features:

- (i) Persons who appear in a state of nudity; or
- (ii) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (iii) Films, motion pictures, video-cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult motel shall mean a hotel, motel or similar commercial establishment, which offers accommodations to the public for any form or consideration of which:

- (i) Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or
- (ii) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twenty-four (24) hours.

Adult motion-picture theater shall mean a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater shall mean a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a

state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

Commercial display shall mean the exhibition to the senses of another person for valuable consideration, whether the valuable consideration is paid by the recipient of the exhibition or by another, and whether the exhibition occurs at the exhibitor's place of business or elsewhere.

Go-Go entertainment business shall mean the definition set forth in Section 25-4 of the Land Use Regulations of the Township of West Orange.

Massage parlor shall mean a place where persons pay either a membership fee or an admission fee or any other fee and where specified sexual activities are permitted or encouraged.

Nudity or *state of nudity* shall mean the appearance of a human bare buttock, anus, male genitals, female genitals or female breasts.

Obscene materials shall mean the definitions of obscene materials set forth in P.L 1978, c. 95, as amended by P.L. 1992, c. 211 Section 1 (effective December 23, 1982 as N.J.S.A. 2C:34-2), as the same shall be from time to time amended.

Person shall mean an individual, proprietorship, partnership, corporation, association or other legal entity.

Sex club shall mean a public or private place where persons pay either a membership fee or an admission fee and where the activity on the premises consists, in whole or in part, of direct sexual contact between and among the patrons. Notwithstanding the fact that the owner or operators of a "sex club" contend that the club is private, nevertheless such places shall be deemed to be public if there is nothing about the operation to distinguish a "member" from anyone else who seeks admittance to the premises.

Sexually oriented business shall mean an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, "Go-Go" entertainment business, massage parlor, sex club, or tattoo parlor.

Specified anatomical areas shall mean:

- (i) Less than completely and opaquely covered human genitals, pubic region, buttock or female breasts below the point immediately above the top of the areola; or
- (ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities shall mean any of the following:

- (i) The fondling or other erotic touching of human genitals, pubic region, buttock or female breasts;
- (ii) Sex act, normal or perverted, actual or simulated including intercourse, oral copulation or sodomy;
- (iii) Masturbation, actual or simulated; and
- (iv) Excreta functions as part of or in connection with any of the activities set forth in the definition of specified sexual activities above.

Tattoo parlor shall mean any establishment, shop or operation wherein a tattoo is removed from or affixed upon the surface of a human body.

(3) Location of Sexually Oriented Businesses.

- (i) A person violates this ordinance if he/she operates or causes to be operated a sexually oriented business within five hundred (500) feet of:
 - [a] Places of public worship, including but not limited to any church, synagogue, temple;
 - [b] Any school or other place of instruction, whether public or private, including but not limited to any elementary or secondary school or any school bus stop;
 - [c] Any municipal or county playground or place of public resort and recreation;
 - [d] Any mental or physical health care provider or facility;
 - [e] Any individual residence or residential district;
 - [f] A boundary of any zone, as defined by the Land Use Regulations of the Township of West Orange, in which residential uses are permitted;
 - [g] Any day-care center or similar facility for pre-school children;
 - [h] Any other sexually oriented business; and
 - [i] Any hospital.
- (ii) Measurement shall be made in a straight line without regard to intervening structures or objects, from the nearest point of the property line of the parcel of land upon which the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises devoted to residential use or another sexually oriented business, which is used for a purpose set forth herein.
- (iii) Every sexually oriented business shall be surrounded by a perimeter buffer of at least fifty (50) feet in width with plantings, fence, or other physical divider along the outside of the perimeter sufficient to impede the view of the interior of the premises in which the business is located.
- (iv) No sexually oriented business shall display more than two (2) exterior signs, consisting of one (1) identification sign and one (1) sign giving notice that the premises are off limits to minors. The combined signage shall be no more than forty (40) square feet in size. In addition, the signage shall comply with the Township Zoning Ordinance, but in no event, shall the total square footage of both signs exceed forty (40) square feet in the aggregate.

(4) Development Standards.

- (i) Buildings used for sexually oriented businesses shall meet all applicable safety standards of the Township, including but not limited to adequate fireproofing of walls, floors, ceilings, adequate fire escapes and exits and adequate fireproofing of all book storage areas.
- (ii) All zone requirements for setbacks, building height, buffers, signs, parking and the like shall be complied with.

- (iii) All site improvements and site design shall conform to the requirements prescribed under subsection 25-40.2 of the Land Use Regulations of the Township of West Orange.
 - (iv) The interior of the sexually oriented business shall be adequately lighted and constructed so that every portion thereof, except for restroom(s) and areas restricted to employees, is readily visible to the clerk or other supervisory personnel from the counter or other regular stations.
 - (v) Obscene materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways or from other areas, public or semi-public.
 - (vi) No loudspeakers or sound equipment shall be used for adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, "Go-Go" entertainment business, massage parlor, sex club, or tattoo parlor as defined herein.
 - (vii) No building, premises, structure or other facility that contains any sexually oriented business shall contain any other kind of sexually oriented business, regardless of the provisions of paragraph b, 2(l)(3)(i)[f] of this ordinance.
 - (viii) The lighting on the inside and the outside of the building must be approved by the Township Engineering Department.
 - (ix) There must be security personnel and procedures on the premises and in effect during all business hours. All such procedures and personnel must be approved in advance by the Chief of Police.
 - (x) The sexually oriented business must provide off-street parking spaces at a ratio of one (1) space for every three (3) seats or one (1) space for every thirty (30) square feet in the entire establishment (kitchen, storage, etc.), whichever is greater.
- (5) Use Regulations.
- (i) No person under the age of eighteen (18) shall be permitted into any sexually oriented business premises at any time for any purpose. A sign conspicuously posted shall give notice of this regulation.
 - (ii) The sexually oriented business must close no later than 12:00 a.m. and remain closed until 11:00 a.m. the same day, on weekdays and Saturdays. All sexually oriented business shall be closed on Sundays.
 - (iii) No smoking is permitted in any sexually oriented business. No consumption of alcoholic beverages is permitted at any time in any sexually oriented business.
 - (iv) The operation of a sexually oriented business must not be a disturbance to the public, create a nuisance or contribute to loitering by individuals outside the premises including patrons waiting to enter.
 - (v) Any dancing that takes place at a sexually oriented business must take place on a platform or stage at least twenty (20) feet from the sitting area for patrons. The platform or stage must have at least fifty (50) square feet for each performer and no more than three (3) persons may be performing at any one (1) time. There shall only be one (1) platform or stage in each establishment and it must be structurally

sound and inspected by the Construction Official. Permanent stairs constructed in accordance with law must be installed to the platform or stage.

(6) Enforcement.

- (i) Except as otherwise provided by State statute, any person violating any provision of this ordinance, upon conviction, is punishable by a fine not to exceed one thousand (\$1,000.00) dollars or a term of imprisonment not to exceed ninety (90) days, or both. In no event shall any person violating this ordinance, upon conviction, receive a fine below the amount of one hundred (\$100.00) dollars. In addition, the Town-ship may authorize the Law Department to file an action in any court of competent jurisdiction to remove or abate any violation of this ordinance.
- (ii) Each day a sexually oriented business is operating in violation of any provision of this ordinance shall be deemed a separate offense under this ordinance.

(k) Check Cashing Facility. Check cashing facilities shall be permitted in the OB-1 Central Business District Overlay Zone as a conditional use but only after the following requirements are satisfied:

- (1) Off-street parking spaces with a ratio of one (1) space for every twenty (20) square feet, and a minimum of twenty-five (25) off-street parking spaces must be provided with a fifteen (15) minute parking limit to prevent loitering.
- (2) The lighting on the inside and outside of the facility must be approved by the Township Engineering Department. The lighting in the parking lot must be high enough in intensity to provide adequate security to patrons but shall be shielded as to not interfere with the neighboring properties.
- (3) The establishment shall have an interior vestibule with a double set of security doors operated by electronic signal for admittance.
- (4) All windows and teller booths shall be installed with one (1) inch bullet-proof glass.
- (5) Security cameras shall be installed which provide interior and exterior surveillance.
- (6) An alarm system shall be installed and connected directly to the West Orange Police Department with a panic button in each teller booth.
- (7) There must be security personnel and procedures on the premises and in effect during all business hours. All such procedures and personnel must be approved in advance by the West Orange Police Department.
- (8) The establishment shall close no later than 6:00 p.m. and open no earlier than 6:00 a.m.
(Ord. No. 904-88 § 25-6.2; Ord. No. 989-89 § 1; Ord. No. 1102-91 § 1; Ord. No. 1144-92; Ord. No. 1189 § 3; Ord. No. 1191 § 3; Ord. No. 1224-93; Ord. No. 1236-94; Ord. No. 1337-95; Ord. No. 1338-95 § 2; Ord. No. 1409-96 § 1; Ord. No. 1423 § 2; Ord. No. 1485-97 § 1; Ord. No. 1536-98 §§ I-VI; Ord. No. 1859-02 § II; Ord. No. 1874-03; Ord. No. 1932-04 § II)

(l) Motor Vehicle Sales Establishment.

- (1) The minimum lot area shall be forty thousand (40,000) square feet.

- (2) The minimum lot width shall be two hundred (200) feet.
- (3) The minimum front yard shall be fifty (50) feet.
- (4) The minimum side yards shall be twenty (20) feet and twenty (20) feet.
- (5) The minimum rear yard shall be fifty (50) feet.
- (6) The display or sale of motor vehicles outside the confines of a building shall only be permitted in compliance with the following requirements:
 - (i) The area devoted to such use shall not be larger than the gross floor area of the principal building in which the primary or predominant use is conducted.
 - (ii) The area devoted to such use shall be surfaced with an asphalt, bituminous or cement binder pavement which shall be graded and drained to dispose of all surface water.
 - (iii) Any lighting in connection with such use shall be so arranged and shielded as to reflect the light downward away from all adjoining streets or buildings and shall comply with the lighting standards contained in this section.
 - (iv) The area permitted for the use shall at all times be clearly and legibly marked on the required paved surface.
 - (v) The use shall be permitted in the front, side and rear yards provided the use is not closer than twenty (20) feet from the front street right-of-line nor ten (10) feet from any side or rear property line. If the use abuts a residential zone, no part of the use shall be nearer than fifteen (15) feet to the residential zone boundary line.

25-24.3 Reserved.

25-24.4 Other Exceptions and Special Provisions.

- a. *Exceptions to Height Limitations.* A church spire, church belfry, dome, cupola, tower on a public building, flagpole, monument, chimney, water tower elevator or stair bulkhead and necessary mechanical appurtenances usually carried above roof level shall not be considered when determining the height of the building, except that such features shall not exceed twenty (20) percent of total roof surface area and shall not exceed a height of ten (10) feet above the top of the roof.

25-24.5 Prohibited Uses.

Any use not specifically permitted in any zoning district established by this chapter is hereby expressly prohibited from that district. Furthermore, the following uses are expressly prohibited from all zoning districts within the Township:

- a. The storage or constant outdoor parking for more than thirty (30) days of any inoperable or unregistered motor vehicle.
- b. The dismantling, assembly or repair of a vehicle other than one belonging to a member of the domicile.
- c. The outdoor storage of motor vehicle parts or accessories.
- d. The storage of toxic or hazardous waste as defined by the New Jersey Department of Environmental Protection.

- e. Retail sale or wholesale distribution of firearms including ammunition therefor and any materials of an explosive or hazardous nature used in the ingredients for the ammunition.

25-24.6 Off-Site Improvements and Other Pro-Rata Costs.

A developer, as a condition for approval of a site plan shall pay his pro-rata share of any and all costs attendant to the provision of reasonable and necessary street improvements and water, sewerage and drainage facilities and easements therefor located outside the property limits of the development. Fair and reasonable standards to determine the developer's proportionate or pro-rata amount of the cost of such off-tract facilities and improvements shall be determined by the Township Engineer. (Ord. No. 904-88 § 25-6.6)

25-24.7 Filming.

- a. *Purpose.* The purpose of this section is to insure the safety, health and welfare of all persons when filming operations are sought to occur within the Township. The Township desires to encourage filming within the Township in an organized, efficient and controlled manner.
- b. *Definitions.* For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings set forth below:

Filming shall mean the taking of motion pictures and television shows either on film or videotape or similar recording medium, for commercial or educational purposes intended for viewing on television, in theaters or for institutional uses within the Township. Filming shall also include all rehearsals, preparations and assembly and dismantling of all equipment and structures, including but not limited to scaffolding, lights, backdrops, tools and food, and the loading and unloading of vehicles containing the equipment, structures and food.

Major motion picture shall mean any film or series of filmings for which the budget is greater than five million (\$5,000,000.00) dollars.

Public land shall mean any and every public street, highway, sidewalk, square, public park or playground or any other public places in the Township.

- c. *Permit Required.*
 - 1. No person or organization shall film or permit filming on public land or which shall cause any impact to public land within the Township without first having obtained a permit from the Director of the Department of Planning, (Director) which permit shall set forth the approved location of such filming and the approved duration of such filming by specific reference by day or dates not to exceed three (3) in duration, except in the case of a major motion picture. Said permit must be readily available for inspection by the Township and any of its employees or agents at all times at the site of the filming.
 - 2. All permits shall be applied for and obtained from the Department of Planning during normal business hours. Applications for such permits shall be in a form approved by the Director and shall be accompanied by a permit fee as set forth in paragraph d. The applicant shall submit a copy of the completed application to the Chief of Police and Fire Chief simultaneous with the submission to the Planning Director.
 - 3. A permit shall be sufficient to authorize outdoor or indoor filming for a period not to exceed three (3) days except in the case of a major motion picture, provided that the maximum number of days of filming authorized in any calendar year for premises located in a residential zone where a waiver has been granted by the Director shall not exceed ten (10) days.
 - 4. If a permit is issued and, due to inclement weather or other good cause, filming does not in fact take place on the date specified, the Director may, at a request of the applicant,

issue an amended permit for filming on other dates subject to full compliance with all other provisions of this chapter. No additional fee shall be paid for this amended permit.

d. *Issuance of Permits.*

1. No permit shall be issued by the Director unless applied for prior to five (5) days before the requested shooting date; provided, however, that the Mayor may waive the five (5) day period if, in his or her judgment, the applicant has obtained all related approvals and adjacent property owners or tenants do not need to be notified.
2. No permit shall be issued for filming upon public land unless the applicant shall provide the Township with satisfactory proof of the following:
 - (a) Proof of insurance coverage as follows:
 - (1) For bodily injury to one person in the amount of one million (\$1,000,000.00) dollars and any occurrence in the aggregate amount of five million (\$5,000,000.00) dollars.
 - (2) For property damage for each occurrence and in the aggregate amount of one million (\$1,000,000.00) dollars.
 - (b) An agreement in writing whereby the applicant agrees to indemnify and save harmless the Township from any and all liability, expense, claim or damages resulting from use of public land.
 - (c) The posting of a cash bond of two thousand five hundred (\$2,500.00) dollars or a maintenance bond of five thousand (\$5,000.00) dollars running in favor of the Township and insuring the location utilized will be left after filming in a satisfactory condition, free of debris, rubbish and equipment, and that due observance of all Township Ordinances, laws and regulations will be followed. Within seven (7) days of the completion of the filming, the Township will return the bonds if there has been no damage to public property or public land caused by the filming. The amount of this bond is subject to final determination by the Township Attorney and Township Council.
 - (d) The hiring of an off-duty police officer for the times specified in the permit, as may be deemed necessary or appropriate by the Police Director or Police Chief.
3. The holder of the permit shall take all reasonable steps to minimize interference with the free passage of pedestrians and traffic over public land and shall comply with all lawful directives issued by the Township.
4. The holder of a permit shall conduct filming in such a manner as to minimize the inconvenience or discomfort of adjoining property owners attributable to such filming and shall, to the greatest extent practicable, abate noise and park vehicles associated with such filming off the public streets. The holder shall avoid any interference with previously scheduled activities upon public land and limit, to the extent possible, any interference with normal public activity on the public land. Where the applicant's production activity by reason of location or otherwise, will directly involve and/or affect any businesses, merchants or residents, these parties shall be given written notice of the filming at least three (3) days prior to the requested shooting date and be informed that objections may be filed with the Director. Said objections shall form a part of the applicant's application and be considered in the review of same. The Director may impose any necessary or appropriate restrictions as to the time, date, and process of filming. Proof of service and notification of adjacent owners shall be submitted to the Township Clerk at least two (2) days before the requested shooting date.

5. Filming in residential zones shall be permitted Monday through Friday between the hours of 7:00 a.m. and 9:00 p.m. Any requests for night scenes or weekends shall be approved in the permit or by a waiver to be granted in accordance with this subsection on five (5) days written notice to all property owners within two hundred (200) square feet or the proposed night time filming.
6. The Director may refuse to issue a permit whenever he or she determines, on the basis of the objective facts and after review of the application and a report thereon by the Police Department that filming at the location and/or the time set forth in the application will violate any law or ordinance or would unreasonably interfere with the use and enjoyment of adjoining properties, unreasonably impede the free flow vehicular or pedestrian traffic or otherwise endanger the public's health, safety or welfare. Further, the Township reserves the right to require one (1) or more on-site police officers in situations where the proposed productions may impede the proper flow of traffic, the cost of said police officers to be borne by the applicant as a cost of production. Where existing electrical power lines are to be utilized by the production, an on-site licensed electrician may be similarly required if the production company does not have a licensed electrician on staff.
7. Any person aggrieved by a decision of the Director denying or revoking a permit or a person requesting relief under paragraph d,8. may appeal to the Township Council. A written notice of appeal setting forth the reasons for the appeal shall be filed with the Municipal Clerk. An appeal from a decision of the Director shall be filed within ten (10) days of the Director's decision. The Township Council shall set the matter down for a hearing within thirty (30) days of the date on which the notice of appeal was filed. The decision of the Township Council shall be in a form of a resolution.
8. The Director may authorize the waiver of any of the requirements or limitations of this subsection, and may authorize filming other than the hours herein described or may permit filming at a particular location in a residential zone for more than three (3) days, to a maximum of ten (10) days at any one (1) location other than in connection with a major motion picture as further provided for in paragraph d,11., or may waive any other limitation or requirement of this subsection whenever he or she determines that such a permit may be issued without endangering the public health, safety and welfare. In determining whether to issue a waiver under this section, the Director shall consider the following factors:
 - (a) Traffic congestion at the location caused by vehicles to be parked;
 - (b) Applicant's ability to remove film and related vehicles off the public streets;
 - (c) When the applicant is requesting restrictions on the use of public streets or public parking during the course of the filming;
 - (d) Nature of the film shoot itself (e.g., indoor, outdoor, day or night);
 - (e) Prior experience of the applicant within the Township, if any; and
 - (f) Consultation with the Mayor and Council.
9. Copies of the approved permit will be sent to the Police and Fire Departments before filming takes place, and to The New Jersey Motion Picture and Television Commission. The applicant shall permit the Fire Prevention Bureau or other Township inspectors to inspect the site and the equipment to be used at any time. The applicant shall comply with all safety instructions issued by the Fire Official or other Township Inspectors and employees.
10. In addition to any other fees or costs mentioned in this subsection, the applicant shall reimburse the Township for any loss of revenue, such as parking meter revenue, repairs

to public property or other revenues or expenses that the Township has either incurred or been prevented from earning because of the filming.

11. The permit shall be readily available for inspection at all times at the site of the filming.

e. *Special Regulations for Major Motions Pictures.*

1. When filming is requested with respect to a major motion picture, the approved location of such filming and approved duration of filming by specific reference by day or date shall not exceed five (5) days in duration or as otherwise determined at the discretion of the Planning Director.

2. Any days necessary to be used for set up and preparation for a major motion picture filming may, in the discretion of the Director, be counted as filming days where such set up is anticipated to involve any of the factors set forth in paragraph d,8. above.

f. *Fees.* In addition to direct reimbursement for all expenses including but not limited to police, fire, public safety, public works, overtime incurred by Township employees and other expenses incurred by the Township for any filming that takes place within the Township, the scheduled fees for the issuance of permits authorized by this subsection shall be as follows:

1. Basic filming permit: one hundred fifty (\$150.00) dollars.

(a) Where an applicant requests a waiver pursuant to paragraph c,8., and requires expedited processing of the permit application, the basic filming permit shall be three hundred (\$300.00) dollars.

2. Daily filming fee payable in addition to the basic filming permit are as follows:

(a) Major motion pictures: \$3,000.00/day

(b) Other filming: \$1,000.00/day.

3. The following groups shall be exempt from the basic filming permit and per diem fees, and instead shall be charged only a twenty-five (\$25.00) dollar, one-time fee for filming:

(a) Not-for-profit organizations; and

(b) Students of an educational facility filming for educational purposes only.

g. *Violations and Penalties.* Any person violating this subsection or these rules and regulations or any instructions provided by the Fire Official or any other Township inspector or employee, upon conviction thereof, shall be punished by a fine not exceeding one thousand (\$1,000.00) dollars per day or by imprisonment not exceeding ninety (90) days, or both. A separate defense shall be deemed committed for each day during which the violation occurs or continues. The fines or penalty set forth herein shall be in addition to any other penalties which may be incurred.

(Ord. No. 1669-99 §§ I-VII; Ord. No. 2051-05 §§ II-III)

25-25 RESERVED.

25-26 CONSERVATION DISTRICT.

25-26.1 Creation and Purpose.

There is hereby created a Conservation District, the purpose of which is to restrict development of public lands and to thereby promote conservation of open spaces and valuable resources. (Ord. No. 904-88 § 25-6.7A)

25-26.2 Public Lands within the Conservation District.

The following Public Lands are designated as being within the Conservation District:

- a. Lands designated as Category C on the Zoning Map of this chapter used as public parks or public recreation areas, passive or active.
- b. Areas of potential use as public parks or public recreation areas designated on the Zoning Map as Category C.
- c. Undeveloped lands designated as Category C on the Zoning Map of this chapter which may have one (1) or more of the following characteristics:
 1. Environmental sensitivity
 2. Scenic views
 3. Wildlife
 4. Steep slopes
 5. Wetlands
- d. Lands which are vital to the preservation of regional water supplies as designated on the Zoning Map* as Category C.
(Ord. No. 904-88 § 25-6.7B)

25-26.3 Permitted Principal Uses in the Conservation District.

In the Conservation District, no land or building structure shall be used and no building or structure shall be erected, constructed or altered to be used for any purpose other than the following:

- a. Utility facilities related to the protection, preservation or distribution of Regional Water Supplies.
- b. Park and recreation uses in areas meeting the definition of "open space" as set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-5.
- c. Forestry and natural cover, which are valuable in protecting Township wetlands and bottom lands that have a high water table or are subject to floods.
- d. The following uses, subject to the approval of the Planning Board:
 1. Works for watershed protection, municipal water supply, power line rights-of-way, garbage disposal facilities and sewerage disposal facilities.
 2. Noncommercial outdoor recreational uses limited to park, playground, athletic field, tennis, firearm and archery ranges, swimming and ice skating, together with customary accessory uses and buildings, including a clubhouse, provided that prior to public hearing the applicant shall obtain and deliver to the Planning Board reports from the Township Health Officer and from the New Jersey State Department of Environmental Protection indicating that proposed structure or use will not seriously interfere with the flow of floodwater and will not endanger the public health and safety.
 3. A Township owned, sponsored, or supported animal shelter may be created within the Conservation District but only upon Block 170, Lot 13.
(Ord. No. 904-88 § 25-6.7C)

***Editor's Note:** Ordinance No. 2002-05, codified herein as subsection 25-18.15 was adopted March 1, 2005.

25-26.4 Accessory Uses.

Uses customarily associated with the above uses, provided such accessory uses are subordinate to the principal use and serve only the principal use are permitted. (Ord. No. 904-88 § 25-6.7D)

25-26.5 Yards.

For outdoor recreational facilities, for buildings and for structures, the front yards, side yards and rear yards shall not be less than fifty (50) feet from all street and property lines. (Ord. No. 904-88 § 25-6.7E)

25-26.6 Height of Buildings and Structures in Conservation District.

No building or structure shall exceed one (1) story or twenty-five (25) feet in height, except that works for watershed protection and facilities for water supply and sewage disposal shall not exceed forty (40) feet in height. (Ord. No. 904-88 § 25-6.7F)

25-26.7 Off-Street Parking.

Off-street parking facilities for uses permitted under subsection 25-26.3 shall be constructed or so located upon the lot as to have direct access to a public street or a private street as of the effective date of this subsection. (Ord. No. 904-88 § 25-6.7G)

25-26.8 Coverage.

Not more than twenty-five (25%) percent of a lot shall be covered by buildings or structures, accessory buildings, and parking lot for the buildings and structures. (Ord. No. 904-88 § 25-6.7H)

25-26.9 Interpretation of Restrictions.

The restrictions and controls imposed by this section are intended to be in addition to any other restrictions imposed by this chapter. Where this section imposed greater restrictions upon the use of buildings or premises of this chapter, then the provisions of this section shall control and supersede such other provisions. (Ord. No. 904-88 § 25-6.7I)

25-26.10 Periodic Review.

This section shall be periodically reviewed by the Mayor, the Township Council and the Planning Board consistent with its required periodic Master Plan Review. (Ord. No. 904-88 § 25-6.7J)

25-26.11 Amendments.

In the event that amendments are proposed to this section or to Schedule I of this chapter, the Chairperson of the Environmental Commission shall be notified in writing prior to first reading. (Ord. No. 904-88 § 25-6.7K)

25-26.12 Resolutions Affecting Land in the Conservation District.

The Environmental Commission is to be notified, in writing, of any resolutions, proposed by or to the Township Council, which would impact any of the land designated as part of the Conservation District. (Ord. No. 904-88 § 25-6.7L)

25-26.13 Schedule I.

A schedule (Schedule I) is added to this chapter which lists those properties that are subject of this section and which are depicted on the Zoning Map. Where a difference exists between Schedule I and the Zoning Map, Schedule I controls. (Ord. No. 904-88 § 25-6.7M)

SCHEDULE I
PUBLIC LANDS WITHIN THE CONSERVATION DISTRICT

In accordance with the provisions of subsection 25-26.2 the following lands shall be designated as being within the Conservation District.

a. *Public Parks and Public Recreational Areas.*

		<i>Block</i>	<i>Lot(s)</i>
1.	South Mountain Reservation	163	2, 5, 8
		164	1
2.	Eagle Rock Reservation	150	1
3.	May Apple Hill Park	167	1
4.	City of Orange Reservoir	162	2
		163	1
5.	O'Connor Park	172	29.02
6.	Boland Park	165.06	1
7.	Francis Byrne Golf Course	157.01	11
8.	Degnan Park	154.19	6
9.	Woodhull Field	55	8
10.	Colgate Field	125.02	106
11.	Lancaster Park	155.11	10, 12, 14, 16, 18, 22, 24
12.	Rolling Green Hills	86.05	1, 2
13.	Stagg Field	168	25
14.	Mt. Pleasant School Field	172	29.01
15.	Pleasantdale School Field	176.01	7
16.	Washington School Field	125.01	40, 45, 63
17.	Administration Building Field	154	20.03
18.	Jenkins Field	16	5
19.	Lafayette Park	61	27
20.	Club Boulevard Tot Park	52.12	17
21.	Byrne Park	118	20.01, 32

Block Lot(s)

b. *Potential Public Parks and Public Recreational Areas.*

1.	Crystal Lake Portion dedicated to Township	107	1.02
2.	Area adjacent to Route 280	172.05	2-18
		172.06	2-26
		172.08	2-22

		172.09	2-14
		172.10	18-22
		172.22	6
		174	619
		174	620
		175.04	7-13, 414-420
		175.05	1-480, 482-598
		175.06	1-6
		175.07	1-12
		175.08	1-14
		175.09	7-10
		175.13	3-4
		175.14	1-2
		175.15	1-16
		175-26	573-612
		175-27	520-559
		175-28	462-502
		175-29	405-446
3.	Area adjacent to Dogwood Road	165.06	1
4.	Woodland Tract	170	13, 15.03, 17
		<i>Block</i>	<i>Lot(s)</i>
c.	<i>Other Areas of Environmental Concern.</i>		
1.	Land adjacent to Lancaster Field	155.11	34-35
2.	Land adjacent to West Orange First Aid Squads	155.12	19
3.	Wetlands on Byrne Golf Course Areas	157.01	Part of II
4.	Wetlands on Woodland Avenue	152.07	4
5.	Steep slope on Valley Way	140.02	50
6.	Northfield-Rock Spring Avenue Tract	159.05	1-8, 10
7.	West Orange Armory (Ord. No. 904-88 § 25-6.7; Ord. No. 1244-94)	171	1, 3

25-27 TREE PROTECTION AND REMOVAL.

25-27.1 Title.

This chapter shall be known as the "Tree Protection and Removal Ordinance of the Township of West Orange." (Ord. No. 2177-08 § 1)

25-27.2 Findings and Purpose.

- a. The Township Council of the Township of West Orange finds that: trees are among the Township's most valuable natural resource assets, greatly enhancing the appearance of the Township and contributing to its suburban residential character; the integrity of Township and regional water resources is substantially affected by development on constrained land (e.g., steep slopes, wetlands and reduced depth to groundwater), tree removal, soil disturbance, storm water management and the general use of land resources; the preservation, protection and planting of trees aids in the stabilization of soil by the prevention of erosion and sedimentation, reduces stormwater runoff and the potential damage it may create, increases groundwater recharge thus enhancing the groundwater supply to streams and wetlands and the yield of water supply wells, aids in the removal of pollutants from the air and assists in the generation of oxygen, provides a buffer and screen against noise and pollution, provides protection against severe weather, aids in the control of drainage and restoration of denuded soil subsequent to construction or grading, provides a haven for birds and other wildlife and otherwise enhances the environment, protects and increases property values, conserves and enhances the Township's physical and aesthetic appearance, and generally protects the public health and safety as well as the general welfare.
- b. Numerous governmental, professional, educational and business sources have cited the importance of trees to our well-being: "One acre of forest absorbs six tons of carbon dioxide and puts out four tons of oxygen, enough to meet the annual needs of 18 people." (*U.S. Department Of Agriculture*). In one study, 83% of Realtors expressed the belief that mature trees have a "strong or moderate impact" on the salability of homes listed for under \$150,000 and on homes listed for over \$250,000 this perception increased to 98% (*American Forests, Arbor National Mortgage*). Healthy, mature trees are said to add an average of ten percent to a property's value (*USDA Forest Service*). "Landscaping, especially with trees, can increase property values as much as 20 percent." (*Management Information Services/ICMA*). "The net cooling effect of a young, healthy tree is equivalent to ten room-size air conditioners operating 20 hours a day." (*U.S. Department of Agriculture*). "If you plant a tree today on the west side of your home, in 5 years your energy bills should be 3% less. In 15 years the savings will be nearly 12%." (Dr. E. Greg McPherson, *Center for Urban Forest Research*). "Trees properly placed around buildings can reduce air conditioning needs by 30 percent and can save 20 - 50 percent in energy used for heating." (*USDA Forest Service*). "In laboratory research, visual exposure to settings with trees has produced significant recovery from stress within five minutes, as indicated by changes in blood pressure and muscle tension." (Dr. Roger S. Ulrich, *Texas A&M University*).
- c. It is the purpose of this chapter to protect and foster the existence and health of trees growing within the Township's borders, to preserve the maximum possible number of trees in the development of a site or lot, to protect specimen trees, to encourage innovative design and grading to promote the protection of existing trees, and to prevent indiscriminate, uncontrolled and excessive removal and cutting of trees, as well as land use activities inconsistent with accepted arboricultural practices, which contribute to the destruction of or permanent injury to trees upon lots and tracts within the Township. The standards and procedures established by this chapter are intended to furnish criteria for the use of Township boards, committees, commissions and officers in evaluating applications for tree removal and for site plan, subdivision and other land development approvals. They are further intended to inform those with interests in real property in the Township of the requirements to be followed with respect to trees located in the Township. The purpose of this section is to protect trees, the environment, and owners of real property who would be affected adversely by the removal of trees from property belonging to another person. The issuance of permits is a procedure designed to effectuate these goals.
(Ord. No. 2177-08 § 1)

25-27.3 Definitions.

The following definitions shall apply to this chapter:

Conservation easement shall mean a legal covenant restricting the use of land or natural features of the land that is described in the property deed and shown on a filed plat.

DBH shall mean the measurement of the diameter of the trunk of a tree planted in the ground taken four and one-half (4.5) feet from ground level on the uphill side of the tree.

Development application shall mean an application filed with the Township Planning Board or Board of Adjustment pursuant to the Municipal Land Use Law and the Township land development ordinances for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to N.J.S.A. 40:55D-34 or N.J.S.A. 40:55D-3.

Drip line shall mean a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground beneath.

Endangered or threatened species shall mean any species of tree or animal which has been determined by the Federal Fish and Wildlife Service or the State of New Jersey to be endangered or threatened.

Improved lot shall mean a single parcel of land with a residential or commercial structure, that is occupied pursuant to and in compliance with all applicable laws and regulations.

Land Use Board shall mean the Planning Board or Zoning Board of Adjustment of the Township of West Orange.

Major tree shall mean a tree species with a mature height of at least fifty (50) feet, which shall be at least a two and one-half (2.5) inch caliper at the time of planting.

Minor tree shall mean an evergreen tree, ornamental tree or other small tree at least six (6) feet in height at the time of planting.

Nonviable tree shall mean a tree that the officer certifies is dead, dying, diseased or too damaged to survive.

Officer shall mean the person primarily responsible for enforcing this chapter and who is qualified to do so by having the status of a New Jersey Approved Forester, New Jersey Certified Tree Expert, or an International Society of Arboriculture Approved Arborist, employed by, or appointed by, the Township of West Orange to implement this chapter and to carry out other related responsibilities as the Township may provide, including, but not limited to, developing and recommending to the Council a Township Woodlands Retention and Protection Plan and a Township Tree Inventory and Planting Schedule.

Person shall mean the owner of a parcel of real estate or any other individual, group, company, firm, corporation, partnership, association, society or other legal entity.

Qualified tree expert shall mean a New Jersey Licensed Landscape Architect, New Jersey Approved Forester, New Jersey Certified Tree Expert, or International Society of Arboriculture Approved Arborist.

Replacement tree shall mean a tree of a species approved by the officer and of nursery grade, properly balled and burlapped, meeting the minimum measurements of a major or minor tree, respectively.

Species shall mean the common name of a tree.

Specimen tree shall mean a tree in good health of unusual or exceptional form, size, age or shape for its species as evidenced by its inclusion in New Jersey's Big Tree List, or data base, published and coordinated by the New Jersey Forest Service, or having a Champion Tree point total (girth

in inches plus height in feet, plus one quarter of average crown spread in feet) within ten (10%) percent of the point total of a tree of the same species listed in New Jersey's Big Tree List, published in "New Jersey's Big Trees", by the New Jersey Forest Service.

Structure shall mean 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.

Tree shall mean a self-supporting single-stem perennial woody plant having a diameter of at least four (4) inches measured at a point four and one-half (4.5) feet (or fifty-four (54) inches) from the ground at the base of the tree on its uphill side.

Tree canopy shall mean the top layer or crown of a mature tree.
(Ord. No. 2117-08 § 1)

25-27.4 Permit Required; Prohibitions and Exemptions.

- a. *Permit.* Any person desiring to cut down or remove a tree shall file an application for a tree removal permit issued pursuant to this chapter, and shall not commence the cutting down or removal of any tree without first having been issued a permit.
- b. *Prohibitions.* Notwithstanding paragraph a. above, no person shall be permitted to do any of the following:
 1. Cut down or remove any tree within wetlands, flood hazard areas, riparian zones, or other areas protected by State or Federal law or applicable EPA or NJDEP regulations;
 2. Cut down or remove any tree within a conservation easement;
 3. Engage in activities which could cause a tree to die, including but not limited to topping, grade cut or fill, soil compaction within the drip line, chemical contamination, excessive drainage alterations or mechanical damage.
 4. Cut down or remove any tree on a slope of fifteen (15%) percent or greater in grade or on a slope where vegetation is presently stabilizing soils where a tree removal permit is submitted in connection with a development application, or a parcel upon which a new development is contemplated.
- c. *Exemptions.* The following are exempt from the permit requirement of paragraph a. above:
 1. For purposes of administrative convenience, up to three (3) trees may be removed on an improved lot within any three hundred sixty-five (365) day period. For enforcement and record-keeping purposes, every person removing one or more trees pursuant to this exemption shall file a tree removal report with the officer on a form to be provided by him or her, to document the tree(s) removed and date of removal. The tree removal report shall be filed within five (5) days of removal of the tree(s).
 2. Cutting down or removal of a nonviable tree, or a tree that is an immediate hazard to structures or human life or property; and
 3. Activities lawfully conducted on public lands or rights-of-way by or on behalf of a local, County, State, Federal or other governmental agency or entity, or a utility company.
 4. Tree removal in conjunction with a Woodland Management Plan(s) approved by the N.J. Forest Service.
 5. Tree removal on a golf course which is greater than seventy-five (75) feet from a property boundary.
- d. *Development Applications.* With regard to every development application that involves proposed tree removal, the applicant shall:

1. Schedule a meeting with the officer in connection with the development application for the purpose of evaluating the impact of this chapter on the plans for development;
2. Submit a qualified tree expert's report setting forth a tree removal and tree replacement plan when applicable.
(Ord. No. 2177-08 § 1)

25-27.5 Application Procedure.

- a. Every application for a tree removal permit shall be made by submission of the following:
 1. An original and two (2) copies of an application on forms provided by the Township containing the following information: the name and address of the applicant; the street address and tax lot and block of the property in question; and the number of trees proposed to be removed;
 2. The submission of such additional information as the officer may require to assist him in the processing of the tree removal permit.
- b. Upon request, the officer shall assist any person who desires to apply for a tree removal permit with completing the application required by this section.
- c. Every development application shall include a tree removal plan which shall include a map drawn to scale showing the location of all trees to be removed and a qualified tree expert's report addressing factors and the standards set forth in subsection 25-27.7.
- d. The applicant shall clearly mark, in a manner approved by the officer, the trunk of each tree proposed to be removed at a height of four and one-half (4 1/2) feet above the ground so that such tree or trees may be inspected more easily by the officer.
(Ord. No. 2177-08 § 1)

25-27.6 Fees.

- a. Except as provided below, the basic, nonrefundable fee for processing a tree removal permit application for an improved lot which is not the subject of a development application shall be twenty-five (\$25.00) dollars, intended to cover such processing costs to the Township as a preapplication meeting, review and evaluation of the application, requisite site inspections, and communications with the applicant including those relating to issuance or denial of a tree removal permit.
 1. Fees shall be waived for nonviable trees, as certified by the officer.
- b. In the case of an application for a tree removal permit related to a development application, the nonrefundable fee shall be three hundred (\$300) dollars, intended to cover the same costs to the Township stated in paragraph a. of this section.
(Ord. No. 2177-08 § 1)

25-27.7 Procedures, Factors and Standards for Application Review and Approval.

- a. *Site Inspection.* Within twenty (20) days after receipt of an application for a tree removal permit, the officer shall communicate with the applicant and arrange for a site inspection. Submission of the application shall be deemed consent for the officer to enter onto the property on which the tree(s) to be removed is located during normal and reasonable business hours, but reasonable efforts should be made for the applicant to be present to answer the officer's questions and also to provide an opportunity for the officer to provide advice about the condition, value and recommended care of all of the trees on the applicant's property to better meet the educational purpose of the chapter. The officer's inspection should confirm the location of the tree(s) sought to be removed, the reason(s) for the removal request, should note any risk factors for other trees on the property, and the likelihood of potential problems, such

as increased soil erosion, water runoff, drainage problems, the presence of bedrock or steep slopes, and safety concerns on the subject property and on adjoining property, and make other appropriate officials aware of those potential problems and concerns. Any permit not acted upon within a period of twelve (12) months after issuance shall become null and void.

- b. *Factors to be Considered Where Tree Removal is Sought.* In deciding whether to issue a tree removal permit in connection with a development application, the Land Use Boards shall consider the following factors and in deciding all other applications, the officer shall consider the following factors:
 1. Whether the proposed cutting down or removal would impair the growth and development of the remaining trees on the applicant's property or on adjacent properties;
 2. Whether the proposed cutting down or removal would change existing drainage patterns;
 3. Whether the proposed cutting down or removal would allow soil erosion or would increase dust;
 4. Whether the proposed cutting down or removal would increase the amount of stormwater runoff on other properties in the area, whether contiguous or not;
 5. Whether the proposed cutting down or removal would constitute a significant change in the screening between existing or proposed buildings or roads on the site and adjacent land or in the wooded aspect of the lot as viewed from any adjacent public road;
 6. Whether the proposed cutting down or removal would constitute a horticulturally advantageous thinning of an existing overgrown area or the removal of dead or diseased trees;
 7. Whether proposed changes in the topography of the area where such tree(s) are located will create conditions, which may be injurious to the trees or other trees located nearby so as to require welling, construction of an aerification system, or tree removal or replacement; and
 8. Whether the proposed cutting or removal would remedy a safety hazard to persons or structures.
- c. *Review Standards to be Applied Where Tree Removal is Sought.* A tree removal permit may only be granted subject to the following terms and conditions:
 1. Applicant shall demonstrate that:
 - (a) To the greatest extent possible, existing vegetation shall be preserved;
 - (b) To the greatest extent possible, specimen trees and other large trees (ten (10) inch DBH and greater) shall be preserved;
 - (c) On all residential lots existing natural screening and woodlands between lots, along property lines and between buildings shall be preserved to the greatest extent possible;
 - (d) Suitable habitats shall be preserved for species of animals (including migratory animals) that are designated as endangered or threatened by Federal or State governmental authorities to the greatest extent possible;
 2. The appropriate Land Use Board must make an express finding that the tree removal proposed by the applicant will not result in or cause, increase or aggravate any or all of the following conditions:
 - (a) Impaired growth or development of remaining trees or shrubs on the property of the applicant or upon adjacent property;

- (b) Soil erosion, sedimentation and dust;
- (c) Stormwater or drainage problems;
- (d) Significant diminution of the screening between existing or proposed buildings or roads on site and adjacent land or in the wooded aspect of the lot or site from any adjacent road;
- (e) Sewerage problems; or
- (f) Dangerous or hazardous conditions.
(Ord. No. 2177-08 § 1)

25-27.8 Approval of a Permit and Tree Replacement Requirement.

- a. To approve a tree removal permit connected with a development application or a proposed new development project, the Land Use Board also must find the following:
 - 1. At least thirty (30%) percent of the trees on each particular lot or development site shall be preserved;
 - 2. All other applicable ordinances and Federal and State statutes and regulations have been complied with.
- b. Any tree removal permit in connection with a development application or a proposed new development project shall specify that no trees may be removed until after installation by the applicant of stormwater runoff controls and Soil Erosion measures that are required by this ordinance, by Title 7, Chapter 8, Section 7:8-5.4 and by Title 2, Chapter 90, Subchapter 1 of the New Jersey Administrative Code, respectively.
- c. If the application for tree removal is not the subject of a development application, the officer shall decide within sixty (60) days of the submission of a completed tree removal permit application whether or not to grant the tree removal permit and shall promptly notify the applicant and any objectors. However, where the application is made in connection with a development application, the decision on the application for a tree removal permit shall be made by the Land Use Board and, if the application is granted, the permit shall be issued by the officer.
- d. Immediately after a decision is rendered granting a tree removal permit, the applicant shall visit the site and clearly mark each tree that has been approved for removal. In the case of a new development, the applicant must give the officer notice of when the tree removal is proposed to take place at least two (2) weeks in advance. If the officer cannot be present on the day or days proposed for removal, he shall designate days for the removal when he can be present, which shall be binding on the applicant. The officer shall be present on the site to monitor all cutting and removal of trees, in order to ensure that only those trees which he authorized to be cut down and removed are cut down and removed and that all trees which he required to be preserved are preserved.
- e. No tree cutting or removal may take place in connection with a new development unless the Township Engineer has inspected the site and certified that all soil erosion and sediment controls and stormwater runoff controls required by this chapter and applicable State law have been installed and completed. Copies of the certification shall be delivered to both the applicant and the officer by the Township Engineer immediately after it is made.
- f. Permits granted under this chapter shall run with the land and shall remain in force and effect for twelve (12) months from the date of issuance.
- g. Tree replacement, as approved by the officer, Land Use Board, or Township Engineer, shall be required on the removal site as follows:

1. (a) To the greatest extent possible, for each tree removed pursuant to the standards of this chapter of a DBH of four (4) inches to no more than six (6) inches, the applicant shall plant a major or minor tree as defined in this chapter on the removal property; and
(b) To the greatest extent possible, for each tree removed pursuant to the standards of this chapter of a DBH of more than six (6) inches, the applicant shall plant a major tree as defined in this chapter on the removal property.
2. In the case of a permit in connection with an improved lot, no tree replacement shall be required.
3. Tree replacement required by this chapter shall be completed within two (2) years of tree removal unless the officer grants an extension until the next appropriate planting season if necessary.
4. In no instance is tree replacement to be considered a penalty, but rather it implements the purposes of this chapter. Tree replacement shall not be a substitute for, but shall be in addition to, any penalty imposed for violation of the provisions of this chapter.
(Ord. No. 2177-08 § 1)

25-27.9 Protection of Existing Trees.

- a. In connection with any construction, prior to the issuance of a building permit or start of construction, snow fencing or other protective barriers acceptable to the official charged with the administration and enforcement of this chapter shall be placed around trees that are not to be removed. The protective barriers shall be placed beyond the drip line, but in no event less than ten (10) feet from the trunk, of any tree and shall remain in place until all construction activity is terminated. No equipment, chemicals, soil deposits or construction materials shall be placed within any area so protected by barriers. Any landscaping activities subsequent to the removal of the barriers shall be accomplished with light machinery or hand labor.
- b. No person shall:
 1. Cut down or remove any tree, except as permitted by this chapter, or allow or cause such cutting or removal;
 2. Cause or allow any willful damage, injury or disfigurement of any tree growing within the Township. For purposes of this subsection, the actions of any person shall be deemed willful if the damage, injury or disfigurement of any tree is caused as the result of but not limited to the following: cutting, gashing or slitting of any tree; the pouring of any liquid or other material on any tree; or on the nearby ground; the construction or placement of any nonporous material on the ground around any tree so as to cut off air, light or water from the roots; or placement or removal of any soil from within the drip line, but in no event less than ten (10) feet from the trunk, of any tree; or
 3. Store or pile building material or debris or place construction equipment within the drip line, but in no event less than ten (10) feet from the trunk, of any tree.
- c. If any tree to be saved in connection with construction as set forth above or any replacement tree planted pursuant to this chapter shall die within two (2) years it shall be replaced by the applicant or the property owner within six (6) months.
(Ord. No. 2177-08 § 1)

25-27.10 Administration and Enforcement.

In administering and enforcing this chapter, the officer, the Township's Construction Official, Zoning Officer, Township Planner, Engineer, Chief of Police, or any other Township officer or

designee, is hereby empowered to issue stop work orders whenever a claimed violation of this chapter is witnessed or reported. (Ord. No. 2177-08 § 1)

25-27.11 Violations and Penalties.

- a. Any person who violates any provision of this chapter shall, upon conviction thereof, be punishable by up to the maximum penalties prescribed by N.J.S.A. 40:49-5, establishing maximum penalties for violation of municipal ordinances generally, and as the same may be amended, the maximum penalties at the time of passage of this chapter being a fine not exceeding two thousand (\$2,000.00) dollars or imprisonment for a term not exceeding ninety (90) days, or a period of community service not exceeding ninety (90) days, or any or **all** of those penalties, and each tree removed or damaged in violation of this chapter shall be deemed a separate offense. However, if a person is convicted of removing a specimen tree without a permit, he shall be punished by a fine which shall be a minimum of one hundred (\$100.00) dollars or the highest minimum fine then allowed by N.J.S.A. 40:49-5, and up to the maximum fine then allowed, or by imprisonment for a term not exceeding ninety (90) days, or both.
- b. In addition, any person who cuts or removes a tree in violation of this chapter shall be required to plant a replacement tree on the removal site pursuant to subsection 25-27.8 of this chapter. If the tree that was illegally removed was a major tree, he must replant a major tree. If the tree that was illegally removed was a minor tree, he must replant a minor tree.
- c. The removal of a tree in violation of this chapter shall automatically suspend any existing tree removal permit(s) associated with a property and freeze the issuance of any future permits until the matter has been resolved and any required tree replacement has been completed.

(Ord. No. 2177-08 § 1)

25-27.12 Severability.

If any part of this chapter is determined to be invalid, such part shall be severed and its invalidity shall not affect the remaining parts of this chapter. (Ord. No. 2177-08 § 1)

25-27.13 Repeal of Inconsistent Ordinances.

Any and all parts of ordinances which are inconsistent with any of the terms and provisions of this chapter be and the same are hereby repealed as to and to the extent of such inconsistency. (Ord. No. 2177-08 § 1)

25-27.14 Effective Date.

This chapter shall take effect upon final passage and publication as required by law. (Ord. No. 2177-08 § 1)

SECTIONS 28-44

25-28 STEEP SLOPE AND NATURAL FEATURES ORDINANCE.

25-28.1 Background.

Disturbances of steep slopes results in accelerated erosion processes from storm water runoff and the subsequent sedimentation of water bodies with the associated degradation of water quality and loss of aquatic life support. Related effects include soil loss, changes in natural topography and drainage patterns, increased flooding potential, further fragmentation of forest and habitat areas, and compromised aesthetic values. It has become widely recognized that disturbance of steep slopes should be restricted or prevented based on the impact disturbance of steep slopes can have on water quality and quantity, and the environmental integrity of landscapes.

Protection of other natural features, including State open waters, wetlands, wetland transition areas, flood hazard areas, floodways and riparian zones, is warranted to prevent flooding, protect water quality, preserve wildlife and aquatic habitat.

25-28.2 Statement of Purpose.

It is the purpose of this chapter to provide development controls for all lands located within the Township of West Orange that have within their boundaries topographical conditions hereinafter defined as “steep slopes.” These controls are enacted to minimize the potentially adverse impacts associated with disturbance of steeply sloped areas. The most appropriate method of alleviating such conditions is the regulation of soil disturbance and vegetation removal in steep slope areas; limitation of building and impervious coverage; and reductions of densities and increase in lot areas in areas of steep slope. Such regulation promotes and protects the public health, safety and welfare of the township in their existing physical state or condition as of the effective date of the enactment of this chapter.

It is also the purpose of this chapter to provide for environmentally sound development of a lot with adequate area located outside of natural features for the use and enjoyment of its occupants.

25-28.3 Definitions.

BEDROCK shall mean continuous solid rock that underlies regolith.

CLIFF FACE shall mean a sheer, nearly vertical slope of exposed bedrock.

DISTURBANCE means the placement of impervious surface, the exposure or movement of soil or bedrock, or clearing, cutting, or removing of vegetation.

EFFECTIVE LOT AREA is an adjustment for the natural features including steep slopes, State open waters, wetlands, wetland transition areas, floodways, and riparian zones. The effective lot area shall be either equal or greater than the minimum lot area as defined in chapter 25-7.1 table of districts of regulations.

EXCESSIVE STEEP SLOPE shall mean any steep slope 25% or greater.

FLOOD HAZARD AREA shall mean the flood hazard area associated with State open waters (streams, rivers, lakes, ponds, etc.) and regulated streams as determined in accordance with the methodologies included in the NJ Flood Hazard Area Control Act rules N.J.A.C. 7:13 et seq. The flood hazard area shall be as determined by NJDEP in a Flood Hazard Area Verification pursuant to these rules.

FLOODWAY shall mean the floodway area associated with certain State open waters (streams, rivers) and regulated streams as determined in accordance with the methodologies included in the

NJ Flood Hazard Area Control Act rules N.J.A.C. 7:13 et seq. The floodway shall be as determined and verified by NJDEP pursuant to these rules.

IMPERVIOUS SURFACE means any structure, surface, or improvement that reduces or prevents absorption of storm water into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures and other similar structures, surfaces, or improvements.

RIDGE LINE shall mean the top of the First and Second Watchung Mountains as determined by analysis of topographic maps.

RIPARIAN ZONE shall mean the buffer adjacent to State open waters/regulated waters as determined in accordance with the methodologies included in the NJ Flood Hazard Area Control Act rules N.J.A.C. 7:13 et seq. The extent of the riparian zone shall be as determined by NJDEP in a Flood Hazard Area Verification pursuant to these rules.

ROCK CUT shall mean nearly vertical wall of rock created by or adjacent to roadway construction.

ROCK WASTE shall mean the material comprising the talus slope of sliderock.

STATE OPEN WATER shall mean streams, rivers, lakes and ponds as defined in the NJ Freshwater Wetlands Protection Act rules N.J.A.C. 7:7A. The location and extent of State open water shall be as determined by the NJ Department of Environmental Protection in a Letter of Interpretation.

STEEP SLOPE means any slope equal to or greater than 10 percent as measured over any minimum run of 10 feet. Steep slopes are determined based on contour intervals of two feet or less.

TALUS SLOPE shall mean the apron, cone, or embankment of the rock waste sloping outward from the base of the cliff face that is the course of the rock waste.

TOP OF CLIFF shall mean the portion of a hill located above the cliff face.

WETLAND TRANSITION AREA shall mean wetland transition area as defined in the NJ Freshwater Wetlands Protection Act rules N.J.A.C. 7:7A. The location and extent of wetland transition areas on a lot shall be as determined by the NJ Department of Environmental Protection in a Letter of Interpretation.

WETLANDS shall mean wetlands as defined in the NJ Freshwater Wetlands Protection Act rules N.J.A.C. 7:7A. The location and extent of wetlands on a lot shall be as determined by the NJ Department of Environmental Protection in a Letter of Interpretation.

25-28.4 Applicability.

- a. This section shall apply to all applications for development in the Township of West Orange.
- b. The Planning Board or Zoning Board shall review all plans submitted under this section as part of any application for site plan or subdivision approval.
- c. The Township Engineer and the Township Planner, in all cases, shall review all applications for compliance with this section.

25-28.5 Exceptions to Section 28.

The terms of this section shall not apply to the following:

- a. Existing single family homes built before the date of this ordinance's approval, additions to such homes or rebuilding of such homes after a disaster.
- b. Improvements for which preliminary subdivision or site plan approval or construction permits have been issued prior to the effective date of this.

- c. Other than where the exceptions set forth herein apply, all applications for subdivision or site plan approval shall be reviewed under these requirements by the applicable land use board and its professionals to determine the presence of steep slopes and other natural features, if any, on the subject property and compliance with the provisions of this chapter. All construction permit applications that include grading or clearing of any lot, other than those within the scope of the exceptions set forth herein, shall be reviewed under these requirements by the Township Engineer and the Township Planner.

25-28.6 Initial Procedure.

- a. Applicants for site plan approval or subdivision approval shall submit to the Department of Planning and Development all information and documents required by this section.
- b. The Township Planner shall process all exhibits submitted under this section in the same manner as applications for subdivision approval and/or site plan approval.

25-28.7 Information Required.

- a. For all sketch plats, sketch site plans, subdivisions and site plans, the following exhibits shall be submitted:
 - 1. A colored topographic map, prepared, signed and sealed by a New Jersey licensed engineer and surveyor showing existing contours at two foot intervals.
 - 2. Areas clearly noted in different colors on the topographic map showing the following slopes as measured between (2) foot contour lines designated as areas one (1) through five (5): Area 1. Zero to ten (0 – 10%) percent; Area 2. Ten to 14.99 (10-14.99%) percent; Area 3. Fifteen to 19.99 (15-19.99%) percent; Area 4. Twenty to 24.99 (20-24.99%), and Area 5. Twenty-five (25%) percent or more.
 - 3. Calculations, in square footage and acres, of amount of area in the various slope categories listed above.
 - 4. On the colored topographic map superimpose all existing trees as defined under the tree ordinance and mark tree to be removed.
 - 5. On the colored topographic map super impose the location of State open waters, wetlands, wetland transition areas, flood hazard areas, floodways, and riparian zones.
 - 6. A separate map shall be prepared showing proposed improvements overlain on the preceding color topographic map.
- b. Where development is proposed on slopes greater than ten (10%) percent as part of preliminary subdivision approval, or preliminary site plan approval the following additional exhibits, prepared, signed and sealed by a New Jersey licensed engineer shall be submitted.
 - 1. Identification of soil types on the property, with specific reference to highly erodible soils as identified by the United States Department of Agriculture Soil Conservation Service or other recognized authority;
 - 2. Erosion potential of exposed soils;
 - 3. Length, steepness and surface roughness of exposed slopes;
 - 4. Resistance of soil to compaction and stability of soil aggregates;
 - 5. High water table, water infiltration capacity and capacity of soil profile;
 - 6. Type and location of construction activity, including the amount of site grading;
 - 7. Location of construction access roads;

8. Storm water management plan;
9. Soil erosion and sediment control plan, including but not limited to a plan explaining how the applicant will minimize adverse impacts upon existing natural features;
10. Plans and specifications for any retaining walls, steps, or other soil protective structures proposed;
11. A stabilization and revegetation plan prepared, signed and sealed by a New Jersey professional engineer, including a complete description of the existing vegetation, the vegetation to be planted and slope stabilization measures to be installed; and
12. Other engineering data deemed reasonably necessary by the Township Engineer and Planner to determine compliance with this chapter.

25-28.8 Limitations on Development in Steep Slope Areas.

- a. No Soil or vegetation shall be disturbed or structures constructed within one hundred (100) feet of the ridge line, cliff face, and rock cuts along the roadways or quarries as defined herein, including but not limited to those identified in Exhibit A attached hereto, dated December 4, 1989.
- b. Disturbance of steep slopes and excessive steep slopes shall not exceed the limits established in Table One.

Table 1
All Districts

Slope	Maximum Disturbed Area
1) 0-10%	100%
2) 10-14.99%	60%
3) 15-19.99%	40%
4) 20-24.99%	20%
5) 25% or greater	0%

- c. Disturbances of slopes of 25% or more is prohibited.
- d. Effective lot area for all districts (restrictions for effective lot area)

Table 2-Effective Lot Area
(all districts)

The area of a lot shall be reduced dependent upon the slopes present on the lot as well as the presence of other natural features including wetlands, wetland transition areas, State open waters, floodway and riparian zones. Permitted density on the lot is based on the effective lot area. The building and impervious coverage are also computed on the effective lot area.

Slope	Useable Lot Area	Adjustment factor
1) 0-10%	100%	1.0
2) 10-14.99%	60%	0.6
3) 15-19.99%	40%	0.4
4) 20-24.99%	20%	0.2
5) 25%- and over	0%	0.0

- e. All wetlands, wetland transition areas, State open waters, floodways, riparian zones, lands within 100 feet of a cliff face, and lands within 100 feet of a ridge line are treated as 100% lot reduction and are excluded from effective lot area. Wetlands, wetland transition areas, State open waters, floodways, riparian zones, lands within 100 feet of a cliff face, and lands within 100 feet of a ridge line in areas of steep slopes and excessive steep slopes shall be counted once as a 0.0 area of disturbance and not result in a further reduction of useable lot area

Example: A six acre parcel where one acre is 0-10 % slope has no adjustment. One acre at 10-14.99% is 0.6, One acre at 15-19.99% will be 0.4, One acre at 20-24.99% is 0.2 and one acre at 25% and over is 0.0. Next step is to add 1, 0.6, 0.4, 0.2, and 0 which equals 2.2. That means in the six acre parcel the effective lot area is 2.2 acres.

- f. The land use board's review and the municipal engineer's review of applications for construction, soil disturbance, or vegetation removal subject to these requirements shall include a review of the submissions requires by this section of this chapter. The review will include an evaluation of the following factors.
1. The proposed activity will be conducted in compliance with Hudson-Essex-Passaic Soil Conservation District requirements and Chapter 30- Soil Removal.
 2. Provisions shall be made for the proper disposition of surface water runoff so that it will not increase unstable conditions. Appropriate storm drainage facilities will be constructed.
 3. Provision shall be made for any structure of protective measure that may be requires for the protection of public safety or to prevent erosion, including but not limited to retaining walls, guide rails, headwalls and fences.
 4. Any proposed building or structure or other protective measures shall not impede the flow of surface water through any watercourse.
 5. Any proposed vehicular facilities including roads, drives or parking areas shall be designed to comply with this Sub-Chapter and the Hudson-Essex- Passaic Soil Conservation District requirements.
 6. Grades along streets and driveways shall be governed by the Residential Site Improvement Standards. The connection of any driveway to street shall be by a vertical curve of sufficient radius to provide a smooth transition. The horizontal angle of intersection of a driveway with a street shall not be less than sixty (60%) degrees.
 7. Any fill placed on the lot shall be properly stabilized and, when found necessary, depending upon existing sloped and soil types, supported by retaining walls and other appropriate structures as approved by the Township Engineer.
 8. Sidewalk, driveways, new streets and walkway slopes shall not exceed six (6%) unless a ramp and steps are provided, except where superseded by the Residential Site Improvement Standards.
 9. There shall be no alteration of site elevations in excess of one foot within five feet of an adjoining property.
 10. Changes in the grade shall not exceed slope of 3 to 1 unless supported by retaining walls.
 11. Retaining walls will comply with the applicable wall height requirements for the zone in which the property is located. All retaining walls greater than four feet in height shall require a variance and certification by a professional engineer that the wall was constructed in accordance with approved plans.
 12. Fill material shall not consist of or include organic material, nor rocks greater than eight inches in diameter. Fill material shall be compacted to ninety (90%) of the maximum density.

13. Reasonable efforts shall be made to conserve topsoil which is removed during construction for later use on areas requiring vegetation or landscaping; e.g. cut and fill slopes.
14. No structure on the slope shall be located within 60 feet of the bottom of the cliff.
15. Design guidelines: Structures shall be built on the lesser slopes. No structure shall be built on the talus slope of the cliff face.
16. Tree removal on the site shall be subject to the Township's Tree Protection Ordinance (Chapter 31).
17. Vegetation and Revegetation
 - a. The developer shall submit a stabilization and revegetation plan in accordance with Chapter 30 and 31.
 - b. Every effort shall be made to conserve topsoil which is removed during construction for later use on areas requiring vegetation or landscaping e.g. cut and fill slopes.
 - c. Every effort shall be made to preserve the maximum number of trees and other existing vegetation on the site and to avoid disturbance of the critical upland forest area, and to preserve unique and predominant views.

25-28.9 Adequate Contiguous Area.

When a lot contains rock formations, wetlands, wetland transition areas, State open waters, floodway, riparian zones, slopes exceeding ten percent (10%), land within 100 feet of a cliff face, land within 100 feet of a ridge line, depth to bedrock of less than four feet, or similar constraining conditions, the appropriate Board (Planning or Zoning), after adequate investigation shall determine whether adequate contiguous area free of restraining conditions exist. In such an instance it must be demonstrated that there is an adequate contiguous area on the lot which is free of constraining factors and which is sufficient to accommodate the proposed development, including but not limited to all access drives, parking areas, front, rear and side yards and the like, constructed in accordance with all the provisions of this section. The unconstrained area shall have a width as defined in Chapter 25-4 lot width, but for a depth sufficient to build a structure, within the minimum bulk requirements.

25-28.10 Variances.

Any applicant subject to the requirements of this chapter seeking to construct, disturb or clear in excess of the requirements of this ordinance shall require a variance under N.J.S.A 40:55D-70(c).

25-29 STORMWATER CONTROL.

25-29.1 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 measures and proper maintenance plans. Nonstructural measures include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated loading of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

- b. *Purpose.* It is the purpose of this ordinance to establish minimum stormwater management requirements and controls for major development.
- c. *Applicability.* This ordinance shall be applicable to any site plan or subdivision that requires preliminary or final site plan review.
- d. *Compatibility with Other Permit and Ordinance Requirements.* Development approvals issued pursuant to this 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 held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance is not 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.
(Ord. No. 2063-06 § 1)

25-29.2 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.

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

Compaction shall mean the increase in soil bulk density.

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

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

A 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 shall mean the New Jersey Department of Environmental Protection.

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

Design engineer shall mean 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 shall mean the division of a parcel of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any

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

Drainage area shall mean 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 constrained area shall mean the following areas where the physical alteration of the land is in some way restricted, either through regulation, easement, deed restriction or ownership such as: wetlands, floodplains, threatened and endangered species sites or designated habitats, and parks and preserves. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

Environmentally critical areas shall mean 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 shall mean 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 shall mean the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

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

Infiltration shall mean the process by which water seeps into the soil from precipitation.

Major development shall mean any development that provides for ultimately disturbing one (1) or more acres of land or increasing impervious surface by one-quarter (1/4) acre or more. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation. Projects undertaken by any government agency which otherwise meet the definition of "major development" but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. are also considered "major development."

Municipality shall mean any city, borough, town, township, or village.

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

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

Person shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State and any State, interstate or Federal agency.

Pollutant shall mean any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), thermal waste, wrecked or discarded

equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, groundwaters or surface waters of the State, or to a domestic treatment works.

Pollutant shall mean and include both hazardous and nonhazardous pollutants.

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

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

Soil shall mean all unconsolidated mineral and organic material of any origin.

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

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

Stormwater management basin shall mean an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

Stormwater management measure shall mean 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 shall mean 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 shall mean a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

Urban Enterprise Zones shall mean 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 shall mean the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

Wetlands or *wetland* shall mean an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

(Ord. No. 2063-06 § 2)

25-29.3 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 this section. To the maximum extent feasible, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.
2. The standards in this 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. Such alternative standards shall provide at least as much protection from stormwater-related loss of groundwater recharge, stormwater quantity and water quality impacts of major development projects as would be provided under the standards in this section.
3. For site improvements regulated under the Residential Site Improvement Standards (RSIS) at N.J.A.C. 5:21, the RSIS shall apply in addition to this section except to the extent the RSIS are superseded by this section or alternative standards applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

(Ord. No. 2063-06 § 3)

25-29.4 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.
- b. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlnebergi* (bog turtle).
- c. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements at subsection 25-29.4f. and g.:
 1. The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;

2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
 3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of fourteen (14) feet, provided that the access is made of permeable material.
- d. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements at subsection 25-29.4f. and g. may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:
1. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
 2. The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of subsections 25-29.4f. and g. to the maximum extent practicable;
 3. The applicant demonstrates that, in order to meet the requirements at subsection 25-29.4f. and g., existing structures currently in use, such as homes and buildings would need to be condemned; and
 4. The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under paragraph d,3. above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate for requirements of subsection 25-29.4f. and g. that were not achievable on-site.
- e. *Nonstructural Stormwater Management Strategies.*
1. To the maximum extent practicable, the standards in subsections 25-29.4f. and g. shall be met by incorporating nonstructural stormwater management strategies at subsection 25-29.4e. into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in subsection 25-29.4e,2. below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.
 2. Nonstructural stormwater management measures incorporated into site design shall:
 - (a) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
 - (b) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
 - (c) Maximize the protection of natural drainage features and vegetation;
 - (d) Minimize the decrease in the "time of concentration" from preconstruction to 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. These source controls include, but are not limited to:
 - (1) Site design features that help to prevent accumulation of trash and debris in drainage systems;
 - (2) Site design features that help to prevent discharge of trash and debris from drainage systems;
 - (3) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
 - (4) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.
3. Any land area used as a nonstructural stormwater management measure to meet the performance standards in subsection 25-29.4f. and g. shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.
 4. Guidance for nonstructural stormwater management measures is available in the New Jersey Stormwater Best Management Practices Manual. The manual is available on the Department of Environmental Protections' stormwater web page at <http://www.njstormwater.org>.
- f. *Erosion Control, Groundwater Recharge and Runoff Quantity Standards.*
1. This section 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 subsection 25-29.5, either:
 - [a] Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain one hundred (100%) percent of the average annual preconstruction groundwater recharge volume for the site; or
 - [b] Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from preconstruction to 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 projects subject to paragraph (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 down gradient 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 subsection 25-29.4, complete one (1) of the following:
 - (1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the 2-, 10-, and 100-year storm events do not exceed, at any point in time, the preconstruction runoff hydrographs for the same storm events;
 - (2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the 2-, 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 preconstruction 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 paragraphs (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 subsection 25-29.2 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 eighty (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 one-quarter (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 one and one-quarter (1.25) inches of rainfall in two (2) 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 nonstructural 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 subsection 25-29.7, or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in subsection 25-29.7. 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 eighty (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 % Removal Rate
Bioretention Systems	90
Constructed Stormwater Wetland	90
Extended Detention Basin	40-60
Infiltration Structure	80
Manufactured Treatment Device	See subsection 25-29.6c.
Sand Filter	80
Vegetative Filter Strip	60-80
Wet Pond	50-90

4. If there is more than one onsite drainage area, the eighty (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 subsections 25-29.4f. and g.
6. Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in subsection 25-29.7.

7. In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
8. Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:
 - (a) The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:
 - (1) A 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 paragraph (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 one hundred fifty (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 one hundred fifty (150) feet of the Category One waterway;
 - (2) Stormwater associated with discharges allowed by this section shall achieve a ninety-five (95%) percent TSS post-construction removal rate;
 - (3) Temperature shall be addressed to ensure no impact on receiving waterway;

- (4) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;
 - (5) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and
 - (6) All encroachments proposed under this subsection shall be subject to review and approval by the Department.
- (d) A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to subsection 25- 29.4g,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 paragraph g,8. shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in paragraph 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 one hundred fifty (150) feet as measured perpendicular to the waterway subject to this subsection.
- (e) This subsection does not apply to the construction of one (1) individual single family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before the effective date of the Stormwater Management Rules*, provided that the construction begins on or before five (5) years from effective date of the Stormwater Management Rules.*
(Ord. No. 2063-06 § 4)

25-29.5 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 preconstruction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at subsection 25-29.5a,1(a) and the Rational and Modified Rational Methods at subsection 25-29.5a,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 (5) years without interruption prior to the time of application. If more than one (1) land cover have existed on the site during the five (5) years immediately prior to the time of application, the land cover with the lowest runoff potential shall be

***Editor's Note:** Ordinance No. 2063-06 codified herein was adopted March 21, 2006.

used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

3. In computing preconstruction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts that may reduce preconstruction stormwater runoff rates and volumes.
 4. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release-55, Urban Hydrology for Small Watersheds and other methods may be employed.
 5. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.
- b. Groundwater recharge may be calculated in accordance with the following:
1. The New Jersey Geological Survey 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.
(Ord. No. 2063-06 § 5)

25-29.6 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 (1) inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than 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 (1) inch and a maximum spacing between bars of six (6) inches. In addition, the design of trash racks must comply with the requirements of subsection 25-29.8d.
 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 (2 1/2) inches in diameter.

5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at subsection 25-29.8.
- 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 this section.
- c. Manufactured treatment devices may be used to meet the requirements of this section, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.
(Ord. No. 2063-06 § 6)

25-29.7 Sources for Technical Guidance.

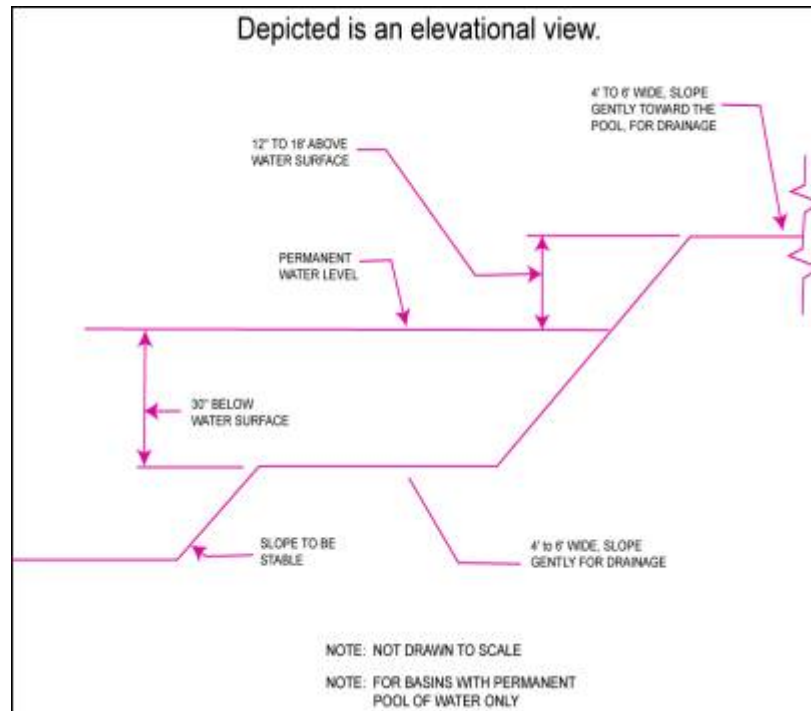
- a. Technical guidance for stormwater management measures can be found in the documents listed at paragraphs 1. and 2. below, which are available from Maps and Publications, Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; (609) 777-1038.
 1. Guidelines 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.
(Ord. No. 2063-06 § 7)

25-29.8 Safety Standards for Stormwater Management Basins.

- a. This subsection sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.
- b. The provisions of this subsection are not intended to preempt more stringent municipal or County safety requirements for new or existing stormwater management basins.
- c. *Requirements for Trash Racks, Overflow Grates and Escape Provisions.*

1. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:
 - (a) The trash rack shall have parallel bars, with no greater than six (6) 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 two and one-half (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 three hundred (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 (2) 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 three hundred (300) lbs./ft. sq.
 3. For purposes of this subsection, escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:
 - (a) If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in subsection 25-29.8d. a freestanding outlet structure may be exempted from this requirement.
 - (b) Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half (2 1/2) feet. Such safety ledges shall be comprised of two (2) steps. Each step shall be four (4) to six (6) feet in width. One (1) step shall be located approximately two and one-half (2 1/2) feet below the permanent water surface, and the second step shall be located one (1) to one and one-half (1 1/2) feet above the permanent water surface. See subsection 25-29.8e. for an illustration of safety ledges in a stormwater management basin.
 - (c) In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.
- d. *Variance or Exemption from Safety Standards.*
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.

- e. *Illustration of Safety Ledges in a New Stormwater Management Basin.*



(Ord. No. 2063-06 § 8)

25-29.9 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 subsection 25-29.9c. 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 [specify number] copies of the materials listed in the checklist for site development stormwater plans in accordance with subsection 25-29.9c. 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 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. It is recommended that the topographic base map of the site be submitted which extends a minimum of two hundred (200) feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing two (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 1 waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing manmade 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 manmade features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.
3. Project Description and Site Plan(s). A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.
4. Land Use Planning and Source Control Plan. This plan shall provide a demonstration of how the goals and standards of subsections 25-29.3 through 25-29.6 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 predevelopment and post-development conditions for the design storms specified in subsection 25-29.5 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 on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.
7. Maintenance and Repair Plan. The design and planning of the stormwater management facility shall meet the maintenance requirements of subsection 25-29.10.
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 subsections 25-29.9c,1. through 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.
(Ord. No. 2063-06 § 9)

25-29.10 Maintenance and Repair.

a. *Applicability.*

1. Projects subject to review as in subsection 25-29.1c. of this ordinance shall comply with the requirements of subsection 25-29.10b. and c.

b. *General Maintenance.*

1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
3. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.
4. If the person responsible for maintenance identified under subsection 25-29.10b,2. above is not a public agency, the maintenance plan and any future revisions based on subsection 25-29.10b,7. below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
5. Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.
6. The person responsible for maintenance identified under subsection 25-29.10b,2. above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.
7. The person responsible for maintenance identified under subsection 25-29.10b,2. above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
8. The person responsible for maintenance identified under subsection 25-29.10b,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 subsections 25-29.10b,6. and 7. above.

9. The requirements of subsections 25-29.10b,3. and 4. do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
 10. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the Municipal Engineer or his designee. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person.
- c. Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.
 - d. *Penalties.* Any responsible person who violates any portion or section of this ordinance shall be subject to those specified in Chapter I, Section 1-5 of these Revised General Ordinances. (Ord. No. 2063-06 § 10)

25-29.11 Severability.

If the provisions of any subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any subsection, paragraph, subdivision, or clause of this ordinance. (Ord. No. 2063-06 § 11)

25-29.12 Repealer.

All other ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed. (Ord. No. 2063-06 § 12)

25-29.13 Effective Date.

This ordinance shall take effect upon the approval by the County review agency, or sixty (60) days after submission to the County review agency if they fail to act. (Ord. No. 2063-06 § 13)

25-30 HISTORIC PRESERVATION COMMISSION.

25-30.1 General Provisions.

- a. *Purpose.* The purpose of this section is to promote the educational, cultural, economic and general welfare of the Township through the preservation of historic buildings, structures, sites, objects, and districts of historic interest, through the development and maintenance of appropriate settings for such places, and through collateral activities, to document and to promote the public enjoyment of such places, which impart to residents and visitors alike a distinct aspect of the Township and which serve as visible reminders of the historical and cultural heritage of the Township, the State and the Nation.
- b. *Definitions.* As used in this section:
Administrative Officer shall mean the Director of Planning and Development.
Commission shall mean the West Orange Historic Preservation Commission.

Historic District shall mean one (1) or more historic sites, buildings, structures or objects and contiguous or surrounding property significantly affecting or affected by the quality and character of such sites, buildings, structures or objects.

A Type I Historic District shall mean one in which fifty (50%) percent or more of the individual buildings or structures comprising the District are more than fifty (50) years of age.

A Type II Historic District shall mean one in which less than fifty (50%) percent of the individual buildings or structures comprising the District are more than fifty (50) years of age.

Historic Property or *Historic Resource* shall mean a district, site, building, structure or object significant in American history, architecture, engineering, archaeology or culture at the national, State, County or local level.

Integrity shall mean the authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period.

Inventory shall mean a list of Historic Properties determined to meet specified criteria of significance.

Landmark shall mean any real property manmade structure, natural object or configuration or any portion or group of the foregoing which have been formally designated in the Master Plan as being of historic, archaeological, cultural, scenic, or architectural significance.

National Register Criteria shall mean the established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places.

Preservation shall mean the act or process of applying measures to sustain the existing form, integrity and material of a building or structure, and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

Protection shall mean the act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, erosion, loss or attack, or to cover or shield the property from danger or injury.

Reconstruction shall mean the act or process of reproducing by new construction the exact form and detail of a vanished building, structure or object, or any part thereof, as it appeared at a specified period of time.

Rehabilitation shall mean the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural values.

Restoration shall mean the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

(Ord. No. 904-88 § 25-6.9A; Ord. No. 1007-90; Ord. No. 1584-98 § 1)

25-30.2 Historic Preservation Commission.

- a. *Establishment/Membership.* There is hereby established an Historic Preservation Commission to be appointed pursuant to statute by the Mayor. The Commission shall consist of seven (7) regular members and two (2) alternate members who shall serve without compensation, and who shall be interested in and able to contribute to the preservation of historic districts, sites, buildings, structures, and objects. At the time of appointment, members shall be designated by the following classes:

1. Class A—A person who is knowledgeable in building design and construction or architectural history and who may reside inside or outside the Township. To the extent available in the community, the Mayor shall appoint professional members who meet the Professional Qualifications set forth for the disciplines of architecture, historic architecture, or architectural history in subsection 25-30.5.
2. Class B—A person who is knowledgeable, or with a demonstrated interest in, local history and who may reside inside or outside the Township. To the extent available in the community, the Mayor shall appoint professional members who meet the Professional Qualifications set forth for the discipline of history in subsection 25-30.5.
3. Class C—Residents of the Township who shall hold no other municipal office, position or employment except for membership on the Planning Board or the Zoning Board of Adjustment.

At least one (1) member shall be designated in Class A, and one (1) member in Class B. Of the seven (7) regular members, at least three (3) members shall be of Classes A and B. At least one (1) resident of an Historic District shall be appointed to the Commission. At the time of appointment, alternate members shall be designated as "Alternate No. 1" and "Alternate No. 2," and shall meet the qualifications of Class C members.

A member of the Main Street Development Corporation shall be designated as liaison between the Commission and the Corporation, and shall be an ex-officio member of the Commission.

- b. *Terms.* The term of a regular member shall be four (4) years and the term of an alternate member shall be two (2) years. Notwithstanding any other provision herein, the term of any member common to the Commission and the Planning Board shall be for the term of membership on the Planning Board, the term of any member common to the Commission and the Zoning Board of Adjustment shall be for the term of membership on the Zoning Board of Adjustment; and the term of any member common to the Commission and the Main Street Development Corporation shall be for the term of membership on the Main Street Development Corporation. The terms of the members first appointed pursuant to N.J.S.A. 40:55D-107 shall be so determined that to the greatest practicable extent, the expiration of the 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 that the initial term of no regular member shall exceed four (4) years and the initial term of no alternate member shall exceed two (2) years.

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

- c. *Conflicts of Interest.* No member of the Commission shall be permitted to participate in or vote on any matter in which (s)he has, either directly or indirectly, any personal or financial interest. Unless a member resides or owns property within two hundred (200) feet of property which is the subject of an application, mere residence in a designated Historic District and/or ownership of a designated Historic Landmark shall not be deemed a personal or financial interest.
- d. *Vacancies.* A vacancy occurring otherwise than by expiration of term shall be filled within forty-five (45) days by appointment as above provided for the unexpired term only.
- e. *Removal.* A member of the Commission may, after public hearing if (s)he requests it, be removed by the Mayor and Township Council for cause.
- f. *Organization of Board.* The Commission shall adopt written rules and procedures for the transaction of its business, subject to the following:

1. The Commission shall elect from its members a Chairperson and a Vice Chairperson.
2. A quorum for the transaction of all business shall be four (4) members.
3. All Commission minutes and records are public records and all Commission meetings shall comply with the Open Public Meetings Act (N.J.S.A. 10:4-7, et seq.)
4. The Commission shall employ, designate or elect a Secretary who need not be a member of the Commission. The Secretary shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations and decisions. All such material shall be made public record.
5. Commission meetings shall be scheduled at least once every month or as often as required to fulfill its obligation to advise the Mayor, Planning Board, Zoning Board, Township Council or Administrative Officer.
6. The office of any member who shall be absent from three (3) consecutive meetings of the Commission without just cause may be deemed vacant at the discretion of the Mayor, and his or her membership on the Historic Preservation Commission terminated. If the Commission determines that a member is absent from any meeting without just cause, it shall be duly noted in the minutes of that meeting, and it shall be the duty of the Chairperson to so notify that member in writing. The mailing of the minutes of a particular meeting to the Commission members shall constitute written notice to each member.

g. *Expenses, Experts and Staff.*

1. The Mayor and Township Council shall make provisions in the budget and appropriate funds for the expenses of the Commission. The Commission may employ, contract for, and fix the compensation of experts and other staff and services as it shall deem necessary. Expenditures shall not exceed, exclusive of gifts or grants, the amount appropriated by the Mayor and Township Council for the Commission's use.
2. The Commission shall employ an Historic Preservation Officer who is a professional in the field of architectural history, historic preservation or similar discipline, to coordinate its activities, and to advise the Commission on applications before it.
3. The Director of Planning and Development, the Construction Official, the Township Engineer, and all other departments of the Township government shall provide such technical assistance as the Historic Preservation Commission and Officer may require.
4. The Commission shall obtain its legal counsel from the Township Attorney at the rate of compensation determined by the Township Council.

h. *Powers and Duties.*

1. *Meetings.* The Historic Preservation Commission shall establish a regular schedule of meetings on at least a monthly basis. Additional meetings may be called by the Chairperson or Vice Chairperson when the regular meetings are inadequate to meet the needs of its business, to handle emergencies, or to meet time constraints imposed by the law.
2. *Responsibilities.* The Historic Preservation Commission shall have the following duties and responsibilities:
 - (a) To identify, record and maintain a system for survey and inventory of all districts, buildings, sites, structures and objects of historical or architectural significance based on the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (Standards and Guidelines for Identification), as amended and/or supplemented. The survey and inventory of Historic Resources shall be compatible and coordinated with the Office of New Jersey Heritage's

statewide inventory. The survey material shall be reviewed and, if necessary, updated at least every other year to incorporate any newly acquired historical documentation and to reflect changes to a resource's integrity or condition. The inventory shall be used as a basis for identifying properties in the Township worthy of designation as Historic Landmarks and Districts.

- (b) To recommend to the Planning Board and the Township Council the establishment and boundaries of Historic Districts and Landmarks where appropriate. The procedures and criteria for designation of Historic Districts and Landmarks are set forth in subsection 25-30.3.
- (c) To conduct research on and to nominate significant resources to the State and National Registers of Historic Places. If the Township is certified under the State's Certified Local Government (CLG) Program, the Commission shall, in accordance with the State's CLG Guidelines, review and comment on all State and National Register nominations for Historic Resources within the Township.
- (d) To review all actions for issuance of permits or Certificates of Appropriateness pertaining to regulated activities and provide written reports to the Construction Official or Administrative Officer on the application of the zoning ordinance provisions concerning historic preservation pursuant to N.J.S.A. 40:55D-111.
- (e) To prepare and distribute a Design Guidelines Handbook to be utilized for application review and to foster appropriate rehabilitation of Landmarks and Historic Districts.
- (f) To advise the Planning Board and the Zoning Board of Adjustment on applications for development which may affect Historic Districts or Landmarks pursuant to N.J.S.A. 40:55D-110, including but not limited to subdivision and demolition applications.
- (g) To make recommendations to the Planning Board on the Historic Preservation Plan Element of the Master Plan and on the implications for preservation of historic sites of any other Master Plan elements.
- (h) To advise the Planning Board on the inclusions of Historic Sites and Landmarks in the recommended capital improvement program.
- (i) To advise the Township Council and Planning Board on the relative merits of proposals involving public funds to restore, preserve and protect historic buildings, places and structures, including the preparation of long-range plans therefor, the securing of State, Federal and other grants and aid to assist therein, and the monitoring of such projects once underway.
- (j) To advise and assist Township officers, employees, boards and other bodies, including those at County, State and Federal levels, on all matters which have potential impact on the historic buildings, places and structures in the Township or on the physical character and ambiance of an historic district.
- (k) To cooperate with local, County, State or national historical societies, government bodies and organizations to maximize their contributions to the intent and purpose of this section.
- (l) It is recognized that certain elements of design, construction and materials important to proper historic preservation may not be consistent with current building codes or with zoning and similar regulations. Some instances may be unique to a certain building or situation, others may be more common. Accordingly, the Commission shall, when it considers it to be appropriate, draft and recommend to the Mayor, Township Council and Planning or Zoning Board ordinances or

amendments to existing ordinances that would resolve such conflicts, institute or support action, where applicable, to obtain specific relief from the Zoning Board of Adjustment or Planning Board, to take such other steps as it finds appropriate in the circumstances.

- (m) To secure the voluntary assistance of the public, and within the limits of the budget, to retain consultants and experts to assist the Commission in its work or to provide testimony in support of the Commission's position before other bodies, boards, commissions or courts.
 - (n) To aid the public in understanding the worth of Historic Resources, and to provide technical assistance to property owners on how to preserve, restore and rehabilitate structures, and to advise property owners upon their request as to the accuracy or appropriateness of historic restoration or rehabilitation, including but not limited to materials, fenestration, architectural detail, environment and color.
 - (o) To carry out such other advisory, educational and informational functions as will promote historic preservation in the Township, including the preparation of publications, the placing of markers, and the collection and dissemination of materials on the importance of and techniques for historic preservation.
 - (p) To assemble and arrange for the proper care, cataloguing and availability of materials relevant to the Township's history.
 - (q) To request the Mayor and Township Council to seek, on its own motion or otherwise, injunctive relief of violations of this section or other actions contrary to the intent and purposes of this section.
- (Ord. No. 904-88 § 25-6.9B; Ord. No. 1007-90)

25-30.3 Historic District and Landmark Designation.

The purpose of this subsection is to provide the means of designating Historic Districts and Landmarks in the Township of West Orange that are worthy of preservation.

- a. *Procedures.* At such time as the Historic Preservation Commission chooses to recommend amendment of the Master Plan and Zoning Map to designate a building, site, structure, object or district as an Historic Landmark or District, the procedures outlined below shall be followed:
 - 1. For each Landmark or District, the Commission shall prepare a report of its recommendations. For Historic District nomination, the report shall include: a statement describing it as a Type I or Type II District; an inventory of all buildings or structures within the proposed District, including the age of each, accompanied by black and white photographs of each; a property map of the District showing boundaries; a physical description and statement of significance as per the nomination standards for the National Register of Historic Places. For Historic Landmark nomination, the report shall include: a black and white photograph, a tax map of the property, and a physical description and statement of significance as per the nomination standards for the National Register of Historic Places. Nothing herein shall prevent a particular building or structure that is less than fifty (50) years of age at the time of a District designation from being regulated as historic at a later date provided that the provisions of this ordinance are followed.
 - 2. The Historic Preservation Commission shall conduct a public hearing on its proposed recommendations, at which time interested persons shall be entitled to present their opinions, suggestions, and objections on the proposed recommendations for Landmark or District designation. Since the function of the Historic Preservation Commission will

respect to designation is advisory only, it is intended that the public hearing be informal, without the need for transcription of minutes or testimony under oath.

3. A copy of the Commission report shall be made available for public inspection at least thirty (30) days prior to the hearing.
 4. Notice of the hearing shall be given at least thirty (30) days prior to the date of the hearing by publication in the official newspaper of the Township or in a newspaper of general circulation in the Township, and by certified mail and regular mail to the owners of record of real property within the area being considered for District designation and to the owner of record of real property being considered for Landmark designation. The notice shall state the date, time, and place of the hearing; the nature of the matters to be considered; identification of the property(ies) proposed for designation by street address and by reference to lot and block numbers as shown on the current tax duplicate in the Township Tax Assessor's Office; the significance and consequences of such designation; and the location and times at which the Commission report is available for public inspection.
 5. Within thirty (30) days following the public hearing on the proposed Landmark or District, the Commission shall make revisions to its report as it deems appropriate based on its consideration of the comments and suggestions made at the public hearing, and shall forward its final report, including its recommendations, to the Planning Board, Administrative Officer, Mayor and Township Council for their consideration in amending and supplementing the Township's Master Plan and Zoning Map. Such further action as shall be taken for designation of an Historic Landmark or District shall be subject to those statutory procedures which apply to the change of a zoning designation and the adoption, revision, or amendment of any development regulation.
 6. To the extent not contrary to the statutory procedures mandated by the Municipal Land Use Law, the Commission's report shall be acted upon by the Planning Board with respect to its adoption or amendment of the Master Plan or component parts thereof, including the adoption of any resolution, within ninety (90) days of receipt of the Commission's final report.
 7. To the extent not contrary to the statutory procedures mandated by the Municipal Land Use Law, the Commission's report shall be acted upon by the Township Council with respect to its adoption or amendment of the Zoning Ordinance, or any part thereof, including the adoption of the Ordinance, within ninety (90) days of receipt of the Commission's final report, during which time, and from the time of the Commission's publication of its initial report, there shall be no alterations or improvements made to the Landmark or District sought to be designated in a manner which would be prohibited if such property(ies) were to be designated.
 8. Copies of the list of designated Historic Districts and Landmarks shall be made public and distributed to all municipal agencies reviewing development applications, building permits and housing permits.
- b. *Criteria for Designation.* The historic inventory and survey shall be used as a basis for identifying properties worthy of designation as Historic Landmarks and Districts. The criteria for evaluating and designating Historic Landmarks and Districts shall be in accordance with the National Register Criteria, which are as follows:
1. The quality of significant in American history, architecture, archeology, engineering, and culture is present in districts, landmarks, sites, buildings, structures and objects that possess integrity of location, design, setting, materials, workmanship, feeling and association, and;

- (a) That are associated with events that have made a significant contribution to the broad patterns of our history; or
 - (b) That are associated with the lives of persons significant in our past; or
 - (c) That embody 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
 - (d) That have yielded, or may be likely to yield, information important in prehistory or history.
(Ord. No. 904-88 § 25-6.9C; Ord. No. 1007-90; Ord. No. 1584-98 § 2; Ord. No. 1728-00 § 1)
- c. *Designated Landmarks.* The following sites have been designated as Historic Landmarks:
 - 1. Block 39, Lot 56 (29 South Valley Road).
 - 2. Block 39, Lot 61.01 (21 South Valley Road).
 - 3. Block 60, Lot 2 (13 Main Street)
 - 4. Block 66, Lot 1 (177 Main Street)
 - 5. Block 89, Lot 68 (Llewellyn Park Gate House)
 - 6. Block 115, Lot 30.01 (Edison National Historic Site)
 - 7. Block 177.08, Lot 20 (695 Eagle Rock Avenue)
 - 8. Block 177.12, Lot 60 (757 Eagle Rock Avenue)

25-30.4 Review by Historic Preservation Commission.

- a. *Purpose.* To accomplish the purposes of this section, the Township has adopted provisions for design review, intended to:
 - 1. Encourage the continued use of historic landmarks and facilitate their appropriate reuse;
 - 2. Maintain and develop an appropriate and harmonious setting for the historic and architecturally significant buildings, structures, sites, objects, or districts within the Township;
 - 3. Foster beautification and both private and public reinvestment;
 - 4. Manage change by preventing alteration or new construction not in keeping with a historic character of Landmarks or Districts;
 - 5. Discourage the unnecessary demolition of Historic Resources;
 - 6. Recognize the importance of Historic Properties by using property owners and tenants to maintain their properties in keeping with the requirements and standards of this section;
 - 7. Encourage the proper maintenance and preservation of historic settings and landscapes.
- b. *Regulated Activities.*
 - 1. For purposes of this section, regulated activities on a Historic Landmark or within a Historic District shall include the following:
 - (a) Demolition of any Historic Landmark or an improvement within a Historic District.
 - (b) Relocation of any building, structure or improvement.

- (c) Change in the exterior appearance of any building, structure or improvement by addition, rehabilitation, removal, reconstruction, alteration, replacement, maintenance, or cosmetic changes.
 - (d) Any addition or new construction of an improvement.
 - (e) Replacement, changes in, or addition of signs, shutters, outdoor displays, fences and hedges, street furniture, awnings, off-street driveway and parking materials, or exterior lighting.
 - (f) Installation or replacement of sidewalks, porches, fire escapes, solar panels, and satellite dish antennas.
- 2. In no instance shall the following be considered regulated activities:
 - (a) Changes to the interior of structures that do not affect the exterior appearance.
 - (b) Ordinary repairs and maintenance wherein the cost of such repairs is less than five hundred (\$500.00) dollars and the repairs in question constitute an exact replacement of existing architectural details that are otherwise permitted by law, provided this work does not alter in any way the exterior appearance of the Historic Resource.
- c. *Certificates of Appropriateness.*
 - 1. No person or other legal entity shall hereafter engage or cause other persons to engage in any regulated activity on an historic site or within an Historic District as defined herein unless and until such person or entity shall have applied for and received a Certificate of Appropriateness from the Historic Preservation Commission. A Certificate of Appropriateness issued by the Historic Preservation Commission shall be required before any permit can be issued by the Construction Official/Zoning Officer. Specifically exempted from this requirement are properties or structures in Type II Historic Districts which are zoned R-1 through R-6 or RT and which are less than fifty (50) years of age.
 - 2. It shall be the duty and responsibility of the Construction Official/Zoning Officer to refer to the Commission all applications for issuance of permits or Certificates of Appropriateness pertaining to regulated activities on a Landmark or within an Historic District, for a written report on the application of the zoning ordinance provisions concerning historic preservation to any of those aspects of the change proposed, which aspects were not determined by approval of an application for development, by a municipal agency, pursuant to the "Municipal Land Use Law," P.L. 1975 c. 291. The Commission shall submit its report to the Administrative Officer within forty-five (45) days of its referral to the Commission. If within the forty-five (45) day period the Commission recommends against the issuance of a Certificate of Appropriateness or permit, or recommends conditions to its issuance, the Administrative Officer shall cause the Construction Official/Zoning Officer to deny issuance of the permit or Certificate of Appropriateness, or to include the conditions. If the Commission recommends approval, a Certificate of Appropriateness shall be issued. Failure to report within the forty-five (45) day period shall be deemed to constitute a report in favor of issuance of the permit or Certificate of Appropriateness, and without the recommendation of conditions.
 - 3. Applications for development which are in a designated Historic District or Landmark and which require approval by the Planning Board or Zoning Board of Adjustment shall be referred by the Administrative Officer directly to the appropriate Board. The Board shall forward a copy of the complete application for the Historic Preservation Commission at least fifteen (15) days prior to the hearing. Failure to make the informational copy available shall not invalidate any hearing or proceeding. The Commission may provide its advice, which shall be conveyed through its delegation of

one of its members or staff to testify orally at the hearing on the application, and to explain any written report which may have been submitted.

- d. *Informational Meetings.* Persons considering action that may require a Certificate of Appropriateness, as set forth above, even if they are in doubt as to whether such is required, are encouraged to request in writing an informal "Informational Meeting" with the Historic Preservation Commission. Written requests for such informational meetings can be made to the Construction Official/Zoning Officer, to the Administrative Officer, to any other Township official or to the Commission. The Commission shall hold such informational meetings within thirty-five (35) days of receipt of such written request. The purpose of an informational meeting is to inform the persons of the standards of appropriateness and the procedures for obtaining a Certificate of Appropriateness, if such is required. Preliminary drawings may also be submitted to the Historic Preservation Commission for review and comment before proceeding with final plans, even if an informational meeting is not requested.
- e. *Application Procedures.*
 1. Applications for Certificates of Appropriateness for other actions of the Board shall be made on forms available in the office of the Historic Preservation Officer, the Construction Official/Zoning Officer, or the Township Planner. Applications shall be made by legal or equitable owners of the property. Completed applications shall be delivered or mailed to the Commission in Township Hall.
 2. The contents of the application shall consist of the following:
 - (a) When the application is for exterior repairs replacing deteriorated architectural features to match existing materials, textures, and dimensions, the application shall be accompanied by current photographs of the building showing the area to be repaired and a written description of the work (for example, a builder's estimate or an architect's scope of work).
 - (b) When the application is for exterior architectural changes replacing existing architectural features with new materials, textures, or dimensions that do not match existing materials, textures, or dimensions, such as replacement windows, siding, etc., the application shall be accompanied by current photographs of the building showing features to be replaced, a written description of the work (for example, a builder's estimate or an architect's scope of work), and material specifications (architect's technical specification or manufacturer's literature describing the replacement materials).
 - (c) When the application is for the addition of new exterior architectural elements, such as a porch, deck, railing, window, bay, wing, story, roof, etc., or for adding a new building to the site, the application shall be accompanied by current photographs of the property, a written description of the work (for example, a builder's estimate or an architect's scope of work), material specifications (architect's technical specification or manufacturer's literature describing the replacement materials), and architectural drawings (plans, evaluations, site plan, etc.).
 - (d) When the application is for restoration or rehabilitation of the building to an earlier historic appearance, in addition to the material described above for the type of work involved, the application shall be accompanied by historical documentation (description of physical architectural evidence, historic photographs, and documentary evidence) to support the restoration or rehabilitation decisions.
 - (e) Additionally, the applicant shall submit such photographs, diagrams, architectural drawings, specifications, or other materials sufficient to adequately inform the Historic Preservation Commission of the nature of the work for which the application is made. The Historic Preservation Officer, based on a publicly

available check list, shall determine if the information is sufficient to constitute a complete application, and if the application is incomplete shall so notify the applicant within fifteen (15) days.

f. *Commission Review.*

1. The Commission shall review complete applications for Certificates of Appropriateness at a public meeting. In addition to complying with requirements of the Open Public Meetings Act, and except in the event of an emergency, at least fifteen (15) days prior to such meeting, the Commission shall give notice of the time, date, place and subject of the meeting, which notice shall be given in writing to the applicant.

The applicant shall give at least ten (10) days written notice of the time, date, place and subject of the meeting in writing to each property owner of record within two hundred (200) feet of the subject property; provided, however that exempted from this requirement are properties or structures which are zoned R-1 through R-6 or RT.

In the case of an application for a permit to demolish or move a Historic Landmark or a structure or improvement in a Historic District, the applicant shall, in addition to the above and at least ten (10) days before the meeting, give notice of the time, date, location and purpose of the hearing to the agencies listed below by certified mail, return receipt requested, by regular mail, and by published notice in an official newspaper of the municipality; and shall present an Affidavit attesting to such notification prior to commencement of the meeting:

- (a) West Orange Historical Society
 - (b) West Orange Environmental Commission
 - (c) Office of New Jersey Heritage, Department of Environmental Protection
 - (d) Any other organization concerned with historic preservation, deemed by the Commission to be appropriate in this instance.
2. At the meeting wherein the Historic Preservation Commission intends to vote upon an application, individuals interested in the application shall be permitted to comment in person only upon the application under consideration.
3. The Commission shall reach a decision on a complete application within forty-five (45) days of submission of the application or referral of same by the Construction Official/Zoning Officer. Nothing herein shall prohibit an extension of time by mutual agreement of the applicant and the Commission. The Commission may advise the applicant and make recommendations in regard to the appropriateness of the proposed action, and may grant approval upon such conditions as it deems appropriate within the intent and purposes of this section. An applicant shall not be required to appear or to be represented at the meeting for consideration of the application for a Certificate of Appropriateness.
4. If an application is approved, the Commission shall forthwith issue a Certificate of Appropriateness. If the Commission disapproves an application, the Commission shall state its reasons in writing within ten (10) days of such decision. In case of disapproval, the Commission shall notify the applicant in writing of such disapproval and provide the applicant with a copy of the reasons.
5. When a Certificate of Appropriateness has been issued, the Construction Official/Zoning Officer shall, from time to time, inspect the work approved by such Certificate and shall regularly report to the Commission the results of such inspections, listing all work inspected and reporting any work not in accordance with such Certificate or violating any ordinance of the Township. The Commission shall also make inspections of work approved by such Certificate whenever it considers such to be desirable.

6. A Certificate of Appropriateness shall be valid for a period of two (2) years from date of issue unless reasonable extensions are granted by the Commission. If a permit is also required for the action approved and is obtained prior to expiration of such two (2) year period, then the Certificate of Appropriateness shall be valid for the life of the permit and any extensions thereof.

g. *Design Standards.*

1. Secretary of Interior's Standards. In carrying out all its duties and responsibilities, the Commission shall be guided by the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings which are given as follows:
 - (a) Every reasonable effort shall be made to provide a compatible use for a property which requires minimum alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
 - (b) 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 should be avoided when possible.
 - (c) 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.
 - (d) 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.
 - (e) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.
 - (f) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced 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 rather than on conjectural design or the availability of different architectural elements from other buildings or structures.
 - (g) 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.
 - (h) Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to any project.
 - (i) 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.
 - (j) Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
2. Visual Compatibility Factors. In assessing the design of any proposed additions or new construction, the following Visual Compatibility Factors shall be considered in

conjunction with the Secretary of Interior's Standards set forth above, by the Historic Preservation Commission.

- (a) Height. The height of the proposed building shall be visually compatible with adjacent buildings.
 - (b) Proportion of building's front facade. 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) Proportion of openings within the facility. 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) Rhythm of solids to voids in front facades. The relationship of solids to voids in the front facade of a building shall be visually compatible with the buildings and places to which it is visually related.
 - (e) Rhythm of spacing of buildings on streets. 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 buildings 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 roof 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, its mass in relation to open spaces, its 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 building and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.
 - (l) Exterior Features. A building's related exterior features such as lighting, fences, signs, sidewalks, driveways, and parking areas shall be compatible with the features of those buildings and places to which it is visually related, and shall be appropriate for the historic period for which the building is significant.
3. Subdivision. Notwithstanding the zoning regulations in this chapter applicable to proposed subdivisions, a designated historic property shall be subdivided only when:
- (a) The proposed subdivision would not adversely impact upon the architectural or historic character of the Landmark, its surrounding grounds, or the designated Historic District in which it is located.
 - (b) Denial of subdivision approval would result in undue economic or other hardship, after effecting any specific measures proposed to mitigate any adverse impacts, such as screening, buffering, and landscaping. This standards shall not be met

merely because subdivision and development of the property would be more profitable than the present use.

If a proposed subdivision requires one (1) or more variances from the zoning regulations in this chapter, the decision on such variance request(s) shall give specific consideration to the historic preservation considerations in this chapter. If a subdivision is approved consistent with this provision, all new construction on any resulting lot shall be subject to the requirements of the Secretary of Interior's Standards and Visual Compatibility Factors listed above, and the resulting lot on which is located the existing principal structure prior to subdivision shall be deemed a Landmark. All powers to be exercised pursuant to this paragraph shall be within the jurisdiction of the Planning Board.

4. Demolition.

- (a) In regard to an application to demolish a Landmark, or any improvement within a Historic District, the following matters shall be considered:
 - (1) Its historic, architectural, cultural or scenic significance in relation to the criteria established in subsection 25-30.3b.
 - (2) If it is within a Historic District, its significance to the District and the probable impact of its removal on the character and ambiance of the District, and the criteria which were the basis of the designation of the District.
 - (3) Its potential for use for those purposes currently permitted by the Zoning Ordinance.
 - (4) Its structural condition and the economic feasibility of alternatives to the proposal.
 - (5) Its importance to the municipality and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest.
 - (6) The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty and expense.
 - (7) The extent to which its retention would promote the general welfare by maintaining and increasing the real estate values, generating business, attracting tourists, attracting new residents, stimulating interest and study in architecture and design, or making the municipality an attractive and desirable place in which to live.
- (b) The Commission shall be empowered to assist the owner in developing plans to preserve the property when moving or demolition thereof would be a great loss to the Township. The Commission shall be empowered to negotiate with the applicant to see if an alternative to demolition can be found, and may request the applicant to prepare a "Financial Analysis" which may include any or all of the following:
 - (1) Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship, whether business or familial, if any, between the owner and the person from whom the property was purchased;
 - (2) Assessed value of the land and improvements thereon according to the most recent assessment;
 - (3) For depreciable properties, a pro forma financial statement prepared by an accountant or broker of record;

- (4) All appraisals obtained by the owner in connection with his purchase or financing of the property, or during his ownership of the property;
- (5) Bona fide offers of the property for sale or rent, price asked, and offers received, if any;
- (6) Any consideration by the owner as to profitable, adaptive uses for the property.

The Commission shall study the question of economic hardship for the applicant and shall determine whether the site or the property in the Historic District can be put to reasonable beneficial use without the approval of the demolition application. In the case of an income-producing building, the Commission shall also determine whether the applicant can obtain a reasonable return from his existing building. The Commission may ask applicants for additional information to be used in making these determinations.

- 5. Moved Structures. In regard to an application to move a historic Landmark or any building or structure in an Historic District to a new location, the following matters shall be considered:

- (a) The impact that losing its original historic location would have on the building or structure, and, if the present location is within a Historic District, the impact on the Historic District as a whole.
- (b) The reasons for not retaining the building or structure at its present site.
- (c) The compatibility, nature, and character of the areas surrounding the current site and the proposed site, as they relate to the protection of interest and values referred to in this section.
- (d) If the proposed new location is within a Historic District, visual compatibility factors as set forth in subsection 25-30.4g.
- (e) The probability of significant damage to the Landmark itself.
- (f) If it is to be removed from West Orange Township, the proximity of the proposed new location to the Township, including the accessibility to the residents of the Township and other citizens.

h. *Approvals/Denials.*

- 1. Effect of Certificate of Appropriateness. Issuance of a Certificate of Appropriateness shall be deemed to be final approval pursuant to this section. Such approval shall neither cause nor prevent the filing of any collateral application or other proceeding required by any other municipal ordinance to be made prior to undertaking the action requested vis-a-vis the Landmark or structure in the Historic District.
- 2. Denial of a Certificate of Appropriateness. Denial of a Certificate of Appropriateness shall be deemed to preclude the applicant from undertaking the activity applied for.

i. *Appeals.*

- 1. The granting or denial of a Certificate of Appropriateness may be appealed to the Zoning Board of Adjustment in the same manner as if the appeal were taken pursuant to N.J.S.A. 40:55D-70(a). The appellant shall pay all costs of the transcript. Nothing herein shall be deemed to limit the right of judicial review of the municipal action after an appeal is concluded by the municipal Zoning Board of Adjustment.
- 2. Right to Sell During Appeal. Any appeal which may be taken to court from the decision of any municipal agency, whether instituted by the owner or any other proper party, shall not affect the right of the owner to make a bona fide offer to sell.

3. **Reconsideration of Denial of Certificate of Appropriateness.** The Commission may refuse to reconsider for a period of one (1) year any disapproval of an application, except in cases where an applicant reapplies within ninety (90) days of such disapproval, with his application amended to comply with any recommendations which the Commission may have made in its written reasons for disapproval. The Commission may, however, reconsider at any time denial of a Certificate of Appropriateness for demolition if a significant change in circumstances has occurred.
- j. **Emergencies.** In the event that an Act of God or any other unexpected event shall cause a property owner the need for immediate emergency repairs to preserve the continued habitability of the property and/or the health and safety of its occupants or others, and where time will not permit the owner to obtain a Certificate of Appropriateness and a building permit prior to their undertaking, the property owner shall notify the Construction Official/Zoning Officer or the Administrative Officer, who shall request the Chairperson of the Commission to inspect the property, or assign a qualified member of the Commission to do so. The Commission Chairperson (or assigned member) shall determine the nature of the emergency, whether repair is feasible or, if not, the appropriateness of the replacement. The Chairperson may call upon qualified professional expertise to assist in this determination. The Chairperson shall provide a written report to the Construction Official/Zoning Officer or Administrative Officer so that a permit may be issued.
- k. **Violations.**
 1. **Penalty.**
 - (a) Any person or other legal entity violating any of the provisions of this section shall, upon conviction thereof, be subject to the penalties herein.
 - (b) If any person or other legal entity shall undertake any activity vis-a-vis a Landmark or improvement within a Historic District without first having obtained a Certificate of Appropriateness, such person or entity shall be deemed to be in violation of this section.
 - (c) Upon learning of the violation, the Construction Official/Zoning Officer shall issue a notice of violation and orders to terminate in accordance with the Uniform Construction Code, N.J.S.A. 52:27D-119 et seq.
 - (d) A separate and distinct offense shall be deemed committed on each day during or on which violation occurs or continues.
 - (e) The penalty for violations shall be as follows:
 - For each day, up to ten (10) days—not more than seventy-five (\$75.00) dollars per day.
 - For each day, eleven (11) to twenty-five (25) days—not more than one hundred (\$100.00) dollars per day.
 - For each day beyond twenty-five (25) days—not more than one hundred twenty-five (\$125.00) dollars per day.
 - (f) If any person or other legal entity shall undertake any activity vis-a-vis a Landmark or improvement within a Historic District without first having obtained a Certificate of Appropriateness, (s)he shall be required to restore same.
 2. **Injunctive Relief.** In the event that any action, which would permanently change adversely the Landmark or District, such as demolition or removal, is about to occur without a Certificate of Appropriateness having been issued, the Zoning Officer is hereby authorized to apply to the Superior Court of New Jersey for such injunctive relief as is necessary to prevent the destruction of any Landmark.
- l. **Preventive Maintenance.**

1. Recognizing the need for preventive maintenance to ensure the continued useful life of Landmarks and structures in Historic Districts, the Mayor and Township Council hereby declare that code enforcement vis-a-vis Landmarks and structures in Historic Districts is a high municipal priority.
2. In the event that any Landmark or improvement in an Historic District deteriorates to the point that, in the best estimate of the Building Department's Division of Inspections, the cost of correcting the outstanding code violations equals more than twenty-five (25%) percent of the cost of replacing the entire improvement on which the violations occur, the Division shall serve personally or by certified mail, return receipt requested, a notice on the owner of the property, listing the violations, the estimate for their abatement, and the replacement cost of the improvement, and stating that if the owner does not take all necessary remedial action within ninety (90) days or such extensions as the Division shall for good cause grant, the Township Construction Official/Zoning Officer may, at the expiration of ninety (90) days, enter upon the property and abate such violations itself and cause the cost thereof to become a lien on the property.
3. Upon receipt of such notice, the owner may, within ten (10) days after such receipt, notify the Division of Inspections of his/her wish to have a hearing as to the allegations and estimates set forth in the Division's notice. Such hearing shall be conducted by the Construction Official/Zoning Officer and shall, so far as possible, be a formal adversary proceeding in which the Division of Inspections shall establish the matters alleged in the notice by a preponderance of the evidence.
4. If the owner does not request a hearing the procedures set forth in paragraph 2. above shall be binding. If a hearing is requested, the Construction Official/Zoning Officer will, within ten (10) days following the hearing, serve on the owner an opinion in writing setting forth his conclusions and the reasons therefor. Such opinion shall be deemed to be first notice pursuant to paragraph 2. above.
5. Thereafter, if the owner does not comply, the Division may enter onto the premises and, by use of municipal labor or outside contractors or both, perform such work as is necessary to abate all violations.
6. The head of the Division shall then certify to the Mayor and Township Council the cost of such work, plus all administrative, clerical and legal costs and overhead attributable thereto, and shall present the same to the Mayor and Township Council.
7. The Township Council may, by resolution, vote to cause the sum so certified to become a lien upon the Landmark or property, payable with the next quarter's real estate property taxes, and if not then paid, bearing interest at the same rate as delinquent taxes.
(Ord. No. 904-88 § 25-6.9D; Ord. No. 1007-90; Ord. No. 1584-98 § 3)

25-30.5 Professional Qualification Standards.

In the following definitions, a year of full-time professional experience need not consist of a continuous year of full-time work, but may be made up of discontinuous periods of full-time or part-time work adding up to the equivalent of a year of full-time experience.

- a. *History.* The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one (1) of the following:
 1. At least two (2) years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historical organization or agency, museum, or other professional institution; or
 2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

- b. *Archeology*. The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology, or closely related field plus:
 - 1. At least one (1) year of full-time professional experience or equivalent specialized training in archeology research, administration, or management;
 - 2. At least four (4) months of supervised field and analytic experience in general North American archeology; and
 - 3. Demonstrated ability to carry research to completion.

In addition to these minimum qualifications, a professional in prehistoric archeology shall have at least one (1) year of full-time professional experience at a supervisory level in the study of archaeological resources of the prehistoric period. A professional in historic archeology shall have at least one (1) of full-time professional experience at a supervisory level in the study of archaeological resources of the historic period.
- c. *Architectural History*. The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history; or a bachelor's degree in architectural history, art history, historic preservation, or closely related field plus one (1) of the following:
 - 1. At least two (2) years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or
 - 2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.
- d. *Architecture*. The minimum professional qualifications in architecture are a professional degree in architecture plus at least two (2) years of full-time professional experience in architecture; or a State license to practice architecture.
- e. *Historic Architecture*. The minimum professional qualifications in historic architecture are a professional degree in architecture or State license to practice architecture, plus one (1) of the following:
 - 1. At least one (1) year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or
 - 2. At least one (1) year of full-time professional experience on historic preservation projects. Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures, research reports, and preparation of plans and specifications for preservation projects.*
(Ord. No. 904-88 § 25-6.9E; Ord. No. 1007-90)

25-31 RESIDENTIAL ZONE R-3AH.

- a. Regulations pertaining to residential buffer strips shall not apply to the tract.
- b. The maximum number of building lots for the entire tract shall be ninety-five (95), of which
 - 1. Approximately one-half of the building lots shall have a minimum lot size of twelve thousand five hundred (12,500) square feet; and
 - 2. Approximately one-half of the building lots shall have a minimum lot size of ten thousand (10,000) square feet.

*Editor's Note: From: 36 CFR Part 61, Appendix A.

- c. The maximum cul-de-sac length for the tract specified in the Land Subdivision Chapter, Revised General Ordinance, subsection 32-10.3m. is waived.
- d. The density computation of the Township's steep slope regulations, subsection 25-28.6m., shall not apply to the tract.
(Ord. No. 904-88 § 25-6.10; Ord. No. 1144-92; Ord. No. 1271-94 § 2; Ord. No. 1933-04 §§ 2, 3)

25-32 SPECIAL IMPROVEMENT DISTRICT.

25-32.1 Policy.

The Township of West Orange recognizes the unique contributions that are made to the Township by the residential, recreational, historic and commercial properties in the Downtown Neighborhoods of West Orange.

The Township of West Orange, in consultation with State agencies, other communities in New Jersey and property owners in the Township has determined that a Special Improvement District in the Township dedicated to the preservation and economic revitalization of the neighborhoods of Eagle Rock, Tory Corner, St. Mark's and the Valley will improve the quality of life for all residents of West Orange.

The Township of West Orange deems it desirable to create a Special Improvement District in anticipation that the Special Improvement District will encourage self-help and self-financing programs within the business community to enhance the commercial viability and attractiveness of the business areas as well as promote economic growth and employment within the Township of West Orange. (Ord. No. 1534-98 § 1)

25-32.2 Definitions.

District Management Corporation shall mean the Downtown West Orange Alliance, (also referred to as Corporation), which shall be organized as a nonprofit, tax exempt entity, incorporated pursuant to Title 15A of the New Jersey Statutes and designated by municipal ordinance to receive funds collected by a special assessment within the Special Improvement District, as authorized by this ordinance and amendments thereto.

Special Improvement District (also referred to as District) shall mean areas within the Township of West Orange designated by this ordinance as an area in which a special assessment on property within the District shall be imposed for the purposes of promoting the economic, historic preservation and general welfare of the District and the Township.
(Ord. No. 1534-98 § 2; Ord. No. 1570-98 § I; Ord. No. 1602-99 § III)

25-32.3 Findings.

- a. The area within the Township of West Orange as described by tax block and lot numbers and by street addresses as set forth in Schedule "A" of this ordinance, will benefit from being designated as a Special Improvement District. Schedule "A" will be compiled by the Municipal Tax Assessor annually. Notices and appeal as per subsection 25-32.8 of this ordinance shall apply.*
- b. The Corporation would provide administrative and other services to benefit the welfare of all those who reside, are employed in or visit the District and the Township of West Orange.
- c. A special assessment may be imposed and collected by the Township of West Orange Tax Collector on a semi-annual basis, and all of these payments shall be transferred to the

***Editor's Note:** Schedule A, referred to herein, may be found at the end of this section.

Corporation to effectuate the purpose of this ordinance and to exercise the powers given to it by this ordinance.

- d. Among the services that will be performed by the Corporation will be:
 - 1. Beautification of public areas.
 - 2. Providing assistance to property and business owners for improving and preserving their buildings and properties.
 - 3. Encouraging other physical improvements or policies that will improve the economic opportunities for residents, businesses and persons employed in West Orange.
 - 4. Marketing, promotion and public relations for the District and its neighborhoods, in conjunction with other efforts that are pursued by other groups or organizations.
 - 5. Recruitment and retention of businesses or organizations that enhance the economic and historic qualities of the District and West Orange.
- e. The business community should be encouraged to provide self-help and self-financing programs to meet local need.
(Ord. No. 1534-98 § 3)

25-32.4 Creation of the Special Improvement District.

- a. There is hereby created and designated within the Township of West Orange a Special Improvement District, consisting of the properties designed and listed on Schedule A. by tax block and lot numbers and by street addresses.* The District shall be subject to special assessments on all affected properties within the District, which assessment shall be imposed by the Township of West Orange for the purposes of promoting the economic, historic and general welfare of the District and the Township of West Orange.
- b. All commercial properties within the District, including all private, nonresidential assessed properties, are deemed included in the assessing provisions of this ordinance and are expressly subject to assessment made for Special Improvement District purposes.
- c. All properties within the Special Improvement District that are tax-exempt, or used exclusively for residential purposes with three (3) units or less, or with four (4) units or less that are owner occupied are deemed excluded from the assessing provisions of this ordinance and are expressly exempt from any assessment made for Special Improvement District purposes.
- d. Special Improvement District assessments on mixed use commercial/residential properties will be based on one hundred (100%) percent of its assessed value.
- e. Unimproved property is deemed excluded from the assessing provisions of this ordinance and are expressly exempt from any assessment made for Special Improvement District purposes.
- f. All commercial property within the District shall be designated as either Tier I, Tier II or Tier III. Tier I properties shall be those commercial properties of which any portion of the property fronts on Main Street. Tier II are all other properties not included in Tier I and Tier III. Tier III properties shall be commercial buildings that are at least used eighty (80%) percent for office space.
- g. Tier I's rate of assessment shall be greater than Tier II's rate of assessment. Tier II's rate of assessment shall be greater than Tier III's rate of assessment.
(Ord. No. 1534-98 § 4; Ord. No. 1570-98 § II; Ord. No. 1593-99 § 4)

*Editor's Note: Schedule A, referred to herein, may be found at the end of this section.

25-32.5 Assessment.

- a. All of the monies collected through the assessment, pursuant to this ordinance, shall be spent solely to benefit the properties included in the District.
- b. Failure of any property owner to pay the annual assessments shall be treated in the same manner as failure to pay property taxes as regulated by municipal and State laws.
(Ord. No. 1534-98 § 5)

25-32.6 The Designated District Management Corporation.

- a. The Council of the Township of West Orange hereby designates Downtown West Orange Alliance, a nonprofit corporation, as the District Management Corporation for the District.
- b. On adoption of this ordinance, the Board of Trustees of the Downtown West Orange Alliance will immediately assume the management of the Special Improvement District.
- c. Board Members will serve until the election of new members at the first Annual Meeting, which shall be held within sixty (60) days of the adoption of this ordinance.
(Ord. No. 1534-98 § 6; Ord. No. 1602-99 §§ II, III)

25-32.7 Membership.

- a. The membership of the Corporation shall be as follows:
 1. The owners of real property, subject to the assessment under this ordinance, in the West Orange Special Improvement District as created by the Council of West Orange. Each taxable property as determined by the Tax Assessor's office of the Township of West Orange shall be entitled to one (1) vote.
 2. Persons who are legal tenants of property subject to the assessment in the District and who have paid an annual dues to the Corporation shall be entitled to one (1) vote.
 3. Any business, organization or individual interested in supporting the purposes of the Corporation may become a non-voting ex-officio member by filing an application in such form as the Board shall prescribe, and paying such dues, if applicable, as the Board may establish.
 4. The Board of Trustees, elected at the first Annual Meeting, will consist of eleven (11) voting members, composed of the following:
 - (a) One (1) Township Council Member to be appointed by the majority vote of the Township Council.
 - (b) Each Township Council Member and the Mayor shall appoint a trustee who either lives in the Township, works in the District or owns property in the Township. All terms shall run concurrent with the appointing official, and shall be effective from July 1 of the calendar year in which the appointment is made. In the event the appointing person's term ends, the trustee's term shall also terminate. The new Mayor or Council person filling the appointing person's position shall appoint a new trustee. Notwithstanding anything to the contrary, no term shall exceed four (4) years. However, any trustee may be reappointed for additional terms.
 - (c) Two (2) persons, who either live in the Township, work in the District or own property in the Township, to be elected at the Annual Meeting by the Members. Except as hereinafter provided, these persons shall be elected for a term of four (4) years. The initial two persons elected shall randomly be chosen to serve a two (2)-year term, a three (3)-year term and a four (4)-year term.

- (d) Two (2) persons, who either live in the Township, work in the District or own property in the Township, shall be elected at the Annual Meeting by the Members. Except as hereinafter provided, these persons shall be elected for a term of four (4) years. The initial two (2) persons elected shall randomly be chosen to serve a two (2)-year term, a three (3)-year term and a four (4)-year term.
 - (e) The Township Planner will be a non-voting member who acts as a liaison between the Planning Department and the Corporation.
- 5. All vacancies of an appointment of the Mayor or Township Council will be filled by the person whose appointment is vacant to fulfill the remainder of the term. If a vacancy of an elected member occurs, the Board Members shall appoint a person to fill the vacancy until the next Annual Meeting at which time a new member will be elected at the Annual Meeting to complete the vacant term.
- 6. The Board shall elect an Executive Board that will consist of a President, Vice President, Treasurer and Secretary.
- 7. All members of the Board of Trustees will serve on a volunteer basis and none will receive any form of compensation for service on the Board. For all Board of Trustees meetings, a majority of members will constitute a quorum.
- 8. All Board Members shall disclose any and all business interests which may be involved or affected in the District. A Board Member shall recuse himself/herself from consideration and voting on any contract or direct expenditure to the Board Member, his/her business or any family members' business. In the event a Board Member is unsure about a possible conflict, said member shall state the possible conflict and the Township Attorney shall determine if a conflict exists.
- 9. The Board of Trustees will:
 - (a) Adopt and amend the bylaws, rules, regulations and policies in connections with the performance of its duties and the regulation of its affairs.
 - (b) Publish an annual Program of Work, copies of which will be delivered to the Township Council.
 - (c) Adopt an annual budget that will be submitted for approval by the Township Council.
 - (d) Elect officers and develop working committees for the District.
 - (e) Retain appropriate insurance for the Corporation and its Board.
 - (f) Hire persons as may be required to perform its duties and pay their compensation from funds available to the Corporation.
- 10. At the regular Board meeting one (1) month prior to the expiration of terms, the Board's Nominating Committee shall submit a slate of candidates for election to the Board, to which may be supplemented by nominations from other members. The Secretary of the Board will attest to the eligibility of each candidate.
- 11. The Board of Trustees will hold regular monthly meetings and conduct an Annual Meeting. The meeting schedule will be prominently posted in Town Hall and announced in the newspaper of record. Meeting minutes, financial statements and other pertinent documents will be available for inspection during normal business hours at the Board's offices.
- 12. The Board of Trustees shall implement the purpose of this ordinance. Among its powers and obligations necessary to fully implement these purposes are:

- (a) Apply for, accept, administer and comply with the requirements respecting an appropriation of funds for a gift, grant or donation of property or money;
 - (b) Make and execute agreements which may be necessary or convenient to exercise the powers and functions of the corporation, including contract with any person, firm, corporation, governmental agency or other entity;
 - (c) Administer and manage its own funds and accounts and pay its own obligations.
 - (d) Administer exterior, physical improvements to properties within the District with funds provided by Federal, State or local grant and/or loan programs. The Management Corporation can supplement these funds for these purposes. Any improvements to properties shall be funded through the special assessment only if appropriate grant and loan programs are not available to the Management Corporation.
 - (e) Fund the rehabilitation of properties in the District, subject to the provisions enumerated in this ordinance;
 - (f) Accept, purchase, rehabilitate, sell, lease or manage property in the District with the approval of the Township Council of West Orange;
 - (g) Enforce the conditions of any loan, grant, sale or lease made by the corporation with the approval of the Township Council of West Orange;
 - (h) Enforce bidding requirements consistent with State of New Jersey law;
 - (i) Provide security, sanitation and other services to the District, supplemental to those provided normally by the Township of West Orange with the approval of the Township Council of West Orange;
 - (j) Undertake improvements designated to increase the safety or attractiveness of the District to businesses which may wish to locate there or to visitors to the District including, but not limited to litter cleanup and control, landscaping, parking areas and facilities, recreational and rest areas and facilities, pursuant to pertinent regulations of the Township of West Orange;
 - (k) Publicize the District and the businesses located within the District boundaries;
 - (l) Recruit new businesses to fill vacancies in, and to balance the business mix in the District;
 - (m) Organize special events in the District pursuant to pertinent regulations of the Township Council;
 - (n) Provide special parking arrangements for the District subject to prior Township Council approval;
 - (o) Provide temporary decorative lighting in the District.
 - (p) Other matters related to the purposes of this ordinance as may be directed by the Township Council.
- (Ord. No. 1534-98 § 7)

25-32.8 Annual Budget, Hearing and Assessments.

- a. The fiscal year of the District and the Corporation shall be January 1 to December 31. The Corporation shall submit no later than September 1 of each year a detailed annual budget for approval by the Mayor and Council. The budget shall be processed and adopted by the Council of the Township of West Orange in accordance with procedures set forth in N.J.S.A. 40:56-84.

- b. The budget shall be submitted with a report that explains how the budget contributes to the goals and objectives for the Special Improvement District. The budget shall be reasonably itemized and shall include a summary of the categories of costs and property chargeable as follows:
 1. All projected revenues and proposed expenditures
 2. Each source of revenue shall be separately designated for the fiscal year.
 3. A five (5) year projection of the goals and a strategy for the implementation of these goals of the Corporation.
- c. Reserved.
- d. Each year, the Corporation shall present to the Township Council a proposed budget. A public hearing shall be held to hear any objections and then the Township Council shall adopt said budget. The Tax Assessor shall prepare the list of properties in the district that are assessed according to this ordinance. This list of property owners, known as the "assessment role" shall be filed in the Municipal Clerk's office and be available for public inspection during normal office hours. Each property owner on the "assessment role" shall receive a notice annually, by mail from the Municipal Clerk at least ten (10) days before a public hearing to consider objections to be levied against the benefited and assessable properties in the West Orange Special Improvement District. In addition, notice will be published in the official newspaper. The notice shall set forth the time, place and purpose of the meeting. After the public meeting, the official assessment role shall be certified by the Municipal Clerk and sent to the Essex County Tax Board.
- e. The Corporation shall be responsible to refund the pro rata share of any portion of this special assessment due to a tax appeal.
- f. For the purposes of this section, "annual improvements" shall mean and include any reconstruction, replacement or repair of trees and planting and other facilities of the Special Improvement District and the furnishing of any other local improvements that benefit properties within the District. For the purpose of this act, "cost" shall, with respect to the annual improvements and all other costs, include planning costs, incurred or to be incurred in connection with annual improvement to and operation and maintenance of the District.
- g. Any balance of funds remaining unexpended at the end of the fiscal year shall remain available to the Corporation.
- h. The Township shall pay over funds to the Corporation semi-annually on the last day of April and October.
(Ord. No. 1534-98 § 8; Ord. No. 1570-98 § III)

25-32.9 Annual Audit of the District Management Corporation.

The Corporation shall cause an annual audit of its books, accounts and financial transactions to be made and filed with the Mayor and Township Council. For this purpose, the Corporation shall employ a certified public accountant of New Jersey. The annual audit shall be completed and filed with the Mayor and Township Council within one hundred eighty (180) days after the close of the fiscal year of the Corporation and a certified duplicate copy of the audit shall be filed with the Director of the Division of Local Government Services in the Community Affairs Department within five (5) days of the filing with the Mayor and Township Council.

25-32.10 Annual Report to the Municipality.

The Corporation shall, within sixty (60) days after the close of each fiscal year, make an annual report of its activities for the preceding fiscal year to the Mayor and Township Council. (Ord. No. 1534-98 § 10)

25-32.11 Municipal Powers Retained.

Notwithstanding the creation of a Special Improvement District, the Township of West Orange expressly retains all its powers and authority over the areas designated as within the Special Improvement District. (Ord. No. 1534-98 § 11)

25-32.12 Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions of application of the act and to this end the provisions of this act are severable. (Ord. No. 1534-98 § 12)

25-32.13 No Limitation of Powers.

Nothing contained herein shall prevent the Township Council at any time subsequent to the adoption of this ordinance, by ordinance, from abandoning the operation of the Special Improvement District, changing the extent of the Special Improvement District, supplementing or amending the description of the Special Improvement District or rescinding the designation or redesigning a Corporation. The Township Council may at any time enact, change or repeal any rule or regulation adopted on the operations of the Special Improvement District. (Ord. No. 1534-98 § 13)

25-32.14 Effective Date.

This ordinance shall take effect upon passage, approval and publication as required by law or on July 1, 1998, whichever is later. (Ord. No. 1534-98 § 14)

Schedule A - SID Assessment

Block	Lot	WO SID Address
10	19	516 Valley
10	23	504 Valley
11	13	494 Valley
11	16	488-493 Valley
11	20	470-482 Valley
11	17	11-15 Dean
12	20.02	1 Cary Street
13	1	442 Valley Rd
13	2.03	436 Valley
14	1	481 Valley Rd
14	5	475 Valley Rd
14	9	473 Valley Rd
15.01	6	427 Valley Rd
15.01	8	429 Valley Rd
15.01	10	433-435 Valley Rd
15.01	12	463-465 Valley
17	1	323 Valley Rd

Schedule A—Con.

Block	Lot	WO SID Address
17	2	325 Valley Rd
17	3	327 Valley Rd
17	4	331 Valley Rd
17	5	333 Valley Rd
17	8	339 Valley Rd
17	9	341 Valley Rd
17	58	20 Northfield
17	60	18 Northfield
17	66	10 Northfield
18	20	386 Valley
18	21	386 Valley
18	52	12-14 Main St
18	56	10 Main St
18	58	8 Main St
18	59	5 Main St
18	60	2-4 Main St
18	27	Valley Rd
18	30	364 Valley Rd
18	34	356 Valley Rd
18.01	1	424-426 Valley
22	1	55 Kingsley
23	1	483 Valley
25	2	515 Valley
60	5	59 Main
60	8	65 Main
61	1	77-79 Main
61	5	85-87 Main
61	5.02	81-83 Main
61	13	89 Main
61	14	91 Main
61	15	93-95 Main
61	21	105 Main
61	21.03	107-109 Main
62	32	24-26 Park
62	30	30 Park
62	34	10 Park

Schedule A—Con.

Block	Lot	WO SID Address
63	24	Lakeside & Standish
63	36	10 Lakeside Ave
63	33	18 Lakeside Ave
63	37	Lakeside Ave
63	38	Lakeside Ave
63	39	Lakeside Ave
64	2	17 Park
64	3.01	25 Park
64	40	Lakeside Ave
64	42	Lakeside Ave
64	49	28 Lakeside Ave
65	1	119 Main
66	1	175-177 Main
66	5	159 Main
66	7	161 Main
69	1	26-28 Main
69	5.01	N'field Ave Rear
69	5.02	13 Northfield
69	22	16 Lindsley
69	27	8 Lindsley
69	28	46-56 Main
69	32	42-44 Main
69	33	38-40 Main
69	35	34-36 Main
69	36	32 Main
69	37	30 Main
70	1	29 Northfield
73	29	50 Mt. Pleasant
88	17	76-80 Main
88	31	47-49 Mt. Pleasant Ave
89	1	184-186 Main
89	3	180-182 Main
89	4	180-182 Main
89	6	172-174 Main
89	26	146 Main

Schedule A—Con.

Block	Lot	WO SID Address
89	33	130-132 Main
113.01	29	424 Main
113.01	50	382 Main
113.01	136.01	372-378 Main
113.01	260	414 Main
113.01	261	412 Main
113.01	25	438-470 Main
113.02	30	340 Main
113.02	33	328-332 Main
113.02	100	324 Main
113.02	102	320 Main
113.02	104	310 Main
113.03	7	342 Main
113.03	9	350 Main
113.03	10	354 Main
113.03	14	366 Main
114	50	270 Main
114	51	277 Main
114	55	262 Main
114	110	222 Main
114	114	216 Main
114.01	1.01	300-306 Main
114.01	17	296 Main
114.01	18	292-294 Main
114.01	19	284 Main
114.01	19.01	288-290 Main
114.01	21	278-282 Main
114.01	24	274 Main
114.01	24.01	276 Main
115	15	55 Lakeside Ave
115	17	Lakeside Ave
115	16.01	1 Lakeside Ave
116	44	239-245 Main St
116	48	249 Main St
116	51	253-255 Main St
116	53	259 Main St
116	53.01	257 Main St

Schedule A—Con.

Block	Lot	WO SID Address
116.01	86	261 Main St
116.01	87	263 Main St
116.01	89	269-71 Main St
116.01	93	275 Main St
116.01	95	277 Main St
116.01	96	279-81 Main St
116.01	97	283 Main St
116.01	98	285 Main St
116.01	101	86 Washington
116.01	114	60 Washington
116.02	1.01	217-225 Main St
117	39	58 Washington
117	39.01	52-56 Washington
117	48.01	50 Washington
118	40	46-44 Washington St
118	44.01	40-42 Washington
118	44	30-32 Washington
118	46	28-26 Washington
119	32	208-210 Watchung Ave (corner of Wash. St)
120.01	24	1 Washington St
120.01	26	5 Washington St
120.01	28	11 Washington St
120.01	34	19-23 Washington St
121	2	37 Washington
121	4	35-33 Washington
121	5	31 Washington
121	6	29-25 Washington
122	1	53 Washington
122	5	45-47 Washington
122	7	41-43 Washington
125	1	61 Washington
125	2	57 Washington
125.01	45	85 Washington

Schedule A—Con.

Block	Lot	WO SID Address
125.01	54	67-75 Washington
125.03	40	419 Main St
125.03	40.01	421-423 Main St
125.03	45	443 Main St
125.03	45.01	427 Main St
125.03	45.03	431-435 Main St
125.03	45.04	437 Main St
125.03	45.05	439 Main St
125.03	45.06	441 Main St
125.03	52	104 Harrison
125.03	53	94-90 Harrison
125.05	2.01	317 Main St
125.05	3	327-331 Main St
125.05	4	333-335 Main St
125.05	5	337-341 Main St
125.05	6	345-347 Main St
125.05	33	385 Main St
136	31	84 Harrison
136	34	80 Harrison
136	38	72 Harrison
139	28	38-34 Harrison
140.01	4	15 Harrison
141	1	35-31 Harrison
141	1.01	39-37 Harrison
141	50	25 Harrison
142	3	101 Harrison
142	4	95-97 Harrison
142	16	57-59 Harrison
142.01	20	45-49 Harrison

(Ord. No. 1534-98; Ord. No. 1581-98; Ord. No. 1686-00; Ord. No. 1775-01 § II; Ord. No. 1809-02 § I; Ord. No. 1945-04 § I; Ord. No. 2198-09 § I)

25-33 - 25-39 RESERVED.

25-40 ADMINISTRATIVE PROVISIONS.

25-40.1 Application of Regulations.

All buildings or structures hereafter used, constructed, altered, enlarged or rebuilt, and all lots or land shall hereafter be used in accordance with the regulations of this chapter. (Ord. No. 904-88 § 25-7.1)

25-40.2 Permits.

a. Building Permits.

1. No building, structure or part thereof shall be erected, constructed, reconstructed, structurally altered or moved until there has been filed with the Construction Official a plan in duplicate, drawn to scale showing the actual dimensions, radii and angles of the lot to be built upon, the exact size and location of the main structure, building or buildings, together with accessory buildings, if any, supplemented by such other information as may be necessary to provide for the enforcement of this chapter, and to determine the propriety of issuance of a Building Permit by the Construction Official, with a prior signoff of the Zoning Officer.
2. No Building Permit shall be issued for the erection, construction, reconstruction, alteration or moving of any building or structure or part thereof, unless the plans indicate that such building or structure or part thereof, is designed and intended to conform in all respects to the provisions of this chapter, and until either the Planning Board or Zoning Board, where applicable, have approved a site plan that conforms with the requirements of this chapter. However, in the case of a permitted single family house, Planning Board or Zoning Board approval is not required prior to the issuance of a Building Permit unless specific conditions have been placed on the property by the Township Council.
3. Prior to the issuance of a Building Permit or Certificate of Occupancy for any permitted or non-conforming use, the applicant shall apply for any required approvals from the Planning Board or Board of Adjustment, such as site plan or variance approval.
4. Prior to the issuance of Building Permits for any application approved by the Planning Board or Zoning Board of Adjustment, the applicant shall submit eight (8) copies of plans (site plans and architectural plans including floor plans and elevations) to the Planning Director to be signed by the Township Engineer, the Board Chairman and the Board Secretary. Signed plans in accordance herewith are required before any construction or other permits may be issued.
5. If any construction takes place that deviates from the plans or resolution of approval by the Planning Board and/or Zoning Board of Adjustment, the approval shall be deemed null and void.
6. If the approval is deemed null and void, all construction must stop.
7. Prior to the issuance of any construction or building permits, all required governmental permits and approvals must be obtained and copies provided to the Director of Planning and Municipal Engineer.

*b. Certificate of Occupancy Permit.**

***Editor's Note:** See also Certificate of Occupancy for Central Business District, subsection 25-24.3.

1. Upon the completion in compliance with all the provisions of this chapter of any building or structure or alteration or enlargement thereto, upon the putting into use of any premises, lot or land where no building or structure is involved, or upon any change in tenancy for any nonresidential structure or lot, the owner or agent shall apply to the Construction Official and Zoning Officer in writing, for the issuance of a Certificate of Occupancy or use, pursuant to the provisions of this section. The Certificate, when issued by the Construction Official and Zoning Officer, shall show that the building or structure, premises, lot or land or part thereof and the proposed use are in conformity with the provisions of this chapter and of all other applicable ordinances. It shall be the duty of the Construction Official and Zoning Officer to issue a Certificate of Occupancy or use within ten (10) days after a written request for the same shall be filed in his/her office by the owner or agent, after having determined that the building or structure, premises, lot or land and the proposed use conform with this chapter and all other applicable ordinances.
 2. No Certificate of Occupancy shall be issued unless the Township Engineer shall certify, where applicable, that all construction improvements have been installed pursuant to the plans as filed with the Construction Official and Zoning Officer.
 3. A Certificate of Occupancy or Use shall be similarly applied for in the name of the owner, in the case of any building, structure, or premises, lot or land proposed to be put into use pursuant to any variance of the provisions of this chapter granted by the Board of Adjustment or by the Planning Board. Such certificate, when issued by the Construction Official and Zoning Officer, shall include a detailed description of the variance.
 4. Upon written application of the owner or agent, the Construction Official shall issue a Certificate of Occupancy or use for any building or structure, premises, lot or land existing and in use on the effective date of this chapter, provided that he shall find that the use of such building or structure, premises, lot or land is in conformity with the provisions of this chapter and of all other applicable ordinances.
 5. Upon written application, the Construction Official is empowered to issue limited and conditional Certificates of Occupancy for nonconforming buildings or structures accessory and incident to building construction or public works projects or to the holding of public, civic or charitable entertainments or exhibition for profit or nonprofit sponsored under public or private auspices; provided that no certificate shall cover a period exceeding six (6) months; and further provided that the certificate shall prescribe such reasonable conditions as will properly protect the public health, safety, morals and general welfare of the neighborhood in which such structure is situated.
 6. The Construction Official shall require from the Planning Board a written order before issuing a Certificate of Occupancy or Use in cases involving a conditional use pursuant to paragraph b. of this subsection or a variance from the provisions of this chapter pursuant to subsection 25-24.2.
 7. Reserved.
 8. Prior to the issuance of a building permit or Certificate of Occupancy for any permitted or nonconforming use, the applicant shall apply for any required approvals from the Planning Board or Board of Adjustment, such as site plan or variance approval.
 9. Fees. Any person requesting a Certificate of Occupancy shall pay a fee of fifty (\$50.00) dollars per dwelling unit for the inspection.
- c. Environmental Impact Permits shall be issued pursuant to Section 25-13.
- d. *Certificate of Continued Occupancy.*

1. Prior to the sale or rental of any existing residential structure containing one (1) unit or more, a Certificate of Continued Occupancy must be obtained which shall be issued by the Construction Official or designated agency or department provided with the authority to grant and issue such certificates. The application of such permit shall be made by the owner of record and shall comply with such administrative provisions as required by the Construction Official in accordance with N.J.A.C. 52:27D-198.1. The Certificate of Continued Occupancy shall be proof that the structure in question complies with all health and safety codes of the Township and State of New Jersey, that it is in compliance with all fire safety requirements as set forth in Chapter 18, Section 3 of the Township Code, and that it is in compliance with the Land Use Regulations of the Township or is considered a legal nonconforming use.
2. Prior to the sale or change in occupancy of any unit in an existing commercial structure, a Certificate of Continued Occupancy shall be issued by the Construction Official. The application of such permit shall be made by the owner of record and shall comply with such administrative provisions as required by the Construction Official. The Certificate of Continued Occupancy shall be proof that the structure in question complies with all health and safety codes of the Township and State of New Jersey that it is in compliance with all fire safety requirements as set forth in Section 40.3 of this Chapter of the Township Code, and that it is in compliance with the Land Use Regulations of the Township or is considered a legal nonconforming use.
3. The Certificate of Continued Occupancy shall state the maximum number of persons that may lawfully occupy the premises covered by the certificate. The occupancy number must match the documentation submitted.
4. The fee for requesting the issuance of a Certificate of Continued Occupancy shall be as follows:

Single Unit Residential Dwelling	\$100.00
Two (2) Unit Residential Dwelling	\$150.00
Three (3) Unit Residential Dwelling	\$200.00
Four (4) Unit Residential Dwelling	\$250.00
Five (5) Unit Residential Dwelling	\$300.00
Six (6) Unit Residential Dwelling	\$350.00
Sale or Change in Occupancy of Commercial Space	\$100.00 per unit up to 1,000 square feet or \$0.10 per square foot for 1,001 square feet to 5,000 square feet or \$0.15 per square foot for 5,001 square feet and up.
Re-inspection fee	\$50.00
5. It shall be the responsibility of the Tax Assessor of the Township to advise individuals requesting tax assessment searches that a Certificate of Continued Occupancy is required in connection with the sale of any single unit residential dwelling, any sale or change in occupancy of any residential structure containing one (1) or more units or any change in occupancy of any existing commercial unit.
6. Any person seeking a determination from the Construction Official that a Certificate of Continued Occupancy is not required prior to the sale of any existing building, dwelling unit or residence shall pay to the Township a fee of twenty-five (\$25.00) dollars for such determination.

7. Notwithstanding anything to the contrary herein, anyone who obtains title or held an ownership interest without first obtaining a Certificate of Continued Occupancy shall be fully responsible and liable under this ordinance.
8. To the extent that an owner fails to obtain a Certificate of Continued Occupancy and closes title, the owner shall remain liable for a separate violation on each day until a Certificate of Continued Occupancy is issued. This continuing violation for each and every day shall be consistent with Section 25-59b.
9. Any person who serves as an agent, employee or representative of any party to a real estate transaction, including but not limited to any licensed real estate broker, attorneys for seller, buyer, and/or lender may be found liable for a violation hereunder and punished to the full extent of the law.
10. Upon inspection of any building, premises, apartment or any other dwelling unit, the construction official, upon finding that the dwelling unit contains only minor violations of this chapter which are not related to the health, safety and welfare of a prospective tenant so as to prohibit occupation of the tenant, may allow a temporary certificate of continued occupancy to be issued which shall be conditioned upon the property owner's, landlord's or tenant's complying with the provisions of this chapter and the Uniform Construction Code within a reasonable period of time not to exceed 30 days or as per the construction official in writing from the issuance. A permanent Certificate of Continued Occupancy, when all requirements are met within the given time period, shall have no additional fee.

25-40.3 Requirement for Installation and Maintenance of Smoke-Sensitive Alarm Devices and Portable Fire Extinguishers in All Dwelling Units.

a. Definitions.

Whenever the following terms are used in this section, they shall have the meanings respectively ascribed to them by this section as follows:

Approved Rating Organization shall mean any of the following: Underwriters Testing Laboratories (UL), Factory Mutual Research Corporation, National Bureau of Standards or National Fire Protection Association Standard Number 72 - 1996 Edition, National Fire Alarm Code.

Carbon monoxide alarm shall mean an instrument approved by an Approved Rating Organization for the detection of carbon monoxide.

Dwelling unit(s) shall mean any building, structure or portion thereof including but not limited to single and two-family residences.

Enforcing agency shall mean the municipal department or agency which has been authorized to enforce provision of this section.

Fire official shall mean the Fire Code Official of the Township who is employed to enforce the Uniform Fire Safety Act.

Portable fire extinguisher shall mean an operable portable device, carried and operated by hand, containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing fire, and which is (1) rated for residential use consisting of an ABC type; (2) no larger than a 10 pound rated extinguisher; and (3) mounted within 10 feet of the kitchen area, unless otherwise permitted by the enforcing agency.

Seasonal rental unit shall mean a dwelling unit rented for a term of not more than 125 consecutive days for residential purposes by a person having a permanent residence

elsewhere, but shall not include use or rental of living quarters by migrant, temporary or seasonal workers in connection with any work or place where work is being performed.

Smoke sensitive alarm device shall mean an instrument approved by an Approved Rating Organization for detection of combustion produced by burning or smoldering materials.

b. Smoke-Sensitive Alarm Devices

1. A structure used or intended for use for residential purposes by not more than two households shall have a smoke-sensitive alarm device on each level of the structure and outside each separate sleeping area in the immediate vicinity of the bedrooms and located on or near the ceiling in accordance with National Fire Protection Association Standard No. 74-1984 for the installation, maintenance, and use of household fire warning equipment. The installation of battery operated smoke-sensitive alarm devices shall be accepted as meeting the requirements of this section. The smoke-sensitive device shall be tested and listed by a product certification agency recognized by the Bureau of Fire Safety.
2. When it is necessary to install the smoke detector on the wall, it shall be installed with the top edge of the detector between four (4) and twelve (12) inches from the ceiling.
3. In buildings of more than two households which are not required to comply with the requirements set forth in 18-3.3(a)(1), Smoke-sensitive alarm devices shall be installed at the highest point in every stairway and a least one (1) on every floor.
4. This section does not amend or alter requirements of the New Jersey Uniform Fire Safety Code and Building Code for installation and maintenance of Smoke-sensitive alarm devices in the common areas of multiple family dwellings.
5. All Smoke-sensitive alarm devices required hereunder shall bear a seal, tested and listed by an Approved Rating Organization and shall comply in design to all applicable State, Federal or industrial requirements.

c. Portable Fire Extinguishers

Each structure, other than a seasonal rental unit, shall also be equipped with at least one portable fire extinguisher in conformance with rules and regulations promulgated by the Commissioner of Community Affairs pursuant to the "Administrative Procedures Act."

d. Requirement for Installation and Maintenance of Carbon Monoxide Alarms in All Dwelling Units.

Carbon monoxide alarms shall be installed in all dwelling units within the Township of West Orange except for those dwelling units that do not contain any fuel-burning appliances and that do not have an attached garage. The carbon monoxide alarms shall be installed and maintained in the immediate vicinity of the sleeping area(s) within the dwelling units.

Carbon monoxide alarms may be battery operated, hard-wired or of the plug-in type and shall be listed and labeled in accordance with UL-2034 and shall be installed in accordance with the requirements of N.J.A.C. 5:70-4.19, NFPA-720, and the Uniform Fire Code of New Jersey.

e. Enforcement.

Enforcement of this section shall be performed by either the Fire Official, the Construction Official or the Zoning Official who shall all qualify as enforcing agencies.

f. Audible Signal.

Upon activation, all smoke-sensitive alarm devices and carbon monoxide alarms shall provide an audible alarm, which is to be distributed and have such character so that they can be heard in all rooms of the dwelling unit with its doors closed. The audible signals shall be distinctive from other audible signaling devices that may be used for other purposes in a dwelling unit. Smoke-sensitive

alarm devices and carbon monoxide alarms shall be designed for and shall be capable of self-restoration or manual restoration to normal conditions for operation. No provisions shall be made for deactivation of the audible alarms other than by reactivation of the system.

g. Responsibility of Owner.

The owner of any structure shall be responsible for the maintenance and replacement of the smoke-sensitive alarm device(s) and carbon monoxide alarm(s) required by this section. However, the tenant shall be responsible for the periodic testing of the smoke-sensitive alarm device(s) and carbon monoxide alarm(s) to insure that they are operational during the term of such tenancy. In the event of any defective smoke-sensitive alarm device or carbon monoxide alarm, the tenant shall notify the owner within twenty-four (24) hours. Each owner shall thereafter be responsible to repair or replace the defective smoke-sensitive alarm device or carbon monoxide alarm within five (5) days of being notified that same is defective. Failure to correct the defective smoke-sensitive alarm device or carbon monoxide alarm within five (5) days after notification shall constitute a violation of this section.

25-40.4 Completion of Existing Buildings.

- a. This chapter or any amendment thereto shall not affect any building or its designated use under the following series of conditions and circumstances:
 1. Complete plans for the building legally filed prior to the adoption of the N.J. Uniform Building Code or any amendment thereto affecting such building or the use thereof.
 2. Actual construction begun within ninety (90) days after the building permit was issued.
 3. Structural framework completed within six (6) months after the Building Permit was issued.
 4. Entire building completed according to the filed plans within two (2) years after the Building Permit was issued.
- b. If a projected building is situated in a district which is hereafter changed by amendment to the zoning map, the provisions of paragraph a. above shall apply to such building.
(Ord. No. 904-88 § 25-7.3)

25-40.5 Enforcement.

- a. *Enforcement Officer.* The Construction Official is hereby designated the Enforcement Officer under this section.
- b. *Compliance.* The Construction Official shall withhold issuing a Certificate of Occupancy for any project which is not in full compliance with this section as approved by the Township Engineer or his/her designated representative.
- c. *Review.* A determination to withhold the Certificate of Occupancy, under paragraph b. above shall be made after a review of the plans and specifications on file with the Construction Official and an on-site inspection by the Construction Official or his/her designated representative.
- d. Within the Division of Inspections in the Department of Planning and Development, there is created the office of Zoning Officer. The Planning Director shall have the ability to appoint and/or designate the party who shall fill the office of Zoning Officer. The person filling the office of Zoning Officer may also perform other duties such as Construction Official within the Division of Inspections.
 1. Duties of the Zoning Officer.
 - (a) It shall be the duty of the Zoning Officer to enforce the provisions of this chapter and Chapter XIV, and in no case, except under a written order of the Board of

Adjustment or the Township Council, as prescribed by Statute, shall any building permit be issued for the erection or structural alteration of any building or land where the proposed erection, structural alteration of any building or land or use thereof would be in violation of any provision of this chapter. Should the Zoning Officer be in doubt as to the meaning or intent of any provision of this chapter or as to the location of a district boundary line on the zoning map, and so as the propriety to issuing a building permit or Certificate of Occupancy or Use in a particular case, he/she shall appeal the matter to the Zoning Board of Adjustment.

- (b) It shall be the duty of the Zoning Officer to investigate any violation of this chapter or Chapter XIV. Where any building or structure is erected, constructed or maintained or any building, structure or land is used in violation of any provision of this chapter or Chapter XIV, the Zoning Officer may serve summonses immediately upon the property owner of record, tenant, occupant, management company, partnership, receiver, mortgagee, corporation, individual or persons and/or other person or entity involved in the conduct of the illegal use or activity.
 - (c) It shall be the duty of the Zoning Officer to keep records of all applications for building permits and of all such permits issued with a notation of all special conditions involved. He/she shall file and safely keep copies of all plans and specifications submitted with such application, and the same shall form a part of the records of his/her office and shall be available to the Township Council and all other officials of the Township.
- e. *Inspection of the Premises.* The Zoning Officer or a duly authorized agent of the Division of Inspections shall at all reasonable times be permitted access to inspect any buildings, structures, lots or land, whether already erected or put into use or in the course of erection and putting into use for the purpose of determining whether or not provisions of this chapter are being complied with.
- f. *Violation, Penalties and Injunctions.**
 - 1. Any person, corporation or any owner of lands and structures who shall violate this section or who shall erect, structurally alter, enlarge, rebuild or move any structure or structures or who shall use any lot or land in a manner different than as set forth in any detailed statement submitted and approved under the terms of this section, or who shall refuse reasonable attempts to inspect any premises shall be deemed a disorderly person and shall, upon conviction, be liable to a fine not exceeding one thousand (\$1,000.00) dollars or imprisonment for a period not exceeding ninety (90) days, or both, and each day in which such violation continues shall constitute a separate violation or offense.
 - 2. Any architect, builder, contractor, agent or person who is employed in connection with, or assist in, the violation of any part of the selection shall be liable to the same penalties set forth in paragraph 1.
 - 3. In addition to the foregoing remedies, the Township Attorney may maintain an action in court of competent jurisdiction to enjoin, restrain, abate, correct and remove any violation of this section.
 - 4. Notwithstanding anything to the contrary herein, anyone who obtains title or held an ownership interest without first obtaining a Certificate of Continued Occupancy shall be fully responsible and liable under this chapter.
 - 5. To the extent that an owner fails to obtain a Certificate of Continued Occupancy and closes title, the owner shall remain liable for a separate violation on each day until a

***Editor's Note:** Refer also to the General Penalty for any violation of any provision of the Code. See Chapter I, Section 1-5.

Certificate of Continued Occupancy is issued. This continuing violation for each and every day shall be consistent with Section 25-59b.

6. Any person who serves as an agent, employee or representative of the owner, including but not limited to any licensed real estate broker, may be found liable for a violation hereunder and punished to the full extent of the law.
(Ord. No. 904-88 § 25-7.4; Ord. No. 1640-99 § II; Ord. No. 1688-00 § 1; Ord. No. 1924-04 § II)

25-40.6 Relation of Zoning Ordinance to Other Provisions of Law.

This chapter shall not in any way abrogate or impair any provision of law or ordinance or regulations existing or as may be adopted in the future, except that where this chapter imposes a greater restriction of buildings and structures, or required larger lots or yards, the provisions of this section shall apply to the following ordinances, rules and regulations, among others:

Uniform Construction Code;
Health Code;
Subdivision Regulations of the Planning Board;
Tenement House Act of the State of New Jersey; and
All other applicable ordinances of the Township.

No provisions contained in this chapter shall be construed as justifying the encroachment of any building or structure within any street lines now or hereafter laid down on the Township map, nor as justifying the infringement or setting aside of any regulation adopted by the Planning Board or Board of Adjustment. (Ord. No. 904-88 § 25-7.6)

25-40.7 Public Records.

Duly certified copies of this chapter and of the Zoning Map, together with copies of all amendments, shall be filed in the Township Clerk's office and in the Construction Official's office, and shall be open to public inspection. (Ord. No. 904-88 § 25-7.7)

25-40.8 Procedure for Amendment.

All amendments to this chapter and to the Zoning Map shall be adopted in accordance with the provisions of N.J.S.A. 40:55D-62 through 68 as most recently amended. (Ord. No. 904-88 § 25-7.8)

25-41 - 25-44 RESERVED.

SECTIONS 45-62

Article II

Organizational Details, Procedures and Application Requirements

25-45 PURPOSE.

The purpose of this chapter shall be to establish a Planning Board and Zoning Board of Adjustment pursuant to the provisions of N.J.S.A. 40:55D-1, et seq. to define the powers and duties of the Boards and to fix the procedures governing applications to and appeals from the Boards. (Ord. No. 904-88 § 25-8.1)

25-46 PLANNING BOARD.

25-46.1 Establishment.

Pursuant to the authority granted by N.J.S.A. 40:55D-23, there shall be hereby established a Planning Board comprised of eleven (11) members of the Township, consisting of the following four (4) membership classes:

- a. *Class I.* The Mayor.
- b. *Class II.* One (1) official of the Township, other than a member of the Township Council, to be appointed by the Mayor. The Environmental Commission member shall be the Class II member only if the Class IV membership includes both a member of the Board of Education and a member of the Zoning Board of Adjustment.
- c. *Class III.* A member of the Township Council appointed by it.
- d. *Class IV.* Eight (8) other citizens of the Township 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 shall also be a member of the Planning Board, shall be a Class IV member, unless the Class IV membership includes 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 the Class II Planning Board Member. Of the eight members, two (2) shall be appointed as alternate members. Alternate members shall be designated by the Mayor at the time of their appointment as "Alternate No. 1" and "Alternate No. 2". In the event that a choice must be made as to which alternate is to vote, Alternate No. 1 shall vote.

25-46.2 Terms.

- a. The term of the member constituting Class I shall correspond with his or her official tenure.
- b. The term of the member constituting Class II shall be for one (1) year, or terminate at such time as the member is no longer an official of the Township, whichever occurs first. If the Class II member is also a member of the Environmental Commission, that member's term shall be for three (3) years or shall terminate at such time as the member is no longer a member of the Environmental Commission, whichever occurs first.
- c. The term of the member constituting Class III shall be for one (1) year or terminate at such time as the member is no longer a member of the Township Council, whichever occurs first.
- d. The term of a Class IV member who shall also be a member of the Board of Education or the Zoning Board of Adjustment shall terminate whenever that member is no longer a member of

such other body or at the completion of his or her Class IV membership as defined in paragraph e. below, whichever occurs first.

- e. The terms of all Class IV members first appointed pursuant to this chapter shall be so structured that to the greatest practicable extent the expiration of such terms shall be evenly distributed over the first four (4) years after their appointment as determined by the Mayor at the time such initial appointments are made provided that no term of any member shall exceed four (4) years and further provided that nothing herein shall affect the term of any present member of the Planning Board, all of whom shall continue in office until the completion of the term for which they were appointed. Except as hereinabove provided, all Class IV members, shall be appointed for terms for four (4) years, all such terms running from July 1 of the calendar year in which the appointment is made.
- f. Following member's absence from four (4) consecutive meetings, that regular member's position on the Planning Board shall be declared vacant following written notice to the Mayor and Township Council provided that the Planning Board may refuse to excuse absences only with respect to those failures to attend and participate which are not due to legitimate illness. Any and all such vacancies shall be filled by appointment as provided for in subsection 25-46.2 above, for the unexpired term.
(Ord. No. 904-88 § 25-8.2B; Ord. No. 2247-09 § II)

25-46.3 Vacancies.

If a vacancy shall occur, in any class, other than by expiration of the term to which a member was appointed, such vacancy shall be filled by appointment as provided for in subsection 25-46.2 above, for the unexpired term. (Ord. No. 904-88 § 25-8.2C)

25-46.4 Compensation.

All members of the Planning Board shall serve without compensation. (Ord. No. 904-88 § 25-8.2D)

25-46.5 Organization.

- a. The Planning Board shall elect a Chairperson and Vice-Chairperson from the members of Class IV, each to serve in such capacity for one (1) year dating from July 1 of the calendar year in which elected. Individual Class IV members may not be elected to successive terms as Chairperson and Vice-Chairperson.
- b. The Planning Board shall select a Secretary, who may be a member of the Planning Board or a municipal employee or such other person as the Board may decide upon. If the Board wishes to select a municipal employee, the Mayor shall provide that such employee be compensated for his or her services as secretary.
(Ord. No. 904-88 § 25-8.2E)

25-46.6 Experts and Staff.

- a. The Planning Board shall appoint an attorney of the State of New Jersey, in good standing, other than the Township Attorney, Assistant Township Attorney or Zoning Board Attorney, as Planning Board Attorney. Such appointment shall be for a one (1) year term dated from July 1 of the calendar year in which such appointment is made. The Planning Board may fix the compensation or rate of compensation of the Planning Board Attorney; however, in no case shall the compensation provided exceed the amount appropriated by the Council in the municipal budget.
- b. The Planning Board may also employ or contract for the services of experts and other additional staff and services as the Board shall deem necessary and proper to aid in the performance of its duties. The Board's expenditures for such staff and services, exclusive of

gifts or grants, shall not exceed the amount appropriated by the Council in the municipal budget.
(Ord. No. 904-88 § 25-8.2F)

25-46.7 Powers and Duties.

The Board shall adopt, and make available to applicants requesting the same, rules and regulations to facilitate carrying the provisions of this chapter into effect. The Planning Board shall be authorized to charge a reasonable fee for each copy of such rules and regulations. The County and Municipal Investigations Law, R.S. 2A:67A-1 et seq., shall apply to the issuance of subpoenas, the administration of oaths and the taking of testimony. The Board shall also have the following powers and duties:

- a. To prepare and after public hearing, adopt or amend a master plan or the component parts thereof in accordance with the provisions of N.J.S.A. 40:55D-28.
- b. To administer the provisions of the land subdivision chapter and site plan review ordinance of the Township pursuant to the provisions of those ordinances and the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.
- c. To approve conditional use applications in accordance with the provisions of the zoning ordinance and N.J.S.A. 40:55D-67.
- d. When reviewing applications for approval of subdivision plats, site plans or conditional uses, to grant, to the same extent and subject to the same restrictions as the Zoning Board of Adjustment.
 1. Variances, pursuant to N.J.S.A. 40:55D-70c.
 2. Direction pursuant to N.J.S.A. 40:55D-34 for issuance of permits 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. 40:55D-32.
 3. Direction pursuant to 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 granted pursuant to this subsection, 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.

- e. To consider and report to the Township Council within thirty-five (35) days after referral as to any proposed development regulations submitted to it, pursuant to N.J.S.A. 40:55D-26a.
- f. The Construction Official and Township Council are authorized pursuant to N.J.S.A. 40:55D-26b, to refer to the Planning Board any matter concerning land in the Township of West Orange, all contiguous municipalities and the County of Essex. Such reference shall not extend the time for action by referring authority. The Planning Board may choose to issue no report or it may make a recommendation concerning the matter referred to it. Whenever the Planning Board issues a recommendation to another municipal body pursuant to this paragraph, such recommendation may be rejected only by a majority or the full authorized membership of the other body.
- g. To participate in the preparation and review of programs or plans required by State or Federal law or regulations.
- h. To assemble data on a continuing basis as part of a continuous planning process.
- i. To prepare a program of municipal capital improvement projects projected over a term of at least six (6) years pursuant to N.J.S.A. 40:55D-20.

- j. To perform such other advisory duties as are assigned to it by ordinance or resolution of the Council for the aid and assistance of the Council or other agencies or officers of the municipality.
(Ord. No. 904-88 § 25-8.2G)

25-46.8 Citizens' Advisory Committee.

After the appointment of the Planning Board, the Mayor, in his/her sole discretion, may appoint one (1) or more persons as a Citizens' Advisory Committee to assist or collaborate with the Planning Board in its duties, but such person or persons shall have no power to vote or take other action required of the Board. Such person or persons shall serve at the pleasure of the Mayor. (Ord. No. 904-88 § 25-8.2H)

25-46.9 Minor Subdivisions.

Minor subdivision approval shall be deemed to be final approval of the subdivision by the Planning Board, provided that the Board may condition such approval on terms as described in N.J.S.A. 40:55D-47.

Minor subdivision approval shall be granted or denied within forty-five (45) days of the date of submission of a complete application to the secretary of the Planning Board, or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute minor subdivision approval and a certificate to that effect shall be issued by the Secretary of the Planning Board on request of the applicant.

The Planning Board shall grant only conditional approvals for applications for development which require review or approval by the County Planning Board pursuant to N.J.S.A. 40:27-6.3. A final approval shall be granted upon receipt of a favorable report or approval from the County Planning Board or upon the failure of the County Planning Board to report on the application within the required time period.

Approval of a minor subdivision shall expire one hundred ninety (190) days from the date of Planning Board approval, within such period, a plat, in conformity with such approval and the provisions of the "Map Filing Law," N.J.S.A. 46:23-9.9 et seq., or a deed clearly describing the approved minor subdivision, shall be filed by the applicant with the County Recording Officer, the municipal engineer and the municipal tax assessor. The Chairman and Secretary of the Planning Board shall sign such plats or deeds which accurately depict the minor subdivision, as approved by the Board, to enable the same to be filed with the County Recording Officer. (Ord. No. 904-88 § 24A-3.8)

25-46.10 Major Subdivisions.

- a. *Preliminary Approval.* Upon submission of a complete application for development of a subdivision of ten (10) or fewer lots, the Planning Board shall grant or deny preliminary subdivision approval within forty-five (45) days of the date of such submission, or within such further time as may be consented to by the developer. Upon submission of a complete application for development of a subdivision of more than ten (10) lots, the Planning Board shall grant or deny preliminary subdivision approval within ninety-five (95) days of the date of such submission, or within such further time as may be consented to by the developer. Failure of the Planning Board to act within the prescribed time, or within the period of any extension consented to by the developer, shall constitute a grant of preliminary approval for the subdivision.
- b. *Ancillary Powers.* Whenever the Planning Board is called upon to exercise its ancillary power to grant a variance, as set forth in subsection 25-46.7d., the Planning Board shall grant or deny approval of the application for development within ninety-five (95) days after submission by the developer of a complete application for development, or within such further time as

may be consented to by the developer. Failure of the Planning Board to act within the prescribed time, or within the period of any extension to by the developer, shall constitute a grant of approval for the entire application for development.

- c. *Final Approval.* The Planning Board shall grant or deny final subdivision approval within forty-five (45) days of the submission of a complete application therefor, or within such further time as may be consented to by the developer. Failure of the Planning Board to act within the prescribed time, or within the period of any extension consented to by the developer, shall constitute a grant of approval for the entire application for development.

Final approval of a major subdivision shall expire ninety-five (95) days from the date of the signing of the plat, unless within such period the plat shall have been duly filed by the developer with the Essex County Recording Officer. The Planning Board may, for good cause shown by the developer, extend the period for recording the plat for an additional period not to exceed one hundred ninety (190) days from the date of the signing of the plat.

(Ord. No. 904-88 § 24A-3.9)

25-47 ZONING BOARD OF ADJUSTMENT.

25-47.1 Establishment.

Pursuant to the authority granted by N.J.S.A. 40:55D-69, there shall be hereby established a Zoning Board of Adjustment comprised of eleven (11) residents of the Township. Members shall be appointed as follows:

- a. Five (5) regular members to be appointed by the Township Council, same being one (1) appointment by each member of the Township Council individually.
 - b. Two (2) regular members to be appointed by the Mayor, without the requirement of advice and consent of the Township Council.
 - c. Four (4) alternate members to be appointed as follows: Two (2) by the Township Council as a whole and two (2) by the Mayor with the advice and consent of the Township Council.
 - d. Any regular or alternate member of the Zoning Board of Adjustment is expressly prohibited from serving on the Board if he or she is:
 1. An elected official in the Township.
 2. A full-time or part-time employee of the Township.
 - e. As provided by State law, however, (N.J.S.A. 40:55D-69) the Zoning Board of Adjustment shall select a secretary who may or may not be a Board Member or a Township employee.
- (Ord. No. 904-88 § 25-8.3A; Ord. No. 1034-90; Ord. No. 1989-04 § II)

25-47.2 Terms.

Each regular member shall be appointed for a term of four (4) years. All terms shall run from July 1 of the calendar year in which the appointment is made.

The terms of the members first appointed pursuant to this section shall be so structured that to the greatest practicable extent the expiration of such terms shall be evenly distributed over the first four (4) years after their appointment, as determined by the Township Council at the time such initial appointments are made, provided that no term of any member shall exceed four (4) years, and further provided that nothing herein shall affect the term of any present member of the Zoning Board of Adjustment, all of whom shall continue in office until the completion of the term for which they were appointed.

Each alternate member shall be appointed for a term of two (2) years. All terms shall run from July 1 of the calendar year in which the appointment is made. Alternate members shall be designated by the Chairperson as "Alternate No. 1," "Alternate No. 2," "Alternate No. 3" and "Alternate No. 4" and shall serve in rotation during the absence or disqualification of any regular member or members.

Following a regular member's absence from meetings for eight (8) consecutive weeks, or four (4) consecutive regular meetings, whichever is longer, that regular member's position on the Zoning Board of Adjustment shall be declared vacant following written notice to the Mayor and Township Council provided that the Zoning Board of Adjustment may refuse to excuse absences only with respect to those failures to attend and participate which are not due to legitimate illness. Any and all such vacancies shall be filled by an alternate member who shall be designated to replace that regular member. (Ord. No. 904-88 § 25-8.3B; Ord. No. 2247-09 § II)

25-47.3 Vacancies.

If a vacancy shall occur other than by expiration of the term to which a member was appointed, such vacancy shall be filled by appointment for the unexpired term. Such appointment shall be made by the appointing authority which appointed the member whose departure caused the vacancy to occur. (Ord. No. 904-88 § 25-8.3C)

25-47.4 Compensation.

All members of the Zoning Board of Adjustment shall serve without compensation. (Ord. No. 904-88 § 25-8.3D)

25-47.5 Organization.

- a. The Zoning Board of Adjustment shall elect a Chairperson and Vice-Chairperson from its members. Each shall serve in such capacity for one (1) year, dated from July 1 of the calendar year in which elected. Members may not be elected to successive terms as Chairperson and Vice-Chairperson.
- b. The Zoning Board of Adjustment shall elect a Secretary, who may be a member of the Zoning Board of Adjustment or a Township employee or such other person as the Board may decide upon. If the Board wishes to select a Township employee, the Mayor shall designate the employee and the Mayor and Council shall provide that the employee shall be compensated for his or her services as Secretary.
(Ord. No. 904-88 § 25-8.3E)

25-47.6 Experts and Staff.

The Zoning Board of Adjustment shall appoint an attorney of the State of New Jersey, in good standing, other than the Township Attorney, Assistant Township Attorney or Planning Board Attorney, as Zoning Board of Adjustment Attorney. Such appointment shall be for a one (1) year term dating from July 1 of the calendar year in which such appointment is made. An individual may be appointed to successive terms as Zoning Board of Adjustment Attorney; however, in no case shall the compensation provided exceed the amount appropriated by the Council in the municipal budget. (Ord. No. 904-88 § 25-8.3F)

25-47.7 Powers and Duties.

Pursuant to N.J.S.A. 40:55D-70, the Zoning Board of Adjustment shall have the power to:

- a. Hear and decide appeals where it is alleged that there is an error in the decision or refusal made by the Construction Official, Zoning Officer or any other administrative officer of the Township based on or made in the enforcement of the zoning provisions of this chapter.

- b. Hear and decide requests for interpretation of the Zoning Map or zoning provisions of this chapter.
- c. Where: 1. By reason of exceptional narrowness, shallowness or shape of a specific piece of property; or 2. By reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property; or 3. By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any zoning regulation of this chapter 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. Where, in an application or appeal relating to a specific piece of property, the purposes of this act would be advanced by a deviation from the Zoning Ordinance requirements, and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to those departures 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 this section.
- d. In particular cases and for special reasons, grant a variance to allow departure from the zoning regulations of this chapter to permit: 1. A use or principal structure in a district restricted against such use or principal structure; 2. An expansion of a nonconforming use; 3. Deviation from a specification or standard pursuant to N.J.S.A. 40:55D-67 pertaining solely to a conditional use 4. increase in the permitted floor area ratio as defined in N.J.S.A. 40:55D-4; 5. An increase in the permitted density as defined in N.J.S.A. 40:55D-4 except as applied to the required lot area for a lot or lots for detached one (1) or two (2) dwelling unit buildings which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision; 6. A height of a principal structure which exceeds by ten (10) feet or ten percent (10%) the maximum height permitted in the district for a principal structure. A variance under this subsection shall be granted only by an affirmative vote of at least five (5) members of the Zoning Board of Adjustment.

No variance or other relief may be granted under the terms of this section unless such variance or other relief can be granted without substantial detriment to the public good and shall not substantially impair the intent and purpose of the zone plan and Zoning Ordinance.

An application for development under any provision of this section may be referred to any appropriate person or agency, for a report; provided that such reference shall not extend the period of time within the Zoning Board of Adjustment shall act.

(Ord. No. 904-88 § 25-8.3G)

25-47.8 Other Powers and Duties.

The powers of the Zoning Board of Adjustment shall be in accordance with N.J.S.A. 40:55D-69, as amended and lamented, and in accordance with the provisions of this chapter.

- a. The Board shall adopt, and make available to applicants requesting the same, rules and regulations to facilitate carrying the provisions of this chapter into effect. The Zoning Board of Adjustment shall be authorized to charge a reasonable fee for each copy of such rules and regulations. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law, N.J.S.A. 2A:67A-1 et seq. shall apply.
- b. The Board shall have the power to direct issuance of a permit pursuant to N.J.S.A. 40:55D-34 for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved on the official map.

- c. The Board shall have the power to direct issuance of a permit pursuant to N.J.S.A. 40:55D-36 for a building not related to a street.
- d. The Board shall have the power to grant, to the same extent and subject to the same restrictions as the Planning Board, subdivision or site plan approval pursuant to N.J.S.A. 40:55D-67 in conjunction with Zoning Board of Adjustment review of an application for approval of a use variance pursuant to this chapter.
- e. The Board may, in appropriate cases and subject to appropriate conditions and safeguards, grant variances from the terms of the Zoning Ordinance in accordance with the general and specific rules contained herein, and with the general rules that equity shall be done in cases where the strict construction of the provisions of the Zoning Ordinance would work undue hardship. The Board having derived its existence and powers from the enabling statute, the Board shall in all cases, follow all provisions of N.J.S.A. 40:55D-1 et seq., and all subsequent amendments applicable to it.
- f. It is the intent of this chapter to confer upon the Zoning Board of Adjustment as full and complete powers as may lawfully be conferred upon such Board, including, but not limited to the authority, in connection with any case or proceeding before the Board, to interpret and construe the provisions, including any word, term, clause or sentence, of this chapter, the zoning chapter and the Zoning Map in accordance with the general rules of construction applicable to legislative enactments.
- g. The Board shall have the power to grant a soil removal permit in connection with an application for variance approval.

25-47.9 Direct Application and Appeals.

- a. Appeals to the Zoning Board of Adjustment may be taken by any interested party affected by any decision of the Zoning Officer, appointed pursuant to the zoning chapter based upon or made in the enforcement of the zoning chapter or official map. Such appeal shall be taken within sixty-five (65) days by filing a notice of appeal with the Zoning Officer. The notice of appeal shall specify the grounds for the appeal. Upon receipt of the notice of appeal, the Zoning Officer shall forthwith transmit to the Secretary of the Zoning Board of Adjustment all papers constituting the record upon which the action appealed from was taken.
- b. An application for development may be filed directly with the Secretary of the Zoning Board of Adjustment for action under any of its powers without prior application to the Zoning Officer. Applicants shall file at least that number of copies of the application and the required fees as prescribed by the rules and regulations of the Zoning Board of Adjustment. Applicants shall file all other plans, maps, sketches or other documents as prescribed by the rules and regulations of the Zoning Board of Adjustment. Applicants shall obtain all necessary forms from the Secretary of the Zoning Board of Adjustment. The Secretary of the Zoning Board of Adjustment shall inform applicants of the steps to be taken to initiate applications, and of the regular meeting dates of the Board.
- c. An appeal to the Zoning Board of Adjustment constitutes an automatic stay of all proceedings in furtherance of the action in respect to which the decision appealed from was made, unless the Zoning Officer certifies to the Secretary of 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 or her 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 of New Jersey, upon notice to the Zoning Officer and on due cause shown.
- d. Pursuant to N.J.S.A. 40:55D-75 the Zoning Board of Adjustment, in connection with appeals from the Zoning Officer, 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 shall have all the powers of the Zoning Officer.
(Ord. No. 904-88 § 25-8.3I)

25-47.10 Removal of Members.

- a. A regular or alternate member may be removed from the Zoning Board of Adjustment by the Governing Body for cause. Any member sought to be removed shall be entitled to a public hearing if he or she so requests.
- b. For purposes of this subsection absence by a regular or alternate member from four (4) consecutive meetings of the Zoning Board of Adjustment shall be deemed to be a just cause for removal.

(Ord. No. 904-88 § 25-8.3J; Ord. No. 1019-90 § 1)

25-48 PROVISIONS APPLICABLE TO BOTH PLANNING BOARD AND THE ZONING BOARD OF ADJUSTMENT.

25-48.1 Conflicts of Interest.

No member of the Planning Board or Zoning Board of Adjustment shall act on any matter in which such member has, either directly or indirectly, any personal, pecuniary or financial interest. Whenever any such member shall disqualify himself or herself from acting on a particular matter, such member shall not continue to sit with the Board on the hearing of the matter nor participate on any discussion or decision relating thereto. (Ord. No. 904-88 § 25-8.4A)

25-48.2 Meetings.

- a. Meetings of both the Planning Board and Zoning Board of Adjustment shall be scheduled no less often than once a month and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process.
- b. Special meetings may be held at the call of the Chairman or on the request, in writing, of any two (2) board members. Such meetings shall be held on notice to its members and the public in accordance with law.
- c. Except as otherwise provided by N.J.S.A. 40:55D-1 et seq., all actions shall be taken by a majority vote of those members present at any meeting; provided that no action shall be taken at any meeting unless a quorum is present.
- d. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the provisions of the Open Public Meetings Law, N.J.S.A. 10:4-6 et seq.

(Ord. No. 904-88 § 25-8.4B)

25-48.3 Minutes and Records.

- a. Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearance and addressing the Board and of persons appearing by attorney, the action taken by the Board, the findings and reasons therefore. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Township Clerk. Any interested party upon request may obtain a photocopy of such minutes upon payment of the usual fee charged by the Township Clerk for such services.
- b. Each Board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. Upon the request of any interested party, and

the payment of the costs therefore by such party, the Board shall furnish a transcript, or duplicate recording in lieu thereof, of any hearing before such Board.
(Ord. No. 904-88 § 25-8.4C)

25-48.4 Testimony and Oaths.

- a. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer. The right to cross-examine witnesses shall be afforded to all interested parties through their attorneys, or directly if not so represented, subject to the discretion of the presiding officer and to reasonable limitations in accordance with due process of law.
- b. The chairman of each Board, or such person as he or she may designate, shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and production of documents in accordance with the County and Municipal Investigations Law, N.J.S.A. 2A:67A-1 et seq.
(Ord. No. 904-88 § 25-8.4D)

25-48.5 Notice Requirements.

Whenever a hearing is required on an application for development pursuant to N.J.S.A. 40:55D-1, or pursuant to the determination of the municipal agency in question, the applicant shall give notice thereof as follows:

- a. Public notice shall be given by publication in the West Orange Chronicle or the Star-Ledger at least ten (10) days prior to the date of the hearing.
- b. Notice shall be given to the owners of all real property as shown on the current tax duplicate or duplicates located within two hundred (200) feet in all directions of the property which is the subject of such hearing, whether located within or without the municipality in which the applicant's land is located. Such notice shall be given by:
 1. Serving a copy thereof on the owner as shown on the current tax duplicate or his agent in charge of the property; or
 2. Mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate. A return receipt shall not be required. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.
- c. Notice of all hearings on applications for development involving property located within two hundred (200) feet of an adjoining municipality shall be given by personal service or certified mail to the Clerk of the municipality, which notice shall be in addition to the notice required to be given, pursuant to subsection 27-5.5b, to the owners of lands in the adjoining municipality which are located within two hundred (200) feet of the subject premises.
- d. Notice shall be given by personal service or certified mail to the County Planning Board of a hearing on an application for development of property adjacent to an existing County road or proposed road or proposed road shown on the official County map or on the County Master Plan, adjoining other County land or situated within two hundred (200) feet of a municipal boundary.
- e. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a State highway.
- f. Notice shall be given by personal service or certified mail to the Department of Community Affairs of a hearing on an application for development of property which shall exceed one

hundred fifty (150) acres or five hundred (500) dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the municipal clerk pursuant to N.J.S.A. 40:55D-16.

- g. All notices hereinabove specified in this subsection shall be given at least ten (10) days prior to the date fixed for hearing and the applicant shall file an affidavit of proof of service with the Board holding the hearing on the application for development.
- h. Any notice made by certified mail as hereinabove required shall be deemed complete upon mailing in accordance with the provisions of N.J.S.A. 40:55D-14.
- i. All notices required to be given pursuant to the terms of this section shall state the date, time and place of the hearing, the nature of the matters to be considered and identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the municipal tax assessor's office and the location and times at which any maps and documents for which approval is sought are available as required by law.
(Ord. No. 904-88 § 25-8.4E)

25-48.6 List of Property Owners.

Pursuant to N.J.S.A. 40:55D-12c, the tax assessor shall, within seven (7) days after receipt of a request therefore, and upon payment of a ten (\$10.00) dollar fee, make and certify a list from the current tax duplicate of the names and addresses of all owners to whom the applicant is required to give notice pursuant to this chapter. (Ord. No. 904-88 § 25-8.4F)

25-48.7 Decisions.

- a. The Planning Board or Zoning Board of Adjustment shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. The Board shall provide the findings and conclusions through:
 - 1. A resolution adopted at a meeting held within the time period provided in the act for action by the Board on the application for development; or
 - 2. A memorializing resolution adopted at a meeting held not 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 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 shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution. The vote on any such resolution shall be deemed to be a memorialization of the action of the Board and not to be an action of the Board; however, the date of the adoption of the resolution shall constitute the date of the decision for the purpose of the mailings, filings and publications required by N.J.S.A. 40:55D-10. If the Board fails to adopt a resolution or memorializing resolution as herein 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 attorney's fees, shall be assessed against the Township.
- b. A copy of the decision shall be mailed by the Board within ten (10) days of the date of the decision to the applicant, or if represented, then to his/her attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and who have paid the fee prescribed by the Board for such service. A copy of the decision shall also be filed in the office of the clerk, who shall make a copy of such filed decision available to any

interested party upon payment of fee calculated in the same manner as those established for copies of other public documents in the ownership.

- c. A brief notice of every final decision shall be published in the West Orange Chronicle or the Star-Ledger. Such publication shall be arranged by the Secretary of the Planning Board or Zoning Board of Adjustment, as the case may be, without separate charge to the applicant. The notice shall be sent to the official newspaper for publication within ten (10) days of the date of any such decision.
(Ord. No. 904-88 § 25-8.4g)

25-48.8 Payment of Taxes.

- a. Pursuant to the provisions of N.J.S.A. 40:55D-39e and N.J.S.A. 40:55D-65h, respectively, every application for development shall be accompanied by proof that all taxes or assessments for local improvements are paid on the property which is the subject of such application through the tax quarter immediately preceding the filing of the application.
- b. The Boards may further require that as a condition for any approval which is required pursuant to the provisions of this chapter that no taxes or assessments for local improvements are due or delinquent on the property for which any application is made.
(Ord. No. 904-88 § 25-8.4H; Ord. No. 1056-91 § 1)

25-48.9 Conditions of Approval for Variances.

Every variance granted by the Zoning Board of Adjustment or Planning Board shall, in appropriate cases, be made subject to such conditions and safeguards as the Board shall deem to be acceptable to the particular case. (Ord. No. 904-88 § 25-8.4I)

25-48.10 Expiration of Variance(s), Subdivision(s) Conditional Use(s), Site Plan Approval(s).

- a. In all instances where a conditional use, variance, or final site plan is granted, the building or construction permit sought shall be secured and issued or the authorized action taken within two (2) years and one (1) day after the date of the granting of the conditional use, variance or site plan in question. For good cause shown and upon written application, the Planning Board/Zoning Board may extend the time period for any of the time limits set in this section, provided that the applicant in the event of such application for extension shall be obligated to serve and publish notice of the application for such extension in conformity with the notice requirements of subsection 25-48.5.
- b. In the event an application fails to comply with the time limits as fixed in paragraph a. above, the approval shall be deemed null and void and of no further force or effect. Approval deemed null and void pursuant to the provisions of the preceding sentence may be reapplied for and the application hearing concerning same shall be processed and conducted as a plenary hearing de novo as if it were an initial application.
- c. The time limits mentioned in paragraph a. above, shall commence on the date of the publication of a notice of the granting of the conditional use, variance or site plan in the official newspaper of the Township of West Orange or a newspaper of general circulation in the Township, provided that if the granting or denial of a conditional use, variance or site plan is the subject of an appeal or appeals, the time limit shall not commence until all such proceedings or review or appeal have been concluded in a manner favorable to the applicant and the time for appeal from the decision of the reviewing tribunal or appellate court has expired.

- d. The provisions of this subsection shall be applicable notwithstanding the transfer, subdivision, resubdivision or other disposition of the premises therein concerned.
- e. Nothing herein contained shall prevent the Planning Board/Zoning Board from fixing periods of time for appropriate actions which are in excess of (but not less than) those fixed by this subsection above provided that such action is taken by the Planning Board/Zoning Board at the time of and as an express condition or provision of the granting of the conditional use, variance or site plan.
- f. Any conditional use within the Township which shall cease to be so used for a period of two (2) years and one (1) day shall be deemed abandoned, null and void and of no further force and effect. Any conditional use deemed abandoned, null and void pursuant to the provisions of the preceding sentence may be reapplied for and the application hearing concerning same shall be processed and conducted as a plenary hearing de novo as if it were an initial application. The provisions of this paragraph f. are intended to be applicable to all conditional uses, however they came in to existence, and for however long they were previously in use prior to commencement of the period of abandonment.
- g. Any prior nonconforming use within the Township that has been abandoned for a period of two (2) years and one (1) day shall be deemed abandoned, null and void and of no further force and effect. Any prior nonconforming use deemed abandoned, null and void pursuant to the provisions of the preceding sentence may be reapplied for and the application hearing concerning same shall be processed and conducted as a plenary hearing de novo as if it were an initial application. The provisions of this paragraph g. are intended to be applicable to all prior nonconforming uses, however they came in to existence, and for however long they were previously in use prior to commencement of the period of abandonment.
- h. It is the intention of the Township to ensure that all approvals and similar vested property rights remain in effect for at least the minimum period set forth in the Municipal Land Use Law or any successor statute. If any provision of this subsection shall be found to conflict with any provision of the Municipal Land Use Law and/or other statutes and regulations promulgated by a higher authority, than such approval shall expire one (1) day after the minimum lawful vested time period for such approval.
(Ord. No. 904-88 § 25-18.4J; Ord. No. 1627-99)

25-49 RESERVED.

25-50 RESERVED.

25-51 APPLICATION PROCEDURES.

All applications for development shall adhere to the following requirements contained in subsection 25-51.1 through 25-51.13 are also contained in abbreviated form in a series of checklists available from the Department of Planning and Development. These checklists shall be considered as a guide to assist applicants in the preparation of their submissions and are not intended to be all-inclusive or exhaustive. (Ord. No. 904-88 § 25-8.6)

25-51.1 Time Requirements.

An application for development shall be completed for the purposes of commencing the applicable time period for action by the Planning Board or Zoning Board of Adjustment when so certified by the

Planning Director. The application shall also be deemed complete upon the expiration of forty-five (45) days from the date of submission for purposes of commencing the applicable time period unless:

- a. The application lacks information indicated on the checklists required by this chapter.
- b. The Planning Director has notified the applicant, in writing, of the deficiencies in the application within forty-five (45) days of submission of the application. In determining the deficiencies the Planning Director shall take into consideration those requirements that are not applicable. The applicant may request that one (1) or more of the submission requirements be waived, in which event the Planning Director shall grant or deny the request within forty-five (45) days, or defer the decision to the applicable board. Upon receipt of the notification from the Planning Director regarding the application deficiencies, the applicant may request waivers from the applicable Board for all or part of the deficiencies listed in the Planning Director's written notice. The Board shall hear and decide the waiver requests at the hearing on the application. The Board, in determining whether a waiver should be granted, shall consider the following:
 1. The size of the project;
 2. The reasonableness of the request;
 3. The relevancy of the subject data;
 4. The cost of providing the data;
 5. The availability of the data;
 6. Recommendations of the municipal staff, Environmental Commission and Downtown West Orange.

In no case shall a waiver be granted, if to do so will deprive the Board of the ability to make an informed, reasoned and defensible decision that will be in the best interests of the Township. All waivers shall require a majority vote of the applicable Board. All such votes shall be roll call votes and shall be recorded in the minutes of the applicable Board.

Nothing herein shall be constructed as diminishing the applicant's obligation to prove in the application process that he/she is entitled to approval of the application. Either Board may subsequently require correction of any information found to be in error and submission of additional information not specified in this chapter or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by either Board.

(Ord. No. 904-88 § 25-8.6A)

25-51.2 Administrative Requirements.

All applications for development shall meet the following administrative requirements.

- a. Properly completed application forms (one (1) original and nineteen (19) copies - twenty (20) in total).
- b. Plans, maps and construction details as required (See appropriate checklist) (one (1) original and nineteen (19) copies - twenty (20) in total)
- c. Fees and escrow deposits paid (See Section 25-55).
- d. Payment of taxes, liens and assessments.
- e. Site inspection authorization form.
- f. Compliance with legal notice requirements.

- g. Corporation or partnership form.
- h. Affidavit of ownership/authorization form.
- i. Copies of approvals of other government/agencies as may be required or an affidavit indicating that application has been made to such agencies.
- j. A listing of all variance requests, waiver requests of miscellaneous design standards and checklist waiver requests.
- k. If the site is located within a community or development in which any bona fide board or association exists, the written proof that the board or association has received notice of the application for development is required.
- l. All plans and legal documents for compliance with all West Orange COAH Ordinances included in Chapter XXV, Section 25-18 must be submitted to the Township.
(Ord. No. 904-88 § 25-8.6B; Ord. No. 1936-04 § II; Ord. No. 2036-05 § II)

25-51.3 Minor Subdivision Requirements.

A complete application for a minor subdivision shall include all applicable administrative requirements as delineated in subsection 25-51.2, any data that cannot be mapped, attached to the application form and the following information on one (1) or more maps:

- a. The entire tract including the proposed lots to be created as well as the remainder of the subject property, drawn at a scale of not less than one (1) inch equals one hundred (100) feet. The boundary data shall be based on the most accurate information that is reasonably available such as tax map data, deeds or surveys.
- b. The zoning district in which the subject property is located as well as all zoning district boundaries within two hundred (200) feet.
- c. Key Map showing a sufficient number of natural and man-made features so that the subject property can be located in the field.
- d. Tax Map Sheet Number(s) and filed map data, if applicable.
- e. Existing and proposed block and lot numbers. (Proposed numbers). (Proposed numbers should be verified by tax assessor).
- f. Zoning district dimension, setback and area requirements and the relationship of the subject proposal to those requirements.
- g. Bearing and distance data for all existing and proposed lot lines as well as any lines to be deleted.
- h. North arrow, signature block, graphic scale, title block, name of individual preparing the map together with the individual's raised seal and signature.
- i. Date of map preparation and any revision dates.
- j. Sewage disposal information for all proposed lots including the remainder of the tract.
- k. The name of the owner of the subject property and all property owners within two hundred (200) feet.
- l. All existing structures and wooded areas within the subject property as well as within two hundred (200) feet of same.
- m. All roadways within five hundred (500) feet of the subject property showing the right-of-way limits as well as approximate pavement locations.
- n. All waterways within five hundred (500) feet of the subject property showing the location, size and direction of flow.

- o. The location of all easements, within the subject property and within one hundred (100) feet of same.
- p. Four (4) copies of a map, referred to as a "Run Card", depicting the location of all fire hydrants within the subject property, and depicting the surrounding streets, based on a scale of one (1) inch equaling four hundred (400) feet, and contained on an eight and one-half by eleven (8.5 x 11) inch paper within an area not to exceed seven and one-half (7.5) inches in width and eight (8) inches in height.
(Ord. No. 904-88 § 25-8.6C; Ord. No. 1723-00 § 1)

25-51.4 Major Subdivision Requirements - Preliminary Stage.

- a. No preliminary Subdivision Application shall be considered complete unless it fully conforms to subsection 25-8.6b of this section. All plats containing proposals or designs for drainage, streets and subdivision layouts shall be prepared by a professional engineer licensed to practice in the State of New Jersey and shall bear the address, signature, embossed seal and license number of the professional engineer. The preliminary plat shall be drawn at a scale not less than one hundred (100) feet to the inch for subdivision up to one hundred (100) acres in size and not less than two hundred (200) feet to the inch for subdivisions over one hundred (100) acres in size, shall be drawn on standard sheet of twenty-four (24) inches by thirty-six (36) inches and shall show or be accompanied by the information specified below.
- b. *Title Block.* The title block shall appear on all sheets and include the following:
 - 1. Title of plan.
 - 2. Name, if any.
 - 3. Tax Map sheet block and lot number(s) of the tract to be subdivided as shown on the latest Township Map.
 - 4. Acreage of tract to be subdivided to the nearest hundredth of an acre.
 - 5. Date of original and all revisions.
 - 6. Names and addresses of owner and subdivider so designated.
 - 7. Name(s), signature(s), address(es) and license number(s) of the engineer and land surveyor who prepared the map. The plat shall bear the embossed seal of the engineer and land surveyor.
- c. *Detailed Information.*
 - 1. A key map at a scale of not less than one (1) inch equals one thousand (1,000) feet showing the location of the tract to be subdivided with reference to surrounding areas, existing streets which intersect or border the tract, the names of all such streets and any Township boundary is within five hundred (500) feet of the subdivision.
 - 2. Names of all owners of parcels and property lines of parcels within two hundred (200) feet of the land to be subdivided including properties across the street as shown by the most recent records of the Township or of the municipality of which the property is a part.
 - 3. The preliminary plat shall be based on a current certified boundary survey, with sufficient lines of the adjoining tracts surveyed to establish any overlay or gap between the adjoining boundary lines and boundary lines of the tract in question. Date of the survey and the name of the person mailing same shall be shown on the map.
 - 4. Existing two (2) foot interval contours based on the United States Coast Geodetic Survey data shall be shown extending a minimum of one hundred (100) feet beyond the boundary of the tract in question and shall be certified by a New Jersey licensed surveyor

or professional engineer as to accuracy, except that where the slopes exceed ten (10%) percent, a five (5) foot interval is permissible. The source of elevation datum base shall be noted if contours have been established by aerial photography.

5. All existing streets, watercourses, floodplains, floodways and flood areas within the proposed subdivision and within two hundred (200) feet of the boundaries thereof, both the width of the paving and the width of the right-of-way of each street, existing public easements and Township borders within two hundred (200) feet of all of the subdivisions.
6. All existing structures within the proposed subdivision and within two hundred (200) feet thereof and an indication of those where are to be destroyed or removed and the front, rear and side yard dimensions of those that remain.
7. The boundaries, nature, extent and acreage of wooded areas and other important physical features, including swamps, bogs and ponds, within the proposed subdivision and within two hundred (200) feet thereof.
8. The layout of the proposed subdivision drawn in compliance with the provisions of this chapter.
9. All proposed public easements or rights-of-way and the purpose thereof and proposed streets and sidewalks within the proposed subdivision. The proposed streets shall show the right-of-way and proposed pavement width.
10. The existing system of drainage of the subdivision and of any larger tract of which it is a part, together with information on how it is proposed to dispose of surface drainage.
11. The acreage of the drainage area or areas of each natural or manmade watercourse traversing the subdivision, including the area within the subdivision and the area upstream from the subdivision.
12. All proposed lot lines and the areas of all lots in square feet.
13. North arrow and basis therefor and written and graphic scales.
14. A copy of any existing or proposed covenants or deed restrictions applying to the land being subdivided, or certification that none exists.
15. Preliminary utility layouts showing methods of connection and sources of service plus the location of pumping stations.
16. The proposed location and area in acres or square feet of all required or proposed open space areas.
17. The preliminary plat shall show on the property to be subdivided and within two hundred (200) feet of that property all existing paper streets, dirt roads, paved streets, curbs, manholes, sewer lines, water and gas lines, utility poles, pipes, fire hydrants, ponds, swamps and all other topographical features of a physical or engineering nature.
18. Preliminary on-site grading and drainage plan.
 - (a) The preliminary plat shall show or be accompanied by a grading and drainage plan which shall show locations of all existing and proposed drainage swales and channels, retention basins, recharge basins, the scheme of surface drainage and other items pertinent to drainage, including the approximate proposed grading contours at two (2) foot intervals, except that for slopes exceeding ten (10%) percent, a five (5) foot interval is permissible.
 - (b) The plan shall outline the appropriate area contributing to each inlet.

- (c) All proposed drainage shall be shown with pipe type and sizes, invert elevations, grades and direction of flow. The direction of flow of all watercourses shall be shown.
- (d) The preliminary grading and drainage plan shall be accompanied by drainage calculations in accordance with standards set forth herein.
- 19. Preliminary center-line profiles showing all proposed drainage; all existing and proposed finished roadway grades; channel section details; pipe sizes; type; inverts; road crowns and slopes; all other proposed drainage structures and connections.
- 20. Sight triangle data as required by this chapter.
- 21. Environmental Impact Statement.
- 22. Traffic Study.
- 23. A copy of a tree removal permit or application for same if applicable.
(Ord. No. 904-88 § 25-8.6D; Ord. No. 1723-00 § 1)

25-51.5 Major Subdivision Requirements - Final Stage.

No final subdivision application shall be considered complete unless it fully conforms to subsection 25-51.2, as well as the following requirements of form, content, and accompanying information. Furthermore, no final application may be submitted unless a preliminary application has first been approved, any conditions of approval met and the preliminary plans signed and dated and provided further that such preliminary approval shall not have expired prior to the submission of the application. The final plat shall be the scale of not less than one (1) inch equals one hundred (100) feet in conformance with the N.J. Map Filing Law and shall be prepared by a licensed surveyor in the State of New Jersey. The final plat and accompanying information shall include the following:

- a. Date of map preparation and revision dates.
- b. Title, name of owner, name of preparer of map together with that individual's embossed seal, license number and original signature.
- c. Graphic scale.
- d. Boundary lines of tract and individual lots within the tract together with bearing and distance data.
- e. Right-of-way lines of street, easements, other right-of-way and lands to be dedicated or reserved for public use.
- f. Street widths.
- g. Curve dots, radii, lengths, tangents and central angles.
- h. Block and lot numbers.
- i. Location and description of monuments.
- j. All set back lines.
- k. Names of adjacent property owners.
- l. Signature blocks for Township Clerk, Planning or Zoning Board Chairman, Planning or Zoning Board Secretary and Township Engineer.
- m. Developer's Agreement.
- n. Final construction plans which comply with the following items:
 - 1. Signed and sealed by a licensed professional engineer.

2. Plan and profile of all improvements on a scale not greater than one (1) inch equals fifty (50) feet.
 3. All existing utilities and physical features.
 4. All proposed new construction.
 5. Cross-sections at fifty (50) foot intervals of all new streets and roads, waterways and drainage ditches.
 6. Invert elevations, top of curb grades, top of manhole grades, length of pipes, slope of pipes and depth of cover for all proposed utilities.
 7. Types, strength and/or class of all materials.
 8. Typical section through street rights-of-way showing location of all existing and proposed construction items.
 9. Typical details for all items of construction.
 10. Drainage report including area map, design data, calculations and conclusions.
 11. Soil Erosion and Sediment Control Plan.
 12. Four (4) copies of a map, referred to as a "Run Card", depicting the location of all fire hydrants within the subject property, and depicting the surrounding streets, based on a scale of one (1) inch equaling four hundred (400) feet, and contained on an eight and one-half by eleven (8.5 x 11) inch paper within an area not to exceed seven and one-half (7.5) inches in width and eight (8) inches in height.
- o. Existing and proposed grading at two (2) foot contour intervals or five (5) foot intervals if the grade is more than fifteen (15%) percent with spot elevations at all building corners and critical locations.
 - p. The finished floor elevation with all building floors with direct access to the outside.
 - r. A proposed planting plan and planting schedule indicating the location, the species' common and botanical names, size, quantity and planting instructions for all plant material to be installed including trees, shrubs, and ground covers prepared by a professional landscape architect.
 - s. All areas to be seeded and/or sodded.
 - t. The location and construction details of all proposed retaining walls, fencing and earthen berms.
 - u. All buffer areas proposed to separate land uses and to screen unsightly areas.
 - v. The location and all proposed construction details for all proposed and existing signs.
 - w. The location and identification of all proposed open spaces, parks or recreation areas and facilities.
 - x. A copy of a tree removal permit or application for same if applicable, as required by Section 25-27.
(Ord. No. 904-88 § 25-8.6E; Ord. No. 1723-00 § 1; Ord. No. 1904-03 § II)

25-51.6 Site Plan Requirements - Preliminary Stage.

A complete application for a preliminary site plan shall include all applicable administrative requirements as delineated in subsection 25-51.2, data that cannot be mapped attached to the application form and the following information on one (1) or more maps.

- a. *Basic Data.*
 1. Name of the project.

2. A Key Map showing the general location of the project within the community, tax map sheet number, block number and lot numbers.
 3. Zone district lines within five hundred (500) feet of the project.
 4. Graphic scale not to exceed one (1) inch equals fifty (50) feet of the project.
 5. The limits of the total site together with the acreage to the nearest 1/100th of an acre.
 6. Date of the original plan and any subsequent revisions.
 7. Appropriate places for the signature of the Planning Board Chairman, Secretary and Engineer.
 8. A site data box comparing ordinance requirements to actual site plan proposals.
 9. Name of individual preparing the site plan together with an embossed engineer's or architect's seal, applicable signature and license number.
 10. The location of all structures, property owners and utility poles within two hundred (200) feet of property.
 11. Reference to property survey or other information used in preparing map.
 12. Bearing and distance information together with property dimensions.
 13. Soil survey data indicating soil type, general constraints and depth to bedrock.
- b. *Building Data.*
1. Size, heights, location of all existing and proposed buildings, including all proposed setback dimensions from property lines. Existing buildings to be removed should be so noted.
 2. A preliminary floor plan of all buildings.
 3. Architectural elevations of the front, side and rear of all buildings and perspective sketches or three (3) dimensional models where appropriate.
 4. The location and design details of all sidewalks showing connections between buildings, parking areas, and public areas along all expected paths of pedestrian travel.
 5. Parking spaces and access plans for the handicapped which shall be in addition to the parking required by ordinance.
 6. Circulation plans and loading areas for all expected truck and tractor-trailer traffic.
 7. A proposed lighting plan identifying the fixtures to be used as to height, location, luminosity and the lighting pattern in relationship to the other features of the site plan.
- c. *Grading, Landscaping and Environmental Data.*
1. Existing and proposed grading at two (2) foot contour intervals or five (5) foot intervals if the grade is more than fifteen (15%) percent with spot elevations at all building corners and critical locations.
 2. The finished floor elevation of all building floors with direct access to the outside.
 3. All existing wooded areas and individual specimen trees greater than six (6) inches in diameter indicating what is to be removed and what is to remain.
 4. A proposed planting plan and planting schedule indicating the location, the species' common and botanical names, size, quantity and planting instructions for all plant material to be installed including trees, shrubs and ground covers prepared by a professional landscape architect.
 5. All areas to be seeded and/or sodded.

6. The location and construction details of all proposed retaining walls, fencing and earthen berms.
 7. All buffer areas proposed to separate land uses and to screen unsightly areas.
 8. The location and all proposed construction details for all proposed and existing signs.
 9. The location and identification of all proposed open spaces, parks or recreation areas and facilities.
 10. Environmental impact study.
 11. A copy of a tree removal permit or application for same if applicable.
- d. *Utilities and Drainage Data.*
1. The location, size and capacity of all existing storm drainage facilities, including catch basins which are directly impacted by the proposed development, whether on or off-site and the limits of any flood hazard area affecting the site.
 2. All proposed storm drainage facilities, transmission lines, fire hydrants, etc., as well as calculations showing their adequacy.
 3. The location and size of all proposed water supply facilities including wells, storage facilities, transmission lines, fire hydrants, etc., as well as calculations showing their adequacy.
 4. The location and size of all proposed sanitary sewer mains as well as the location and construction details and calculations to indicate adequacy.
 5. Plans for the storage and collection of all solid waste.
 6. All off-site and on-site easements which may be required together with copies of legal documentation to support the grant of such easements.
 7. The location and type of all other underground utilities.
(Ord. No. 904-88 § 25-8.6F)

25-51.7 Site Plan Requirements - Final Stage.

A complete application for a final site plan shall include all applicable administrative requirements as delineated in subsection 25-51.2 and the following information on one (1) or more maps or attached to the application form if it cannot be mapped.

- a. Verification that all of the conditions of the preliminary approval have been met.
- b. A map or maps which comply with this chapter depicting that portion of the project for which final approval is being requested.
- c. A developer's agreement if required by the preliminary approval.
- d. A statement indicating the reasons for any deviations from approved preliminary site plan.
- e. Any off-tract improvement contributions if required.
- f. Four (4) copies of a map, referred to as a "Run Card", depicting the location of all fire hydrants within the subject property, and depicting the surrounding streets, based on a scale of one (1) inch equaling four hundred (400) feet, and contained on an eight and one-half by eleven (8.5 x 11) inch paper within an area not to exceed seven and one-half (7.5) inches in width and eight (8) inches in height.
(Ord. No. 904-88 § 25-8.6G; Ord. No. 1723-00 § 1)

25-51.8 Conditional Use Requirements.

No conditional use application shall be considered complete unless it fully conforms with subsections 25-51.2 and 25-51.6 as well as the following requirements:

- a. A notation indicating the section of this chapter that allows the conditional use as proposed.
- b. A listing of the conditional use standards that apply to the subject proposal.

25-51.9 "C" Variance Requirements.

No "c" or bulk variance application shall be considered complete unless it fully conforms with subsection 25-51.2 as well as the following requirements:

- a. A map, either in conformance with subsections 25-51.3, 25-51.4, 25-51.5 and 25-51.6 or if the application is to be bifurcated, a separate map, signed and sealed by an architect, engineer, planner or surveyor which provides sufficient data (i.e., setbacks, lot area, existing and proposed structures, etc.) upon which a decision can be based.
- b. A statement or legal brief which clarifies why the "c" variance should be granted. Particular attention should be paid to the contents of N.J.S.A. 40:55D-70c, applicable case law and relevant Township Ordinances and N.J. Statutes.

(Ord. No. 904-88 § 25-8.6I)

25-51.10 "D" Variance Requirements.

No "d" or use variance application shall be considered complete unless it fully conforms with subsection 25-51.2 as well as the following requirements:

- a. A map, either in conformance with subsection 25-51.3, 25-51.4, 25-51.5 or 25-51.6 or if the application is to be bifurcated, a separate map, signed and sealed by an architect, engineer, planner or surveyor which provides sufficient data (i.e. setbacks, lot area, existing and proposed structures, etc.) upon which a decision can be based.
- b. A statement or legal brief which clarifies why the "d" variance should be granted and the "special reasons" that pertain to the subject proposal. Particular attention should be paid to the contents of N.J.S.A. 40:55D-70d, applicable case law and relevant Township Ordinances and N.J. Statutes.
- c. A planning report prepared by a licensed Professional Planner and a traffic report prepared by a licensed Professional Engineer. The Board may waive the provision of such reports at its discretion.

25-51.11 Appeal and Interpretation Requirements.

No request made for an appeal or interpretations under the provisions of this chapter shall be considered complete until it complies with subsection 25-51.2 as well as the following requirements:

- a. A map prepared by the applicant or a professional architect, engineer, planner or surveyor which clarifies, in sufficient detail, the nature of the appeal or interpretation.
- b. Any documentation, form(s) or correspondence which explains the nature of the appeal or interpretation.
- c. A graphic or written description of the area surrounding the subject property.
- d. A statement or legal brief which clarifies the position of the applicant.

(Ord. No. 904-88 § 25-8.6K)

25-51.12 Conceptual Stage Requirements.

No conceptual stage application shall be considered complete unless it fully conforms with subsection 25-51.2 as well as the following requirements:

- a. A map, signed and sealed by a professional architect, engineer, planner or surveyor which contains the following:
 1. Limits of the property involved and the scope of the subject proposal.
 2. North arrow, scale, key map and title block.
 3. General indication of the topographic conditions and any other environmental constraints.
 4. Zoning district requirements.
- b. A statement describing the proposed project, its scope, size value as to the community and other pertinent details.
- c. A graphic or written description of the area surrounding the subject property.
- d. A description of other alternatives that have been considered or might be available.
- e. A listing of anticipated variance and waiver requests connected with the proposal.
(Ord. No. 904-88 § 25-8.6L)

25-51.13 Filing Procedures.

All applications for development which are within the jurisdiction of the Planning or Zoning Board, as conferred by N.J.S.A. 40:55-1 et seq., and this chapter, shall be filed with the applicable board secretary. The applicant shall obtain all necessary forms from the Secretary of the Planning Board or Zoning Board. Applicants shall file at least that number of copies of the application and submit the required fees as prescribed by the rules and regulations of the applicable board. Applicants shall file all other plans, maps, sketches or other documents as prescribed by the rules and regulations of the applicable board. Additionally, for any application involving any property located in the Central Business District (CBD) Main Street/Valley Road Corridor Zoning overlay indicated on the Official Zoning Map of the Township, the Planning or Zoning Board Secretary shall distribute a copy of such application, along with all drawings and exhibits, to the Special Improvement District (SID) Manager at the time of all regular distributions. All applications shall be filed at least three (3) weeks before the meeting at which the applicant wishes to be heard. (Ord. No. 904-88 § 25-8.6M; Ord. No. 1820-02 § 2)

25-51.14 Environmental Commission Review.

Whenever the Environmental Commission shall have prepared and filed with the Planning Board an index of the natural resources of the Township, the Planning or Zoning Board shall make available to the environmental commission an informational copy of every application for development received by the Planning Board or Zoning Board. Failure of the Board to provide such copy shall not constitute grounds for invalidating any hearing or decision. (Ord. No. 904-88 § 25-8.6N)

25-51.15 Technical Advisory Committee.

- a. *Establishment.* There is hereby established a Technical Advisory Committee to assist the Planning Board, the Zoning Board of Adjustment and applicants. This Committee shall be comprised of:
 1. Director of Planning
 2. Township Engineer

3. Director of the Fire Department
 4. A Class IV member of the Planning Board who shall hold no other municipal office, appointed by the Planning Board Chairman.
- b. *Initial Review.* All applications for development submitted to the Secretary of the Planning Board or the Secretary of the Zoning Board of Adjustment shall be forthwith reviewed by the Director of Planning. Within seven (7) days of the receipt of any application for development, the Director of Planning shall either issue a certificate that such application is complete or issue a statement of the missing items. The respective Board Secretary shall forthwith transmit either the certificate or the statement to the applicant forthwith.
 - c. *Committee Review.* The Technical Advisory Committee shall review all applications where any proposed renovations to the existing commercial and/or retail space exceed one hundred thousand (\$100,000.00) dollars in cost; or a change in the existing permitted use is proposed. If the applicant agrees with the conditions and revisions recommended by the Technical Advisory Committee, then the full Planning Board or Zoning Board of Adjustment without a full hearing may vote in favor of the application and a memorializing Resolution with these recommendations.

The Technical Advisory Committee shall also review every complete application for development. The applicant shall be notified, in writing not less than seven (7) days nor more than fourteen (14) days before, of the date on which the application shall be reviewed by the committee. The applicant shall be invited to attend, either alone or accompanied by an attorney, architect, engineer and any other experts the applicant chooses. The Committee shall issue its recommendations on every application, in writing. These recommendations shall be filed with the secretary of the proper board and a copy shall be mailed to the applicant. If the applicant does not agree with the conditions recommended by the Technical Advisory Committee, the Planning Board or Zoning Board of Adjustment shall hear the application as it would any other application.
 - d. *Time for Decisions.* Referral of an application to the Technical Advisory Committee shall not extend the time in which the Planning Board or Board of Adjustment may act upon such application.
(Ord. No. 904-88 § 25-8.6O; New; Ord. No. 2100-06 § II)

25-52 - 25-54 RESERVED.

25-55 ESCROW DEPOSITS FOR APPLICATIONS.

The Planning Board and/or Zoning Board of Adjustment shall require fees and escrow deposits in accordance with the provisions of this chapter. Such funds shall be utilized to pay the cost of professional fees, including for engineering, legal, planning and/or traffic experts, and certified shorthand reporting fees incurred for review of and/or testimony concerning an application for development submitted by an applicant. (Ord. No. 904-88 § 25-87)

25-55.1 Escrow Schedule.

- a. Subject to the provisions of paragraph b. hereof, each applicant shall prior to the application being ruled complete pursuant to the provisions of the Municipal Land Use Law, submit the following sum(s) to be held in escrow in accordance with the provisions hereof:
 1. Residential and Nonresidential Dwelling Units or Lots

3-25	\$ 3,000.00
26-100	3,500.00

101–500	5,500.00
501–1000	8,000.00
1000 +	10,000.00

2. Commercial/Industrial

1,250–2,500 square feet gross floor area	\$1,500.00
2,501–20,000 square feet gross floor area	2,500.00
20,000–50,000 square feet gross floor area	5,500.00
Over 50,000 square feet gross floor area	\$.05 each additional square feet

3. Preparation of Resolution of Approval or Denial: up to \$750.

When deemed necessary the Planning/Zoning Board may require an escrow for minor development matters.

- b. Within thirty (30) days after the filing of an application for development the Planning Board and/or Zoning Board of Adjustment as the case may be, shall, in conjunction with appropriate representative of the staff of the Township, review the application for development to determine whether the escrow amount set forth in paragraph a. above is adequate. In conducting such review the Board shall consider the following criteria.

1. The presence or absence of public water and/or sewer servicing the site.
2. Environmental considerations, including but not limited to geological, hydrological and ecological factors.
3. Traffic impact of the proposed development.
4. Impact of the proposed development on existing aquifer and/or water quality.

Upon completion of the review and within the thirty (30) day period the Board shall adopt a Resolution specifying whether the escrow amount specified in paragraph a. is sufficient, excessive or insufficient. In the event the Board shall determine that the amount is excessive it shall in the Resolution specify the amount that shall be deemed sufficient. In the event the Board shall determine the amount specified in paragraph a. is insufficient it shall so specify and shall further set forth the amount required to be posted in light of the criteria specified herein.

- c. This paragraph adopts and creates a payment schedule for consultants and/or employees for special Planning Board or Zoning Board meetings paid out of escrow funds paid by the applicant who is heard at said special Planning or Zoning Board Meeting. The schedule is as follows:

1. Schedule.

- (a) Attendance/all meeting preparation, post-meeting duties/minutes for Secretary: \$225.00
- (b) Attendance for Public Advocate: \$250.00
- (c) Attendance of transcriber: \$225.00
- (d) Attendance of Board Attorney: \$500.00
- (e) Attendance of Planner: \$500.00
- (f) All other expenses such as newspaper notices: \$60.00
- (g) The Board also has the right to hire other consultants if deemed necessary by the Board for regular or special meetings such as traffic or environmental consultants.

If the Board deems additional work is needed that is not part of the preparation, meeting and post duties an hourly rate will be paid. The following is the hourly rate: Secretary— \$33.82/hr; transcriber—\$50.00/ hr.; any other professionals— \$125.00/hr.

2. A ten (10) day written notice with a breakdown of the expenses shall be given to the applicant before funds are removed.
(Ord. No. 904-88 § 25-8.7A; Ord. No. 1970-04 §§ 1, 2)

25-55.2 Posting of Escrow Funds.

No major application for development shall be deemed complete until such time as the applicant shall have posted with the Township in cash or certified check the amount of escrow deposit determined by the Planning Board and/or Board of Adjustment to be required in accordance with the provisions of this chapter.

All such escrow funds shall be utilized by the appropriate Board to pay the cost of professional services, including certified shorthand reporting fees, incurred by the Board for review and/or testimony in connection with the particular application for development. All sums not actually so expended shall be refunded to the applicant within thirty (30) days after the final determination by the appropriate Board with respect to such application. (Ord. No. 904-88 § 25-8.7B)

25-55.3 Deposit of Escrow Fund - Interest Bearing Account.

The Township shall deposit all funds pending completion and review of the development application. The money shall be placed in an interest bearing account. In the event that a refund is to be made to the applicant, the municipality shall refund with pro rated interest the amount within thirty (30) days from the date of final approval. (Ord. No. 904-88 § 25-8.7C)

25-56 APPLICATION FEES.

25-56.1 Minor Subdivision Application Fees.

	<i>Fee</i>	<i>Escrow</i>
a. Resubdivision where no new lots are created	\$50.00	N/A
b. <i>Other</i>		
Base fee	\$100.00	N/A
Plus per lot fee	25.00	

(Ord. No. 904-88 § 25-8.8)

25-56.2 Major Subdivision Application Fees.

a. <i>Sketch/Plat Concept Application</i>		
Base fee	\$100.00	N/A
Plus per lot fee	25.00	
b. <i>Preliminary Application</i>		
Base fee	\$200.00	(1)
Plus per lot fee	50.00	

c. *Final Application*

Base fee	\$250.00	(1)
Plus per lot fee	25.00	

(Ord. No. 904-88 § 25-8.9)

25-56.3 Site Plans - Nonresidential Application Fees.

a. *Sketch Plat/Conceptual*

Fee	\$350.00	N/A
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b. *Preliminary Application*

Base fee (minimum)	\$300.00	(1)
Plus floor area fee	.02/sq. ft.	
Plus parking space fee	.50/space	
Plus acreage fee	\$50.00/acre	

The preliminary fee shall be calculated by adding to the base fee one (1) of the three (3) remaining sub-fees. The total fee shall represent the maximum fee possible.

c. <i>Final Application</i>	1/2 of	(1) preliminary fee
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(Ord. No. 904-88 § 25-8.10; Ord. No. 1304-94)

25-56.4 Site Plans - Residential Application Fees.

a. *Sketch Plat*

Fee	\$75.00	N/A
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b. *Preliminary Application*

Base fee	\$200.00	(1)
Plus unit fee	50.00	

c. *Final Application*

Base fee	\$100.00	(1)
Plus unit fee	25.00	

(Ord. No. 904-88 § 25-8.11)

25-56.5 Variances and Conditional Use Application Fees.

a. *"D" Variances*

Nonresidential	\$350.00	(1)
Residential		
1-2 family (owner occupied)	\$ 75.00	
1-2 family (non- owner occupied)	125.00	
Other	150.00	
Public/Quasi public	100.00	

b. *“C” Variances*

Nonresidential	\$250.00
Residential	
1–2 family (owner occupied)	\$ 75.00
1–2 family (non- owner occupied)	125.00
Other	250.00
Public/Quasi public	100.00

c. *Interpretations and Appeals*

Fee	\$150.00
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d. *Conditional Uses*

Fee	\$300.00
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Separate fee(s) shall be required for each application type. Therefore, if an application package consists of a “D” variance, “C” variance and site plan, the total fee shall be the sum of the fees for each separate application. The escrow charge shall be the maximum for any one type of application.

Where disbursements from the escrow account leave less than ten (10%) percent of the original deposit, the applicant shall replenish the account in an amount equal to the original deposit.*

(Ord. No. 904-88 § 25-8.12; Ord. No. 1305-94)

25-56.6 Fee for Digitizing Zoning Board of Adjustment and Planning Board Applications, Exhibits and Drawings.

a. *Residential Site Plan and Subdivision Fees.*

Concept Plan:	0–20 lots/units:	\$100.00 per lot or unit
	21+lots/units:	\$2,000.00 + \$50.00 per lot/unit in excess of 20
Minor Subdivision:		\$200.00 + \$100.00 per lot
Site and/or Major Subdivision:		
Preliminary:	0–10 units or lots:	\$500.00 + \$100.00 per lot or unit
	11–30 units or lots:	\$1,000.00 + \$75.00 per lot or unit
	31 or more units or lots:	\$2,500.00 + \$50.00 per lot or unit
Final:	0–10 units or lots:	\$200.00 + \$75.00 per lot or unit
	11–30 units or lots:	\$300.00 + \$50.00 per lot or unit
	31 or more units or	\$1,000.00 + \$40.00 per

***Editor's Note:** See escrow schedule (Section 25-55) Township Zoning Ordinance. If less than ten (10%) percent remains in escrow account, applicant shall post additional escrow in amounts equal to original deposit.

lots: lot or unit

b. *Commercial/Industrial Development Application.*

Concept Plan: 0–3 lots: \$300.00 + \$100.00 per
4 or more lots:: lot
\$2,000.00 + \$250.00
per lot

If an application involves ten (10) or more acres, an additional \$100.00 for each acre, or fraction thereof, in excess of ten (10) acres.

c. *Commercial/Industrial Development Application Involving New Building Area:*

Concept Plan: \$1,000.00

Preliminary Site Plan:

0–1,999 square feet: \$1,000.00
2,000–19,999 square feet: \$1,000 + \$150.00 per
each 1,000 square feet
of gross floor area
20,000+ square feet: \$2,500.00 + \$50.00 per
each 1,000 square feet
above 20,000 square
feet of gross floor area

Final

0–1,999 square feet: \$500.00
2,000–19,999 square feet: \$2,500.00
20,000+ square feet: \$1,000 + \$0.12 per
square foot

d. *Other Submissions.*

Conditional use approval: \$750.00
Appeals under N.J.S.A. 40:55D-70a: \$100.00
Interpretation or special questions under
N.J.S.A. 40:55D-70b: \$100.00
One or two family residences-hardship
variances under N.J.S.A. 40:55D-70C:
(decks, home addition) \$35.00
All other hardship variances under
N.J.S.A. 40:55D-70c: \$750.00
Single Family Residence: \$200.00
Multi-family Residence: \$200.00 + \$100.00
per unit
All other use variances N.J.S.A. 40:55D-70d: \$500.00

e. *Amended Submissions.*

Revised or amended plans or submission for single or two family dwellings: An amount not to exceed 50% of the original fee requirement
Revised or amended plans or submission in all other categories: An amount not to exceed 50% of the original fee

A separate check payable to the Township of West Orange shall be submitted for all the above application types.

25-57 RESERVED.

25-58 ADDITIONAL PENALTIES FOR ILLEGAL OCCUPANCIES.

- a. Any tenant who receives a notice of eviction pursuant to section 3 of P.L. 1974, c. 49 (N.J.S.A. 2A:18-61.2) that results from zoning enforcement activity for an illegal occupancy, as set forth in paragraph (3) of subsection g. of section 2 of P.L. 1974, c. 49 (N.J.S.A. 2A:18-61.10), shall be considered a displaced person and shall be entitled to relocation assistance in an amount equal to six (6) times the monthly rental paid by the displaced person. The owner-landlord of the structure shall be liable for the payment of relocation assistance pursuant to this section.
- b. In addition to the liability for the payment of relocation assistance set forth in paragraph a. of this section, the Municipal Court may impose an additional fine for a zoning code violation for an illegal occupancy, up to an amount equal to six (6) times the monthly rental paid by the displaced person, to be paid to the municipality by the owner-landlord of the structure.
- c. In addition to the penalties set forth above in paragraphs a. and b. of this section, for a second or subsequent violation for an illegal occupancy, and only after affording the offending owner-landlord an opportunity for a hearing on the matter, the Municipal Court may impose on the owner-landlord a fine equal to the annual tuition cost of any resident of the illegally occupied unit attending a public school, which fine shall be recovered in a civil action by a summary proceeding in the name of the municipality pursuant to "the penalty enforcement law," N.J.S.A. 2A:58-10 through 12. The tuition cost shall be determined in the manner prescribed for nonresident pupils pursuant to N.J.S.A. 18A:38-19, and the payment of the fine shall be remitted to the appropriate school district. The Municipal Court and the Superior Court shall have jurisdiction of proceedings for the enforcement of the penalty provided by this section.
- d. For the purposes of this section, the owner-landlord of a structure shall exclude mortgagees in possession of a structure through foreclosure. Also for the purposes of this section, a "second or subsequent violation for an illegal occupancy" shall be limited to those violations that are new and are a result of distinct and separate zoning enforcement activities, and shall not include any continuing violations for which citations are issued by a zoning enforcement agent during the time period required for summary dispossession proceedings to conclude if the owner has initiated eviction proceedings in a court of proper jurisdiction.

(Ord. No. 1785-01 § 2)

25-59 PENALTY - GENERAL.

- a. *Maximum Penalty.* For violation of any provision of this chapter, the maximum penalty shall include the penalties provided for in Section 1-5.

All other provisions of subsections 1-5.1 through 1-5.5 and Section 25-59(b) shall remain in full force and effect and apply fully for any violation of Chapter 25.

- b. *Separate Violations.* Except as otherwise provided, each and every day in which a violation of any provision of this chapter or any other ordinance of the Township exists shall constitute a separate violation.

(Ord. No. 904-88 § 25-9; Ord. No. 1589-99 § 2)

25-60 SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by a court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining provisions hereof. (Ord. No. 904-88 § 25-9.3)

25-61 PRIOR INCONSISTENT ORDINANCES.

All ordinances or parts of ordinances inconsistent with the provisions of this chapter are to the extent of such inconsistency, hereby repealed. (Ord. No. 904-88 § 25-9.4)

25-62 ACQUISITION AND CONVEYANCE OF SCHOOL PROPERTY.

Pursuant to N.J.S.A. 40:60-25.56, the Township, after obtaining title to the School Property, shall convey to the Board of Education of the Township the School Property for the use of the site as a new public school and related recreational facilities for nominal consideration totaling one (\$1.00) dollar. Further, the Township shall execute any and all documents and take any actions necessary to effectuate the transfer of the School Property to the Board of Education of the Township. (Ord. No. 1913-03 § II)

CHAPTER XXXI RESERVED

CHAPTER XXXII LAND SUBDIVISION*

32-1 SHORT TITLE.

This chapter shall be known and may be cited as "The Land Subdivision Ordinance of the Township of West Orange." (1972 Code § 24-1)

32-2 PURPOSE.

The purpose of this chapter is to provide rules, regulations and standards to guide land subdivision in the Township in order to promote its public health, safety, convenience and general welfare. It shall be administered to insure orderly growth and development, conservation, protection and proper use of land and adequate provision for circulation, utilities and services. (1972 Code § 24-2)

32-3 APPROVING AGENCY; ADMINISTRATION.

The approval provisions of this chapter shall be administered by the Planning Board or Zoning Board of Adjustment in accordance with Sections 25-46.7b and 25-47.8d of Chapter XXV, Land Use Regulations.

In the case of a minor subdivision as herein defined and classified, the Planning Board is empowered and authorized to waive full notice and hearing, provided that the Technical Advisory Committee finds no cause for review by the entire Board or for unfavorable action upon the subdivision. Such finding shall be deemed to be favorable approval by the Planning Board.

32-4 CONSTRUCTION OF CHAPTER.

This chapter shall not be construed to repeal the Zoning Ordinance or any part thereof. (1972 Code § 24-4)

32-5 DEFINITIONS.

The following words, terms or phrases when used in this chapter shall have the meanings ascribed in this section:

Approving agency shall mean the Planning Board or Zoning Board of Adjustment in accordance with Sections 25-46.7b and 25-47.8d of Chapter XXV, Land Use Regulations.

Drainage right-of-way shall mean the lands required for the installation of storm water sewers or drainage ditches, 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, in accordance with N.J.S.A. 58:1-1 to 58:1-34.

Final plat shall mean the final map of all or a portion of the subdivision which is presented to the Planning Board for final approval in accordance with these regulations, and meeting the requirements of subsection 32-8.3, and which, if approved, shall be filed with the proper County Recording Officer.

Lot shall mean a designated parcel, tract or area of land established by a plat or otherwise, as permitted by law and to be used, developed or built upon as a unit.

Major subdivision shall mean any subdivision not classified as a minor subdivision.

***Editor's Note:** The power to regulate land subdivision is set forth in N.J.S.A. 40:55-30 et seq.

Master Plan shall mean a composite of the mapped and written proposals recommending the physical development of the Township which shall have been duly adopted by the Planning Board.

Minor subdivision shall mean any subdivision containing not more than two (2) lots fronting on any existing street accepted by the Township and not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Master Plan, Official Map, Zoning Ordinance or this chapter.

Official Map shall mean a map adopted in accordance with Article 5. The Official Map, of the Municipal Land Use Law at N.J.S.A. 40:55D--32 et seq.

Owner shall mean any individual, firm, association, syndicate, co-partnership or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter.

Performance guarantee shall mean any security which may be accepted in lieu of a requirement that certain improvements be made before the approving agency approves a plat, including performance bonds, escrow agreements, and other similar collateral or surety agreements.

Plat shall mean the map of a subdivision.

Preliminary plat shall mean the preliminary map indicating the proposed layout of the subdivision which is submitted to the approving agency for consideration and approval, and meeting the requirements of Section 32-8 of this chapter.

Sketch plat shall mean the sketch map of a subdivision of sufficient accuracy to be used for the purpose of discussion and classification, and meeting the requirements of Section 32-8 of this chapter.

Street shall mean any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing State, County or municipal roadway, or a which is shown upon a plat heretofore approved pursuant to law, or approved by official action, or which is shown on a plat duly filed and recorded 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 revise plats, and includes the land between the street lines whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas and other areas within the street lines.

Subdivider shall mean any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity commencing proceedings under this chapter to effect a subdivision of land hereunder for himself/herself or for another.

Subdivision shall mean the division of a lot, tract, or parcel of land into two (2) or more lots, tracts, parcels or other divisions of land for sale or development; except that the following divisions shall not be considered subdivisions, provided that no new streets or roads are involved: divisions of land for agricultural purposes where the resulting parcels are five (5) acres or larger in size, divisions of property by testamentary or intestate provisions, divisions of property upon court order, consolidations of existing lots by deed or other recorded instrument, and 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 Construction Official/Zoning 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."

Technical Advisory Committee shall mean the Technical Advisory Committee established pursuant to Section 25-51.15 of Chapter XXV, Land Use Regulations.

32-6 RULES AND REGULATIONS.

The rules, regulations and standards contained in this chapter shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Township. Any action taken by the Planning Board or Zoning Board of Adjustment under the terms of this chapter shall give primary consideration to the above mentioned matters and to the welfare of the entire community. However, if the subdivider or his/her agent can clearly demonstrate that, because of peculiar conditions pertaining to his/her land, the literal enforcement of one (1) or more of these regulations is impracticable or will exact undue hardship, the Planning Board or Zoning Board of Adjustment may permit such exception or exceptions as may be reasonable and within the general purpose and intent of the rules, regulations and standards established by this chapter. (1972 Code § 24-6)

32-7 PROCEDURE/PLAT DETAILS.

The information required to be submitted for any application for subdivision approval and the application procedures are included in Section 25-51 of the Land Use Regulations Ordinance, the Township of West Orange's Site Plan/Subdivision Checklist and the Application Form for the Planning Board or Zoning Board prepared by the Department of Planning and Development.

32-8 RESERVED.

32-9 IMPROVEMENTS; PERFORMANCE GUARANTEES; REASSESSMENT.

32-9.1 Requirements.

Prior to the granting of final approval, the subdivider shall have installed or shall have furnished performance guarantees for the ultimate installation of the following:

- a. Streets.
- b. Street signs.
- c. Curbs or gutters.
- d. Sidewalks, where determined.
- e. Street lighting.
- f. Shade trees to be as provided in subsection 32-10.4.
- g. Topsoil shall not be removed from the site or used as spoil. Topsoil moved during the course of construction shall be redistributed so as to provide at least six (6) inches of cover to all areas of the subdivision and shall be stabilized by seeding or planting.
- h. Monuments to be of the size and shape required by N.J.S.A. 46:23-9.4, and to be placed in accordance with the Statute.
- i. Water mains, culverts, storm sewers and sanitary sewers shall be properly connected with an approved system and shall be adequate to handle all present and probable future development.
- j. Any provision to the contrary notwithstanding, sidewalks, rough road and curbing shall be installed and laid in accordance with the standards and specifications of the Township Engineer prior to the issuance of any certificate of occupancy. In the event that the developer is unable in the opinion of the Township Engineer, to install sidewalks, rough road or curbing by reason of prevailing weather conditions or for good cause shown, the Construction Official

may, with the consent of the Township Engineer, issue certificates of occupancy in particular cases and upon terms and conditions set by the Township Engineer and the Construction Official. In any event, sidewalks shall be installed within ninety (90) days from the issuance of certificates of occupancy.
(1972 Code § 24-9.1)

32-9.2 Inspections and Approval.

All improvements listed in subsection 32-9.1 shall be subject to inspection and approval by the Township Engineer who shall be notified by the developer at least twenty-four (24) hours prior to the start of construction. No underground installation shall be covered until inspected and approved.
(1972 Code § 24-9.2)

32-9.3 Improvements to Be Constructed at the Sole Expense of the Applicant.

In cases where reasonable and necessary need for an off-tract improvement or improvements is necessitated or required by the proposed development application and where no other property owners receive a special benefit thereby, the Planning Board, hereinafter "Board", shall require the applicant, as a condition of approval, at the applicant's expense, to provide for and construct such improvements as if such were on-tract improvements in the manner provided hereafter and as otherwise provided by law. (1972 Code § 24-9.3; Ord. No. 473-78)

32-9.4 Other Improvements.

- a. In cases where the need for any off-tract improvements are necessitated by the proposed development application and where the Board determines that properties outside the development will also be benefited by the improvement, the Board shall forthwith forward to the Township Council a list and description of all such improvements together with its request that the Township Council determine and advise the Board of the procedure to be followed in the construction or installation thereof.

The Board shall act upon the development application within the prescribed time period subject to:

1. Receipt of the Township Council's determination; or
 2. Until the expiration of forty-five (45) days after forwarding of such list and description to the Township Council without such determination having been made.
- b. The Township Council, within forty-five (45) days after receipt of the list and description, shall determine and advise the Board whether:
 1. The improvement or improvements are to be constructed or installed by the Township.
 - (a) As a general improvement, the cost of which is to be borne at general expense, except as otherwise provided as to a contribution thereto by the applicant; or
 - (b) As a local improvement, all or part of the cost of which is to be specially assessed against properties benefited thereby in proportion to benefits conferred by the improvements in accordance with law, except as otherwise provided as to a contribution thereto by the applicant; or
 - (c) The improvement or improvements are to be constructed or installed by the applicant under a formula for partial reimbursement as hereinafter set forth.
 - c. If the Township Council shall determine that the improvement or improvements shall be constructed or installed under paragraph b. 1(a) above, the Board shall estimate with the aid of the Township Engineer, or such other persons as 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 proposed development, will be specially benefited thereby, and the applicant shall be liable to the Township for such excess. Further, the Township Council shall adopt an ordinance authorizing and providing for the financing of the improvement or improvements in a manner consistent with the obligation of the applicant for any excess of total cost over total benefits conferred, as set forth above.

- d. If the Township Council shall determine that the improvement or improvements shall be constructed or installed under paragraph 32-9.4, b. 1(b) above, the Board shall, as provided in paragraph c. above, estimate the difference between the total costs to be incurred and the total amount by which all properties to be benefited thereby, including the development property, will be specially benefited by the improvement, and the applicant shall be liable to the Township therefor, as well as for the amount of any special assessments against the development property for benefits conferred by the improvement or improvements. Further, the Township Council shall adopt an ordinance authorizing and providing for the financing of the improvement or improvements and the assessment of benefits arising therefor in a manner consistent with the obligation of the applicant with respect thereto, and proceedings under the ordinance shall be in accordance with law, except to the extent modified by the obligation of the applicant for any excess of total cost over total benefits conferred, as set forth above.
- e. If the Township Council shall determine that the improvement or improvements are to be constructed or installed by the applicant under paragraph b, 1(c) above, the Board shall, in like manner, estimate the amount of such excess, and the applicant shall be liable to the Township therefor as well as for the amount of any special assessments against the development property for benefits conferred by the improvement or improvements. However, the applicant shall be entitled to be reimbursed by the Township for the amount of any special assessments against property other than the development property for benefits conferred by the improvement or improvements, such reimbursement to be made if and when the special assessments against such other property are received by the Township. Further, the Township Council shall adopt an ordinance authorizing and providing for the assessment against all properties, including the development property, of benefits conferred by the improvement or improvements, and proceedings under the ordinance shall be in accordance with law. However, any such assessment against the development property shall be marked paid and satisfied in consideration of the construction or installation of the improvement or improvements by the applicant.
(1972 Code § 24-9.4; Ord. No. 473-78)

32-9.5 Allocation of Costs.

- a. In determining the allocation of costs for off-tract improvements as between the developer, other property owners and the Township, the Board shall be guided by the following factors:
 - 1. The total estimated cost of off-tract improvements;
 - 2. The increase in market values of the properties affected and any other benefits conferred;
 - 3. The needs created by the application;
 - 4. Population and land use projections for the land within the general area of the subdivision or site plan and other areas to be served by the off-tract improvements;
 - 5. The estimated time for construction of the off-tract improvements; and
 - 6. The condition and periods of usefulness of the improvements which may be based upon the criteria of N.J.S.A. 40A:2-22.
- b. Without limiting the generality of the foregoing, the Board may take into account the following specific factors:

1. With respect to street, curb, gutter, sidewalk, street light, street sign and traffic light improvements, the approving authority may consider:
 - (a) Traffic counts;
 - (b) Existing and projected traffic patterns;
 - (c) Quality of roads and sidewalks in the area; and
 - (d) All such other factors as it may deem relevant to the needs created by the proposed development.
2. With respect to drainage facilities, the approving authority may consider:
 - (a) The relationship between the areas of the subdivision or site plan and the area of the total drainage basin of which the subdivision or site plan is a part;
 - (b) The proposed use of land within the subdivision or site plan and the amount of land area to be covered by impervious surfaces on the land within the subdivision or site plan; and
 - (c) The use, condition or status of the remaining land area in the drainage basin.
3. With respect to water, gas and electric supply and distribution facilities, the approving authority may consider the use requirements of the use proposed for the subdivision or site plan and the use requirements of all other properties to be benefited by the improvements.
4. With respect to sewerage facilities, the approving authority may consider:
 - (a) The anticipated volume of effluent from the use proposed for the subdivision or site plan and the anticipated volume of effluent from all other properties to be benefited by the improvements;
 - (b) The types of effluent anticipated and particular problems requiring special equipment or added costs.
(1972 Code § 24-9.5; Ord. No. 480-78)

32-9.6 Performance Guarantees.

- a. *Required.* The applicant shall be required to provide, as a condition for final approval of his/her development application, a performance guarantee running to the Township as follows:
 1. If the improvement is to be constructed by the applicant under subsection 32-12.1 above or under paragraph b and 1(c) above, a performance bond with surety in an amount equal to the estimated cost of the improvement, or as to any part of the improvement, or as to any part of the improvement that is to be acquired or installed by the Township under subsection 32-9.3, a performance bond equal to the estimated cost of such acquisition or installation by the Township;
 2. If the improvement is to be constructed by the Township as a general improvement under paragraph b, 1(c) above, a performance bond equal to the amount of the excess of the estimated cost of the improvement over the estimated total amount by which all properties, including the development property, will be specially benefited thereby; and
 3. If the improvement is to be constructed by the Township as a local improvement under paragraph b, 1(b) above, a performance bond equal to the amount referred to in the preceding paragraph a, 2 immediately above, plus the estimated amount by which the development property will be specially benefited by the improvement.

4. All estimates of cost shall be made by the Township Engineer. All improvements shall be made on or before an agreed date.
- b. *Form; Term; Reduction of Amount.*
 1. **Form.** The performance guarantee may be in the form of a performance bond, which shall be issued by a bonding or surety company approved by the Township Council, or of a certified check, returnable to the subdivider after full compliance, or by any other type of surety approval by the Township Attorney. The performance guarantee shall be approved by the Township Attorney as to form, sufficiency and execution.
 2. **Term.** The performance guarantee shall run for a period to be fixed by the Planning Board, but in no case for a term of more than three (3) years. However, with the consent of the owner and of the surety, if there be one, the Township Council may, by resolution, extend the term of such performance guarantee for the additional period not to exceed three (3) years.
 3. **Reduction of Amount.** The amount of the performance guarantee may be reduced by the Township Council by resolution when portions of the required improvements have been installed.
(1972 Code § 24-9.6)

32-9.7 Liability for Breach of Performance Guarantee.

If the required improvements have not been installed in accordance with the performance guarantee, the obligor and surety shall be liable thereon to the Township for the reasonable cost of the improvements not installed, and upon receipt of the proceeds thereof, the Township shall install such improvements. (1972 Code § 24-9.7)

32-9.8 Deposit of Funds.

All moneys paid by an applicant pursuant to this chapter shall be paid over to the Township Treasurer, who shall provide a suitable depository therefor. Such funds shall be used only for the improvements for which they are deposited or improvements serving the same purpose. (1972 Code § 24-98; Ord. No. 473-78)

32-9.9 Refund of Deposit where Improvements Are Not Authorized within Five Years.

In any case in which an applicant shall deposit money with the Township for the completion of an improvement that is to be constructed pursuant to this chapter by the Township, the applicant shall be entitled to a full refund of such deposit if the Township Council shall have enacted an ordinance authorizing the improvement within five (5) years after the date of All other development improvements are completed. (1972 Code § 24-9.9; Ord. No. 473-78)

32-9.10 Redetermination of Assessment Upon Completion of Improvement.

Upon completion of off-tract improvements required pursuant to this chapter, the applicant's liability hereunder shall be recalculated in accordance with the actual, as compared with the estimated cost of the improvements. To the extent that such recalculation shall increase the amount of any cash deposit made by the applicant hereunder, the applicant shall forthwith pay the amount of such increase to the Township. To the extent that it shall decrease the amount thereof, the Township shall forthwith refund the amount of such decrease to the applicant. In cases where improvements are specially assessed against all benefited properties, recalculation shall be made by the Township assessing authority in the course of the special assessment proceedings. In other cases, it shall be made by the Township Engineer. (1972 Code § 24-9.10; Ord. No. 473-78)

32-10 DESIGN STANDARDS.

32-10.1 Compliance Required.

The subdivider shall observe the requirements and principles of land subdivision in the design of each subdivision or portion thereof, as set forth in this section or the New Jersey Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.). (1972 Code § 24-10.1)

32-10.2 General Standards.

The subdivision plat shall conform to design standards that will encourage good development patterns within the Township. Where an Official Map or Master Plan, or both, has been adopted, the subdivision shall conform to the proposals and conditions shown thereon. The streets, drainage rights-of-way, school sites, public parks and playgrounds shown on an officially adopted Master Plan or Official Map shall be considered in approval of subdivision plats. Where no Master Plan or Official Map exists, street and drainage rights-of-way shall be shown on the final plat in accordance with N.J.S.A. 40:55-1.20 and shall be such as to lend themselves to the harmonious development of the Township and to enhance the public welfare in accordance with the design standards set forth in subsections 32-10.3 and 32-10.7. (1972 Code § 24-10.2)

32-10.3 Public Use and Service Areas.

- a. In large scale development, easements along rear property lines or elsewhere for utility installation may be required. Such easements shall be at least fifteen (15) feet wide and shall be located on consultation with the companies or Township departments concerned.
- b. Where a subdivision is traversed by a watercourse, drainageway channel or street, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water-course and such further width or construction, or both, as will be adequate for the purpose. The Planning Board may prescribe such rules and conditions as it deems fit to properly control such watercourse, drainageway or stream.
- c. Natural features such as trees, brooks, hilltops and views shall be preserved whenever possible in designing any subdivision containing such features.
(1972 Code § 24-10.6)

32-10.4 Shade Trees.

Shade trees shall be located on the street line so as not to interfere with utilities or sidewalks or as determined by the Township Engineer, and shall be of one (1) of the following types or species: Maples, Oaks, Ashes, Locusts, Gingko (male), Lindens, Crab Apples, Callery Pears, Crataegus, Japanese Cherry, Hornbeam, Gums, Kentucky Coffee Trees, Amur Cork Trees and Chinese Scholar. (1972 Code § 24-10.7)

32-11 VIOLATIONS.

32-11.1 Penalty.

If, before favorable referral and final approval have been obtained, any person transfers or sells or agrees to sell, as owner or agent, any land which forms a part of a subdivision on which the Planning Board or the Township Council is required to act, such person shall be subject to the penalty provided for a violation of this revision. (1972 Code § 24-11.1)

32-11.2 Civil Remedies.

In addition to the penalty set forth in subsection 32-11.1, if the streets in the subdivision are not such that a structure on the land in the subdivision would meet requirements for a building permit under N.J.S.A. 40:55-1.32 of the Official Map and Building Permit Act (1953) the Township 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. 40:55-1.24, provided that the Planning Board or a committee thereof meets regularly on a monthly or more frequent basis and that the Township Council has adopted standards and procedures in accordance with N.J.S.A. 40:55-1.20.
(1972 Code § 24-11.2)

32-11.3 Lien.

In any civil action referred to in subsection 32-11.2, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land from which the subdivision was made that remains in the possession of the subdivider or his/her assignees or successors. The lien shall secure the return of any deposit made or purchase price paid, and also a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within two (2) years after the date of the recording of the instrument of transfer, sale or conveyance of the land, or within six (6) years, if unrecorded. (1972 Code § 24-11.3)

32-12 RESERVED.

32-13 RECYCLING AREA REQUIREMENTS.*

32-13.1 Definitions.

As used in this section:

Multifamily housing development shall mean a building containing three (3) or more dwelling units occupied or intended to be occupied by persons living independently of each other, or a group of such buildings;

Recycling area shall mean space allocated for collection and storage of source separated recyclable materials.
(Ord. No. 1209-93 § 1)

32-13.2 Required.

There shall be included in any new multifamily housing development that requires subdivision or site plan approval an indoor or outdoor recycling area for the collection and storage of residentially-generated recyclable materials. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located. The dimensions of the recycling area and the bins or containers shall be determined in consultation with the municipal recycling coordinator, and shall be consistent with the district recycling plan adopted pursuant to section 3 of P.L. 1987, c.102 (N.J.S.A. 12:1E-99.13) and

***Editor's Note:** See also Chapter XXV, Land Use Regulations, subsection 25-8.14, Recycling Facilities.

any applicable requirements of the Municipal Master Plan, adopted pursuant to section 26 of P.L. 1987, c.102. (Ord. No. 1209-93 § 2)

32-13.3 Location.

The recycling area shall be conveniently located for the residential disposition of source separated recyclable materials, preferably near, but clearly separated from, a refuse dumpster. (Ord. No. 1209-93 § 3)

32-13.4 Lighting; Accessibility.

The recycling area shall be well lit, and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling area, and the bins or containers placed therein, against theft of recyclable materials, bins or containers. (Ord. No. 1209-93 § 4)

32-13.5 Bins and Containers.

The recycling area or the bins or containers placed therein shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered, so as to keep the paper or cardboard dry. (Ord. No. 1209-93 § 5)

32-13.6 Signs.

Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein. (Ord. No. 1209-93 § 6)

32-13.7 Landscaping and Fencing.

Landscaping and/or fencing shall be provided around any outdoor recycling area and shall be developed in an aesthetically pleasing manner. (Ord. No. 1209-93 § 7)

Township of West Orange Zoning Ordinance, Section 25-7.1
TABLE OF DISTRICT REGULATIONS – PART A: PERMITTED USES

ZONE	PERMITTED PRINCIPAL USES	PERMITTED ACCESSORY USES	PERMITTED CONDITIONAL USES
R-1	One family, detached dwelling Water reservoir, well tower, filter bed Federal, state, county or township building Golf course and golf club house Farm, nursery, greenhouse and similar uses Hospital	Required accessory parking Private garage Horticultural or agricultural building Customary accessory building or structure Private swimming pool Private recreation facility Home occupation Home professional office Signs Fences and dividing walls Farm produce stand for produce grown on premises Private storage shed Greenhouses	Commercial recreation Public school Private school Library Museum Park or playground Public utility building or structure Telephone exchange Private club, other than a golf club House of worship
R-2	SAME AS R-1 AND in addition Senior citizens housing project (Sen. C.H.) as defined in Sec. 25-4	SAME AS R-1	SAME AS R-1
R-3	SAME AS R-1	SAME AS R-1	SAME AS R-1 AND in addition Townhouse residential cluster development but EXCLUDING Commercial recreation
R-3AH	SAME AS R-3	SAME AS R-3	SAME AS R-3
R-4	SAME AS R-1	SAME AS R-1	SAME AS R-1 AND in addition Banquet and Conference centers but EXCLUDING Farm produce stands Commercial recreation
R-5	SAME AS R-1	SAME AS R-1	SAME AS R-4 AND in addition Hotels and Restaurants on ten (10) or more acres Townhouse/low-rise residential cluster development Additional off-street parking
R-6	SAME AS R-1	SAME AS R-1	SAME AS R-4 AND in addition Additional off-street parking
R-T	SAME AS R-1 AND in addition Two family dwelling	SAME AS R-1	SAME AS R-4 AND in addition Nursing home Long-term care residential health care facility Additional off-street parking

ZONE	PERMITTED PRINCIPAL USES	PERMITTED ACCESSORY USES	PERMITTED CONDITIONAL USES
R-G	SAME AS R-1 AND in addition Garden apartment on site of 5 acres or more only Professional office building Offices for insurance Banks	SAME AS R-1	SAME AS R-4 AND in addition Senior citizens housing project Assisted living Congregate care facility Nursing home Long-term care residential health care facility Additional off-street parking
R-M	SAME AS R-T AND in addition Multi-family development	SAME AS R-1	SAME AS R-G EXCLUDING Public school Private school Public utility building or structure Telephone exchange Library Museum Park or playground
OB-1	Same As R-1 AND in addition Office building	Required accessory parking Signs	SAME AS R-1 EXCLUDING Produce stand AND in addition Nursing home Long-term care residential health care facility Congregate care facility Assisted living Commercial antenna Check cashing facility
OB-2	SAME AS OB-1	SAME AS OB-1	SAME AS OB-1 EXCLUDING Check cashing facility AND in addition Senior citizens housing project
B-1	SAME AS R-T AND in addition Retail store Personal service store or studio Office or office building Business or vocational school Restaurant Bar Massage, bodywork or somatic therapy establishment	Required accessory parking Private garage Home occupation Home professional office Signs Vending machines	Motor vehicle fueling station Theater Public utility building or structure Telephone exchange Senior citizens housing project Hotel Private club, other than a golf club Video or amusement arcade Fast food restaurant Commercial antenna
B-2	Retail store Personal service store or studio Office or office building Business or vocational school Restaurant Bar Massage, bodywork or somatic therapy establishment	SAME AS OB-1 AND in addition Vending machines	SAME AS B-1

ZONE	PERMITTED PRINCIPAL USES	PERMITTED ACCESSORY USES	PERMITTED CONDITIONAL USES
P-C	Retail store Personal service store or studio Restaurant Bar Motor vehicle fueling station Post office Civic center, limited to assembly hall and non-commercial indoor recreation facilities Theater on lots of 8-acre minimum	Required accessory parking Required accessory truck loading spaces Private garage Signs	Video or amusement arcade Commercial antenna
O-R	Office building Post office Civic center, limited to assembly hall and non-commercial indoor recreation facilities Research laboratory	SAME AS P-C AND in addition Restaurant Bar	Commercial antenna
I	Light industry, including dry cleaning plants, machine shops, publishing or printing plants, research laboratories and steam laundries Office building Warehouse Self-storage facility Storage yard Wholesale business Motor vehicle fueling station Motor vehicle service station Car wash, Public utility building	SAME AS OB-1	Billiard parlor Bowling alley Commercial recreation Commercial antenna Motor vehicle sales establishment
R-C	Townhouses One family, detached dwelling	SAME AS R-1	SAME AS R-1 AND in addition Congregate care facility Assisted living
PURD	Townhouses Garden apartments Multi-family development	SAME AS R-1	SAME AS R-1 AND in addition Congregate care facility Assisted living
GA	Open space Recreation		
E-C, E-LR, E-MU, E-MR, HSD, MSS, HD: see the Downtown Redevelopment Plan for use regulations			
O-RA: see the Organon Redevelopment Plan for use regulations			
MUBR: see the Valley Road Area (Harvard Press) Redevelopment Plan for use regulations			

Township of West Orange Zoning Ordinance, Section 25-7.1
TABLE OF DISTRICT REGULATIONS – PART B: BULK STANDARDS

ZONE	MAXIMUM HEIGHT	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT AREA PER UNIT (SQ. FT.)	MINIMUM LOT WIDTH (FT.)	MINIMUM FRONT YARD (FT.)	MINIMUM SIDE FRONT YARD-CORNER LOT (FT.)
R-1	2 ½ stories and not exceeding 35'	80,000	80,000	150	40	40
R-2	SAME AS R-1 Sen. C.H. - 3 stories not to exceed 37'-8"	40,000	40,000 Sen. C.H. - 650 per unit	125 Sen. C.H. - 200	35 Sen. C.H. - 40	35 Sen. C.H. - 40
R-3	SAME AS R-1	20,000	20,000	100	35	35
R-3AH	SAME AS R-3	10,000/ 12,500 (See 25-31)	See 25-31	See 25-31	30	30
R-4	SAME AS R-1	15,000	15,000	100	30	30
R-5	SAME AS R-1	10,000	10,000	75	30	25
R-6	SAME AS R-1	6,000	6,000	60	30	20
R-T	SAME AS R-1	One family 5,000 Two family 3,750 each	One family 5,000 Two family 3,750 each	One family 50 Two family 75	30	15
R-G	SAME AS R-1	One family 15,000 Garden apartment 5 acres	One family 15,000 Garden apartment 8 units per acre	One family 100 Garden apartment 200 Office building 100	One family 30 Garden apartment 75 Office building 30	One family 30 Garden apartment 60 Office building 20
R-M	SAME AS R-1	One family 5,000 Two family 7,500 Garden apartment Multi-family dev. 11,250	One family 5,000 Two family 3,750 Garden apartment - 3,750 each	One family 50 Two family 75 Garden apartment Multi-family dev. 50	30	15
OB-1	SAME AS R-1	10,000	SAME AS R-6	SAME AS R-6	30	25
OB-2	4 stories and not exceeding 48'	SAME AS OB-1	SAME AS OB-1	SAME AS OB-1	SAME AS OB-1	SAME AS OB-1

ZONE	MINIMUM SIDE YARDS (FT.)	MINIMUM REAR YARD (FT.)	MAXIMUM BUILDING COVERAGE	MAXIMUM LOT COVERAGE	MINIMUM SPACING BETWEEN BUILDINGS (FT.)
R-1	25 + 25	50	20%	30%	
R-2	20 + 20 Sen. C.H. - 8+10	45 Sen. C.H. - 30	20% Sen. C.H. - 25%	30% Sen. C.H. - 70%	Sen. C.H. - 35
R-3	15 + 10	40	20%	35%	
R-3AH	10 + 10	30	25%	35%	
R-4	15 + 10	35	30%	40%	
R-5	10 + 8	30	35%	45%	
R-6	10 + 8	30	35%	45%	
R-T	10 + 8	30	40%	55%	
R-G	One family 15+10 Garden apartment 60 Office building 16	One family 35+10 Garden apartment 75 Office building 40	One family 30% Garden apartment 25% Office building 30%	40%	35
R-M	10 + 8	30	40%	One family 50% Two family 55% Garden apartment Multi-family dev. 55%	
OB-1	10 + 8	30	40%	50%	
OB-2	SAME AS OB-1	SAME AS OB-1	30%	50%	

ZONE	MAXIMUM HEIGHT	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT AREA PER UNIT (SQ. FT.)	MINIMUM LOT WIDTH (FT.)	MINIMUM FRONT YARD (FT.)	MINIMUM SIDE FRONT YARD-CORNER LOT (FT.)
B-1	SAME AS R-1	SAME AS R-T Non-residence no minimum	SAME AS R-T	SAME AS R-T Non-residence no minimum	SAME AS R-T Business No minimum	SAME AS R-T Business None required
B-2	SAME AS R-1	10,000	N/A	No minimum	30	25
P-C	SAME AS R-1	8 ACRES	N/A	No minimum	300	100
O-R	SAME AS R-1	5 ACRES	N/A	No minimum	100	100
I	65'	10,000	N/A	No minimum	None required	None required
R-C	Single family SAME AS R-1 Townhouses 35' or 3 stories	Townhouses 10 Acres Single family 1 Acre	10,890/DU 4 D.U./Ac. Single family 1 Acre	Townhouses 150 Single family 125	Townhouses 30 Single family 35	40
PURD	35'	20 ACRES	7,260/DU 6 D.U./Ac.	300	30	40
GA						
E-C, E-LR, E-MU, E-MR, HSD, MSS, HD: see the Downtown Redevelopment Plan for use regulations						
O-RA: see the Organon Redevelopment Plan for use regulations						
MUBR: see the Valley Road Area (Harvard Press) Redevelopment Plan for use regulations						

ZONE	MINIMUM SIDE YARDS (FT.)	MINIMUM REAR YARD (FT.)	MAXIMUM BUILDING COVERAGE	MAXIMUM LOT COVERAGE	MINIMUM SPACING BETWEEN BUILDINGS (FT.)
B-1	SAME AS R-T Non-residence none required EXCEPT 6' min. for any side yard provided	30	60%	75%	
B-2	10 + 10	30	40%	60%	
P-C	75 + 75 100 adjacent to residence	75 100 adjacent to residence	20%	75%	150
O-R	SAME AS P-C	SAME AS P-C	20%	30%	150
I	None required but 6 when provided 10 adjacent to residence	30	60%	75%	25
R-C	Townhouses 50 Natural state Single family 20 + 20	Townhouses 50 Single family 45	20%	35%	25
PURD	50 Natural state	50	20%	35%	50
GA					
E-C, E-LR, E-MU, E-MR, HSD, MSS, HD: see the Downtown Redevelopment Plan for use regulations					
O-RA: see the Organon Redevelopment Plan for use regulations					
MUBR: see the Valley Road Area (Harvard Press) Redevelopment Plan for use regulations					

AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER 7, TRAFFIC, SUBSECTION 7-26, BUS REGULATIONS,
SUBSECTION 7-26.1, BUS STOPS, OF
THE REVISED GENERAL ORDINANCES OF
THE TOWNSHIP OF WEST ORANGE

BE IT ORDAINED, by the Township Council of the Township of West Orange, in the County of Essex, State of New Jersey as follows:

Section 1. Subsection 7-26.1, Bus Stops, of the Revised General Ordinances of the Township of West Orange is hereby supplemented and amended as follows (*italic type denotes deletion, bold type denotes addition*):

Street	Hours
Bus Route #73	
2. Along Northfield Avenue, eastbound on the southerly side thereof at:	
m. <i>Gregory Avenue (far side). Beginning at the easterly curbline of Gregory Avenue and extending 135 feet easterly thereof.</i>	<i>All</i>
m. Gregory Avenue (far side). Beginning at the easterly curbline of Gregory Avenue and extending 100 feet easterly thereof.	All

Section 2. If any provisions of this Ordinance or application thereof, under any circumstances, is held invalid, the invalidity shall not affect any of the provisions or applications of this Ordinance that can be given effect without the valid provision(s) or applications and to this end, the provisions of this Ordinance are severable.

Section 3. All other Ordinances parts of Ordinances inconsistent with this Ordinance are hereby repealed.

Section 4. This Ordinance shall take effect upon final passage and publication in accordance with law and approval by the County of Essex Board of Chosen Freeholders, New Jersey Transit and the New Jersey Department of Transportation if required.

ROBERT D. PARISI, MAYOR

VICTOR CIRILO, COUNCIL PRESIDENT

DATED:

ADOPTED:

Approved as to form on the basis of
the facts provided.

RICHARD D. TRENK
TOWNSHIP ATTORNEY

LEGISLATIVE HISTORY

This Ordinance reduces the length of the bus stop located on Northfield Avenue eastbound at the far side of the intersection with Gregory Avenue so as not to interfere with the driveway for 220 Northfield Avenue. This bus stop is used by both NJ Transit Bus No. 73 and Coach USA Bus No. 77.

AN ORDINANCE CREATING NEW TOWNSHIP CODE SECTION CHAPTER 14, SECTION 8.2A AND REVISING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST ORANGE TO ALLOW FOR SNOW, ICE AND GRASS REMOVAL ON PRIVATELY-OWNED PROPERTIES BY TOWNSHIP EMPLOYEES OR AGENTS

BE IT ORDAINED, by the Township Council of the Township of West Orange ("Township"), in the County of Essex and State of New Jersey, that there should be created a Chapter 14, Section 8.2A of the Revised General Ordinances of the Township, which shall provide as follows:

14-8.2A Failure to Comply With Ice, Snow, or Grass Removal; Enforcement

1. If the owner or operator of lands abutting upon the public highways, streets and avenues of the Township shall neglect or refuse to remove all snow, ice, grass, or other impediments, as required by §14-8.1(a)(3), §14-8.1(b), §14-8.2(a)(2) or §14-8.2(b)(1), then the Department of Public Works or a suitable third-party vendor approved by the Director of the Department of Public Works may, after three (3) days' notice posted on the property, remove or cause to be removed, or trim or cause to be trimmed, the snow, ice, grass, or other impediments which are in violation of the Township Code.
2. Upon the completion of any removal or trimming as contemplated by subsection (a) of this section, and upon the Township's issuance or receipt of an invoice for services rendered, the Department of Public Works or any other Township Department may obtain a lien against the applicable real property for the cost of services and all costs related thereto, including all attorneys' fees and expenses incurred related thereto. Such lien shall be authorized pursuant to a resolution considered and approved by the Township Council.

BE IT FURTHER ORDAINED, that the remainder of Chapter 14, Section 8, remains unchanged.

BE IT FURTHER ORDAINED, that 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 adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the

provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with law.

Karen J. Carnevale
Municipal Clerk

Victor Cirilo
Council President

Robert D. Parisi, Mayor

Introduced: September 11, 2012

Adopted: October 2, 2012

LEGISLATIVE HISTORY

Township Code Sections 14-8.1 and 14-8.2, among others, comprise a portion of the Township's Property Maintenance Code. These sections set forth certain minimum exterior maintenance standards for residential and non-residential properties in the Township. There have been delays in the abatement of violations for overgrown grass at properties which are abandoned, but still pending the foreclosure process. While secured parties are obligated to maintain these abandoned properties pursuant to N.J.S.A. 46:10B-51(b), often these secured parties fail to appear in the Municipal Court on their scheduled court date. Thus, neighbors of these properties and entire neighborhoods suffer from grass, ice or snow conditions which violate the Township's Property Maintenance Code, and which may exist for months before a property owner, operator or secured party ever takes action to abate the condition.

This legislation would allow the Township's Department of Public Works, or an appropriate third-party vendor authorized by the Director of the Department of Public Works, to take action to abate grass, snow or ice conditions which violate Township Code §14-8.1(a)(3), §14-8.1(b), §14-8.2(a)(2) or §14-8.2(b)(1). Such action by the Department of Public Works or the approved third-party vendor would be permitted only after three (3) days' notice of the violation, posted at the property. The purpose of this legislation is to ensure that the Township may take swift action to abate Property Maintenance Code violations relating to grass, ice and snow, so as to promote the good residential character of its neighborhoods and promote the health, safety and welfare of Township residents. The legislation would reduce frustration among neighbors and neighborhoods which bear the burden of an owner or operator's choice not to properly maintain a property. This proposed legislation comes at limited cost to the Township, which would be entitled to obtain a first-priority municipal lien for any costs incurred for taking action to service the property.

Authority for this proposed Ordinance is derived from N.J.S.A. 40:48-1, which authorizes the governing body of every municipality in the State of New Jersey to "make, amend, repeal

and enforce . . . ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants.” Authority is also derived from N.J.S.A. 40:48-3, which explicitly authorizes municipalities to take corrective action to abate nuisance violations to real property where a property owner does not take action.

TOWNSHIP OF WEST ORANGE

PROCESS FOR ABATEMENT OF SNOW, ICE OR GRASS VIOLATION

PLEASE BE ADVISED THAT, AS AN OWNER OR OPERATOR OF THIS PROPERTY, YOU HAVE BEEN ISSUED A NOTICE TO CURE VIOLATION PURSUANT TO TOWNSHIP OF WEST ORANGE ("TOWNSHIP") CODE SECTION 14-8.2A.

You have three (3) days to abate the snow, ice or grass condition at your Property as set forth in the attached Notice of Violation.

If the snow, ice or grass condition is not abated within three (3) days of this the foregoing notice, Township Code Section 14-8.2A authorizes the Township's Department of Public Works, or a third-party approved by the Township's Department of Public Works, to remove or trim the snow, ice or grass condition.

If you do not abate the snow, ice or grass condition at this property within three (3) days, the following may occur:

- You may be subject to the issuance of a Summons and Complaint, without further notice.
- If a Summons and Complaint is issued, it would require your appearance in the Township's Municipal Court and may result in fines or other penalties.
- If you fail to appear in the Township's Municipal Court on the date set in the Summons and Complaint, a bench warrant may be issued by the Township's Municipal Court.

If you have any questions regarding this Notice, please contact the Township's Property Maintenance Department, at (973) 325-4100.

TOWNSHIP CODE SECTIONS 14-8.1 AND 14-8.2

14-8.1 Maintenance of Exterior of Premises.

- a. *Hazards and Unsanitary Conditions.* The exterior of the premises and all structures thereon shall be kept free of all nuisances, and any hazards to the safety of occupants, pedestrians and other persons utilizing the premises, and free of unsanitary conditions; and any of the foregoing shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of hazards which include but are not limited to the following:
 1. Refuse, garbage and rubbish as defined in Section 14-2.1 contained herein.
 2. Natural Growth. Dead and dying trees and limbs or other natural growth which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard or nuisance to persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such conditions. All weeds shall be removed from the vicinity of any public sidewalk or roadway.
 3. Overhangings. Loose and overhanging objects, and accumulations of ice and snow which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.
- b. *Ground Surface Hazards of Unsanitary Conditions.* All holes, excavations, breaks, projections, obstructions, and excretion of pets and other animals on paths, walks, driveways, parking lots, and parking areas and other parts of the premises which are easily accessible to and used by persons on the premises shall be filled and repaired, walks and steps replaced, and other conditions removed where necessary to eliminate hazards or unsanitary conditions. Regarding the removal of accumulated snow or ice on private property from paths, walks, driveways, parking lots and parking areas used by pedestrians and automobiles a summons may be issued where the snow or ice remains uncleared within twenty-four (24) hours after the snow has ceased to fall or the ice has formed.
- c. *Recurring Accumulations of Storm Water.* Adequate run-off drains shall be provided and maintained to eliminate any such recurrent or excessive accumulation of storm water.
- d. *Sources of Infestation.*
- e. *Foundation Walls.* Foundation walls shall be kept structurally sound, free from defects and damage, and capable of bearing imposed loads safely.
- f. *Chimneys and All Flue and Vent Attachments Thereto.* Chimneys and all flue and vent attachments thereto shall be maintained structurally sound, free from defects, and so maintained as to capably perform at all times the functions for which they were designed. Chimneys, flues, gas vents or other draft-producing equipment shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight, and capable of withstanding the action of flue gases.
- g. *Exterior Porches, Landings, Balconies, Stairs and Fire Escapes.* Exterior porches, landings, balconies, stairs and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept structurally sound, in good repair, and free from defects.

(1972 Code § 16-8.1; Ord. No. 1690-00 § 3; Ord. No. 2301-11)

14-8.2 Appearance of Exterior of Premises and Structures.

- a. *Residential and Nonresidential.* The exterior of the premises, the exterior of dwelling structures and the condition of accessory structures shall be maintained so that the appearance of the premises and all buildings thereon shall reflect a level of maintenance in keeping with the residential standards of the neighborhood or such higher standards as may be adopted as part of a plan of urban renewal by the Township, and it shall be the duty of the owner or operator to maintain the premises in the manner set forth herein, including, but not limited to the following:
 1. *Storage of Commercial and Industrial Material.* There shall not be stored or used at a location visible from the sidewalk, street or other public areas, equipment and materials relating to commercial or industrial uses unless permitted under the Zoning Ordinance for the premises.
 2. *Landscaping.* Premises shall be kept landscaped and lawns, hedges and bushes shall be kept trimmed where exposed to public view, and shall be maintained so as not to obstruct public access to sidewalks and roadways. All trees shall be kept trimmed so that they do not encroach onto the sidewalk or roadway from the ground to a height of seven (7) feet. Hedges and bushes shall be maintained so that they do not encroach onto the sidewalk. Lawns shall be trimmed and maintained and shall not exceed a height of eight (8) inches from the ground. All lawns, trees, hedges and bushes in violation of any and all provisions of this Ordinance shall be removed, trimmed, or cut to conform to the requirements set forth herein.
 3. *Signs.* All signs shall be maintained in good repair and printed matter, pictures or illustrations contained thereon shall be completely maintained or when no longer in use completely removed.
 4. *Reconstruction of Walls and Sidings.* All reconstruction of walls and sidings shall be of standard quality and appearance commensurate with the residential character of the properties in the same block and on both sides of the street on which the premises front, such that the materials used will not be of a kind that by their appearance, under prevailing appraisal practices and standards will depreciate the values of neighboring and adjoining premises.
 5. *General Maintenance.* The exterior of every structure or accessory structure (including fences) shall be maintained in good repair and all surfaces thereof shall be kept painted or whitewashed where necessary for purposes of preservation and appearance. They shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint or other condition reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated, and adjoining properties and the neighborhood protected from blighting influences. No structure, or part thereof, shall be boarded up or otherwise kept in a state of disrepair.
 6. *Front Yard Parking.* No person shall park, stop or stand any motor vehicle, or permit or suffer the same to be done, in any front yard of premises occupied by a dwelling or hotel except on driveways and parking areas constructed and installed in compliance with applicable Township ordinances and not less than three (3) feet from the interior front sidewalk line adjacent to those premises.
- b. *Nonresidential.* The exterior of the premises and the condition of accessory structures shall be maintained so that the appearance of the premises and all buildings thereon shall reflect a level of maintenance in keeping with the standards of the neighborhood or such higher standards as may be adopted as part of a plan of urban renewal by the Township, and it shall be the duty of the owner or operator to maintain the premises as set forth herein, including, but not limited to the following:
 1. *Landscaping.* All lawns, trees, hedges and bushes shall be maintained so as not to obstruct public access to sidewalks and roadways. Trees, hedges and bushes shall be kept trimmed so that they do not cross the line of the sidewalk from the ground to a height of seven (7) feet.

Lawns shall be trimmed and maintained and shall not exceed a height of eight (8) inches from the ground. All lawns, trees, hedges and bushes in violation of any and all provisions of this Ordinance shall be removed, trimmed, or cut to conform to the requirements set forth herein.

2. Signs and Billboards. All permanent signs and billboards exposed to public view permitted by reason of other regulations as a lawful non-conforming use shall be maintained in good repair. Any signs which have excessively weathered or faded or those upon which the paint has excessively peeled or cracked shall, with their supporting members, be removed or put into a good state of repair, all nonoperative or broken electrical signs shall be repaired or shall, with their supporting members, be removed.
 3. Windows. All windows shall be left uncovered and shall not be opaque to the public view. All windows exposed to public view shall be kept clean and free of marks or foreign substances. No stock or inventory shall be permitted in the window display area. All screening of interiors shall be maintained clean and in a good state of repair. Under extraordinary circumstances and with the advance written permission of the Director of the Planning Department certain areas of the window may be screened from the public view.
 4. All tenants or property owners occupying the street level of a commercial property shall be responsible to sweep and clean all sidewalks and brick pavers in front of their establishment so that they remain free of litter, debris, graffiti, oil, cigarette butts, gum, newspapers, refuse, and all garbage. In order to maintain or restore the level of cleanliness needed, power washing may be needed. Those tenants/owners on a corner shall be responsible for sidewalks and brick pavers on all sides as described above. If there is not a ground level tenant, or if the entire building is vacant, the property owner shall be responsible for maintenance of the sidewalks, brick pavers and landscaping as described in this subsection.
- Any trees or landscaping in front of the establishment shall be watered, pruned and maintained. Landscaping shall not be removed or replaced with gravel, asphalt or wood chips.
5. Signs or Advertisements; Removal. Except for "For Rent" signs, any temporary sign or other paper advertising material glued or otherwise attached to a window or windows or otherwise exposed in public view shall be removed at the expiration of the event or sale for which it is erected or within sixty (60) days after erection, whichever shall occur sooner.

Except during the course of repairs or alterations, no more than thirty-three and one-third (33 1/3%) percent of the square footage of any single window or single window display area shall be devoted to signs or other temporary advertising material attached to the window or windows or otherwise exposed to public view.

6. Awnings and Marquees. Any awning or marquee and its accompanying structural members which extend over any street, sidewalk or other portion of the premises shall be maintained in good repair and shall not constitute a nuisance or a safety hazard. In the event such awnings or marquees are not properly maintained in accordance with the foregoing, they shall, together with their supporting members, be removed forthwith. In the event the awnings or marquees are made of cloth, plastic, or of similar materials, the cloth or plastic where exposed to public view shall be maintained in good condition and shall not show evidence of excessive weathering, discoloration, ripping, tearing, or other holes. Nothing herein shall be construed to authorize any encroachment on streets, sidewalks, or other parts of the public domain.

RESOLUTION

WHEREAS, the following charitable organization(s) have applied for a Raffle License which raffle is to be conducted within the Township of West Orange,

NOW THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Orange, that the Municipal Clerk is hereby authorized to issue a license to conduct a raffle by the following organization (s) at the place (s) and time(s) set opposite their respective name(s):

<u>Organization</u>	<u>Date of Event</u>	<u>Place</u>	<u>RL #</u>
Our Lady of Lourdes On Premise 50/50	November 17, 2012	100 Valley Way	6778
Seton Hall Prep Mothers Auxiliary Off Premise Merchandise	November 8, 2012	481 Eagle Rock Ave.	6779
Marylawn of the Oranges Off Premise 50/50	November 15, 2012	609 Eagle Rock Avenue	6780
Soroptomist International of Off Premise 50/50	November 18, 2012	350 Mt. Pleasant Avenue	6781
W.O.H.S. Music Boosters Off Premise Merchandise	October 30, 2012	51 Conforti Avenue	6782
Church of Holy Innocents Off Premise Merchandise	October 27, 2012	681 Prospect Avenue	6783
AMIT Off Premise Merchandise	November 18, 2012	700 Pleasant Valley Way	6784
Cope Center, Inc. On Premise 50/50	October 12, 2012	350 Mt. Pleasant Avenue	6785
Junior Devils, Inc. d/b/a NJ Devils Youth Hockey Tricky Tray	November 2, 2012	750 Eagle Rock Avenue	6786
Junior Devils, Inc. d/b/a NJ Devils Youth Hockey Off Premise 50/50	November 2, 2012	750 Eagle Rock Avenue	6787
Saint Michaels Foundation On Premise 50/50	November 16, 2012	757 Eagle Rock Avenue	6788

Victor Cirilo
Council President

Karen J. Carnevale
Municipal Clerk

Adopted: September 11, 2012

RESOLUTION

WHEREAS, the Township of West Orange heretofore acquired title to Block 152.19, Lot 1154 on Bachman Terrace (the "Property"); and

WHEREAS, on September 13, 2011, pursuant to Ordinance No. 2328-11 (the "Ordinance"), the Township Council for the Township of West Orange authorized sale of the Property to Ms. Samantha Commarato (the "Purchaser"), a contiguous property owner with respect to the Property; and

WHEREAS, sale of the Property has been authorized pursuant to an auction for sale of the Property under N.J.S.A. 40A:12-13(b)(5) and N.J.S.A. 40A:12-13.2, and the terms and conditions stated in the Ordinance; and

WHEREAS, the Ordinance provides that title to this parcel of land would close within sixty (60) days of adoption of the Ordinances, unless an extension of time has been granted by the Township Council of the Township of West Orange; and

WHEREAS, closing of title to the Property has not yet taken place; and

WHEREAS, the Township and Purchaser are now prepared to carry out transfer of title to the Property to the Purchaser, for the outstanding balance due to the Township of \$9,000;

NOW, THEREFORE BE IT HEREBY RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE, that the time period to close on the sale of Township owned land located at Block 152.19, Lot 1154, shall be and hereby is extended for an additional sixty (60) days from the date of adoption of this Resolution; and

BE IT FURTHER RESOLVED that transfer of title to the Property shall be made under the same terms, conditions and restrictions previously set forth in the Ordinance.

Karen J. Carnevale
Municipal Clerk

Victor Cirilo
Council President

Adopted: September 11, 2012

RESOLUTION

WHEREAS, the Township has and is subject to various commercial real estate tax appeals; and

WHEREAS, The Stephen Schwartz Law Firm, LLC has provided various tax appeal services; and

WHEREAS, in a fair and open process the Township collected resumes concerning commercial real estate tax appeal services; and

WHEREAS, the Township Attorney recommends the retention of The Stephen Schwartz Law Firm, LLC on a flat fee basis; and

WHEREAS, the Township Attorney has consulted with the Chief Financial Officer and determined that the Township's tax appeal services for non-commercial real estate have greatly exceeded the amount proposed by the within contract;

NOW, BE IT HEREBY RESOLVED, by the Township Council of the Township of West Orange that the Mayor be and is hereby authorized to execute the annexed agreement with The Stephen Schwartz Law Firm, LLC for non-commercial real estate tax appeal services on a flat fee basis of \$2,750 per month for one (1) year totaling \$33,000; and it is further

RESOLVED that notice of this award shall be published and available in the Clerk's office in accordance with applicable law.

Victor Cirilo
Council President

Karen J. Carnevale
Municipal Clerk

Adopted: September 11, 2012

I hereby certify funds available: 01-2010-00-1702-061 - \$8,250.00

John O. Gross, Chief Financial Officer

AGREEMENT FOR NON-COMMERCIAL REAL ESTATE TAX APPEALS

THIS AGREEMENT made and entered into on this ____ day of _____, 2012 by and between the **TOWNSHIP OF WEST ORANGE**, a municipal corporation of the State of New Jersey, located at Town Hall, 66 Main Street, West Orange, County of Essex and State of New Jersey, hereinafter called the "TOWNSHIP", party of the first part, and **THE STEPHEN SCHWARTZ LAW FIRM, LLC**, Attorneys at Law of the State of New Jersey, located at 777 Passaic Avenue, Suite 290, Clifton, New Jersey 07014, hereinafter referred to as "COUNSEL", party of the second part.

WITNESSETH THAT:

WHEREAS, the Governing Body of the Township has determined that it is in the best interests of the Township to retain the services of Special Counsel to represent the Township in connection with non-commercial real estate tax appeals on a flat fee basis;

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. The Township hereby retains the services of The Stephen Schwartz Law Firm, LLC, as Special Counsel to assist the Township in connection with non-commercial real estate tax appeals for the period September 1, 2012 through August 31, 2013 at a flat rate of \$2,750 per month.
2. COUNSEL will not seek reimbursement for its routine costs and expenses such as postage, copying, mileage, meals, parking, or delivery of documents.
3. COUNSEL may seek reimbursement for extraordinary expenses such as the cost of deposing adverse witnesses, transcripts or hiring experts. Counsel will not incur any such expenses without the approval of the Township Attorney.
4. COUNSEL'S responsibilities shall include all pre-trial preparation, discovery and trial, to the extent necessary, for all non-commercial real estate tax appeals pending or

commenced in the Tax Court of New Jersey against the Township and preparation and appearance for matters pending or commenced at the Essex County Board of Taxation.

5. COUNSEL shall coordinate all efforts with the Tax Assessor and keep the Tax Assessor and Township Attorney fully apprised concerning all matters.

6. COUNSEL recognizes that any and all approval for engagement of services must come from the Governing Body of the Township, and that no services, work or any efforts relative to the contract shall be commenced until the Governing Body passes a duly authorized Resolution accompanied by a Certificate of Funds.

7. COUNSEL is hereby placed on notice that no Department Head, individual member of the Governing Body, or any agent, servant or employee of the Township possesses any lawful authority to: (a) engage the rendition of services or the performance of work; (b) authorize the continuation of services or work beyond the amount specifically approved in the Resolution and Certificate of Funds; or to (c) represent that future funds will be available as compensation for current services. Any such acts shall be deemed ultra vires and beyond the scope of any authority that individual may possess. No bills, statement or vouchers for any amount exceeding that originally approved will be honored or paid by the Township, irrespective of whether such services were actually performed.

8. The provisions of this agreement are subject to the limitations of provisions of the New Jersey Tort Claim Act, N.J.S.A. 59:2-1 et seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.

9. This agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflict of laws. All contract claims under this agreement shall be subject to and governed by the provisions of the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.

TOWNSHIP OF WEST ORANGE

ATTEST:

KAREN J. CARNEVALE, R.M.C

By: _____
ROBERT D. PARISI, MAYOR

THE STEPHEN SCHWARTZ LAW FIRM, LLC

WITNESS:

By: _____
STEPHEN SCHWARTZ, ESQ.
For the Firm

RESOLUTION

WHEREAS, the Township has and is subject to various commercial real estate tax appeals; and

WHEREAS, Blau & Blau has provided various tax appeal services; and

WHEREAS, in a fair and open process the Township collected resumes concerning commercial real estate tax appeal services; and

WHEREAS, the Township Attorney recommends the retention of Blau & Blau on a flat fee basis; and

WHEREAS, the Township Attorney has consulted with the Chief Financial Officer and determined that the Township's tax appeal services for commercial real estate have greatly exceeded the amount proposed by the within contract;

NOW, BE IT HEREBY RESOLVED, by the Township Council of the Township of West Orange that the Mayor be and is hereby authorized to execute the annexed agreement with Blau & Blau for commercial real estate tax appeal services on a flat fee basis of \$5,000 per month for one (1) year totaling \$60,000; and it is further

RESOLVED that notice of this award shall be published and available in the Clerk's office in accordance with applicable law.

Victor Cirilo
Council President

Karen J. Carnevale
Municipal Clerk

Adopted: September 11, 2012

I hereby certify funds available: 01-2010-00-1702-061- \$15,000.00

John O. Gross, Chief Financial Officer

AGREEMENT FOR COMMERCIAL REAL ESTATE TAX APPEALS

THIS AGREEMENT made and entered into on this ____ day of _____, 2012 by and between the **TOWNSHIP OF WEST ORANGE**, a municipal corporation of the State of New Jersey, located at Town Hall, 66 Main Street, West Orange, County of Essex and State of New Jersey, hereinafter called the "TOWNSHIP", party of the first part, and **BLAU & BLAU**, Attorneys at Law of the State of New Jersey, located at 223 Mountain Avenue, Springfield, New Jersey 07081, hereinafter referred to as "COUNSEL", party of the second part.

WITNESSETH THAT:

WHEREAS, the Governing Body of the Township has determined that it is in the best interests of the Township to retain the services of Special Counsel to represent the Township in connection with commercial real estate tax appeals on a flat fee basis;

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. The Township hereby retains the services of Blau & Blau, as Special Counsel to assist the Township in connection with commercial real estate tax appeals for the period September 1, 2012 through August 31, 2013 at a flat rate of \$5,000 per month.
2. COUNSEL will not seek reimbursement for its routine costs and expenses such as postage, copying, mileage, meals, parking, or delivery of documents.
3. COUNSEL may seek reimbursement for extraordinary expenses such as the cost of deposing adverse witnesses, transcripts or hiring experts. Counsel will not incur any such expenses without the approval of the Township Attorney.
4. COUNSEL'S responsibilities shall include all pre-trial preparation, discovery and trial, to the extent necessary, for all commercial real estate tax appeals pending or commenced in the Tax Court of New Jersey against the Township. Counsel's responsibilities do not include preparation or appearance for matters pending or commenced at the County Board of Taxation.

5. COUNSEL shall coordinate all efforts with the Tax Assessor and keep the Tax Assessor and Township Attorney fully apprised concerning all matters.

6. Prosecution of Appeals For the Township (Affirmative Appeals).

COUNSEL shall have the right to file tax appeals for the Township on a contingent fee basis of one third of the money we obtain for the Township of West Orange from cases filed during the terms of the contract. COUNSEL will be responsible for all costs associated with filing the affirmative appeals including but not limited to:

- A) Filing fees;
- B) Appraisal fees;
- C) Copying, postage, delivery services, preparation of trial exhibits.

COUNSEL will submit a list of recommended appeals to the Township Attorney for review and that the Township attorney would have the opportunity to "veto" any recommended appeals at his discretion. It is contemplated that COUNSEL will only recommend appeals on commercial properties and will not be obligated to file an appeal unless it believes the property is substantially under assessed. It is contemplated that COUNSEL will recommend settlement of the Affirmative Appeals from time to time as COUNSEL may deem appropriate. In the event that the Township refuses to accept COUNSEL's recommendation to settle a matter, the Township shall be responsible for payment of the contingent fee based upon the recommendation and reimbursement of COUNSEL's actual out of pocket expenses related to that Affirmative Appeal.

7. COUNSEL recognizes that any and all approval for engagement of services must come from the Governing Body of the Township, and that no services, work or any efforts relative to the contract shall be commenced until the Governing Body passes a duly authorized Resolution accompanied by a Certificate of Funds.

8. COUNSEL is hereby placed on notice that no Department Head, individual member of the Governing Body, or any agent, servant or employee of the Township possesses any lawful authority to: (a) engage the rendition of services or the performance of work; (b)

authorize the continuation of services or work beyond the amount specifically approved in the Resolution and Certificate of Funds; or to (c) represent that future funds will be available as compensation for current services. Any such acts shall be deemed ultra vires and beyond the scope of any authority that individual may possess. No bills, statement or vouchers for any amount exceeding that originally approved will be honored or paid by the Township, irrespective of whether such services were actually performed.

9. The provisions of this agreement are subject to the limitations of provisions of the New Jersey Tort Claim Act, N.J.S.A. 59:2-1 et seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.

10. This agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflict of laws. All contract claims under this agreement shall be subject to and governed by the provisions of the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.

TOWNSHIP OF WEST ORANGE

ATTEST:

KAREN J. CARNEVALE, R.M.C

By:_____
ROBERT D. PARISI, MAYOR

BLAU & BLAU

WITNESS:

By:_____
CHARLES E. BLAU, ESQ.
For the Firm

RESOLUTION

WHEREAS, the Township of West Orange desires to award a contract for providing recreational, social and educational services to the Senior Citizens of the Township of West Orange, for the period commencing January 1, 2012 and ending December 31, 2012; and

WHEREAS, the following organizations are willing to provide said services;

1. Pleasantdale Senior Citizens
2. JCC Council of Senior Citizens
3. The John Renna House
4. Eagle Rock Senior Citizens H.A./Tenant Services
5. Woodland Valley Senior Social Gathering
6. Women's Club
7. Knitting Club
8. Prime Timers; and

WHEREAS, the aggregate of public funds to be expended for the provision of such services is \$250 per organization and \$2,000.00 total, and therefore, no public advertisements for bids is required;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Orange that the Mayor and Township Clerk be and hereby are respectively authorized to execute and attest to a contract, in the form annexed hereto, with the Pleasantdale Senior Citizens, JCC Council Senior Citizens, The John P. Renna House, Eagle Rock Senior Citizens, Woodland Valley Senior Social Gathering, Women's Club, Prime Timers and The Knitting Club for the provisions of recreational, educational, informational and social services to the Senior Citizens of the Township of West Orange.

Karen J. Carnevale
Municipal Clerk

Victor Cirilo
Council President

Adopted: September 11, 2012

I hereby certify funds available: 01-2010-00-9002-203

John O. Gross, Chief Financial Officer

THIS AGREEMENT, entered into this 11th day of September, 2012 by and between the Township of West Orange, a Municipal corporation of the State of New Jersey, having its principal offices at 66 Main Street, West Orange, NJ 07052, hereinafter referred to as TOWNSHIP and the Women's Club hereinafter referred to as CONTRACTOR:

WITNESSETH

WHEREAS, the Township is desirous of providing recreational, social, informational and educational services to the Senior Citizens of the Township and the Women's Club; and

WHEREAS, Contractor is desirous of furnishing such services;

NOW, THEREFORE, in consideration of the foregoing and mutual covenants hereinafter stated and as stated in Schedule A attached hereto, the parties hereto do hereby agree as follows:

1. For the period January 1, 2012 to December 31, 2012 the Contractor hereby agrees to organize, and make available to the Township of West Orange, a minimum of six gatherings designed to service the educational, recreational, informational and/or social needs of the Senior Citizens of the Township of West Orange.

2. The Township agrees to pay to the Contractor the total sum of Two Hundred and Fifty Dollars (\$250.00) for the above mentioned services.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed by their proper representatives and have affixed their seals hereto on the day and year first above written.

Attest:

Township of West Orange

Karen J. Carnevale
Municipal Clerk

Robert D. Parisi
Mayor

By: President
Print Name:

SCHEDULE A

(I) During the performance of this contract the contractor agrees as follows:

a. The contractor or subcontractor, where applicable, will not discriminate against any employee of applicant for employment because of age, race, creed, color, national origin, ancestry, marital status or sex. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this non discrimination clause;

b. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, creed, color, national Origin, ancestry, marital status or sex;

c. The contractor or subcontractor, where applicable will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or worker's representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975,c.127, as amended and supplemented from time to time.

(II) The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by section 5.2 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to section 5.2 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

(III)The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placements bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status or sex, and

that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

(IV) The Contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable federal law and applicable federal court decisions.

(V) The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status or sex, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable federal Law and applicable federal court decisions.

THIS AGREEMENT, entered into this 11th day of September, 2012 by and between the Township of West Orange, a Municipal corporation of the State of New Jersey, having its principal offices at 66 Main Street, West Orange, NJ 07052, hereinafter referred to as TOWNSHIP and Eagle Rock Senior Citizens Housing Association/Tenant Services hereinafter referred to as CONTRACTOR:

WITNESSETH

WHEREAS, the Township is desirous of providing recreational, social, informational and educational services to the Senior Citizens of the Township and the senior citizens of Eagle Rock Senior Citizens Housing Association/Tenant Services; and

WHEREAS, Contractor is desirous of furnishing such services;

NOW, THEREFORE, in consideration of the foregoing and mutual covenants hereinafter stated and as stated in Schedule A attached hereto, the parties hereto do hereby agree as follows:

1. For the period January 1, 2012 to December 31, 2012 the Contractor hereby agrees to organize, and make available to the Township of West Orange, a minimum of six gatherings designed to service the educational, recreational, informational and/or social needs of the Senior Citizens of the Township of West Orange.

2. The Township agrees to pay to the Contractor the total sum of Two Hundred and Fifty Dollars (\$250.00) for the above mentioned services.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed by their proper representatives and have affixed their seals hereto on the day and year first above written.

Attest:

Township of West Orange

Karen J. Carnevale
Municipal Clerk

Robert D. Parisi
Mayor

By: President
Print Name:

SCHEDULE A

(I) During the performance of this contract the contractor agrees as follows:

a. The contractor or subcontractor, where applicable, will not discriminate against any employee of applicant for employment because of age, race, creed, color, national origin, ancestry, marital status or sex. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this non discrimination clause;

b. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, creed, color, national Origin, ancestry, marital status or sex;

c. The contractor or subcontractor, where applicable will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or worker's representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975,c.127, as amended and supplemented from time to time.

(II) The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by section 5.2 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to section 5.2 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

(III)The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placements bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

(IV) The Contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable federal law and applicable federal court decisions.

(V) The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status or sex, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable federal Law and applicable federal court decisions.

THIS AGREEMENT, entered into this 11th day of September, 2012 by and between the Township of West Orange, a Municipal corporation of the State of New Jersey, having its principal offices at 66 Main Street, West Orange, NJ 07052, hereinafter referred to as TOWNSHIP and the JCC Council of Senior Citizens hereinafter referred to as CONTRACTOR:

WITNESSETH

WHEREAS, the Township is desirous of providing recreational, social, informational and educational services to the Senior Citizens of the Township and JCC Council of Senior Citizens; and

WHEREAS, Contractor is desirous of furnishing such services;

NOW, THEREFORE, in consideration of the foregoing and mutual covenants hereinafter stated and as stated in Schedule A attached hereto, the parties hereto do hereby agree as follows:

1. For the period January 1, 2012 to December 31, 2012 the Contractor hereby agrees to organize, and make available to the Township of West Orange, a minimum of six gatherings designed to service the educational, recreational, informational and/or social needs of the Senior Citizens of the Township of West Orange.

2. The Township agrees to pay to the Contractor the total sum of Two Hundred and Fifty Dollars (\$250.00) for the above mentioned services.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed by their proper representatives and have affixed their seals hereto on the day and year first above written.

Attest:

Township of West Orange

Karen J. Carnevale
Municipal Clerk

Robert D. Parisi
Mayor

By: President
Print Name:

SCHEDULE A

(I) During the performance of this contract the contractor agrees as follows:

a. The contractor or subcontractor, where applicable, will not discriminate against any employee of applicant for employment because of age, race, creed, color, national origin, ancestry, marital status or sex. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this non discrimination clause;

b. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, creed, color, national Origin, ancestry, marital status or sex;

c. The contractor or subcontractor, where applicable will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or worker's representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975,c.127, as amended and supplemented from time to time.

(II) The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by section 5.2 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to section 5.2 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

(III)The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placements bureaus, colleges, universities, and labor unions, that it

does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

(IV) The Contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable federal law and applicable federal court decisions.

(V) The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status or sex, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable federal Law and applicable federal court decisions.

THIS AGREEMENT, entered into this 11th day of September, 2012 by and between the Township of West Orange, a Municipal corporation of the State of New Jersey, having its principal offices at 66 Main Street, West Orange, NJ 07052, hereinafter referred to as TOWNSHIP and the Knitting Club hereinafter referred to as CONTRACTOR:

WITNESSETH

WHEREAS, the Township is desirous of providing recreational, social, informational and educational services to the Senior Citizens of the Township and the Knitting Club; and

WHEREAS, Contractor is desirous of furnishing such services;

NOW, THEREFORE, in consideration of the foregoing and mutual covenants hereinafter stated and as stated in Schedule A attached hereto, the parties hereto do hereby agree as follows:

1. For the period January 1, 2012 to December 31, 2012 the Contractor hereby agrees to organize, and make available to the Township of West Orange, a minimum of six gatherings designed to service the educational, recreational, informational and/or social needs of the Senior Citizens of the Township of West Orange.

2. The Township agrees to pay to the Contractor the total sum of Two Hundred and Fifty Dollars (\$250.00) for the above mentioned services.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed by their proper representatives and have affixed their seals hereto on the day and year first above written.

Attest:

Township of West Orange

Karen J. Carnevale
Municipal Clerk

Robert D. Parisi
Mayor

By: President
Print Name:

(I) During the performance of this contract the contractor agrees as follows:

a. The contractor or subcontractor, where applicable, will not discriminate against any employee of applicant for employment because of age, race, creed, color, national origin, ancestry, marital status or sex. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this non discrimination clause;

b. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, creed, color, national Origin, ancestry, marital status or sex;

c. The contractor or subcontractor, where applicable will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or worker's representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975,c.127, as amended and supplemented from time to time.

(II) The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by section 5.2 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to section 5.2 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

(III)The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placements bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect

discriminatory practices.

(IV) The Contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable federal law and applicable federal court decisions.

(V) The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status or sex, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable federal Law and applicable federal court decisions.

THIS AGREEMENT, entered into this 11th day of September, 2012 by and between the Township of West Orange, a Municipal corporation of the State of New Jersey, having its principal offices at 66 Main Street, West Orange, NJ 07052, hereinafter referred to as TOWNSHIP and Pleasantdale Senior Citizens, hereinafter referred to as CONTRACTOR:

WITNESSETH

WHEREAS, the Township is desirous of providing recreational, social, informational and educational services to the Senior Citizens of the Township and Pleasantdale Senior Citizens; and

WHEREAS, Contractor is desirous of furnishing such services;

NOW, THEREFORE, in consideration of the foregoing and mutual covenants hereinafter stated and as stated in Schedule A attached hereto, the parties hereto do hereby agree as follows:

1. For the period January 1, 2012 to December 31, 2012 the Contractor hereby agrees to organize, and make available to the Township of West Orange, a minimum of six gatherings designed to service the educational, recreational, informational and/or social needs of the Senior Citizens of the Township of West Orange.

2. The Township agrees to pay to the Contractor the total sum of Two Hundred and Fifty Dollars (\$250.00) for the above mentioned services.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed by their proper representatives and have affixed their seals hereto on the day and year first above written.

Attest:

Township of West Orange

Karen J. Carnevale
Municipal Clerk

Robert D. Parisi
Mayor

By: President
Print Name:

SCHEDULE A

(I) During the performance of this contract the contractor agrees as follows:

a. The contractor or subcontractor, where applicable, will not discriminate against any employee of applicant for employment because of age, race, creed, color, national origin, ancestry, marital status or sex. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this non discrimination clause;

b. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, creed, color, national Origin, ancestry, marital status or sex;

c. The contractor or subcontractor, where applicable will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or worker's representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975,c.127, as amended and supplemented from time to time.

(II) The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by section 5.2 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to section 5.2 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

(III) The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placements bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

(IV) The Contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable federal law and applicable federal court decisions.

(V) The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status or sex, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable federal Law and applicable federal court decisions.

THIS AGREEMENT, entered into this 11th day of September, 2012 by and between the Township of West Orange, a Municipal corporation of the State of New Jersey, having its principal offices at 66 Main Street, West Orange, NJ 07052, hereinafter referred to as TOWNSHIP and the Prime Timers hereinafter referred to as CONTRACTOR:

WITNESSETH

WHEREAS, the Township is desirous of providing recreational, social, informational and educational services to the Senior Citizens of the Township and the Prime Timers; and

WHEREAS, Contractor is desirous of furnishing such services;

NOW, THEREFORE, in consideration of the foregoing and mutual covenants hereinafter stated and as stated in Schedule A attached hereto, the parties hereto do hereby agree as follows:

1. For the period January 1, 2012 to December 31, 2012 the Contractor hereby agrees to organize, and make available to the Township of West Orange, a minimum of six gatherings designed to service the educational, recreational, informational and/or social needs of the Senior Citizens of the Township of West Orange.

2. The Township agrees to pay to the Contractor the total sum of Two Hundred and Fifty Dollars (\$250.00) for the above mentioned services.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed by their proper representatives and have affixed their seals hereto on the day and year first above written.

Attest:

Township of West Orange

Karen J. Carnevale
Municipal Clerk

Robert D. Parisi
Mayor

By: President
Print Name:

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(I) During the performance of this contract the contractor agrees as follows:

a. The contractor or subcontractor, where applicable, will not discriminate against any employee of applicant for employment because of age, race, creed, color, national origin, ancestry, marital status or sex. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this non discrimination clause;

b. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, creed, color, national Origin, ancestry, marital status or sex;

c. The contractor or subcontractor, where applicable will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or worker's representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975,c.127, as amended and supplemented from time to time.

(II) The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by section 5.2 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to section 5.2 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

(III)The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placements bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

(IV) The Contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the

statutes and court decisions of the State of New Jersey and as established by applicable federal law and applicable federal court decisions.

(V) The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status or sex, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable federal Law and applicable federal court decisions.

THIS AGREEMENT, entered into this 11th day of September, 2012 by and between the Township of West Orange, a Municipal corporation of the State of New Jersey, having its principal offices at 66 Main Street, West Orange, NJ 07052, hereinafter referred to as TOWNSHIP and Woodland Valley Senior Social Gathering hereinafter referred to as CONTRACTOR:

WITNESSETH

WHEREAS, the Township is desirous of providing recreational, social, informational and educational services to the Senior Citizens of the Township and Woodland Valley Senior Social Gathering; and

WHEREAS, Contractor is desirous of furnishing such services;

NOW, THEREFORE, in consideration of the foregoing and mutual covenants hereinafter stated and as stated in Schedule A attached hereto, the parties hereto do hereby agree as follows:

1. For the period January 1, 2012 to December 31, 2012 the Contractor hereby agrees to organize, and make available to the Township of West Orange, a minimum of six gatherings designed to service the educational, recreational, informational and/or social needs of the Senior Citizens of the Township of West Orange.
2. The Township agrees to pay to the Contractor the total sum of Two Hundred and Fifty Dollars (\$250.00) for the above mentioned services.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed by their proper representatives and have affixed their seals hereto on the day and year first above written.

Attest:

Township of West Orange

Karen J. Carnevale
Municipal Clerk

Robert D. Parisi
Mayor

By: President
Print Name:

(I) During the performance of this contract the contractor agrees as follows:

a. The contractor or subcontractor, where applicable, will not discriminate against any employee of applicant for employment because of age, race, creed, color, national origin, ancestry, marital status or sex. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this non discrimination clause;

b. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, creed, color, national Origin, ancestry, marital status or sex;

c. The contractor or subcontractor, where applicable will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or worker's representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975,c.127, as amended and supplemented from time to time.

(II) The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by section 5.2 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to section 5.2 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

(III)The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placements bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status or sex, and

that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

(IV) The Contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable federal law and applicable federal court decisions.

(V) The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status or sex, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable federal Law and applicable federal court decisions.

RESOLUTION

WHEREAS, the Township of West Orange and its Township Council are defendants in a civil lawsuit brought by a developer, West Essex Highlands, Inc., pending in the Superior Court of New Jersey, bearing Docket No. ESX-L-009411-10, challenging the Township's steep slope ordinance and rezoning of the developer's approximately 120 acre parcel of land in the northwestern corner of the Township; and

WHEREAS, the plaintiff-developer has been seeking to develop that parcel for many years and has been involved in litigation with the Township for more than a decade regarding various land use issues in connection with its proposed development; and

WHEREAS, the plaintiff-developer has retained a professional planner who has prepared a 71 page expert report in support of its claims; and

WHEREAS, counsel representing the Township and Township Council has recommended the retention of an expert professional planner to analyze the planning aspects of the litigation and to prepare an expert report on behalf of the defendants, and to provide expert testimony if necessary; and

WHEREAS, the Township Council and Mayor are in agreement that retention of an expert professional planner is necessary for a proper and competent defense of this litigation; and

WHEREAS, Paul Grygiel, AICP, PP, from the firm of Phillips, Preiss, Grygiel, LLC, in Hoboken, NJ, a New Jersey licensed professional planner who has in the past and presently performs various professional planning services for the Township of West Orange, and has expressed a willingness to perform the necessary and proper expert services for this litigation and estimates the cost of same can be managed so as not to exceed the sum of \$10,000.00;

NOW, THEREFORE, BE IT, AND HEREBY IT IS, RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE, that the Mayor is authorized to execute, and the Municipal Clerk to attest to his signature, a Contract for the provision of expert professional planning services, including, but not limited to, review of the plaintiff's expert's report(s), analysis of the Township's steep slope ordinance and zoning of the West Essex Highlands property which is the subject of the litigation in Docket No. ESX-L-009411-10, preparation of an expert report(s) on behalf of the defendants Township and Township Council, and, if necessary, expert testimony at trial of that litigation, all not to exceed the sum of \$10,000.00, without further authorization.

Victor Cirilo, Council President

Karen J. Carnevale, Municipal Clerk

Adopted: September 11, 2012

I hereby certify funds available: 01-2010-00-1402-060- \$10,000.00

John O. Gross, Chief Financial Officer

RESOLUTION

WHEREAS, on November 1, 2011 the Township Council of the Township of West Orange introduced Ordinance No. 2335-11 (the "Ordinance") authorizing the sale of Township owned land located at Block 176.08, Lot 8-Arnold Terrace, and a portion of Block 176.04, Lot 15.01-Arnold Terrace to the contiguous property owners, Lauren and Marc Shapiro (the "Shapiros"), owners of the property located at Block 178.56, Lot 11, pursuant to N.J.S.A. 40A:12-13(b)(5); and

WHEREAS, the Ordinance was adopted by the Township Council of the Township of West Orange on November 22, 2011; and

WHEREAS, the Ordinance provides that title to the referenced property shall close within sixty (60) days of adoption of the Ordinance, unless an extension of time has been granted by the Township Council of the Township of West Orange; and

WHEREAS, the closing and transfer of title on the referenced property has not yet taken place; and

WHEREAS, by Resolution 11-12, adopted February 7, 2012, the Township Council extended the time period to close on these parcels for an additional sixty (60) days; and

WHEREAS, by Resolution 69-12, adopted April 3, 2012, the Township Council extended the time period to close on these parcels for an additional sixty (60) days; and

WHEREAS, by Resolution 69-12, adopted April 3, 2012, the Township Council extended the time period to close on these parcels for an additional sixty (60) days; and

WHEREAS, by Resolution 103-12, adopted May 29, 2012, the Township Council extended the time period to close on these parcels for an additional sixty (60) days; and

WHEREAS, the closing and transfer of title to the referenced property is now scheduled to take place on September 28, 2012, in exchange for the sum of \$22,321, or \$1.00 per square foot on the referenced property; and

WHEREAS, the Shapiros and the Township required additional time to discuss final details and prepare all required paperwork to properly close on and transfer title to the referenced property; and

WHEREAS, the Township Council of the Township of West Orange concurs that extending the time period to close on these parcels for another sixty (60) days is in the best interest of the Township of West Orange;

NOW, THEREFORE BE IT HEREBY RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE that the time period to close on the sale of Township owned land located at Block 176.08, Lot 14-Marmon Terrace, Block 176.08, Lot 8-Arnold Terrace and Block 176.04, Lot 15.01-Arnold Terrace be and hereby is extended for an additional sixty (60) days from the date of this Resolution.

Karen J. Carnevale
Municipal Clerk

Victor Cirilo
Council President

Adopted: September 11, 2012

RESOLUTION

WHEREAS, the Township of West Orange entered into a contract with Conquest Industries, Inc. having its principal place of business at 32 Woodland Avenue, Westwood, New Jersey for Downtown West Orange Streetscape and Traffic Improvements in the amount of \$1,549,696.25 as awarded by a Resolution of the Township Council No. 50-11 dated March 8, 2011 for the base bid and two alternate bids;

WHEREAS, these improvements are funded by a Federal Earmark Grant in the amount of \$2,015,777 which is administered by the New Jersey Department of Transportation (NJDOT); and

WHEREAS, the Township previously approved two NJDOT Change Orders in the amount of \$120,000.00 and \$74,455.90 which increased the contract amount to \$1,744,152.15; and

WHEREAS, during the course of construction numerous field conditions were encountered which required field changes to the plan; and

WHEREAS, the field conditions required adjustments in curb location and construction, inlet reconstruction, building foundation reconstruction, modification of electric junction boxes, additional test pits for traffic signals, traffic signal modification, crosswalk relocation and in some locations additional site clearing; and

WHEREAS, the field conditions resulted in 15 supplemental items identified as S-9 through S-21 on Change Order No.4 and S-22 and S-23 on Change Order No. 5; and

WHEREAS, on Change Order No. 4 the 13 supplemental items resulted in an additional cost of \$53,947.13; and

WHEREAS, on Change Order No. 4 an additional 1000 man hours of Uniform Traffic Directors were added at a cost of \$60,000 bringing the total increase associated with Change Order No. 4 to \$113,947.13; and

WHEREAS, Change Order No. 5 accounted for As Built quantities to date throughout the project for all previously approved items as well as additional costs associated with two

supplemental items resulting in a net decrease of the contract amount of \$9,117.35; and

WHEREAS, the Township Engineer and its consultant Birdsall Services Group recommended Change Orders No. 4 and 5 as being necessary and beneficial which is a net increase of \$104,828.78; and

WHEREAS, the Change Orders collectively reflect a six (6) percent increase in the previously authorized contract amount increasing the authorized contract amount to \$1,848,981.93; and

WHEREAS, sufficient funds exist to pay for the change orders; and

WHEREAS, the Township Council concurs in the foregoing.

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of West Orange that Change Order No. 4 in the amount of \$113,947.13 and Change Order No. 5 in the amount of

-\$9,117.35 with Conquest Industries, Inc. for Downtown West Orange Streetscape and Traffic Improvements resulting in a net increase of \$104,829.78, increasing the authorized contract amount to \$1,843,981.93 are hereby approved and the Township Council further authorizes Robert D. Parisi, Mayor to execute said Change Orders.

Karen J. Carnevale, Municipal Clerk

Victor Cirilo, Council President

I hereby certify funds are available from: 01-2040-41-1000-203 _

John Gross, Chief Financial Officer

NEW JERSEY DEPARTMENT OF TRANSPORTATION
LOCAL AID & ECONOMIC DEVELOPMENT
FEDERAL AID CHANGE ORDER

Sheet 1 of 3
Order No. 3*
Order Letter
Date 9/5/2012

*Previous CO #3 not approved by Township of West Orange

Project Downtown West Orange Streetscape and Traffic Improvement Program
Federal Project No. HHP-B00S (971) Doc. No.
Contractor ConQuest Industries, Inc.

You are hereby directed to implement the following changes in accordance with the provisions of the specifications for this contract.

Location of proposed order The purpose of this change order is to extend the Contract Completion Date due to Various Delays

Nature and reason of order: (see attached)

☒ Extension ☐ Reduction of time recommended this order 342 days

CONTRACT AMOUNT	ROAD	BRIDGE	TOTAL
Amount of original contract	\$ 1,549,696.25	\$	\$ 1,549,696.25
Adjusted amount based on order Nos. 1&2	\$ 1,744,152.15	\$	\$ 1,744,152.15

CONTRACT TIME
Original Completion Date 10/25/2011
Adjustment This Order (+ or -) +342
Previous Adjustments (+ or -) +30
Adjusted Completion Date 10/31/2012

ORDER NO. 3*	☒ Road	☐ Bridge	☐ Other
Extra Work	\$	\$	\$
Increases	\$	\$	\$
Decreases	\$	\$	\$
Total	\$	\$	\$

RESERVED FOR FHWA OR F.T.A.

Recommended:

County / Municipal / Sponsor's Engineer Date

Approved: Approved for Funding Participation Purposes:

Presiding Officer Date Richard Loveless, Director, Bureau of Local Aid - Newark Date

ALTERNATE PROCEDURES PROJECTS
This order is approved for ☐ Full ☐ Partial federal participation.

Director, Local Aid & Economic Development Date

Accepted:

CONTRACTS PAYABLE SECTION

Reviewed by Date

Input Submitted by Date

Certification of Funds

Director of Accounting & Auditing Date

Contractor's Authorized Signature Date

Name

Title

☐ Unprotected
☐ Protested by letter dated attached.

NEW JERSEY DEPARTMENT OF TRANSPORTATION
LOCAL AID & ECONOMIC DEVELOPMENT
FEDERAL AID CHANGE ORDER

Sheet 2 of 3
Order No. 3*
Order Letter
Date 9/5/2012

*Previous CO #3 not approved by Township of West Orange

Project	Downtown West Orange Streetscape and Traffic Improvement Program		
Federal Project No.	HHP-B00S (971)	Doc. No.	
Contractor	ConQuest Industries, Inc.		

Location of proposed order The purpose of this change order is to extend the Contract Completion Date due to Various Delays

Nature and reason of order:

This change order requests an extension of contract completion time due to various delays.

Contractor Delays:

The Contractor did not maintain a construction schedule in order to complete this project within the 180 day contract period. Undersized and inexperienced crews were utilized that resulted in low productivity and poor workmanship. On-site and general construction management was insufficient in order to complete construction within the prescribed time period. Critical construction items, such as coordination and installation of the traffic signals, were scheduled too late in the construction period to be completed on time. Construction items with long lead times, such as the tree grates, were not identified early in the project. The Contractor did not take the necessary steps to remedy or address conflicts in a timely and efficient manner.

Test pits for the traffic signals and coordination with PSE&G were not initiated early on during the construction schedule so when underground conflicts were encountered and design changes required, the time involved pushed back the completion date of the project.

This project was scheduled to be completed by the end of October to coincide with the fall planting season for the landscaping. Since the project was significantly behind schedule, the Contractor was able to install most of the landscaping in December 2011 and the remainder of the landscaping was installed in the spring of 2012.

Weekly and bi-weekly progress meetings were conducted at which the Contractor's schedule was reviewed, progress assessed and the schedule was updated to reflect actual work completed in the time period. At each meeting, it was noted that the Contractor was not meeting the milestones established during previous meetings.

Unforeseen conditions and utility conflicts:

Numerous unforeseen conditions were also encountered that resulted in additional delays to the contract time.

During demolition of the existing sidewalks, basement ceilings were encountered which needed to be reconstructed prior to installing brick paver sidewalk. It was also discovered during demolition that the façade of a building on Harrison Avenue was supported by the sidewalk. The façade needed to be reconstructed prior to the construction of the paver sidewalk. The Township's Building Department stopped work in this area until they could deem the building structurally sound and allow the building owner to reinstall a brick veneer.

The Contractor scheduled the test pits for the traffic signal foundations late in the construction schedule. Several test pits were conducted and numerous underground utility conflicts were encountered which resulted in the need to redesign and install caisson foundations for the traffic signals (change order #2). The Traffic Engineer worked with the Contractor to identify locations where the caissons could be installed in lieu of the standard Essex County foundations. In two locations, larger, 30' mast arms and 12" diameter steel standards were required, which had a lead time of approximately 12 weeks. The larger signal equipment needed to be powder coated, which further delayed the delivery and installation of the signal equipment.

PSE&G did not mark out a gas main under the sidewalk at the Eagle Rock section and it was clipped during the demolition of the sidewalk. Work was delayed until repairs were made by PSE&G.

The Contractor encountered a gas service that was apparently abandoned. It took several weeks for a crew from PSE&G to confirm that in fact, it was the active, main service to the building. The Contractor was unable to work in this area until PSE&G confirmed if the main was active or not.

During the demolition of existing concrete curb, it was discovered that the curb was constructed and integrated into the back wall of two inlets. The two inlets needed additional reconstructive work prior to the installation of the new curb and adjacent paver sidewalk.

NEW JERSEY DEPARTMENT OF TRANSPORTATION
LOCAL AID & ECONOMIC DEVELOPMENT
FEDERAL AID CHANGE ORDER

Sheet 2 of 3
Order No. 3*
Order Letter _____
Date 9/5/2012

*Previous CO #3 not approved by Township of West Orange

Project	Downtown West Orange Streetscape and Traffic Improvement Program
Federal Project No.	HHP-B00S (971)
Contractor	ConQuest Industries, Inc.

During the excavation of the existing crosswalks for the installation of new paver crosswalks with granite borders, the old trolley tracks were encountered and delayed progress until they could be cut and removed from the path of the new crosswalks.

A business owner requested the removal of Bilco doors located within the sidewalk area. The Bilco doors were removed and a substructure constructed in order to continue the paver sidewalk in this area.

Owner and Engineering Design Delays:

As mentioned above, the multitude of underground utility conflicts resulted in the need for the traffic engineer to redesign the traffic signal locations. Digging tests pits, finalizing the design and obtaining approval from the Essex County Engineering Department delayed the project approximately four weeks. Once it was determined that the larger steel mast arms were required and approved, the Contractor had to place a special order for the signal equipment.

In two areas within the project limits approved under the Federal grant, the paver sidewalk was extended by the Owner. Additional time was needed by the Contractor for the demolition and installation of the additional curb and pavers.

Miscellaneous:

An ESI request was not made by the design team during the design of this project. The Contractor assumed this request had been made during design whereas the design team assumed the successful bidder would coordinate this component with PSE&G during construction. The Contractor submitted an ESI request to PSE&G on January 3, 2012. After months of follow up, PSE&G provided in writing a confirmation dated April 5, 2012 that the ESI request paper work was misplaced and the request had to be resubmitted by the Contractor. The Township of West Orange also had to contact their customer relations representative to get PSE&G to schedule work. This further delayed the Contractor's schedule to install the traffic signal equipment.

Amount of Original Contract	\$	1,549,696.25
Adjusted Amount Based on Change	\$	1,744,152.15
Order No. <u>1</u> , <u>2</u> , <u>3</u>		
Total Change (+)	\$	194,455.90
% Change in Contract		+12.55%
(+) Increase		

NEW JERSEY DEPARTMENT OF TRANSPORTATION
LOCAL AID & ECONOMIC DEVELOPMENT
FEDERAL AID CHANGE ORDER

Sheet 1 of 3
Order No. 4
Order Letter
Date 9/6/2012

Project Downtown West Orange Streetscape and Traffic Improvement Program
Federal Project No. HHP-B00S (971) Doc. No.
Contractor ConQuest Industries, Inc.

You are hereby directed to implement the following changes in accordance with the provisions of the specifications for this contract.

Location of proposed order: Eagle Rock and St. Mark's sections

Nature and reason of order:
(See attached)

☐ Extension ☐ Reduction of time recommended this order

CONTRACT AMOUNT	ROAD	BRIDGE	TOTAL
Amount of original contract	\$ 1,549,696.25	\$	\$ 1,549,696.25
Adjusted amount based on order Nos. 1, 2, 3 & 4	\$ 1,858,099.28	\$	\$ 1,858,099.28

CONTRACT TIME
Original Completion Date 10/25/2011
Adjustment This Order (+ or -) 0
Previous Adjustments (+ or -) +372
Adjusted Completion Date 10/31/2012

ORDER NO. 4	☒ Road	☐ Bridge	☐ Other
Extra Work	\$ 113,947.13	\$	\$ 113,947.13
Increases	\$	\$	\$
Decreases	\$	\$	\$
Total	\$ 113,947.13	\$	\$ 113,947.13

RESERVED FOR FHWA OR F.T.A.

Recommended:

County / Municipal / Sponsor's Engineer

Date

Approved:

Approved for Funding Participation Purposes:

Presiding Officer

Date

Richard Loveless, Director, Bureau of Local Aid - Newark

Date

ALTERNATE PROCEDURES PROJECTS
This order is approved for ☐ Full ☐ Partial federal participation.
Director, Local Aid & Economic Development
Date

Accepted:

CONTRACTS PAYABLE SECTION
Reviewed by
Input Submitted by
Certification of Funds
Director of Accounting & Auditing
Date
Date
Date

Contractor's Authorized Signature

Date

Name

Title

☐ Unprotested
☐ Protested by letter dated attached.

NEW JERSEY DEPARTMENT OF TRANSPORTATION
LOCAL AID & ECONOMIC DEVELOPMENT
FEDERAL AID CHANGE ORDER

Sheet 2 of	3
Order No.	4
Order Letter	
Date	9/6/2012

Location of proposed order _____ Fence and caissons at Eagle Rock, traffic signals, concrete sidewalk and caissons at St. Mark's

Nature and reason of order:

S-9: Remove & reconstruct curb on Harrison Avenue at Cherry Street. Curb installed near Cherry Street did not provide adequate clear space between the decorative lighting and the existing retaining wall and fencing for ADA compliance. Curb was removed and reinstalled to provide adequate clearance for the passage of pedestrians and wheelchairs.

S-10: Reconstruct building foundation at Pepe's - Building front brick veneer rested on existing sidewalk, not on an independent footing. Upon removal of existing sidewalk, it was also discovered that the vestibule sidewalk was the basement ceiling. Subsequently a structural slab and footing had to be constructed to support ceiling and brick veneer before paver brick installation.

S-11: Reconstruct A Inlet – Side-by-side 'A' inlets on Harrison Avenue (near liquor store) shared existing curb as the structural back wall of the inlet. The existing curb had to be removed to accommodate the new curb. The inlets required reconstruction

S-12: Construct double B inlet @ box culvert – Under existing conditions, there was an opening in the curb that allowed stormwater to flow into the box culvert under the road. When the box culvert was unexpectedly reconstructed (see change order #1), this opening was reconstructed as a double 'B' inlet. Upon reconstruction of box culvert top slab, a new concrete slab was built as a structural connection for stormwater flow into culvert. Inlet was increase to a double 'B' to accommodate gutter flow/volume.

S-13: Additional test pits for signal foundations – Contractor dug test pits in the vicinity of the proposed traffic signal standards in the Eagle Rock/Lourdes area. Pole 'A', Pole 'B' and Pole 'H' and a junction box could not be installed where proposed due to underground utility conflicts. The gas, electrical duct bank, 60" of storm drains were located in order to determine new foundation locations and install modified foundations (caissons).

S-14: Reconstruct E inlet in driveway apron – An existing modified 'B' inlet has been repaired with a steel plate by Essex County DPW. To alleviate the unsafe condition in the reconstructed driveway apron area, a new 'E' type inlet casting was set with repair to 1 – 2 courses of blocks. The block inlet was in line with the new curb and driveway apron and was constructed in conjunction with the same.

S-15: Modify junction box due to utility conflicts – A traffic signal junction box was modified due to utility conflicts (underground electrical duct bank). The bottom of the concrete box was shortened to be able to be installed flush with finished grade.

S-16: Additional site clearing – chain link fence and tree – the existing chain link fence bordering the municipal parking lot in the Eagle Rock section was in poor condition. It was determined that the chain link fence would be an eyesore in comparison to the new landscaping proposed along the parking lot perimeter. The chain link fence, along with a dying tree, were therefore removed. In addition, to enable the new paver sidewalk on Main Street (Eagle Rock) to have a consistent width, a section 50 l.f. of chain link fence was removed by the florist.

S-17: Installation of 12" diameter pole – Due to underground utility conflicts, two traffic signal standards were relocated further away from the curb and required a longer, 30' mast arm on a 12" diameter pole. The material for the 12" poles were included in change order #2. This item applies to the actual installation. Jen Electric supplied the poles whereas Fai-Gon Electric installed the poles. Material and installation have been separated to identify costs associated with DBE's to meet the 8% DBE goal.

S-18: Installation of 30' mast arm - Due to underground utility conflicts, two traffic signal standards were relocated further away from the curb and required a longer, 30' mast arm. The material for 30' mast arms was included in change order #2. This item applies to the actual installation. Jen Electric supplied the mast arms whereas Fai-Gon Electric actually installed the mast arms. Material and installation have been separated to identify costs associated with DBE's to meet the 8% DBE goal.

S-19: Install new drain @ PNC Bank plaza – The existing drain in the plaza was undersized, clogged and not functioning properly. A larger drain was installed and connected to the existing piping.

S-20: Additional Excavation for Crosswalks – Due underground utility conflicts and the relocation of traffic signals and pedestrian push buttons, a few existing curb ramps needed to be relocated. This resulted in the need to realign three existing crosswalks to align with the new curb ramps. The original design called for the removal of the existing crosswalk and reconstruction of the new paver crosswalk in the same location. The three realigned crosswalks required the excavation of pavement and the underlying cobblestone and trolley tracks, in addition to the excavation of the existing crosswalks to be eliminated.

S-21: Additional Pavement Restoration for Crosswalks – In conjunction with S-20, the existing crosswalks that were removed and realigned needed to be restored back to pavement. In addition, to provide a smoother transition between the granite crosswalk border and the adjacent pavement, a wider area of pavement was milled and resurfaced than what was dimensioned on the construction details.

NEW JERSEY DEPARTMENT OF TRANSPORTATION
LOCAL AID & ECONOMIC DEVELOPMENT
FEDERAL AID CHANGE ORDER

Project	Downtown West Orange Streetscape and Traffic Improvement Program	
Federal Project No.	HHP-B00S (971)	Doc. No.
Contractor	ConQuest Industries, Inc.	

ITEM NO.	DESCRIPTION	QUANTITY (+/-)	UNIT PRICE	AMOUNT
S-9	Remove & reconstruct curb on Harrison Avenue at Cherry Street	LS	\$1,620.79	\$1,620.79
S-10	Reconstruct building foundation at Pepe's	LS	\$1,284.48	\$1,284.48
S-11	Reconstruct A Inlet	2 Units	\$1,271.22	\$2,542.44
S-12	Construct double B inlet @ box culvert	1 Unit	\$1,923.96	\$1,923.96
S-13	Additional test pits for signal foundations	LS	\$3,809.28	\$3,809.28
S-14	Reconstruct E inlet in driveway apron	1 Unit	\$1,753.98	\$1,753.98
S-15	Modify junction box due to utility conflicts	1 Unit	\$598.78	\$598.78
S-16	Additional site clearing – chain link fence and tree	LS	\$2,280.00	\$2,280.00
S-17	Installation of 12" pole	2 Units	\$1,790.00	\$3,580.00
S-18	Installation of 30' mast arm	2 Units	\$1,145.00	\$2,290.00
S-19	Install new drain @ PNC Bank plaza	LS	\$500.00	\$500.00
S-20	Additional excavation for crosswalks	LS	\$15,263.42	\$15,263.42
S-21	Pavement restoration for crosswalks	300 SY	\$55.00	\$16,500.00
			Sub-total:	\$53,947.13
Non-Participating Items:				
S-2	Additional Uniformed Traffic Directors	+1,000 MH	\$60.00	\$60,000.00
			Total:	\$113,947.13

Amount of Original Contract	\$	1,549,696.25
Adjusted Amount Based on Change Order No. <u>1</u> , <u>2</u> , <u>3</u>	\$	1,858,099.28
Total Change (+)	\$	308,403.03
% Change in Contract (+) Increase		+19.90%

NEW JERSEY DEPARTMENT OF TRANSPORTATION
LOCAL AID & ECONOMIC DEVELOPMENT
FEDERAL AID CHANGE ORDER

Sheet 1 of 3
Order No. 5
Order Letter
Date 9/6/2012

Project Downtown West Orange Streetscape and Traffic Improvement Program
Federal Project No. HHP-B00S (971) Doc. No.
Contractor ConQuest Industries, Inc.

You are hereby directed to implement the following changes in accordance with the provisions of the specifications for this contract.

Location of proposed order:

Nature and reason of order:

- Final As-Built Quantities for Completed Items
- Supplemental S-22 – Removal of existing pavement striping for realigned crosswalks
- Supplemental S-23 – Site Clearing on Valley Road and Main Street

☐ Extension ☐ Reduction of time recommended this order 0 days

CONTRACT AMOUNT	ROAD	BRIDGE	TOTAL
Amount of original contract	\$ 1,549,696.25	\$	\$ 1,549,696.25
Adjusted amount based on order Nos. 1, 2, 3, 4 & 5	\$ 1,848,981.93	\$	\$ 1,848,981.93

CONTRACT TIME
Original Completion Date 10/25/2011
Adjustment This Order (+ or -) 0
Previous Adjustments (+ or -) +342
Adjusted Completion Date 10/31/2012

ORDER NO. 5	☒ Road	☐ Bridge	☐ Other
Extra Work	\$		\$
Increases	\$ 57,729.75	\$	\$
Decreases	\$ -66,847.10	\$	\$
Total	\$ -9,117.35	\$	\$

RESERVED FOR FHWA OR F.T.A.

Recommended:

County / Municipal / Sponsor's Engineer

Date

Approved:

Approved for Funding Participation Purposes:

Presiding Officer

Richard Loveless, Director, Bureau of Local Aid – Newark

Date

ALTERNATE PROCEDURES PROJECTS
This order is approved for ☐ Full ☐ Partial federal participation.

Director, Local Aid & Economic Development

Date

Accepted:

CONTRACTS PAYABLE SECTION

Contractor's Authorized Signature

Reviewed by

Name

Input Submitted by

Title

Certification of Funds

☐ Unprotected
☐ Protected by letter dated attached.

Director of Accounting & Auditing

Date

NEW JERSEY DEPARTMENT OF TRANSPORTATION
LOCAL AID & ECONOMIC DEVELOPMENT
FEDERAL AID CHANGE ORDER

Project	Downtown West Orange Streetscape and Traffic Improvement Program		
Federal Project No.	HHP-B00S (971)	Doc. No.	
Contractor	ConQuest Industries, Inc.		

ITEM NO.	DESCRIPTION	QUANTITY (+/-)	UNIT	UNIT PRICE	INCREASE AMOUNT	DECREASE AMOUNT
6	TRAFFIC DIRECTORS, FLAGGERS	(110)	MH	\$35.00		(\$3,850.00)
9	RECONSTRUCT INLET	2	U	\$500.00	\$1,000.00	
11	ECO 'N' INLET CURB PIECE	(1)	U	\$350.00		(\$350.00)
13	RESET MANHOLE CASTING	(1)	U	\$250.00		(\$250.00)
14	BLUESTONE PAVEMENT WITH BRICK BANDING	7	SY	\$400.00	\$2,800.00	
15	PAVER CROSSWALK W/ GRANITE BORDER	(2)	SY	\$210.00		(\$399.00)
16	CONCRETE DRIVEWAY APRON	72	SY	\$72.00	\$5,184.00	
17	DETECTABLE WARNING PAVERS	4	SY	\$250.00	\$1,000.00	
18	CLAY BRICK PAVER SIDEWALK (INCLUDES DGA)	56	SY	\$75.00	\$4,170.00	
19	CLAY BRICK PAVER DRIVEWAY, REINFORCED, 6" THICK	(42)	SY	\$135.00		(\$5,629.50)
20	8"x18" CONCRETE VERTICAL CURB	(287)	LF	\$16.00		(\$4,592.00)
21	TRAFFIC STRIPES, LONG LIFE, EPOXY RESIN, 4" WIDE	388	LF	\$2.40	\$931.20	
22	TRAFFIC STRIPES, LONG LIFE, EPOXY RESIN, 8" WIDE	345	LF	\$3.30	\$1,138.50	
23	TRAFFIC MARKINGS, THERMOPLASTIC	(83)	SF	\$5.40		(\$448.20)
25	RELOCATE SIGN	(1)	U	\$350.00		(\$350.00)
27	2" RIGID METALLIC CONDUIT	(70)	LF	\$25.00		(\$1,750.00)
28	2" RIGID NON-METALLIC CONDUIT (FOR LIGHTING)	(291)	LF	\$12.00		(\$3,492.00)
29	3" RIGID NON-METALLIC CONDUIT	120	LF	\$44.00	\$5,280.00	
30	4" RIGID NON-METALLIC CONDUIT (FOR LIGHTING)	(314)	LF	\$15.00		(\$4,710.00)
31	18"x36" JUNCTION BOX	(2)	U	\$1,700.00		(\$3,400.00)
32	FOUNDATION, TYPE ECS-STD	2	U	\$2,300.00	\$4,600.00	
34	LIGHT POLE FOUNDATIONS	(3)	U	\$1,100.00		(\$3,300.00)
35	PULL BOX (PSE&G TYPE FOR LIGHTING)	5	U	\$300.00	\$1,500.00	
37	GROUND WIRE, NO. 8 AWG	(359)	U	\$1.55		(\$556.45)
38	SERVICE WIRE, NO. 6 AWG	(55)	LF	\$1.95		(\$107.25)
40	TRAFFIC SIGNAL STANDARD, ALUMINUM	2	LF	\$3,435.00	\$6,870.00	
42	TRAFFIC SIGNAL CABLE 2 CONDUCTOR	(275)	LF	\$2.00		(\$550.00)
43	TRAFFIC SIGNAL CABLE 5 CONDUCTOR	(877)	LF	\$2.25		(\$1,973.25)
44	TRAFFIC SIGNAL CABLE 10 CONDUCTOR	(137)	LF	\$2.85		(\$390.45)
47	PUSH BUTTON	1	U	\$455.00	\$455.00	
62	PRUNUS X YEDOENSIS 'AKEBONO', AKEBONO YOSHINO CHERRY, 2" TO 2-1/2" B&B	(1)	U	\$265.00		(\$265.00)
63	SYRINGA RETICULATA 'IVORY SILK', IVORY SILK TREE LILAC, 2" TO 2-1/2" B&B	1	U	\$265.00	\$265.00	
64	TILIA CORDATA 'HALKA', SUMMERSPRITE LINDEN, 2" TO 2-1/2" B&B	(1)	U	\$265.00		(\$265.00)
65	ZELKOVA SERRATA 'MUSASHINO', MUSA SHINO ZELKOVA, 2" TO 2-1/2" B&B.	(3)	U	\$285.00		(\$855.00)

SUBTOTAL \$35,193.70 (\$37,483.10)

NEW JERSEY DEPARTMENT OF TRANSPORTATION
LOCAL AID & ECONOMIC DEVELOPMENT
FEDERAL AID CHANGE ORDER

Sheet 3 of 3
Order No. 5
Order Letter
Date 9/6/2012

Project Downtown West Orange Streetscape and Traffic Improvement Program
Federal Project No. HHP-B00S (971) Doc. No.
Contractor ConQuest Industries, Inc.

ITEM NO.	DESCRIPTION	QUANTITY (+/-)	UNIT	UNIT PRICE	INCREASE AMOUNT	DECREASE AMOUNT
	Alternate A1 Bid Items					
A1-2	TRAFFIC DIRECTORS, FLAGGERS	(40.00)	MH	\$35.00		(\$1,400.00)
A1-7	CLAY BRICK PAVER SIDEWALK (INCLUDES DGA)	(13.00)	SY	\$75.00		(\$975.00)
A1-8	8"x18" CONCRETE VERTICAL CURB	(8.00)	LF	\$16.00		(\$128.00)
A1-12	2" RIGID NON-METALLIC CONDUIT (FOR LIGHTING)	(17.00)	LF	\$12.00		(\$204.00)
A1-13	4" RIGID NON-METALLIC CONDUIT (FOR LIGHTING)	112.00	LF	\$15.00	\$1,680.00	
A1-14	PULL BOX (PSE&G TYPE FOR LIGHTING)	(1.00)	U	\$300.00		(\$300.00)
A1-17	TILIA CORDATE 'HALKA', SUMMERSPRITE LINDEN, 2" TO 2-1/2" B&B	(1.00)	U	\$265.00		(\$265.00)
	Alternate A2 Bid Items					
A2-2	TRAFFIC DIRECTORS, FLAGGERS	(40.00)	MH	\$35.00		(\$1,400.00)
A2-7	CONCRETE DRIVEWAY APRON	68.00	SY	\$72.00	\$4,896.00	
A2-9	CLAY BRICK PAVER SIDEWALK (INCLUDES DGA)	(85.80)	SY	\$75.00		(\$6,435.00)
A2-10	CLAY BRICK PAVER DRIVEWAY, REINFORCED, 6" THICK	(82.00)	SY	\$135.00		(\$11,070.00)
A2-11	8"x18" CONCRETE VERTICAL CURB	(372.00)	LF	\$16.00		(\$5,952.00)
A2-14	LIGHT POLE FOUNDATIONS	(1.00)	U	\$1,100.00		(\$1,100.00)
A2-15	2" RIGID NON-METALLIC CONDUIT (FOR LIGHTING)	289.00	LF	\$12.00	\$3,468.00	
A2-16	4" RIGID NON-METALLIC CONDUIT (FOR LIGHTING)	(9.00)	LF	\$15.00		(\$135.00)
	Supplemental Items					
S-21	PAVEMENT RESTORATION FOR CROSSWALK	50.11	SY	\$55.00	\$2,756.05	
S-22	REMOVAL OF EXISTING TRAFFIC STRIPES	1,500.00	LF	\$1.50	\$2,250.00	
S-23	SITE CLEARING ON MAIN ST. & VALLEY ROAD	1	LS	\$7,486.00	\$7,486.00	

SUBTOTAL \$22,536.05 (\$29,364.00)

TOTAL: \$57,729.75 (\$66,847.10)

Amount of Original Contract \$ 1,549,696.25
Adjusted Amount Based on Change \$ 1,848,981.93
Order No. 1, 2, 3, 4
Total Change (+) \$ 299,285.68
% Change in Contract +19.31%
(+) Increase

RESOLUTION

WHEREAS, the Township of West Orange entered into a contract with Conquest Industries, Inc. having its principal place of business at 32 Woodland Avenue, Westwood, New Jersey for Downtown West Orange Streetscape and Traffic Improvements in the amount of \$1,549,696.25 as awarded by a Resolution of the Township Council No. 50-11 dated March 8, 2011 for the base bid and two alternate bids; and

WHEREAS, these improvements are funded by a Federal Earmark Grant in the amount of \$2,015,777 which is administered by the New Jersey Department of Transportation (NJDOT); and

WHEREAS, the Bid Documents and Contract required Conquest Industries to complete all improvements by October 29, 2011 which was 180 days from the commencement of construction on May 2, 2011; and

WHEREAS, the contract period was extended 30 days by Change Order No. 1 to November 28, 2011 to account for additional time to reconstruct the culvert in front of Our Lady of Lourdes Church; and

WHEREAS, on Labor Day 2012, September 3, 2012, the project was not complete; and

WHEREAS, for the Township to be reimbursed for eligible project costs by the NJDOT work must be performed within the contract time approved by the contracting agency (Township of West Orange); and

WHEREAS, for the purpose of filing invoices with the NJDOT for reimbursement of eligible project costs, the Township, its consultant, Birdsall Services Group, and Conquest Industries, LLC agreed to a contract time extension to October 31, 2012 or an additional 338 days from the adjusted contract time of November 28, 2011; and

WHEREAS, the contract time must be approved by Change Order; and

WHEREAS, Change Order No. 3 extends the contract time to October 31, 2012 from November 29, 2011 or an additional 338 days; and

WHEREAS, the Township Council concurs with the extension of the contract time to October 31, 2012 strictly for the purpose of receiving reimbursement for eligible project costs

from the NJDOT.

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of West Orange that Change Order No. 3 which extends the contract time for the project Downtown West Orange Streetscape and Traffic Improvement Program with Conquest Industries of 32 Woodland Avenue, Westwood, New Jersey be extended to October 31, 2012 for the purpose of receiving reimbursement of eligible projects costs from the NJDOT.

Karen Carnevale, Municipal Clerk

Victor Cirilo, Council President

I hereby certify funds are available from: _____

John Gross, Chief Financial Officer

RESOLUTION

WHEREAS, pursuant to a public bidding process the Township of West Orange (the “Township”) entered into an agreement with ConQuest Industries, LLC (“ConQuest”) for certain construction work to be timely completed by ConQuest in connection with the Downtown West Orange Streetscape and Traffic Improvement Program (the “Agreement”); and

WHEREAS, the Agreement provided that ConQuest would, among other things, replace traffic signals, perform electrical work, reconstruct sidewalks, replace curbing, improve drainage and install landscaping and site amenities (the “Work”) within the downtown area of the Township; and

WHEREAS, on April 11, 2011, ConQuest was given a “Notice to Proceed” date of May 2, 2011 with respect to the Work, and the Agreement contemplated a completion date of October 29, 2011; and

WHEREAS, ConQuest has still not fully and finally completed the Work; and

WHEREAS, the Township asserts that the delays in completing the Work have caused the Township damages, including additional engineering and police coverage costs; and

WHEREAS, ConQuest has agreed to amicably resolve these issues that have arisen in connection with the Agreement and the Work without the need for litigation, and both the Township and ConQuest intends to memorialize the release and resolution of these issues by execution of a Stipulation of Settlement in the form annexed as **Attachment “A”** (the “Stipulation”); and

WHEREAS, ConQuest has agreed to remit \$60,000 to the Township for damages the Township has incurred in connection with the Agreement; and

WHEREAS, the Township Attorney recommends that the Township enter into the Stipulation;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE TOWNSHIP COUNCIL OF

THE TOWNSHIP OF WEST ORANGE, that the Mayor and Township Clerk be and hereby are authorized to execute and attest to the Stipulation in the form the annexed hereto;

BE IT FURTHER RESOLVED, that a true copy of the Agreement shall remain on file with the Township Clerk for inspection by the public.

Karen J. Carnevale
Municipal Clerk

Victor Cirilo
Council President

Adopted: September 11, 2012

STIPULATION OF SETTLEMENT

The Parties

This Stipulation of Settlement (hereinafter referred to as the "Settlement") is made on this _____ day of September 2012 between ConQuest Industries, LLC ("ConQuest"), having an address at 32 Woodland Avenue, Westwood, New Jersey 07675, and the Township of West Orange (the "Township"), a Municipal Corporation of the State of New Jersey having its principal location at 66 Main Street, West Orange, New Jersey 07052 (collectively, the "Parties"); and whereas, in furtherance of the Settlement, the Parties hereby represent, warrant, state and agree:

Witnesseth

WHEREAS, pursuant to a public bidding process the Parties entered into an agreement , called the Downtown West Orange Streetscape and Traffic Improvement Program, for certain construction work to be timely completed by ConQuest for and within the Township (the "Agreement"); and

WHEREAS, ConQuest agreed that it would, among other things, replace traffic signals, perform electrical work, reconstruct sidewalks, replace curbing, improve drainage and install landscaping and site amenities (the "Work") within the downtown area of the Township; and

WHEREAS, on April 11, 2011, ConQuest was given a "Notice to Proceed" date of May 2, 2011 with respect to the Work, and the Agreement contemplated a completion date of October 29, 2011; and

WHEREAS, as of the date of this Settlement, ConQuest has not fully and finally completed the Work; and

WHEREAS, the Township asserts that the delays in completing the Work have caused the Township damages including additional engineering and police costs; and

WHEREAS, the Parties have agreed to amicably resolve various claims that have arisen in connection with the Agreement and the Work without the need for litigation, and desire and intend to memorialize the release and resolution of those Claims by execution of this Settlement; and

NOW, THEREFORE, in consideration of the mutual benefits conferred in this Settlement, the premises of this Settlement, the consideration provided for herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and subject to the terms and conditions herein contained, the Parties agree as follows:

1. **Settlement Amount.** The Parties agree that ConQuest shall pay to the Township a total of Sixty-Thousand (\$60,000) Dollars (the "Settlement Amount"), in consideration of the releases and other terms and conditions as set forth in this Agreement. The Settlement Amount shall be paid no later than September 30, 2012. All monies shall be remitted to the Township c/o John Gross, Chief Financial Officer, Municipal Building, 66 Main Street, West Orange, New Jersey 07052. The Township shall be authorized to issue joint checks payable to the Township for the Settlement Amount with regard to any monies due ConQuest under the Agreement or for the Work. To the fullest extent necessary, the Township

may designate an Attorney-in-Fact to execute any joint check or other disbursement to satisfy the Settlement Amount. Finally, to the extent necessary, the Township may deduct or offset the Settlement Amount from any monies due to ConQuest.

2. **Scope of Settlement.** The Settlement Amount is paid by ConQuest, to the Township, in satisfaction of unexpected additional police coverage and engineering oversight fees incurred by the Township in connection with the Agreement and the Work. Nothing contained herein shall release ConQuest from any remaining obligations under the Agreement and the Work including any remaining and punch list items.

3. **Waiver of Claims.** As a condition of this Settlement, ConQuest hereby waives, with prejudice and in their entirety, any and all claims, counterclaims, equitable relief and defenses that have been, could be or could have been brought against the Township in connection with the Agreement and/or the Work.

4. **Completion of the Agreement Required.** Notwithstanding the provisions of this Settlement, ConQuest shall be bound by the terms of the Agreement and, consistent therewith, shall timely finish the Work. ConQuest shall timely complete any remaining Work and punch list items required. At the conclusion of the Work, ConQuest shall provide a Disadvantaged Business Enterprise ("DBE") breakdown for all subcontractors and suppliers along with all "Buy America" certifications. ConQuest shall provide all necessary documentation to be submitted to the New Jersey Department of Transportation for project close out and final reimbursement.

5. **Enforceability.** ConQuest's failure to pay the Settlement Amount shall be deemed an immediate default entitling the Township to file suit for the Settlement Amount, including the recovery of reasonable attorneys' fees and costs to be paid by ConQuest, in connection with any such enforcement. In any such event, ConQuest consents to entry of a judgment in the amount of the Settlement Amount plus reasonable attorneys' fees, costs and post-judgment interest.

6. **Choice of Law.** This Agreement shall be governed in all respects, including validity, interpretation, and effect by the laws of the State of New Jersey. The Agreement shall be dated as of the date it was last signed by any of the Parties, which date shall be incorporated on the face page of this Agreement.

7. **Separate Counsel.** The Parties have been represented by separate counsel or had sufficient opportunity to consult with counsel. Neither of the Parties have relied upon the other Parties' counsel in executing this Agreement.

8. **Additional and Miscellaneous Terms.** The Parties represent that they relied upon the legal advice of attorneys of their own choice and that they have each had the opportunity to review this Settlement with their attorneys. The Parties further represent that the terms of the Agreement have been completely read and examined by their attorneys, and that they fully understand and voluntarily accept the stated terms. This Settlement shall be binding upon the Parties, and their agents, successors and assigns. No modifications or changes in this Agreement shall be binding unless in writing and executed by all Parties. No delay in enforcing any aspect of this Settlement shall be deemed a waiver of any rights and remedies.

The foregoing terms and conditions are agreed to and stipulated by:

WITNESS:

INDUSTRIES, LLC

CONQUEST

By: _____

Title:

Dated: September ____, 2012

WITNESS:

WEST ORANGE

TOWNSHIP OF

By:

Robert Parisi, Mayor

Dated: September ____, 2012

608051_2

RESOLUTION

WHEREAS, the Township of West Orange owns certain property located on Boland Drive in the Township of West Orange ("Property") known as the Oskar Schindler Performing Arts Center ("OSPAC"); and

WHEREAS, the Township acquired the Property for the purpose of developing a theatrical, cultural and community center; and

WHEREAS, a non-profit corporation has been formed under the laws of the State of New Jersey known as the Oskar Schindler Performing Arts Center, Inc. or OSPAC; and

WHEREAS, the Township desires for OSPAC to be separate and distinct subject to various restrictions; and

WHEREAS, the Township has negotiated the annexed License Agreement for the term of five (5) years; and

WHEREAS, the Township has reviewed certain rules and regulations and desires to have rules and regulations in force with regard to all uses of the Property;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Orange that the Township hereby authorizes, approves and empowers the Mayor to execute the annexed License Agreement including the mandated Sublicense Agreement and Rules and Regulations for use of OSPAC and the Municipal Clerk to attest to the Mayor's signature.

Victor Cirilo, Council President

Karen J. Carnevale, Municipal Clerk

Adopted: September 11, 2012

LICENSE AGREEMENT

By and Between

The Township of West Orange, a New Jersey Municipal Corporation whose address is 66 Main Street, West Orange, New Jersey ("Township"),

and

New Jersey Arts Incubator ("NJAI") , a New Jersey Not for Profit Corporation whose address is c/o Amy Simon, Chairperson, 64 Wellington Avenue, West Orange, New Jersey ("Licensee" and, together with Township, the "Parties.").

The above Parties hereby agree to the following terms and conditions of this license agreement.

1. **License Date and Effective Date of Agreement.** This License is made with an effective date of June 1, 2012 ("Effective Date"). This Agreement shall not be effective until Township receives a copy of this Agreement executed by the President of the Board of Trustees of Licensee along with a Resolution evidencing approval by the Licensee's Board of Trustees.

2. **Description of Agreement Premises.** The premises licensed by Township to Licensee includes all the premises, grounds and building now known as the Oskar Schindler Performing Arts Center on Boland Drive in the Township (the "Premises").

3. **Term.** The term of this License shall be for five (5) years effective date of June 1, 2012 ending May 31, 2017.

4. **Licensee's Use.** Licensee shall use the Premises for a performing arts facility with all rights to indoor and outdoor usage of the building in furtherance of NJAI's mission and not for any private use.

5. **Fee and Insurance.** A fee shall be payable annually for the term of the license in the amount of one dollar (\$1.00). In addition to the nominal fee, Licensee agrees to maintain public liability insurance naming itself and Township as named insured in an amount not less than one million (\$1,000,000) dollars per occurrence and two million (\$2,000,000) dollars in the aggregate. Licensee shall provide Township with a copy of same and renewals thereof not less than thirty (30) days before the date on which the insurance expires. This Agreement shall not be effective until Township receives the required insurance.

6. **Usage.** Licensee shall have the non-exclusive use of the Premises during the term of the Agreement. Township may utilize the facilities for Township events with notice at least thirty (30) days in advance. The Parties agree to negotiate any scheduling conflicts in good faith. All outside community users will be subject to the attached rules and regulations, and will sign a sublicense agreement with Licensee covering such usage on reasonable terms and conditions of Licensee and agrees to pay any out of pocket expenses of Licensee. Licensee shall be permitted to license the Premises for events or ongoing community related services which agree to license or sublease the Premises and which do not interfere with NJAI's obligation to provide at least eight (8) programs annually at the Premises. Programming content shall be family oriented as determined by Township Business Administrator. Sublicensees of the Premises through NJAI shall be subject to this master Agreement, which will be indicated in

such Sublicense agreement. All Sublicensees must be not-for-profit organizations authorized to do business in the State of New Jersey. The Licensee agrees that Township may choose to continue an annual jazz or other music festival in September with which Licensee shall reasonably cooperate.

7. **Licensee's Care.** Licensee will commit no act of waste, will take good care of the Premises, and will comply with all laws, regulations, rules, and orders of any federal, state, or local government agencies or departments. Licensee will not abandon the Premises and will do nothing that could increase the cost of Township's fire or public liability insurance.

8. **Repairs.** Township will make all necessary repairs to the Premises at Township's expense except when the repairs are needed because of misuse or neglect by Licensee or by persons under Licensee's control or on the Premises at Licensee's invitation, in which event, Licensee shall make those repairs at Licensee's own expense.

9. **Improvements.** Without Township's written consent in advance, Licensee shall not alter, add to, or improve the Premises. Any improvements made by Licensee that constitute fixtures or cannot be removed without material harm to the Premises shall be Township's property upon installation. All of Licensee's personal property shall be removed by Licensee before the termination of this Agreement. Licensee, at the same time, shall repair any injury done to the Premises in connection with the installation and removal of the improvements and the personal property. Licensee shall surrender the Premises in the same condition as they were at beginning of the term, subject to reasonable wear and tear and damage caused by conditions or events beyond Licensee's control except as to improvements.

10. **Abandoned Property.** All of Licensee's property remaining on the Premises after this Agreement terminates shall be deemed abandoned and the sole property of Township.

11. **Rules and Regulations.** Attached to this agreement is a copy of certain Rules and Regulations. The rules and regulations are for use of the Premises by persons or entities who will execute a sublicense agreement with Licensee for the use of the Premises. Any changes to these rules and regulations will be submitted to Township and must be approved in writing before implementation.

12. **Services.** Township shall provide utilities to the Premises, including heat, hot water, electric and gas, if any. Township also agrees, in its discretion, to provide auxiliary police officers when necessary. Township shall retain the right to implement any cost saving features that do not substantially interfere with the use of the Premises by Licensee. Township shall provide garbage collection and landscaping services to the Premises. Licensee agrees to bag and place all garbage in a secure area. Township agrees to maintain the electrical, plumbing, HVAC and structural systems on the Premises.

13. **Damage to Building.** If the Premises are damaged by fire or any other cause, so that the cost of restoration, as reasonably estimated by Township, equals or exceeds fifty (50%) percent of the Premise's replacement value (exclusive of foundations) just prior to the damage, then Township may, no later than thirty (30) days following the damage, give Licensee notice of election to terminate this Agreement. If the cost of restoration equals or exceeds fifty (50%) percent of the replacement value and if the Premises are not reasonably usable for the purposes for which they are leased, Licensee may, no later than thirty days following the damage, give Township notice of election to terminate this Agreement. In the event of either of these elections, this Agreement shall terminate on the 31st day after the giving of notice, and Licensee shall surrender possession of the Premises within a reasonable time. If the cost of

restoration as estimated by Township amounts to less than fifty (50%) percent of the replacement value of the Premises, or if despite the cost Township does not elect to terminate this Agreement, Township shall restore the Premises with reasonable promptness, subject to delays in the making of insurance adjustments by Township, and Licensee shall have no right to terminate this Agreement except as provided in this Paragraph. Township need not restore fixtures and improvements owned by Licensee.

14. **Township May Cure Defaults.** If Licensee defaults in the performance of any covenant or condition of this Agreement, Township may, on reasonable notice to Licensee (except that no notice need be given in case of emergency), cure the default. Licensee shall have reasonable opportunity to cure default prior to Township action to cure default.

15. **Default.** If Licensee fails to comply with any term and condition herein, Township may terminate this Agreement on five (5) days notice.

16. **Notices.** Any notice by either Party to the other shall be in writing and shall be deemed to be properly given only if delivered personally or mailed by registered or certified mail, return receipt requested, addressed (a) if to Licensee, at the above indicated location; (b) if to Township, at Township's address set out in this Agreement; or (c) at such addresses as Licensee or Township from time to time may designate in writing. Notice shall be deemed to have been given upon delivery if delivered personally, and if mailed, upon the third day after the date of mailing.

17. **Township's Right to Inspect Premises.** Township may enter the premises at any reasonable time on reasonable notice to Licensee (except that no notice is needed in case of emergency) to inspect the premises or make those repairs, replacements, and additions to the premises or the Building, and Township deems necessary or desirable. Licensee shall have no claim or cause of action against Township solely for entering the premises in accordance with this Paragraph.

18. **Interruption of Services or of Occupancy.** Interruption or curtailment of any service maintained in the Building if caused by strikes, mechanical difficulties, or any other causes beyond Township's control shall not entitle Licensee to any claim against Township or to any abatement in rent, nor shall they constitute constructive or partial eviction, unless Township fails to take measures that are reasonable in the circumstances to restore the service without undue delay.

19. **Elements of Constructive Eviction.** Licensee shall not be entitled to claim a constructive eviction from the premises unless Licensee shall have first notified Township in writing of the condition giving rise to the claim and, if the complaints are justified, unless Township fails to remedy the condition within a reasonable time after receipt of the notice.

20. **No Representations.** Neither Party has made any representations or promises, other than those contained in this Agreement or in some further writing signed by the Party making the representation or promise.

21. **Covenant of Quiet Enjoyment.** Township covenants that as long as Licensee pays the rent and any additional rent required under this Agreement and performs Licensee's covenants, Licensee shall peaceably and quietly have, hold, and enjoy the Premises for the term provided, subject to the provisions of this Agreement.

22. **Waiver of Jury Trial.** To the extent waiver is permitted by law, the Parties

waive trial by jury in any action or proceeding brought in connection with this Agreement or the Premises.

23. **Captions.** The captions in this Agreement are included for convenience only and shall not be taken into consideration in any construction or interpretation of this Agreement or any of its provisions.

24. **No Assignment.** The Licensee is not permitted to assign any aspect of this Agreement to any entity or person without the express written consent of Township which consent may be withheld by Township, in its sole discretion.

25. **Licensee's Non-Profit Existence and Board of Trustees.** The Licensee represents and warrants that it is and will remain a non-profit organization organized in accordance with the Internal Revenue Code provisions 501(c)(3). The Licensee's sole purpose and mission shall be to further the arts and cultural enrichment. Specifically, the Licensee shall be organized to (i) operate the performing arts center in Township for the cultural and educational benefit of the community, and (ii) to develop, produce and promote events of a musical or theatrical nature for the benefit of Township. The Licensee agrees to the following:

- i. The Mayor and Township Council shall each be permitted to appoint one (1) non-voting liaison to the Licensee's Board of Trustees and the Business Administrator of Township or his/her designee of shall be notified not less than five (5) days before all Board of Trustees meetings;
- ii. Township Business Administrator shall be provided with a copy of all minutes, resolutions and other actions by the Licensee's Board of Trustees within five (5) days of any such meetings or actions;
- iii. Township shall be provided with non-audited financial statements not less than annually which shall provide a full accounting of all income, assets, expenses, liabilities, grants and other financial information; and
- iv. If any aspect of Licensee's operations fails to comply with the terms herein, Township will notify Licensee of the failure. Upon such notification, Licensee shall have fifteen (15) days in which to correct such failure. If such failure is not corrected within fifteen (15) days, Township may terminate this Agreement on five (5) days written notice.

26. **Agreement Binding on Successors, Representatives, and Assigns.** The provisions of this Agreement shall apply to, bind, and inure to the benefit of Township and Licensee, their successors, legal representatives, and assigns. It is understood that the term "Township" as used in this Agreement means only the owner, or the mortgagees in possession, or the lessee for the time being, of the Premises, so that if the Premises are sold or leased or if the mortgagee takes possession of the premises, Township shall be entirely freed and relieved of all covenants and obligations of Township accruing after such sale, Agreement, or taking of possession, and it shall be deemed without further agreement that the purchaser, the lessee, or the mortgagee in possession has assumed and agreed to carry out any and all of Township's covenants and obligations.

27. **Dissolution.** In the event of dissolution of Licensee, any and all assets of Licensee at Premises and any other entity or endowment formed for the purpose of supporting programming at the Oskar Schindler Performing Arts Center, shall be donated to a 501(c)3 organization in West Orange operating for the purpose of the continuation and perpetuation of cultural and arts programs in West Orange, New Jersey.

The above terms and conditions of this lease agreement are hereby agreed to by and between the Parties executing below on this ____ day of _____ 2012.

Township of West Orange
a New Jersey Municipal Corporation, Township

By: Robert D. Parisi, Mayor

By: Karen J. Carnevale, Municipal Clerk

NEW JERSEY ARTS INCUBATOR
a New Jersey Not for Profit Corporation, Licensee

By: Amy Simon, Chairperson

By: _____, Secretary

566015_2

SUBLICENSE AGREEMENT

1. THIS AGREEMENT, made and entered into this _____ day of _____, 20____, between New Jersey Arts Incubator (NJAI) hereinafter called the Licensee, and _____ of _____ Address: _____ City: _____ State: _____ Zip: _____ hereinafter called the Sublicensee.

2. Witnesseth, That the said Licensee, in consideration of the rents hereinafter provided for, and the covenants and agreements hereinafter contained, and of the payments of such rents and the performance by the Sublicensee of all such covenants and conditions, hereby gives and grants unto the said Sublicensee the right to use the following portions, and no other, of the building or facility known as OSPAC together with the usual entrances and exits to the same and such additional space as the Licensee in its discretion shall allocate to the Sublicensee to be used for the purpose of and for no other purpose whatsoever without written consent of the Licensee, for a period commencing on: date _____, time _____ and ending on: date _____, time _____.

3. The Sublicensee agrees to pay the Licensee a fee for use of the space the sum of \$ _____ plus the additional sum of \$ _____ for front house staff, technical support, and a damage deposit for a total sum of \$ _____. All checks must be made payable to NJAI.

4. The Sublicensee shall not be permitted to sell or permit use or consumption of any tobacco products or alcohol on the Premises. If souvenirs, records, programs, etc. are sold, Sub-Licensee must obtain permission in writing from the Licensor and the Licensor will receive ____% of all gross sales.

5. NJAI designated personnel shall have free access at all times to all space occupied by the Sublicensee.

6. The Licensee shall not be responsible for payment of any Federal, State or local taxes arising out of, or in connection with, the use of said Premises by the Sublicensee. The Licensee and Township shall not be liable for any loss by theft or otherwise, damage by accident, fire, action of the elements or other cause, to machinery, equipment, paraphernalia, costumes, clothing, trucks, exhibit materials, scenery, musical instruments or cause for same, or any other property of the Sublicensee.

7. The Sublicensee shall not assign or transfer this agreement to third parties without the written consent of the Licensee. In the event that the Sublicensee transfers this agreement in violation of terms of this Sublicense, Licensee shall have the right to terminate the agreement with or without process of the law and the Sublicensee agrees to peaceably give up possession of the Premises immediately.

8. The Sublicensee will be liable for all damage to buildings and equipment incident to the Sublicensee's use of the Premises and agrees to indemnify and hold harmless the Licensee and Township from any claims or suits arising out of the injury or death to any person or damage to any property resulting from the use of said building by Sublicensee. The Sublicensee covenants that if the Licensee/or the Township is made a party to any litigation related to Sublicensee's use and occupancy of the Premises, then the Sublicensee shall pay all costs incurred or imposed.

- 9.** Force Majeure clause: Neither the Licensee nor the Township, their agents shall be held liable for any damage arising from the cancellation of an event due to acts of God, war, civil unrest, homeland security issues, or other conditions not in the control of Licensee or Township.
- 10.** The Licensee shall in no way be construed as co-sponsored of any activity of the Sublicensee and shall not be implied in any advertising, handbills, public service announcements, etc. The logotype of NJAI and its agents (including but not limited to the seal and logotype of NJAI) remain the property of the Licensee and shall not be used, except with the permission of NJAI.
- 11.** All fees and other sums herein provided to be paid whether due or not shall be and constitute a first lien on all property of the Sublicensee in or upon the Premises at the time of any default hereunder. The Sublicensee hereby mortgages or pledges said property of the Sublicensee for the purpose of securing the payment of all fees and sums to be paid. In the event of such default the Licensee may take possession of any and all of said property including box office receipts and hold the same until such default has been remedied, and if not remedied or satisfied within ten days of such shall apply the proceeds therefrom to the satisfaction of any amounts due the Licensee and shall pay over to the Sublicensee any sums remaining therefrom.
- 12.** All equipment, materials, props; etc. brought on to the Premises shall be removed immediately after the program unless prior agreement has been made in writing. Any property left on the Premises by the Sublicensee shall, after a period of 48 hours from the last day of occupancy be deemed abandoned and becomes the property of the Licensee to be disposed of or utilized at Licensee's discretion.
- 13.** The Sublicensee agrees that it will faithfully use and occupy said Premises hereby demised in accordance with the laws of New Jersey and the ordinances, rules, and regulations of the Township.
- 14.** Payment of Deposit and Fees: Rental Deposits are 50% of the rental fees and 100% of the damage deposit is required at signing of contract. The balance is due no later than 10 business days prior to the event. If balance is not paid, NJAI has the right to cancel the contract.
- 15.** Safety Compliance - The Sublicensee shall use and occupy said Premises in a safe and careful manner. And shall comply with all applicable and municipal, state and federal laws, and rules and regulations as prescribed by the fire and police departments, ADA regulations and other governmental authorities, as may be in force and effect during the tenancy period.
- 16.** The terms of this agreement shall be governed by the laws of New Jersey. Any dispute arising from this agreement shall be resolved in the Courts of Essex County. The Sublicensee expressly consents to be subject to personal jurisdiction in all Courts located in the State of New Jersey. The Sublicensee stipulates that Licensee and/or the Township may seek emergent relief by way of injunction. The Sublicensee stipulates that monetary damages may be difficult to calculate and will not be sufficient to remedy any harm or injury and therefore temporary or interim relief is necessary and appropriate.
- 17.** Every provision of this Agreement shall be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the remainder of this agreement.

18. By signing this Sublicense Agreement, Sublicensee acknowledges that it has read and agrees to the Rules and Regulations concerning the running of OSPAC attached hereto.

IN WITNESS WHEREOF, the parties have duly executed this instrument the day and year first above written.

Sublicensee: _____ Licensee: New Jersey Arts
Incubator

BY: _____ BY: _____

DATE: _____
DATE: _____

Oskar Schindler Performing Arts Center **(OSPAC)**

Rules and Regulations

The following Rules and Regulations shall apply for all uses and any Sublicensee of the Premises known as the Oskar Schindler Performing Arts Center ("OSPAC"). All Rules and Regulations are subject to change with approval of the Township of West Orange. Capitalized terms not defined herein are defined in either the License Agreement or the Sublicense Agreement.

- 1. Staff:** Sublicensee shall utilize a prepared, certified or licensed personnel with regard to any electrical systems at the Premises.
- 2. Supervisory Personnel:** Sublicensee will be held responsible for the proper use of OSPAC. It must provide sufficient supervision to monitor the conduct of all the persons attending and shall insure that the activities are confined to the areas and hours requested and agreed upon in the application. Sublicensee must identify a site manager who will be at OSPAC during the entire term of the license.
- 3. Loss or Damage:** In the event that property loss or damage is incurred during such use or occupancy the amount of damages shall be determined by the Township and NJAI and a bill for damages will be presented to the Sublicensee. To avoid conflict as to any loss or damages, a pre inspection will be made and a post performance inspection will also be completed. Both the pre and post inspection must be signed off by an authorized representative of NJAI.
- 4. Approval of Sublicensee:** All applicants requesting use must be approved by NJAI.
- 5. Cancellations:** A written request for cancellation must be received no less than thirty (30) days in advance of the agreed upon starting time. Failure to cancel shall obligate the applicant to pay a custodial service fee and any other expenses incurred. . Cancellation shall be permitted more than thirty (30) days of load in for performance fifty (50%) percent of deposit will be forfeited for cancellation. The full contract amount will be due for any cancellation within the thirty (30) day period before the performance. Rain dates will be declared in the contract. Sublicensee shall be responsible for payment in the event of weather delays or cancellations. Neither Township nor NJAI shall be held responsible for cancellations due to causes beyond its control, such as strikes, lockouts or force majeure. Weather rescheduling shall be subject to NJAI's schedule and availability. No guarantees exist as to rescheduled dates.
- 6. Safety Coverage:** All Sublicensees must provide spectators insurance listing the Township and NJAI as additional insureds. Sublicensee is responsible for arranging and paying for the appropriate safety coverage. Sublicensee must

present proof of insurance coverage title NJAI Executive Director and Township Business Administrator at least three business days in advance of all usage.

- 7. Safety Regulations:** Sublicensee must comply and observe all local, state and federal safety regulations and laws at all times.
- 8. Drinking, Drugs, Profane language and Smoking:** The sale and/or use of alcoholic beverages, drugs, tobacco products, profane language or gambling in any form is strictly forbidden at all times.
- 9. Custodial/Supervisory Care:** Adequate custodial service is mandatory. Each Sublicensee using OSPAC must assign sufficient custodial/supervisory personnel for continuous duty during the time agreed upon in the application. The NJAI Executive Director will indicate the number of custodians required dependent upon the size of the event, the day of the week, and the set up required. The Sublicensee will be charged the current custodial rate. The fee to be charged will be based on when the custodian reported for the event and until he or she has finished the necessary cleaning up at the conclusion of the event with a minimum charge of four (4) hours. This paragraph shall not apply to West Orange Township events where custodial services are provided by the Township. Approval of custodial services provided by Sublicensee must be approved by Executive Director prior to such services being utilized showing adequate liability insurance for such service.
- 10. Fees:** All checks shall be made payable to NJAI. A non-refundable deposit of 50% of the total cost for the rental agreement must be paid by the applicant at the time that the agreement is made which can be entered into no later than 30 days prior to the first day of rental period. There shall also be a security deposit in an amount fixed by NJAI. For each rental all or a portion of the deposit will be returned at the conclusion of the contract unless the NJAI Executive Director finds cause to retain it for loss or damage in or to the facility or property. Final payment is due two (2) days before load in. Billing for remaining rental fees, technical cost, custodial cost and other expenses from the rental agreement will be sent upon completion of the event. Payment of these services will be expected within ten (10) days of the billing date.
- 11. Written Material:** All written material including advertisements, brochures, etc. must be approved by NJAI before issuance.

All media and promotional materials released on behalf of the Sublicensee organization must refer to OSPAC in the following manner:

- a) To be performed (or held) at the Oskar Schindler Performing Arts Center

4 Boland Drive West Orange NJ 07052

- 12. Liability Coverage and Indemnification:** In consideration for allowing the rental of OSPAC the Lessee hereby covenants and agrees at all times to indemnify and hold harmless the Township and NJAI, its board, officers and employees, to the

fullest extent permitted by law, from any claims, damages, losses and expenses, including, but not limited to, reasonable attorneys' fees and legal costs, arising out of the use of these rental Premises and all Licensee facilities, by the Sublicensee, its officers, employees, agents, representatives, contractors, customers, guests, and invitees.

Insurance: As evidence of its financial ability to indemnify NJAI, during the term of this agreement, the Lessee shall obtain and pay premiums for Commercial General Liability insurance protecting the parties hereto, their agents, officers, elected officials, representatives, or employees because of bodily injury, property damage, personal injury or products liability incurred by the parties in the performance of the terms of this lease, such policy to provide limits not less than \$1 million per occurrence. A Certificate of Insurance naming Township and NJAI as an Additional Insured shall be provided upon signing of the Sublicense Agreement. Such insurance contracts shall be with companies acceptable to NJAI.

The insurance certificate shall require ten (10) days prior written notice to all parties hereto of any cancellation. Sublicensee shall be responsible to obtain its own liability coverage for theft or other such casualty loss. NJAI and the Township shall not be held responsible for any loss to the personalty of Sublicensee.