

Chapter 188

LAND USE

GENERAL REFERENCES

- Amusement devices** — See Ch. 110.
- Animals** — See Ch. 113.
- Bowling and Skee-Ball alleys and poolrooms** — See Ch. 117.
- Building, housing and property maintenance** — See Ch. 121.
- Numbering of buildings** — See Ch. 124.
- Circuses, carnivals and traveling shows** — See Ch. 134.
- Dance halls** — See Ch. 140.
- Fire prevention** — See Ch. 157.
- Flood damage prevention** — See Ch. 160.
- Golf courses** — See Ch. 167.
- Junkyards and junk dealers** — See Ch. 182.
- Licenses** — See Ch. 203.
- Liquid-fuel-burning equipment** — See Ch. 207.
- Newsracks** — See Ch. 214.
- Noise** — See Ch. 217.
- Parks and recreation areas** — See Ch. 228.
- Sewers** — See Ch. 253.
- Soil removal** — See Ch. 257.
- Streets and sidewalks** — See Ch. 265.
- Swimming pools** — See Ch. 269.
- Taxicabs, omnibuses, jitneys and liveries** — See Ch. 274.
- Tennis courts** — See Ch. 277.
- Trailers** — See Ch. 280.
- Trees and shrubs** — See Ch. 283.
- Abandoned vehicles** — See Ch. 288.

ARTICLE I

Subdivision of Land**[Adopted 12-21-1971 as Ch. XXI of the 1971 Code]****§ 188-1. Title.**

This article shall be known and may be cited as the "Land Subdivision Ordinance of the Township of Hillside."

§ 188-2. Purpose.

The purpose of this article shall be to provide rules, regulations and standards to guide land subdivision in the Township of Hillside, in the County of Union, in order to promote the public health, safety, convenience and general welfare of the Township. It shall be administered to ensure the orderly growth and development, the conservation, protection and proper use of land and adequate provision for circulation, utilities and services.

§ 188-3. Approving agency. [Amended 5-31-1977 by Ord. No. G-112-77]

The provisions of this article shall be administered by the Planning Board and Board of Adjustment of the Township of Hillside, New Jersey, in accordance with Chapter 291 of the Laws of 1975,¹ and any amendments or supplements thereto.

§ 188-4. Definitions. [Amended 5-31-1977 by Ord. No. G-112-77]

For purpose of this article, unless the context clearly indicates a different meaning, the terms and words hereinafter set forth shall be defined as follows:

ADMINISTRATIVE OFFICER — The Township Clerk unless a different Township official is designated by ordinance or statute, although all applications fees and accompanying items shall be submitted to the Township Building Department unless otherwise specified. **[Amended 10-21-2003]**

APPLICANT — A developer submitting an application for development.

APPLICATION FOR DEVELOPMENT — The application form and all accompanying documents required by this article for a complete application for approval (preliminary or final) of a subdivision plat (minor or major), 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-36. An incomplete application shall not be considered an "application" for purposes of this article, and the time for approving or denying such application shall not commence to run until a complete application is submitted.

1. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

BLOCK — The area bounded by one or more streets or a municipal boundary of sufficient size to accommodate a lot or lots of the minimum size required by Article II, Zoning, of this chapter and as further defined herein.

BOARD OF ADJUSTMENT — The Board established pursuant to Article II, Zoning, of this chapter. When such Board is referred to hereunder in connection with development applications, "Board of Adjustment" and "Planning Board" are interchangeable, according to which Board has jurisdiction over such applications pursuant to this article. **[Amended 10-21-2003]**

BUILDING — A combination of materials to form a construction adapted to permanent, temporary or continuous occupancy and having a roof.

CAPITAL IMPROVEMENT — A governmental acquisition of real property or major construction project.

COMMON OPEN SPACE — An open space area within or related to a site designated as a development and designed and intended for the use or enjoyment of residents and owners of the development. "Common open space" may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

COMPLETE APPLICATION — An application form completed as specified by ordinance and the rules and regulations of the municipal agency and all accompanying documents required by ordinance for approval of the application for development, including where applicable, but not limited to, a site plan or subdivision plat, provided that the municipal agency may require such additional information not specified in the ordinance or any revisions in the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the municipal agency. An application shall be certified as complete immediately upon the meeting of all requirements specified in the ordinance and in the rules and regulations of the municipal agency and shall be deemed complete as of the day it is so certified by the administrative officer for purposes of the commencement of the time period for action by the municipal agency. **[Added 2-19-1980 by Ord. No. G-176-80]**

CONDITIONAL USE — A use permitted in a particular zone 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 this article and in Article II, Zoning, of this chapter and upon the issuance of an authorization therefor by the Planning Board. **[Amended 10-21-2003]**

CONSULTING ENGINEER — A licensed professional engineer of the State of New Jersey and approved for professional counsel by the Planning Board or Township who may be hired by the Township.

CONVENTIONAL DEVELOPMENT — A development other than a planned development.

COUNTY PLANNING BOARD — The County Planning Board as defined in Section 1 of P.L. 1968, c. 285 (N.J.S.A. 40:27-6.1 et seq.). **[Added 2-19-1980 by Ord. No. G-176-80]**

CROSSWALK OR WALKWAY — A right-of-way dedicated to public use to facilitate pedestrian access through a subdivision or over or under a railroad or other public right-of-way.

CUL-DE-SAC — See "street."

DAYS — Calendar days.

DEVELOPER — 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 — The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure and any use or change in the use of any building or other structure or land or extension or use of land for which site plan approval, subdivision approval, a variance, conditional use approval or any other permit or permission is required pursuant to this article.

DEVELOPMENT REGULATIONS — The provisions of this article and any other zoning, subdivision, site plan, Official Map revision or ordinance or any other Township regulation of the use and development of land in the Township or any amendment thereto adopted and filed pursuant to this article or the Municipal Land Use Law. **[Amended 10-21-2003]**

DRAINAGE — 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 during and after construction or development and means necessary for water supply preservation or prevention or alleviation of flooding.

DWELLING UNIT — A building or part thereof having cooking, sleeping and sanitary facilities for one family.

EASEMENT — A use or burden imposed on real property by deed or other legal means to permit the use of land by the public, a corporation or particular persons for specified uses or for a right-of-way.

FAMILY — As defined in Article II, Zoning, § 188-20, of this chapter. **[Amended 10-21-2003]**

FINAL APPROVAL — The official action of the Planning Board (or the Board of Adjustment when applicable) taken on a preliminary approved major subdivision or site plan after all conditions, engineering plans and other requirements have been completed or fulfilled, including payment of all required fees, and the improvements required to be completed prior to final approval have been installed and performance guaranties properly posted

for their completion for those improvements which may be completed following final approval, together with the posting of all required maintenance guaranties.

FINAL PLAT — 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 which if approved shall be filed with the Clerk of the County of Union for recording in accordance with law.

GOVERNING BODY — The Township Committee of the Township of Hillside.

INTERESTED PARTY — Any person, whether residing within or without the Township of Hillside, whose right to use, acquire or enjoy property is or may be affected by any action taken under this article or the Municipal Land Use Law,² or whose rights to use, acquire or enjoy property under this article or the Municipal Land Use Law or under any other law of this state or of the United States have been denied, violated or infringed by an action or a failure to act under this article or the Municipal Land Use Law.

LAND — Includes improvements and fixtures on, above or below the surface.

LOT — A designated parcel, tract or area of land established by an approved subdivision plat or otherwise, as permitted by law, and which may be lawfully used, sold, developed or built upon as a single unit. **[Amended 10-21-2003]**

MAINTENANCE GUARANTY — Security, other than cash, which may be accepted by the Township as required by this article. "Maintenance guaranty" shall be in the form of maintenance bond(s) with surety and in form satisfactory to the Township Committee and approved by the Township Attorney.

MAJOR SUBDIVISION — Any subdivision which does not meet the requirements of a minor subdivision under this article.

MASTER PLAN — A composite of one or more written or graphic proposals for the development of the Township and prepared and adopted (following public hearing) and from time to time amended by the Planning Board of the Township of Hillside pursuant to N.J.S.A. 40:55D-28 of the Municipal Land Use Law. **[Amended 10-21-2003]**

MINOR SITE PLAN **[Added 2-19-1980 by Ord. No. G-176-80]** — A development plan of one or more lots which:

- A. Proposes new development within the scope of development specifically permitted by ordinance as a minor site plan.
- B. Does not involve planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to N.J.S.A. 40:55D-42. **[Amended 10-21-2003]**

2. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

- C. Contains the information reasonably required in order to make an informed determination as to whether the requirements established by ordinance for approval of a minor site plan have been met.

MINOR SUBDIVISION [**Amended 2-19-1980 by Ord. No. G-176-80**] — A subdivision of land that does not involve:

- A. More than three lots fronting on an existing street;
- B. A planned development;
- C. Any new street; or
- D. The extension of any off-tract improvement, including but not limited to water, sewer, drainage and street improvements, the cost of which is to be prorated pursuant to N.J.S.A. 40:55D-42; and
- E. Does not adversely affect the development of the remainder of the parcel (tract) or adjoining property and is not in conflict with the Township Master Plan or Official Map.

MUNICIPAL AGENCY — The Planning Board, Board of Adjustment or Township Committee of the Township of Hillside when acting pursuant to this article.

MUNICIPALITY — The Township of Hillside.

OFFICIAL MAP — A map adopted by the Township Committee by ordinance pursuant to N.J.S.A. 40:55D-32. [**Amended 10-21-2003**]

OFFICIAL NOTICE — Proof of the notification of all property owners affected by a proposed subdivision within the limits defined in this article by either personal service in accordance with the rules of the Court of New Jersey or by registered mail or certified mail, return receipt requested, and the requirements to have a notice of the public hearing published in a newspaper of general circulation within the Township at least 10 days prior to the hearing.

OFF-TRACT OR OFF-SITE — Not located on the property which is the subject of a development application nor on a contiguous portion of a street or right-of-way.

OPEN SPACE — 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 areas 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.

OWNER — Any individual, firm, association, syndicate, partnership or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings as an applicant to develop and/or subdivide the same under this article.

PARKING AREA — An open area, other than a street or other public road or way, used for the parking of motor vehicles, including access drives or aisles for ingress and egress thereto and therefrom.

PERFORMANCE GUARANTY — The security which may be accepted to guarantee the completion of the required improvements before the Planning Board approves the plat and shall include performance bonds with a responsible surety company authorized to do business in the State of New Jersey or escrow agreements secured by cash, certified check or cashier's check.

PERSON — Any person, individual, business entity, partnership, association, corporation, company, organization or legal entity of any kind or nature.

PLANNING BOARD — The Planning Board of the Township of Hillside. When such Board is referred to hereunder in connection with the review of development applications, "Board of Adjustment" and "Planning Board" are interchangeable according to which Board has jurisdiction over such applications pursuant to this article.

PLAT — The map or maps of a subdivision or site plan, including those submitted for either preliminary or final approval or, in the case of major subdivisions, for sketch plat review.

PRELIMINARY APPROVAL — The official action of the Planning Board (or the Board of Adjustment when applicable) granting preliminary approval to a site plan or major subdivision prior to a grant of final approval and conferring certain rights pursuant to this article.

PUBLIC AREAS —

- A. Public parks, playgrounds, trails, paths and other recreation areas.
- B. Other public open spaces.
- C. Scenic and historic sites.
- D. Sites for schools and other public buildings and structures.

PUBLIC DEVELOPMENT PROPOSAL — A master plan, capital improvement program or other proposal for land development adopted by the appropriate Township public body, or any amendment thereto.

PUBLIC DRAINAGEWAY — The land reserved or dedicated for the installation of stormwater 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. **[Amended 10-21-2003]**

PUBLIC OPEN SPACE — An open space area conveyed or otherwise dedicate to the Township, a Township agency, board of education, state or county agency or other public body for recreational or conservational uses.

QUORUM — The majority of the full authorized membership of the Planning Board, Board of Adjustment, Township Committee or other Township body acting pursuant to this article or the Municipal Land Use Law.³

RESERVE STRIP — A parcel of undeveloped land designated for dedication as a public use.

RESIDENTIAL CLUSTER — A permitted reduction in lot size and lot area requirements in major subdivisions in accordance with the requirements of Article II, Zoning, of this chapter in which the density requirements are maintained and where all resulting undeveloped land within said subdivision or a section thereof is set aside for a common or public open space as an appurtenance.

RESIDENTIAL DENSITY or DENSITY — The number of dwelling units per gross acre of residential land area, including streets, easements and open space portions of a development.

RESUBDIVISION —

- A. 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
- B. The alteration of any streets or the establishment of any new streets made and approved or recorded according to law but does not include conveyances so as to combine existing lots by deed or other instrument.

RIGHT-OF-WAY — The land and space required on the surface, subsurface and overhead for the construction and installation of materials necessary to provide passageway for vehicular traffic, pedestrians, utility lines, poles, conduits and mains, signs, trees and shrubbery, the proper amount of light and air as established by local authorities and other purposes, whether for immediate use or to be held for future use. Street "rights-of-way" shall be measured from lot line to lot line. (See also "easement.")

R.S. or REVISED STATUTES, N.J.S. or NEW JERSEY STATUTES — N.J.S.A. or New Jersey Statutes Annotated; these terms are used interchangeably herein, and any statutory reference employing any one of these terms shall refer either to the appropriate section of the New Jersey statutes or amendments thereto as the context shall require.

SANITARY SEWER RIGHT-OF-WAY — The lands required for the installation, maintenance and repair of sanitary sewers.

SEDIMENTATION — The deposition of soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a product of erosion.

SITE PLAN — A development plan not involving a subdivision for one or more lots on which is shown the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, floodplains, marshes and waterways, the location of all existing

3. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices and all other information required by Article II, Zoning, § 188-37, of this chapter to permit the Planning Board to make informed determinations in reviewing and approving site plans pursuant to this article.

SITE PLAN COMMITTEE — A committee of at least three Planning Board members appointed by the Chairman of the Board for purposes of reviewing site plans for a report back to the entire Board and such other duties relating to land development which may be conferred on this Committee by the Board and the Board's rules, regulations and/or bylaws.

SKETCH PLAT — The sketch map of a subdivision of sufficient accuracy to be used for the purpose of preliminary discussion and review in accordance with this article.

STREET — As defined in N.J.S.A. 40:55D-7. **[Amended 10-21-2003]**

STREET, ALLEY — A minor way used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

STREET, ARTERIAL — Used primarily for fast or heavy volumes of traffic and are those used generally to proceed between major urban centers or other larger areas of development as commercial centers, industrial areas and concentrated residential communities through or around the locality of the Township.

STREET, COLLECTOR — Those which carry traffic from local streets to the arterial streets, including the principal entrance streets of a residential development, and are designed to have considerable continuity and traffic capacity.

STREET, CUL-DE-SAC — A local dead end terminating in a circular or other turnaround areas.

STREET LINE — The dividing line between the street and a lot. Where title to land extends to the center of the street, the side line of such street shall be deemed the "street line."

STREET, LOCAL — Lightly traveled streets which need not be used for general traffic circulation.

STREET, LOOP — A continuous local street whose entrance and exit are parallel or nearly parallel to each other.

STREET, MARGINAL ACCESS — Streets which are parallel to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.

STRUCTURE — A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land.

SUBDIVIDER — Any individual, association, corporation or other legal entity commencing proceedings to subdivide a lot, tract or parcel according to the provisions of this article.⁴

SUBDIVISION — The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other division of land for sale or development. The term "subdivision" includes the term "resubdivision." The following shall not be considered "subdivisions" within the meaning of this article if no new streets are created: **[Amended 2-19-1980 by Ord. No. G-176-80; 10-21-2003]**

- A. Divisions of property by testamentary or intestate provisions.
- B. Divisions of property by court order, including but not limited to judgments or foreclosure.
- C. Consolidation of existing lots by deed or other recorded instrument.
- D. The conveyance of one or more adjoining lots, tracts or parcels of land owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the Tax Map of the Township of Hillside.

SUBDIVISION COMMITTEE — A committee of at least three Planning Board members appointed by the Chairman of the Board for the purpose of reviewing subdivisions for report back to the entire Board and such other duties relating to subdivisions which may be conferred on such Committee by the Board and the Board's rules, regulations and/or bylaws.

TOWNSHIP — The Township of Hillside in the County of Union and the State of New Jersey.

TOWNSHIP COMMITTEE — The governing body (Township Committee) of the Township of Hillside.

TOWNSHIP ENGINEER — The engineer designated by the Township Committee as the Township Engineer.

TRANSCRIPT — A typed or printed verbatim record of the proceedings or reproduction thereof. **[Added 2-19-1980 by Ord. No. G-176-80]**

VARIANCE — Permission granted by the Board of Adjustment or the Planning Board (as the case may be) to depart from the literal requirements of the zoning regulations applicable to the land or property which is the subject of the development plan for which a variance is sought pursuant to this article.

ZONING PERMIT — A document signed by the appropriate administrative officer of the Township which is required by ordinance or regulation of the Township as a condition precedent to the commencement of a use or the

4. **Editor's Note: The second definition of "subdivider," which followed this definition, was deleted 10-21-2003.**

erection, construction, reconstruction, alteration, conversion or installation of a structure or building and which acknowledges that such use, structure or building complies with the provisions of Article II, Zoning, of this chapter or variance therefrom, duly authorized by either the Board of Adjustment or Planning Board pursuant to this article and the Municipal Land Use Law.⁵

§ 188-5. Word usage. [Amended 5-31-1977 by Ord. No. G-112-77]

- A. Municipal Land Use Law definition. Whenever a term or word used in this article is not specifically defined in § 188-4 of this article but is defined in the Municipal Land Use Law (Chapter 291 of the Laws of 1975),⁶ such term or word shall be given the meaning set forth in the definition of the same as found in said law, unless a different meaning is clearly indicated from the context of this article.
- B. Zoning Ordinance definitions. Except to the extent inconsistent with definitions contained herein and in the Municipal Land Use Law,⁷ terms or words used in this article insofar as they relate to the Zoning Regulations of the Township are intended to have the meaning set forth in the definitions of the same as contained in Article II, Zoning, of this chapter, as amended.

§ 188-6. Official Map. [Added 10-21-2003]

The Official Map shall be deemed conclusive with respect to the location and width of streets and public drainage ways and the location and extent of flood control basins and public areas, including public parks, playgrounds, trails, paths and other recreational areas, public open spaces, scenic and historic sites, sites for schools and other public buildings and structures, whether or not such streets, ways, basins or areas are improved or unimproved or are in actual physical existence. Upon receiving an application for development, the Township may reserve for future public use any such streets, ways, basins and areas in the manner provided in N.J.S.A. 40:55D-32.

§ 188-7. Application for minor subdivision approval. [Amended 5-31-1977 by Ord. No. G-112-77]

- A. Filing.
- (1) Applications for minor subdivision approval shall be filed with the Secretary of the Planning Board, together with the required minor subdivision application fee as specified in § 188-15E of this article. Three copies of the application shall be filed, together with 12 copies of the minor subdivision plat, plus one Mylar, meeting the design and detail requirements of § 188-9 of this article. In addition, at the time of filing, but in no event less than 10 days prior

5. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

6. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

7. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

to the date set for public hearing, if a hearing is required pursuant to this article, applicant shall file such additional information, plats, maps, drawings and other documents as is required by this article or as may be required to be filed by the rules and regulations of the Planning Board, not inconsistent with the requirements of this article. **[Amended 10-21-2003]**

- (2) If the applicant is not the owner of all of the lands which are the subject of the proposed subdivision, all owners shall either join in the application or indicate on the application that they consent to such application. Proof of ownership in the form of an affidavit or other form satisfactory to the Planning Board shall be furnished with the application.
- (3) The Secretary of the Planning Board shall retain the fee on behalf of the Township, recording on the application the amount and date of receipt, and shall immediately forward the application and all copies of the plat to the Planning Board.
- (4) Applications shall be filed upon forms provided by the Planning Board and shall be obtainable from the Building Department.
- (5) Applications shall be filed not less than 21 days prior to the date of the regular monthly meeting of the Planning Board at which consideration of the application is desired.

B. Processing.

- (1) Upon the filing of all of the foregoing documents and the payment of the requisite fees, the application shall be deemed complete. If the application for minor subdivision approval is found to be incomplete or otherwise unsatisfactory or in need of amendment to meet the requirements of this article and/or the reasonable demands of the Planning Board consistent herewith and with Chapter 291 of the Laws of 1975,⁸ the applicant shall be notified thereof by the Secretary of the Planning Board within 45 days of submission of such application or it shall be deemed to be properly submitted.
- (2) If the Planning Board determines that the application conforms to the definition of "minor subdivision" in § 188-4 of this article and meets all the requirements for minor subdivisions as contained in this article and is a complete application for minor subdivision approval, the Planning Board shall retain two copies of the plat and forward copies of the plat to the following for review and comment: the County Planning Board, Township Engineer, Township Tax Assessor, Township Construction Official, Planning Board Engineer, Township Board of Health, Township Planning Board Attorney and all other state, county and Township offices and departments having jurisdiction thereof, as required by law or by the provisions

8. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

of this article, for their reports and recommendations. Concerning the proposed subdivision, the reports shall be presented to the Planning Board at a regularly scheduled meeting on the application. If a report disapproves of the application, detailed reasons for the disapproval must be set forth. Reports shall be filed with the Planning Board within 30 days of receipt of the subdivision plan and related documents. In appropriate cases, as may be determined by the Planning Board, one or more of the above-listed referrals may be eliminated, except the County Planning Board, if because of the nature and extent of the subdivision one or more of such reports is not necessary. **[Amended 10-21-2003]**

- C. Hearing on applications for minor subdivision approval.
- (1) No public hearing on minor subdivision applications shall be required unless the application includes a request for a variance or other relief pursuant to § 188-49E of this article.
 - (2) If a public hearing is required, it shall be held pursuant to the requirements of §§ 188-54, 188-55 and 188-56 of this chapter.
- D. Action upon application for minor subdivision approval: time limitations.
- (1) Following receipt and consideration of the reports received or the expiration of 30 days without receipt of any such report(s), the holding of a public hearing pursuant to §§ 188-54, 188-55 and 188-56 of this chapter, if such a hearing is required, and amendments and changes, if any, made in the minor subdivision plat in accordance with the reasonable demands of the Planning Board consistent with this article and the Municipal Land Use Law,⁹ if the proposed minor subdivision complies with this article and said Land Use Law, the Planning Board shall grant approval.
 - (2) Upon the submission of a complete application, the Planning Board shall grant or deny an application for minor subdivision approval within 45 days from the date of such submission or within such further time as may be consented to by the applicant in writing. Otherwise the Planning Board shall be deemed to have granted minor subdivision approval, and a certificate of the Secretary of the Planning Board as to the failure of the Planning Board to act within the prescribed time shall be issued upon the request of the applicant and shall be sufficient evidence of approval for any and all purposes.
 - (3) Whenever review or approval of the application by the County Planning Board is required by N.J.S.A. 40:27-6.3, the Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County

9. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

- (4) If a minor subdivision application is denied approval, the reasons for denial shall be noted on all copies of the application form (or on the minor subdivision plat or an attachment thereto), one of which shall be returned to the applicant.
 - (5) If a minor subdivision application is approved, a notation to that effect shall be made upon the minor subdivision plat, including date of approval, and signed by both the Chairman and the Secretary of the Planning Board, and such a signed copy shall be returned to the applicant.
 - (6) Approved minor subdivision plan: distribution. Prior to approval, the applicant shall be required to furnish to the Planning Board six copies plus one reverse line sepia of the plat in final form to permit distribution of one copy to each of the following:
 - (a) Township Clerk.
 - (b) Township Engineer.
 - (c) Township Construction Official.
 - (d) Township Tax Assessor Clerk (or Secretary of the Planning Board).
 - (e) County Planning Board (plus sepia copy).
- E. Performance and maintenance guaranties.
- (1) As a condition for minor subdivision approval, the Planning Board may require the furnishing of a performance guaranty in favor of the Township in an amount not to exceed 120% of the cost of installation of such improvements as the Planning Board may require as a condition for approval, as estimated by the Township Engineer, which the Planning Board may deem necessary or advisable to insure the installation of the same for the protection of the health, safety and welfare of the residents of the Township and other persons who may be affected by or use the subdivision which is the subject of minor subdivision approval.
 - (2) As a condition for minor subdivision approval, the Planning Board may require the furnishing of a maintenance guaranty for a period not to exceed two years after final acceptance by the Township of the improvements in question in an amount not to exceed 15% of the cost of the improvements, as estimated by the Township Engineer.
- F. Effect of minor subdivision approval.

- (1) Approval of a minor subdivision shall expire 190 days from the date on which the resolution of the Planning Board is adopted unless an extension as provided in N.J.S.A. 40:55D-47f and g has been granted or unless within such time 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 or other instrument clearly describing the approved minor subdivision is filed by the developer with the County Clerk of Union County, the Municipal Engineer and the Municipal Tax Assessor. Any such plat, deed or other instrument must be signed by the Chairman and Secretary of the Planning Board before it can be accepted for filing with the County Recording Officer. **[Amended 10-21-2003]**
- (2) Minor subdivision approval, provided it is duly recorded as provided in § 188-7F(1) above, shall protect the applicant for a period of two years from the date of approval from changes in the zoning requirements and the general terms and conditions of approval, including but not limited to use requirements, lot size and yard dimensions.
- (3) Lands resulting from minor subdivision. Any lands, lots or parcels forming a part of a previously approved minor subdivision may not be resubmitted as part of a new minor subdivision for a period of 24 months from the date of initial approval as a minor subdivision.

§ 188-8. Submission of preliminary plat. [Amended 5-31-1977 by Ord. No. G-112-77]

- A. Submission. A sketch plat of all major subdivisions may be submitted for preliminary discussion before the preliminary plat is prepared. This step is recommended by the Planning Board; however, it is not a mandatory requirement and an applicant may file an application for preliminary major subdivision approval without first submitting a sketch plat. As its name indicates, the sketch plat is designed to enable the Planning Board and the applicant to discuss principles involved before the applicant has gone to the expense of completing detailed engineering drawings. The Planning Board will review the sketch plat, refer the same to the Township Engineer, Township Planning Board Consultant and such other persons or agencies as the Planning Board deems appropriate for their comments and suggestions and provide the applicant with a report of its review within 45 days of receipt of such sketch plat.
- B. Review. The Planning Board in reviewing such a sketch plat will endeavor to indicate which aspects of the proposed subdivision it approves and which it disapproves and the reasons for the same.
- C. Sketch plat not binding on Board. Any sketch plat approval shall be tentative and not binding on the Planning Board and shall be subject to change but will enable the applicant to proceed on a reasonable, sound basis.

D. Time limits. Submission of a sketch plat shall not be considered an application for preliminary approval and shall not commence the running time limits (45 or 95 days, as the case may be) within which the Planning Board must act upon preliminary major subdivision applications.

E. Applications for preliminary major subdivision approval.

(1) Filing.

(a) Applications for preliminary major subdivision approval shall be filed with the Building Department, together with the required preliminary major subdivision application fee. Three copies of the application shall be filed, together with 15 copies of the preliminary major subdivision plat, plus one Mylar. In addition, at the time of filing, but in no event less than 10 days prior to the date set for the public hearing as required by §§ 188-54, 188-55 and 188-56 of this chapter, the applicant shall file such additional information, plats, maps, drawings and other documents as may be required by the Planning Board, not inconsistent with the requirements of this article. **[Amended 10-21-2003]**

(b) If the applicant is not the owner of all of the lands which are the subject of the proposed subdivision, all owners shall either join in the application or indicate on the application that they consent to such application. Proof of ownership in the form of an affidavit or other form satisfactory to the Planning Board shall be furnished with the application.

(c) Applications shall be filed upon forms provided by the Planning Board and shall be obtainable from the Building Department office.

(d) Applications shall be filed not less than 14 days prior to the date of the regular monthly meeting of the Planning Board at which consideration of the application is desired.

(2) Processing.

(a) Upon the filing of all of the foregoing documents and the payment of the requisite fees, the application shall be deemed complete. If the application for preliminary major subdivision approval is found to be incomplete or otherwise unsatisfactory or in need of amendment to meet the requirements of this article and/or the reasonable demands of the Planning Board consistent herewith and with Chapter 291 of the Laws of 1975, the applicant shall be notified, in writing, of the deficiencies therein by the Secretary or Clerk of the Planning Board for the determination of completeness within 45 days of submission of such application or it shall be deemed to be properly submitted. **[Amended 2-19-1980 by Ord. No. G-176-80]**

- (b) Upon receipt of a complete application for preliminary major subdivision approval, the Planning Board shall retain two copies of the preliminary plat and forward copies of such plat and related documents to the following for review and comment: Township Planning Board Consultant, Township Engineer, County Planning Board (along with reverse line sepia of plat), Township Board of Health, Township Tax Assessor, Township Planning Board Attorney, County Soil Conservation District, Township Chief of Police, Township Fire Chief, Township Water Department or agency furnishing water to subdivision and such other state, county and Township offices and departments having jurisdiction thereof, as required by law or by the provisions of this article, for their reports and recommendations concerning the proposed subdivision. The reports shall be presented to the Planning Board at a regularly scheduled meeting on the application. If a report disapproves of the application, detailed reasons for the disapproval must be set forth. Reports shall be filed with the Planning Board within 30 days of receipt of the preliminary plat and related documents. **[Amended 10-21-2003]**
- (3) Hearings on applications for preliminary major subdivision approval.
- (a) A public hearing shall be held on all applications for preliminary major subdivision.
- (b) No public hearing shall be held unless affidavits of publication and service as required by §§ 188-54, 188-55 and 188-56 of this chapter are submitted by the applicant to the Planning Board prior to or at the hearing.
- (c) If the Planning Board or Zoning Board of Adjustment requires substantial amendment in the layout of improvements proposed by the subdivider that have been the subject of a hearing, an amended application for development shall be submitted and processed, as in the case of the original application for development.
- (4) Action upon application for preliminary major subdivision approval.
- (a) Following receipt and consideration of the reports received pursuant to § 188-8A of this article or the expiration of 30 days without receipt of any such reports, the holding of a public hearing pursuant to §§ 188-54, 188-55, 188-56 and 188-57 of this chapter and amendments and changes, if any, made in the preliminary plat in accordance with the reasonable demands of the Planning Board consistent with this article and the Municipal Land Use Law (Chapter 291 of the Laws of 1975),¹⁰

10. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

if the proposed major subdivision complies with this article and said Land Use Law, the Planning Board shall grant preliminary approval.

- (b) Upon submission of a complete application for preliminary major subdivision approval of this article if so required by the Planning Board of 10 or fewer lots, the Planning Board shall grant or deny preliminary approval within 45 days of the date of such submission or within such further time as may be consented to by the applicant in writing. Upon submission of a complete application for preliminary major subdivision approval of more than 10 lots, the Planning Board shall grant or deny preliminary approval within 95 days of the date of such submission or within such further time as may be consented to by the applicant in writing. Otherwise, the Planning Board shall be deemed to have granted preliminary major subdivision approval, and a certificate of the Secretary of the Planning Board as to the failure of the Planning Board to act within the prescribed time shall be issued upon the request of the applicant and shall be sufficient evidence of preliminary approval for any and all purposes.
- (c) Whenever review or approval of the application by the County Planning Board is required by N.J.S.A. 40:27-6.3, the Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.
- (d) If an application for major subdivision approval is denied approval, the reasons for denial shall be noted on all copies of the application form (or on the preliminary plat or an attachment thereto), one of which shall be returned to the applicant.
- (e) If an application for preliminary major subdivision approval is approved, a notation to that effect shall be made upon the major subdivision plat, including date of approval, and signed by both the Chairman and Secretary of the Planning Board (following indication of approval thereon by the Township Engineer), and such a signed copy shall be returned to the applicant.
- (f) Notification and distribution of preliminary plan as approved.

[1] The Planning Board upon the grant of preliminary approval shall notify the following:

[a] Township Clerk.

[b] Township Engineer.

- [c] Construction Official.
- [d] Tax Assessor.
- [e] County Planning Board.
- [f] Township Water Department or agency providing water to subdivision.
- [g] Township Board of Health.
- [h] Township Board of Education.

[2] If the plat as finally granted preliminary approval has been modified or amended since the date of original distribution to the above officials and bodies, copies of the revised form as granted preliminary approval shall be distributed to each official and body listed above, and the applicant shall be required to furnish the Planning Board with sufficient copies, plus one reverse line sepia, for such purpose prior to the grant of final approval.

(5) Effect of preliminary major subdivision approval.

- (a) Preliminary approval shall protect the applicant, for a three-year period from the date on which the resolution of the Planning Board preliminary approval is adopted, from changes in the general terms and conditions on which preliminary approval was granted, including but not limited to use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions and off-tract improvements; and any requirements peculiar to such preliminary subdivision plat approval. However, nothing herein shall be construed to prevent the Township from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety. **[Amended 10-21-2003]**
- (b) The applicant may submit for final subdivision approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary major subdivision plan.
- (c) The applicant may apply for and the Planning Board may grant extensions on such preliminary approval for additional periods of at least one year but not to exceed a total extension of two years, provided that if the design standards have been revised by ordinance, such revised standards may govern. In addition, extensions of preliminary approvals of subdivisions of 50 acres or more pursuant to N.J.S.A. 40:55D-49d shall be permitted. **[Amended 10-21-2003]**

F. Applications for final major subdivision approval.

- (1) Installation of improvements completed.
 - (a) No application for final major subdivision approval shall be filed until the applicant shall have installed all on-site and off-site improvements required as a condition of preliminary approval in accordance with this article. Such installation shall have been accomplished under the supervision and inspection of the Township Engineer and a certificate of satisfactory completion filed by the Township Engineer with the Planning Board.
 - (b) The applicant, however, shall be permitted by the Planning Board to post adequate performance guaranties to assure the completion and installation of the improvements as set forth in N.J.S.A. 40:55D-53a(1), or incomplete portions of such improvements, in lieu of the completion of the same prior to applying for and securing final subdivision approval.
[Amended 10-21-2003]
- (2) Filing. Applications for final subdivision approval shall be submitted at any time (subsequent to the complete installation of all improvements as required by § 188-8F of this article) prior to the expiration date of preliminary approval. One original tracing, one translucent cloth copy, two cloth prints and 15 black-and-white prints of the final map shall be filed.
- (3) Decision.
 - (a) The Planning Board shall act upon the application and deny or grant final subdivision approval within 45 days of the submission of a complete application or within such further time as may be consented to by the applicant in writing.
 - (b) Failure of the Planning Board to act within this forty-five-day period shall constitute final approval, and a certificate of the Secretary of the Planning Board as to the failure of the Planning Board to act within the prescribed time shall be issued upon the request of the applicant and shall be sufficient evidence of final approval for any and all purposes, and shall be so accepted by the county recording officer for purposes for filing final major subdivision plats.
 - (c) A public hearing shall not be required on any application for final subdivision approval, except those where there is substantial changes in the plan which was previously granted preliminary approval. In such instances, a new hearing shall be held and all the procedures required for preliminary subdivision approval shall be followed.
 - (d) Whenever review or approval of the application by the County Planning Board is required by N.J.S.A. 40:27-6.3, the Planning Board shall condition any approval that it grants upon timely

receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

(e) The denial or granting of final approval shall be noted on the application and final plat.

(f) Notification and distribution of final plan as approved.

[1] The Planning Board upon the grant of final approval shall notify the following:

[a] Township Clerk.

[b] Township Engineer.

[c] Construction Official.

[d] Tax Assessor.

[e] County Planning Board.

[f] Township Water Department or agency furnishing water to the subdivision.

[g] Township Board of Health.

[h] Township Board of Education.

[2] If the final plat as finally approved has been modified or amended since the date of original distribution to the above officials and bodies, copies of the final form of the final plat shall be distributed to each official and body listed above, and the applicant shall be required to furnish the Planning Board with sufficient copies, plus one reverse line sepia, for such purpose prior to the grant of final approval.

(4) Effect of final major subdivision approval.

(a) Final approval of a major subdivision shall remain in full force and effect for a period of two years from the date on which the the resolution of the Planning Board final approval is adopted, during which time the zoning requirements applicable to the preliminary approval first granted and all other rights conferred as a part of preliminary approval, whether conditional or otherwise, shall not be changed, provided that the final plat is duly filed with the County Clerk within 95 days from the date of signing of the same by the Chairman and Secretary of the Planning Board to indicate final approval has been granted. Provided that the plat has been so filed within said ninety-five-day period, and provided that the subdivider has followed the standards prescribed for final approval, the Planning Board may extend such period or protection for

extensions of one year, but not to exceed three such extensions. Extensions of final approvals of subdivisions pursuant to N.J.S.A. 40:55D-52 and 40:55D-54 shall be permitted. **[Amended 10-21-2003]**

[1] Final approval shall expire 95 days after such signing unless the final plat is so filed with the County Clerk.

[2] The Planning Board for good cause shown may extend the period for filing for an additional period not to exceed 190 days from the date of signing of the plat.

(b) Final subdivision approval shall expire at the end of this two-year period [or two-year period as extended pursuant to § 188-8F(4)(a) of this article] with respect to all unfinished sections, unless within this period all improvements required and covered by the approved plan are substantially completed and building permits have been issued and construction is under way and proceeding without interruption with respect to all building lots forming a part of this subdivision for which a certificate of occupancy has not been yet issued.

(5) Performance and maintenance guaranties.

(a) Performance guaranty. As a condition for final subdivision approval, the Planning Board shall require furnishing of a performance guaranty in favor of the Township in an amount not to exceed 120% of the cost of installation of all improvements or portions thereof not completed as of the date of final approval, as estimated by the Township Engineer, limited, however, to those improvements which are not required by § 188-8A of this article to be completed prior to final approval, for the purpose of assuring the installation of the same.

(b) Maintenance guaranty. As a condition for final subdivision approval, the Planning Board shall require the furnishing of a maintenance guaranty in favor of the Township for a period not to exceed two years after acceptance of the improvements by the Township for those improvements which are to be accepted by and become the property and responsibility of the Township in an amount not to exceed 15% of the cost of the improvements in question, as estimated by the Township Engineer.

(c) All performance and/or maintenance guaranties required by the Planning Board as a condition for final subdivision approval shall be governed by and comply with the provisions and requirements of § 188-10 of this article regarding development plan guaranties.

G. Subdivision plat details and information required.

- (1) Sketch plats for major subdivisions. A sketch plat for a major subdivision submitted pursuant to § 188-8 of this article shall be based on Tax Map information or some other similarly accurate base, at a scale (preferably not less than 100 feet to the inch) to enable the entire tract to be shown on one sheet, and shall show or include the following information and documents:
 - (a) The location of that portion which is to be subdivided in relation to the entire tract.
 - (b) All existing structures and wooded areas within the portion to be subdivided and within 200 feet thereof.
 - (c) The name and address of the owner and of all adjoining property owners as disclosed by the most recent tax records.
 - (d) The Tax Map sheet, block and lot numbers.
 - (e) The general location of existing or proposed roads, easements, rights-of-way, streams, drainage ditches, natural watercourses and public and private wells in and within 200 feet of the proposed subdivision.
 - (f) The proposed lot layout and road pattern lot dimensions and areas of each lot and the areas not proposed as building lots within the subdivision.
 - (g) General information regarding approximate date of start of construction, sections to be first developed and proposed construction schedule for development of entire subdivision.
 - (h) Name and address of land surveyor or professional engineer who prepared plat and date on which prepared or last revised.
 - (i) Such other information as the Planning Board may reasonably request to permit a meaningful review in accordance with the intent and purpose of this article.
- (2) Minor subdivision plats. A minor subdivision plat submitted pursuant to § 188-7 of this article shall be clearly and legibly prepared by a licensed New Jersey professional engineer or licensed New Jersey land surveyor and shall be based on Tax Map information or some other similarly accurate base, at a scale (preferably not less than 50 feet to the inch) to enable the entire tract to be shown on one sheet, and shall show or include the following information and documents:
 - (a) The location of that portion which is to be subdivided in relation to the entire tract.
 - (b) All existing structures and wooded areas within the portion to be subdivided and within 200 feet thereof.

- (c) The name and address of the owner and of all owners of property within 200 feet of the property to be subdivided, as disclosed by the most recent tax records.
 - (d) The Tax Map street, block and lot numbers of their subject property and of all properties within 200 feet of the property being subdivided.
 - (e) The location of existing or proposed roads, easements, rights-of-way, streams, drainage ditches, natural watercourses and public and private wells in and within 200 feet of the proposed subdivision.
 - (f) The lot layout and lot dimensions and area of each lot in the subdivision.
 - (g) Provision for endorsement of approval by the Chairman and Secretary of the Planning Board as required by this article.
 - (h) In cases where there is a question on the adequacy of storm drainage, sewage disposal, water supply and other utility services, the Planning Board may require such additional information as it deems necessary to pass on the adequacy of any such proposals.
 - (i) Details with respect to all improvements required as a condition of approval, including those for which performance guaranties may be required in accordance with § 188-10 of this article, meeting the design standards of § 188-9 of this article.
 - (j) The zone district in which the subdivision in question is located and the zone district or districts of all the immediately adjoining properties.
 - (k) Such other information as the Planning Board may reasonably request to determine that all minor subdivision requirements of this article and any other applicable land use regulations have been satisfied.
- (3) Preliminary major subdivision plats. A preliminary major subdivision plat submitted pursuant to § 188-8 of this article shall be clearly and legibly drawn or reproduced at a scale of not less than one inch equals 100 feet. Preliminary plats shall be drawn by a licensed New Jersey professional engineer or land surveyor. Contour maps and preliminary construction plan including road grades and profiles and utility plans shall be submitted as part of the preliminary plat. Separate maps may be required by the Board for topography, utilities and road details. A soil erosion and sedimentation control plan and environmental impact statement may be included if the Planning Board deems such information necessary. Such plats shall include the following:

- (a) Lots. Lot layout, lot dimensions and individual lot areas in square feet or acres.
- (b) Other contents. The tract (subdivision) name, Tax Map sheet and date or revision date thereof, tax block and lot numbers, date of plat preparation, reference meridian, graphic scale and the following names and addresses:
 - [1] Record owner or owners of property to be subdivided; if other than an individual, the corporate officers or partners of other statutory agent.
 - [2] Subdivider.
 - [3] Person who prepared map, official seal, signature and license numbers and telephone numbers.
 - [4] Owners of property within 200 feet of entire tract.
- (c) Acreage. Acreage of tract to be subdivided to nearest hundredth of an acre.
- (d) Elevations; contours. Sufficient elevations and contours at five-foot vertical intervals for slopes averaging 10% or greater and at two-foot vertical intervals for land of lesser slope to determine the general slope and natural drainage of the land and the high and low points. All contour lines shall be referenced to New Jersey Geodetic Survey Datum.
- (e) Existing and proposed locations. The location of existing and proposed property lines, streets, buildings, watercourses, railroads, bridges, culverts, drainpipes and any natural features such as wooded areas, large trees over 10 inches in diameter and rock formations. This data shall be determined by field or photogrammetric survey,
- (f) Streets. Plans and profiles shall be at a scale of one inch equals 40 feet, including cross sections every 50 feet of all proposed streets, sidewalks and curbs and gutters within the subdivision and proposed connection with existing or future continuing streets. The chord bearings, distances, arc lengths and radii of all curves along all street lines shall be shown to standard surveying accuracy for a filed map. A plan of traffic circulation shall be included.
- (g) Utilities. Plans and profiles of proposed utility layouts at a scale not smaller than one inch equals 40 feet (water, gas, storm and sanitary sewers, telephone and electricity), showing connections to existing or proposed utility systems on a separate utility sheet.
 - [1] Electric and telephone utilities. For all major subdivisions, the applicant shall arrange with the serving utility

(electric, telephone and cable television) for the installation of the utilities' distribution supply lines, appurtenant equipment and service connections in accordance with the provisions of the applicable standard terms and conditions incorporated as a part of its tariff as the same are then on file with the State of New Jersey Board of Regulatory Commissioners and shall submit to the Planning Board prior to the granting of preliminary approval a written instrument from each serving utility which shall evidence full compliance with the provisions of this subsection; provided, however, that lots of such subdivisions which abut existing streets, where overhead electric or telephone or cable television distribution supply lines have theretofore been installed on any portion of the streets involved, may be supplied with electric and telephone and cable television service from such overhead lines or extensions thereof, but the service connections from the utilities' overhead lines shall be installed underground if so required by the Planning Board. The location of access facilities for servicing the utility in the proposed subdivision shall be developed in conjunction with and as part of the complete subdivision plan. The Planning Board shall be empowered to mandate underground installation of utilities. **[Amended 10-21-2003]**

[2] Rights-of-way. Wherever the utility is not installed in the public right-of-way, an appropriate utility easement not less than 20 feet in width shall be provided.

- (h) Sewers, drains and ditches. Plans and profiles at a scale of one inch equals 40 feet of all proposed and existing sanitary sewers, storm drains, drainage ditches and streams within the subdivision, together with the locations, sizes, elevations, grades and capacities of any existing sanitary sewer, storm drain, drainage ditch or stream or watercourse to which the proposed facility shall be connected. When brook or stream channel improvements are proposed or required, the plans for such improvement shall be approved by the State Department of Environmental Protection and Energy and the Union County Planning Board, where applicable. A map showing the entire drainage area and the drainage area contributing to each pertinent drainage structure along with drainage tabulation sheets showing calculations for each drainage area. Each drainage area shall be marked for identification purposes.
- (i) Off-site improvements. When the development of the subdivision or improvements within the subdivision are contingent upon improvements outside the boundaries of said subdivision, information shall be supplied by the subdivider to

the Planning Board prior to consideration for preliminary approval that the improvements outside the subdivision are installed and/or will be available to the subdivider.

- (j) Setback lines. All required front, rear and side yard lines shall be shown for all lots.
- (k) Deed restrictions. A copy of any protective covenants or deed restrictions applying to the land being subdivided shall be submitted with the preliminary plat.
- (l) Open space. Any open spaces proposed to be dedicated for public use or playgrounds or other public purpose and the location and use of all such property shall be shown on the plat.
- (m) Support capability. When deemed necessary to determine the suitability of the soil to support new construction, the Planning Board shall require test holes or borings to be made by a New Jersey licensed engineer or an approved testing laboratory at the expense of the subdivider under the direction of the Township Engineer.
- (n) Existing buildings and structures.
 - [1] The plans shall show all existing buildings and structures and indicate whether they are to remain or be demolished.
 - [2] Existing utilities. Where there is any existing structure or dwelling upon the land to be subdivided, the location of any sewer, water or drainage pipes and the locations of any septic facilities serving said existing structure or dwelling shall be indicated on the plat.
- (o) Screening; buffer areas. All proposed buffer areas and screening devices and plantings shall be shown.
- (p) Soil erosion and sedimentation control plan in accordance with the provisions of § 188-9 of this article.
- (q) Signature spaces. An appropriate place for the signatures of the Chairman and Secretary of the Planning Board and Township Engineer for purposes of indicating approval.
- (r) Zone district. The zone district in which the subdivision in question is located and the zone district or districts of all immediately adjoining properties shall be shown.
- (s) Such other information as the Planning Board may reasonably request to determine that all preliminary major subdivision requirements of this article and any other applicable land use regulations have been satisfied.

(4) Final major subdivision plats. A final major subdivision plat submitted pursuant to § 188-8F of this article shall be clearly and legibly drawn at a scale of not less than one inch equals 100 feet and in compliance with all the provisions of the Map Filing Law (N.J.S.A. 46:23-9.9 et seq.). Final plats shall be drawn by a licensed New Jersey professional engineer or land surveyor and shall generally meet and comply with the requirements for a preliminary major subdivision plat as specified in the above. The final plat shall also show or be accompanied by the following:

(a) Identification. Date, name and key map of the subdivision, name of owner, graphic scale and reference meridian.

(b) Other contents.

[1] Tract boundary lines; exterior lines or streets, easements and other rights-of-way; street names; land reserved or dedicated to public use; all lot lines and other site lines with accurate dimensions, bearing or deflection angles and radii; arcs and central angles of all curves based on an actual survey by professional engineer and/or land surveyor licensed to practice in the State of New Jersey. All dimensions of the exterior boundaries of the subdivision shall be balanced and closed to a precision of one to 10,000 and the dimensions of all lot lines to within one to 20,000. All dimensions, angles and bearings must be tied to at least two permanent monuments not less than 300 feet apart, and all information shall be indicated on the plat.

[2] The names of all property owners within 200 feet as disclosed by the most recent municipal tax records.

[3] All municipal boundary lines crossing or adjacent to the territory intended to be shown shall be shown and designated.

[4] All natural and artificial watercourses, streams, and water boundaries and encroachment lines, floodway lines, flood hazard lines and all easements shall be shown.

(c) Public use. The purpose of any easement or land reserved or dedicated for public use shall be indicated, and the proposed use of sites other than residential shall be noted.

(d) Block and lots. All block, lot and house numbers shall be approved by the Township Engineer and the Tax Assessor and shall be related to existing block and lot numbers as shown on the Official Tax Map of the Township.

(e) Setback lines. Minimum building setback lines on all lots shall be shown.

- (f) Approval. When approval of a plat is required by an officer or body whether municipal, county or state, approval shall be certified on the plat.
- (g) Owner's consent and certification as required by the Map Filing Law.¹¹
- (h) Certification of the engineer or land surveyor preparing the final plat as required by the Map Filing Law.
- (i) All other certifications required by the Map Filing Law.
- (j) Provision for endorsement of approval by the Chairman and Secretary of the Planning Board as required by this article.
- (k) Grading plan. A grading plan showing existing and final contours at five-foot intervals for slopes averaging 10% or greater and at two-foot intervals for land of lesser slope shall be furnished showing how each lot is to be developed.
- (l) Performance and maintenance guaranties. Cash and performance bond guaranties and maintenance bond guaranties in accordance with the requirements of § 188-10 of this article, accompanied or preceded by the following in support thereof:
 - [1] Letter from Township Engineer. A written statement from the Township Engineer:
 - [a] Indicating that the Engineer is in receipt of a map (as-built plans) showing all utilities and improvements in exact location and elevation identifying those portions already installed and those to be installed.
 - [b] That all improvements required by the Planning Board in connection with this subdivision which must be installed prior to final approval have been installed and completed in accordance with the requirements of this article and all other applicable Township ordinances to the satisfaction of the Township Engineer.
 - [c] Listing all items which are not yet completed, setting forth his estimate of the cost to complete each such item, as well as the total cost thereof, and also stating the plans and specifications for the completion of such improvements covered by the performance guaranties meet all applicable Township ordinances.
 - [d] Indicating the final plat conforms to the preliminary plat as submitted and approved and that all the terms

11. Editor's Note: See N.J.S.A. 46:23-9.9 et seq.

and conditions of preliminary approval have been met insofar as the same apply to engineering considerations and the form of the final plat.

[2] Letter from Building Department specifying total amount of all fees paid as part of application for final approval, including, where applicable, construction inspections (by Township Engineer) and costs.

[3] Cash deposit agreement and performance and maintenance bonds. A copy of the cash deposit agreement and the performance and maintenance bonds duly executed by the subdivider (and surety) in accordance with the requirements of said § 188-10 of this article, containing endorsements thereon by the Township Attorney and Township Committee approving the same as to form (and surety).

(m) Deeds for easements and improvements. Deeds, free and clear of all mortgages and encumbrances, for:

[1] Any drainage easement, sanitary sewer easement or utility easement or facility which is required to be provided and which lies outside of the boundaries of the subdivision tract; and

[2] For all streets, roads, sidewalks, easements, utilities, facilities and improvements which are within the subdivision tract and which are to be deeded to the Township or other public agency as a part of final approval, limited, however, to all such streets, utilities, facilities and improvements which have been completed as of date of final approval and accepted by the Township.

H. Certificate of subdivision approval. The Township Clerk upon receipt of an application, in writing, containing a diagram showing the location and dimension of the land in question and the name of the owner shall issue to a prospective purchaser or mortgagee, or any other person interested in any land which forms part of a subdivision approved pursuant to ordinance or which formed part of such a subdivision three years preceding the effective date of this article, a certificate certifying whether or not such subdivision has been approved by the Planning Board. Said certificate shall be issued within 15 days after the receipt of such written application and the payment of fees therefor. The Township Clerk shall keep a duplicate copy of each certificate consecutively numbered, including a statement of the fee charged in a binder as a permanent record at his office. Each certificate shall be designated a certificate as to approval of subdivision of land and shall certify:

- (1) Whether there exists in said Township a duly established Planning Board and whether there is an ordinance controlling subdivision of land adopted under the authority of N.J.S.A. 40:55D-1 et seq..
- (2) Whether the subdivision, as it relates to the land shown in said application, has been approved by the Planning Board and, if so, the date of such approval and any extensions and terms thereof, showing that subdivisions of which the lands are a part is a validly existing subdivision.
- (3) Whether such subdivision, if the same has not been approved, is statutorily exempt from the requirement of approval as provided in N.J.S.A. 40:55D-1 et seq.¹²

§ 188-9. Improvements and design standards.

The subdivider shall regard the following requirements and principles of subdivision in the design of each subdivision or portion thereof. Prior to the granting of final approval, the subdivider shall have furnished performance guaranties for the ultimate installation or protection of the following items. The subdivision shall conform to the proposals and conditions shown on the adopted Official Map, if any, and the Master Plan of the Township.

A. Streets and highways.

- (1) Subdivisions shall be served by paved public streets, and all new streets shall be paved in accordance with the details delineated on the preliminary plat.
- (2) The arrangements of new streets constructed or to be constructed in subdivisions shall be such as to provide for the continuous extension of existing, mapped or potential streets.
- (3) No subdivision showing reserve strips controlling access to another area or street, either developed or undeveloped, shall be approved except where the control and disposal of land comprising such strips has been given to the Township Committee under conditions approved by the Planning Board.
- (4) Subdivisions that adjoin or include existing streets that do not conform to widths as shown on the adopted Master Plan or Official Map, if any, or the street width requirements of this article shall dedicate additional width along one or both sides of such road. If the subdivision is along one side only, one-half (1/2) of the required extra width shall be dedicated.
- (5) The right-of-way width shall be measured from lot line to lot line. Right-of-way width and pavement shall not be less than the following:

12. Editor's Note: Former Sec. 21-7, entitled "Submission of final plat," which immediately followed this section, was deleted 10-21-2003.

	Right-of-way (feet)	Pavement Width (feet)
Arterial streets	80	60
Collector streets	60	44
Local streets	50	36

- (6) The right-of-way width for internal roads or alleys in multifamily, commercial and industrial development shall be determined on an individual basis and shall in all cases be of sufficient width and design to safely and conveniently accommodate the maximum traffic, parking and loading needs for the type of traffic encouraged by its existence as well as the necessary space for fire-fighting equipment.
- (7) The paving width of streets and the quality of surfacing and base material shall adhere to the minimum standards set forth by the Township Engineer and county or state engineers when such paving concerns roads under their jurisdiction and where such standards exist. Roads specifically serving industrial areas shall adhere to Township standards designed for the development of industrial uses and shall be sufficient to handle voluminous traffic and heavy trucking.
- (8) Street intersections shall be as nearly at right angles as is possible and in no case shall be less than 60°. No more than two streets shall meet or intersect at any one point, and the center lines of both intersection streets shall pass through a common point. Measuring from this common point, two intersections shall be spaced at a minimum of 125 feet. The block corners at intersections shall be rounded at the curblines with a curve having a radius of not less than 15 feet. No shrubbery, signs, trees, monuments or other visual obstruction to signs or line of sight over three feet in height shall be permitted along or within the street right-of-way line within 25 feet of any intersection.
- (9) Where arterial or collector streets have a reverse curve, a tangent of at least 100 feet in length shall be required.
- (10) Grades on arterial and collector streets shall not exceed 4%. Grades on other streets shall not exceed 10%. No street shall have a minimum grade of less than one-half of one percent (1/2 of 1%).
- (11) All changes in grade where the algebraic difference in grade is 1% or greater shall be connected by parabolic vertical curves of sufficient radius to provide a smooth transition and proper sight distance but not so great as to create drainage problems. Sight distance shall be at least:
 - (a) Eight hundred feet for arterial highways.

- (b) Five hundred feet for collector streets.
 - (c) Three hundred fifty feet for local streets.
- (12) When connecting street lines deflect from each other at any one point by more than 10° and not more than 45°, they shall be connected by a curve with a radius of not less than 100 feet for minor streets and 300 feet for arterial and collector streets.
- (13) The use of a cul-de-sac street shall be discouraged. When they are deemed necessary by the Planning Board, they shall be located so that they drain towards their entrances and shall be no longer than 600 feet. They shall provide a turnaround at the end, and the minimum right-of-way at the turnaround shall be a radius of at least 50 feet and tangent whenever practicable to the right side of the street. If a dead-end street or cul-de-sac is of a temporary nature, a similar turnaround shall be provided and provisions made for future extension of the street and reversion of the excess right-of-way to the adjoining properties.
- (14) All driveways or other off-street parking areas shall have driveway aprons extending from the curblines to the front property lines. The driveway aprons shall be at least 14 feet wide at the curb and a minimum of 10 feet at the property line. Continuous open driveways in excess of 21 feet resulting in the elimination of curbing along Township streets shall be prohibited unless otherwise approved.
- (15) No street shall have a name which will duplicate or so nearly duplicate the name of an existing street that confusion results. The continuation of an existing street shall have the same name. Curvilinear streets shall change their names only at street intersections or in accordance with § 188-9B.
- (16) The length, width or acreage of blocks shall be determined with due regard to the limitations and opportunities of topography and shall be such as to be sufficient to meet all the area, yard and parking requirements for such particular use as expressed in Article II, Zoning, of this chapter as well as providing for convenient access, circulation control and safety of street traffic.
- (17) Lot dimensions and area shall not be less than the requirements of Article II, Zoning, of this chapter unless a variance or exception therefrom is obtained from the Zoning Board of Adjustment. Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
- (18) All new streets shall have a minimum width of 50 feet.
- (19) For commercial, group housing or industrial use, block size shall be sufficient to meet all area and yard requirements for such use.

- (20) Where extra width has been dedicated for the widening of existing streets, the lots shall begin at such new right-of-way line and all setbacks shall be measured from such new line.
- (21) Where there is a question as to the suitability of lots for their intended use due to factors such as rock formations, topography, flood conditions or any conditions which may affect health, welfare and safety or similar circumstances, the Planning Board may after adequate investigation withhold favorable approval of such lots. Where the property to be subdivided is next to or includes a railroad right-of-way, suitable provisions shall be made for such things as railroad crossings, fencing, screening or buffers, freight access, warning signals and signs in recognition of the relationship between the railroad and the subdivision.

B. Street name signs.

- (1) Street name signs meeting Township specifications as to size, material and location shall be installed at the intersection of all streets as noted below:
 - (a) At street intersections.
 - (b) When two roads intersecting at right angles are connected by a curve.
 - (c) At the peak of the curve connecting two parallel streets when the length of the streets exceeds length of a loop.
- (2) Street name signs shall be approved by the Township engineer for the purpose of rendering the same reasonably legible and durable and of providing uniformity with existing street signs.
- (3) Where traffic control signs are deemed necessary by the Planning Board for county or state highways, the proper Township, county or state official shall be informed of the proposed installation in order that the proper agency may consider the necessity of the installation and the nature of the installation.
- (4) All street name and traffic control signs shall be installed free of any obstruction.

C. Curbs and gutters.

- (1) Curbs shall be constructed of either concrete or granite block. Concrete shall be not less than 20 inches in depth, not less than 10 inches in width at the base and not less than seven inches in width across the top.
- (2) The minimum standards in regard to width of gutters, base material, slope and the installation of catch basins shall be according to the requirements of § 188-9H and the specifications of

the Township approved by the Township Engineer or, in the case of county or state highways, the proper county or state official.

D. Sidewalks.

- (1) Sidewalks shall be provided along all streets in residential and commercial areas and shall be not less than five inches thick and at least four feet wide, constructed of concrete having a minimum twenty-eight-day strength 3,000 pounds per square inch and to be air-entrained, and concrete shall be cured by accepted methods, except that a sidewalk forming part of a driveway apron shall be six inches thick at a grade with abutting sidewalks and of the same construction materials as abutting sidewalks.
- (2) All sidewalks shall be located a minimum of one foot within the street right-of-way.
- (3) All sidewalks shall have a slope of one-fourth (1/4) inch per foot toward pavement.

E. Shade trees and planting strips.

- (1) Shade trees shall be provided in all major residential subdivisions and subdivisions of other kinds where deemed appropriate by the Planning Board. Trees shall be planted within the subdivision along each side of the street at distances of not greater than 65 feet apart so as not to interfere with street paving, sidewalks or utilities with graded and seeded or sodded planting strips within street rights-of-way and according to any standards adopted by the Township Committee or Township Shade Tree Commission. In no event shall there be less than one tree per lot.
- (2) All trees should be of nursery stock grown under the same climatic conditions as at the location of the development. They shall be of symmetrical growth, free of insect pests and disease, suitable for street use, durable under the maintenance contemplated and approved by the Township Shade Tree Commission.

F. Topsoil protection. No topsoil shall be removed from areas intended for lawn or open space. Topsoil moved during the course of construction shall be redistributed within the subdivision so as to provide at least six inches of cover to all areas of the subdivision and shall be stabilized by seeding or planting.

G. Monuments. Monuments shall be of the size and shape required by N.J.S.A. 46:23-9.11 and the amendments and supplements thereto and shall be placed in accordance with the statute.

H. Drainage system.

- (1) The drainage system shall have adequate drainage structures to carry off and store or discharge the stormwater runoff and natural drainage water which originates not only within the property

boundaries but also that which originates beyond the property boundaries.

- (2) No stormwater runoff or natural drainage water shall be so diverted as to overload existing drainage systems or create flooding or the need for additional drainage structures on other private properties or public lands without proper and approved provisions being made for taking care of these conditions.
 - (3) An existing ditch or brook right-of-way or the right-of-way of a relocated ditch or brook shall be offered for dedication to the Township for drainage purposes. Such right-of-way shall be shown on the drainage plan and on the final plat and shall be of sufficient width to include a ten-foot access strip in addition to the width of the ditch or brook as measured from bank top to bank top.
 - (4) Drainage structures which are located on state or county highway rights-of-way shall be approved by the state or county highway departments, and a letter from the office indicating such approval shall be directed to the Chairman of the Planning Board and shall be received prior to favorably referring the final plat.
 - (5) Land subject to periodic or occasional flooding shall not be plotted for residential occupancy nor for any other use which may endanger life or property or aggravate the flood hazard. Such land within a plat shall be considered for park purposes. However, nothing in this article shall be construed to prevent a developer from adequately filling the land.
- I. Public utilities. In large scale developments, easements along any property lines or elsewhere for utility installation may be required. Such easements shall be at least 15 feet wide and located in consultation with the companies and Township departments concerned. All water mains, fire hydrants, gas mains, storm sewers and sanitary sewers shall be connected with an approved system and installed in accordance with the specifications of the Township authority or utility company which has jurisdiction in the area and shall be adequate to handle all present and probable future development. Fire hydrants shall be located in such locations as are indicated and approved by the Chief of the Fire Department.
 - J. Natural features. Natural features such as trees, views and natural terrain shall be preserved whenever possible in designing any subdivision containing such features. On individual lots or parcels, care shall be taken to preserve selected trees to enhance the landscape treatment of the development.
 - K. Land use. Proposed land uses shall conform to Article II, Zoning, of this chapter, the Master Plan, the Official Map and the provisions of this article. Subdivision designs shall be related in a compatible fashion to adjacent land uses indicating the location of buffer zones, where

deemed necessary by the Board, and the design and relationship of vehicular and pedestrian traffic.

§ 188-10. Performance guaranty and inspections.

- A. Performance guaranty estimates. A performance guaranty estimate shall be prepared by the Township Engineer, setting forth all requirements, as fixed by the Planning Board, and the estimated cost of providing the same.
- B. Approval by Board Attorney. The subdivider shall present two copies of the performance guaranty in an amount equal to the amount of the approved performance guaranty estimate for approval as to form and sufficiency by the Planning Board attorney.
- C. Amount of performance guaranty. The performance guaranty shall be in the amount of the approved performance guaranty estimate. The subdivider shall be the principal on the performance bond and the Township shall be the beneficiary. The performance bond shall be issued by an acceptable surety company authorized to do business in the State of New Jersey. Cash may be deposited with the Township, with payment to the Township Treasurer. The Township Treasurer shall issue his receipt for such cash deposits and shall cause the same to be deposited in a bank account in the name of the Township, such sum to be retained as security for completion of all requirements and to be returned to the subdivider on completion and approval of all required work. In the event of default on the part of the subdivider, the sum is to be used by the Township to pay the cost and expense of obtaining completion of all the requirements. Every guaranty, whether cash or surety, shall contain a clause to the effect that a determination by the Township Engineer that the principal has defaulted in the performance of his obligation shall be binding and conclusive upon the surety and the principal.
- D. Bond or cash deposit required. In addition to the performance guaranty, or the cash deposit referred to in § 188-10C, the subdivider shall deposit with the Township either a bond or cash upon such terms as hereinabove set forth in § 188-10C in an amount equal to 10% of the amount of the approved performance guaranty estimate. The bond or cash shall remain on deposit with the Township for a period of one year, after the Township Engineer has certified the performance of the work to be performed under the performance guaranty. In the event of default, the ten-percent fund herein mentioned shall be first applied to the completion of the requirements and the cash or surety bond thereafter shall be resorted to, if necessary, for the completion of the requirements. The cash or surety bond may recite the foregoing provision. The Engineer's determination that the principal has defaulted in his obligation shall be binding and conclusive upon the principal.

- E. Execution of performance guaranty. The Planning Board Attorney shall notify the Secretary of the Planning Board prior to the Planning Board meeting that the performance guaranty is properly executed and can be added to the agenda.
- F. Inspection by Township Engineer. All improvements shall be inspected during the time of their installations under the supervision of the Township Engineer to ensure satisfactory completion. The Township Engineer shall be notified by the developer at least 24 hours prior to the start of construction. Said subdivider shall pay to the Township of Hillside a sum of money to cover the cost of inspection fees made by the Township Engineer. The sum to be paid to the Township shall be fixed and determined by the Planning Board. The Planning Board in determining the amount of said fees shall arrive at a reasonable dollar figure which is representative of the time, labor, responsibility and novelty or difficulty inherent in each of the different respective functions performed by the Township Engineer. **[Amended 2-3-1976 by Ord. No. G-88-76]**
- G. The time allowed for installation of the improvements for which the performance guaranty has been provided may be extended by the Township Committee by resolution. If the required improvements are not completed or corrected in accordance with the performance guaranty, the obligor and surety, if any, shall be liable thereon to the Township for the reasonable cost of the improvements not completed or corrected and the municipality may either prior to or after the receipt of the proceeds thereof complete such improvements. Upon substantial completion of all required appurtenant utility improvements and the connection of the same to the public system, the obligor may notify the Township Committee in writing, by certified mail addressed in care of the Township Clerk, of the completion or substantial completion of improvements and shall send a copy thereof to the Township Engineer. Thereupon the Township Engineer shall inspect all improvements of which such notice has been given and shall file a detailed report, in writing, with the Township Committee, indicating either approval, partial approval or rejection of such improvements with a statement of reasons for any rejection. The cost of the improvements as approved or rejected shall be set forth. The Township Committee shall either approve, partially approve or reject the improvements on the basis of the report of the Township Engineer and shall notify the obligor in writing, by certified mail, of the contents of said report and the action of said approving authority with relation thereto not later than 65 days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from all liability pursuant to its performance guaranty, except for that portion adequately sufficient to secure provision of the improvements not yet approved, provided that 30% of the amount of the performance guaranty posted may be retained to ensure completion of all improvements. Failure of the Township Committee to send or provide such notification to the obligor within 65 days shall be deemed

to constitute approval of the improvements, and the obligor and surety, if any, shall be released from all liability pursuant to such performance guaranty for such improvements. If any portion of the required improvements are rejected, the approving authority may require the obligor to complete such improvements and, upon completion, the same procedure of notification as set forth in this section shall be followed. Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the Township Committee or the Township Engineer. The obligor shall reimburse the municipality for all reasonable inspection fees paid to the Township Engineer for the foregoing inspection of improvements, provided that the Township may require of the developer a deposit for all or a portion of the reasonably anticipated fees to be paid to the Township Engineer for such inspection. In the event that final approval is by stages or sections of development pursuant to N.J.S.A. 40:55D-38, the provisions of this section shall be applied by stage or section. **[Amended 2-19-1980 by Ord. No. G-176-80]**

- H. Township not liable for claims or suits. Inspection by the Township of the installation of improvements by the subdivider shall not operate to subject the Township to liability for claims or suits or liability of any kind that may at any time arise because of defects or negligence during construction or at any time thereafter, it being recognized that the responsibility to maintain safe conditions at all times during construction and to provide improvements is upon the subdivider and his contractors, if any.
- I. Final inspection of work; recommendations. After completing the construction of the public improvements covered by the performance guaranty, the subdivider shall prepare a set of as-built plans and apply to the Township Engineer for final inspection of the work. The Township Engineer shall report to the Township Committee on the condition of the work and recommend that the performance guaranty be released, extended or declared in default.
- J. Disposition of performance guaranty. The Township Committee shall by resolution release or declare in default each performance guaranty. Such performance guaranty shall run for a period to be fixed by the Township Committee but in no case for a term of more than three years. However, on the request of the owner and accompanying consent of the surety, if there be one, the Township Committee may by resolution extend the term of such performance guaranty for an additional period not to exceed three years. The amount of the performance guaranty may be reduced by the Township Committee by resolution when portions of the required improvements have been installed and have been inspected and approved by the Township Engineer. If any improvements have not been installed in accordance with the performance guaranty, 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. The Township shall also have all other remedies as may be lawfully available.

- K. Interpretation. This section shall in no way be construed so as to prevent the Township Planning Board from requiring performance and completion thereof in lieu of permitting the subdivider to deposit a performance guaranty.

§ 188-11. General liability insurance.

The subdivider shall file with the Township Committee a general liability insurance policy at the same time as he files his performance guaranty covering all operations in the development, including contractual liability with limits of not less than \$100,000 for bodily injury to each person and \$300,000 liability on the aggregate, for each accident, and property liability of \$50,000 dollars for each accident and \$100,000 aggregate property damage liability. The Planning Board shall approve the policy for form and execution. The policy shall be of the same term as the performance guaranty and shall be extended in conformance with any extension of the performance guaranty. The policy shall name the Township as an assured and provide that the Township may nevertheless assert claims against the other assured, and such policy is to be issued by an insurance company authorized to do business in the State of New Jersey.

§ 188-12. Violations and penalties.

- A. Maximum penalty. If, before final approval or exception has 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, by ordinance, the Planning Board is required to act, such person shall be subject to the penalties as provided in N.J.S.A. 40:55D-55, and each parcel, plot or lot so transferred, sold or agreed to be sold shall be deemed a separate violation. **[Amended 10-21-2003]**
- B. Civil action by Township.
- (1) In addition to the foregoing, if the streets in the subdivision are not such that a structure on such land in the subdivision would meet the requirements for a building permit under N.J.S.A. 40:55D-35, and the amendments and supplements thereto, 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. 40:55D-56 and the amendments and supplements thereto.
 - (2) In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land from which the subdivision was made that remains in the possession of the owner

or his assigns or successors, to 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 years after the date of the recording of the instrument of transfer, sale or conveyance of the land, or within six years if unrecorded.

**§ 188-13. Issuance of building permit and certificate of occupancy.
[Added 5-31-1977 by Ord. No. G-112-77]**

- A. No building permit for any lot in a subdivision or for any development plan involving the construction, reconstruction, structural relocation or enlargement of any building or other structure requiring site plan review and approval pursuant to §§ 188-7, 188-8 and 188-37 of this chapter shall be issued by the Township Construction Official until final subdivision or site plan approval (as the case may be) has been granted pursuant to this article.
- B. Whenever a building permit has been issued after final approval of a development plan, no certificate of occupancy shall be issued for the subject property until all improvement shown upon the development plans have been installed in accordance with the plans therefor. The Township Engineer shall submit to the Planning Board and to the Construction Official a written report with respect to streets, sidewalks, internal roadway, curbing and off-street parking, landscaping, stormwater disposal, sanitary sewage disposal and all other utilities and outdoor lighting when such improvements have been installed in accordance with the plans therefor. The Construction Official shall submit a written report to the Planning Board when all other improvements have been installed in accordance with the plans therefor. No certificate of occupancy shall be issued for a period of 10 days after the Planning Board has received the foregoing report. In the event that the Chairman or Secretary of the Planning Board shall, within such period of 10 days, notify the Construction Official that any improvement has, in the opinion of the Board, not been installed in accordance with the development plan, the Construction Official shall not issue a certificate of occupancy until the Planning Board authorized its issuance.
- C. Whenever a building permit has been issued for a lot in a subdivision after final subdivision approval, no certificate of occupancy shall be issued until all improvements or all improvements for the section of the subdivision (if approval has been secured in sections) in which the lot in question is located have been installed in accordance with the approved plan therefor to the satisfaction of the Township Engineer; provided, however, that monuments, shade trees, buffer and screening plantings and fencing, sidewalks and street signs, traffic control signs and devices requiring state and/or county approval need not be completed to secure a certificate of occupancy if the performance and maintenance guaranties with respect to such improvements remain in

full force and effect and the time for completing such improvements under the terms of such guaranties has not yet expired. The finished or top course of the road must, however, be complete to secure a certificate of occupancy. Whenever final approval is obtained for a section of a subdivision then all of the improvements for the section shall be completed in all respects and inspected and approved by the Township Engineer before any certificate of use and occupancy shall be issued for any building on any lot in any succeeding section of the subdivision.

- D. Failure to comply with any of the conditions of site plan or subdivision approval subsequent to the receipt of a building permit or certificate of occupancy, as the case may be, shall be construed to be a violation of this article and shall be grounds for the revocation of any such building permit or certificate of occupancy. Written notice of revocation, sent by certified mail, by the Construction Official, requiring compliance with the conditions of site plan or subdivision approval within a period of time of not less than five days shall effectively revoke any building permit or certificate of occupancy, as the case may be, if compliance shall not be made within the time limit set.

§ 188-14. Conditional use permit; simultaneous review. [Added 5-31-1977 by Ord. No. G-112-77]

- A. Applications for a conditional use permit pursuant to N.J.S.A. 40:55D-67 and controlling sections of Article II, Zoning, of this chapter and this article shall be granted or denied within 95 days of submission of a complete application by the applicant or within such further time as may be consented to by the applicant.
- B. The time period for action by the Planning Board on conditional uses shall govern the accompanying site plan review if any. The granting of a conditional use permit in conjunction with preliminary site plan approval shall grant to the applicant the rights applicable to preliminary site plans as contained in § 188-37F of this chapter and in the Municipal Land Use Law.¹³
- C. The Planning Board shall have the power to review and approve or deny conditional uses or site plans simultaneously with review for subdivision approval without the developer being required to make further application to the Planning Board or the Planning Board being required to hold further hearings. The longest time period for action by the Planning Board, whether it be for subdivision, conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the developer pursuant to this section, notice of the hearing on the plat shall include reference to the request for such conditional use.

§ 188-15. Fees. [Added 5-31-1977 by Ord. No. G-112-77]

13. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

- A. Subdivision and site plan fees are to provide for the administrative, clerical and professional services, costs of processing, including but not limited to engineering, planning consultant and the attorney's fees, reviewing, holding public hearings on and acting upon all developmental plan applications including engineering costs incurred in the inspection of improvements during construction and for the cost of plotting subdivisions on the base maps of the Township and recording the establishments of new lots or new lot lines in all appropriate offices.
- B. All Township expenses to be paid by the applicant. In the event that the Township incurs direct out-of-pocket costs and expenses in the course of regulating a development plan pursuant to this article and the Municipal Land Use Law which are not covered by the specific fees provided for herein, the Planning Board, Board of Adjustment or Township Committee, as the case may be, shall before taking final action (whether preliminary or final approval is requested) upon the pending application, require that the applicant pay over to the Township whatever additional sums are required to reimburse the Township in full for all such out-of-pocket costs and expenses and expenses not so covered, except to the extent that such reimbursement may be prohibited by said Municipal Land Use Law.¹⁴
- C. Payable to Township Clerk; when payable.
- (1) Except as otherwise specifically provided herein, all fees required by this section shall be payable to the Township Clerk at the time of filing any application for site plan or subdivision approval. All fees shall be paid by check payable to the Township of Hillside, which check for all fees in excess of \$250 shall be in the form of a certified or bank cashiers' check.
- (2) All permits, determinations, resolutions or certificates of approval are subject to the payment of all fees provided for in this article, and no approvals shall be given by the Planning Board or Board of Adjustment until proof has been submitted to them that the requisite fees have in fact been paid to the Township Clerk.
- D. Site plan review fees. Site plan review fees shall be as follows:
[Amended 5-4-1982 by Ord. No. G-214-82]
- (1) Application for preliminary site plan approval pursuant to § 188-37 of this article.
- (a) Two hundred dollars for residential property, \$250 for commercial property and \$300 for industrial property for each acre of lot area or fraction thereof, plus \$50 for the first 1,000 square feet of floor area of any new building or alteration or addition to an existing building on the subject property, plus \$10 for each 1,000 square feet or fraction thereof of floor area over 1,000 square feet.

14. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

- (b) If the application for site plan approval is for apartment houses or multifamily dwellings, the application fee shall be \$10 per apartment unit or the amount specified by § 188-15D(1)(a) immediately above, whichever is greater.
 - (c) No site plan fee for preliminary approval shall be less than \$200 for residential property, \$250 for commercial property and \$300 for industrial property.
 - (d) In addition to the application fees specified in § 188-15D(1)(a), (b) and (c) immediately above, prior to the commencement of construction of any on-site or off-site improvements required as a condition of preliminary approval which the applicant is required or elects to install prior to applying for and securing final site plan approval, the applicant shall pay a fee equal to 5% of the Township Engineer's estimate of the total cost of the improvements to be so constructed and installed to cover the cost of inspection by the Township Engineer of all such construction.
- (2) Application for final site plan approval.
- (a) Fifty percent of the application fee required for the preliminary site plan application on the subject property; provided, however, that no site plan fee for final approval shall be less than \$200 for residential property, \$250 for commercial property and \$300 for industrial property.
 - (b) In addition to the application fee specified in § 188-15D(2)(a) immediately above, a fee equal to 5% of the Township Engineer's estimate of the total cost of completion of all improvements (on-site and off-site) required as a condition of approval and not completed or installed at the time of application for final site plan approval shall be paid by the applicant to cover the cost of inspection by the Township Engineer of all such improvements remaining to be completed or installed.
- E. Subdivision review fees. Subdivision review fees shall be as follows:
[Amended 5-4-1982 by Ord. No. G-214-82]
- (1) Application for minor subdivision approval.
 - (a) Two hundred dollars for residential property, \$250 for commercial property and \$300 for industrial property, plus an additional fee of \$15 for each lot in the proposed subdivision.
 - (b) In the event that improvements are required as a condition of approval, in addition to the fee specified in § 188-15E(1)(a) immediately above, a fee equal to 5% of the Township Engineer's estimate of the total cost of such improvements

shall be paid by the applicant to cover the cost of inspection by the Township Engineer of all such improvements.

- (2) Application for sketch plan review of a major subdivision. Two hundred dollars for residential property, \$250 for commercial property and \$300 for industrial property or \$15 for each lot in the proposed subdivision, whichever is greater.
 - (3) Application for preliminary major subdivision approval.
 - (a) Two hundred dollars for residential property, \$250 for commercial property and \$300 for industrial property, plus \$15 for each lot in the proposed subdivision.
 - (b) In addition to the application fee specified in § 188-15E(3)(a) immediately above, prior to the commencement of construction of any of the on-site or off-site improvements required as a condition of preliminary approval which the applicant is required or elects to install prior to applying for and securing final subdivision approval, the applicant shall pay a fee equal to 5% of the Township Engineer's estimate of the total cost of the improvements to be so constructed and installed to cover the cost of inspection by the Township Engineer of all such construction.
 - (4) Application for final major subdivision approval.
 - (a) Two hundred dollars for residential property, \$250 for commercial property and \$300 for industrial property, plus \$15 for each lot in the proposed subdivision; provided, however, that no application fee for final subdivision shall be less than \$200 for residential property, \$250 for commercial property and \$300 for industrial property.
 - (b) In addition to the application fee specified in § 188-15E(4)(a) immediately above, a fee equal to 5% of the Township Engineer's estimate of the total cost of completion of all improvements (on-site and off-site) required as a condition of approval and not completed or installed at the time of application for final subdivision approval shall be paid by the applicant to cover the cost of inspection by the Township Engineer of all such improvements remaining to be completed or installed.
- F. Variance applications: applications for variances to the Board of Adjustment or the Planning Board. **[Amended 5-31-1977 by Ord. No. G-112-77; 4-17-1979 by Ord. No. G-149-79; 5-4-1982 by Ord. No. G-215-82; 7-2-1986 by Ord. No. G-262-86]**
- (1) For all variance applications to the Board of Adjustment or the Planning Board for a variance or other relief from the Board of Adjustment, \$250 for residential property, \$300 for commercial

property and \$350 for industrial property and in each case extraordinary professional fees and the then current charges of the court stenographer.

- (2) For an application to the Board of Adjustment for subdivision site plan or conditional use approval as part of use variance application, \$250 for residential property, \$300 for commercial property and \$350 for industrial property, plus the same application fee which would have been paid to the Planning Board for such subdivision, site plan or conditional use application had a use variance not been involved.
- G. Conditional use applications to the Planning Board. Two hundred dollars for residential property, \$250 for commercial property and \$300 for industrial property, plus (if the application is part of a site plan or subdivision application) the same application fee which would have been paid to the Planning Board for the subdivision or site plan application had not a conditional use permit been involved. **[Amended 4-17-1979 by Ord. No. G-149-79; 5-4-1982 by Ord. No. G-215-82]**
- H. Hearing and publication costs.
- (1) In addition to all fees specified in § 188-15A through G of this article, inclusive, the applicant shall pay to the Township the actual costs incurred by the Planning Board, Board of Adjustment or Township Committee, as the case may be, for recording verbatim, by use of a shorthand reporter or stenographer, all public hearings on any application required pursuant to this article, including the furnishing of copies of the transcript of any such hearing needed by the applicant or the Township Board or body considering the application in question.
 - (2) In addition to all other fees specified in said § 188-15A through G of this article, inclusive, the applicant shall pay to the Township the actual publication costs incurred by the Township for publishing notice(s) and/or the decision of the Board or body with respect to the application in question.
- I. Miscellaneous fee provisions.
- (1) The fees specified above in this section shall be in addition to fees for building permits and certificates of occupancy which are required and specified by the Building Code and other ordinances and regulations of the Township governing construction and occupancy of dwellings, buildings and structures in the Township.
 - (2) Fees for applications or for the rendering of any service by the Planning Board or Zoning Board of Adjustment or any member of their administrative staff which is not otherwise provided by ordinance may be provided for and adapted as part of the rules of the Board, and copies of said rules or of the separate fee schedule shall be available to the public.

- J. Granting of exceptions in applications for site plan and subdivision approval.
- (1) The Planning Board when acting upon applications for preliminary and final site plan approval and for preliminary and final major subdivision approval and minor subdivision approval shall have the power to grant such exceptions from the requirements of this article as may be reasonable and within the general purpose and intent of the provisions for site plan and subdivision review and approval as set forth in this article, if the literal enforcement of one or more provisions of this article is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.
 - (2) The purpose of this section is not to provide for deviation from the terms of Article II, Zoning, of this chapter, but from the other rules, regulations and standards set forth herein governing development plans. In making its findings, as required hereinbelow, the Planning Board shall take into account the nature of proposed work and the existing use of land in the vicinity, the effect of the proposed deviation on the Township Master Plan, the number of persons to reside or work in the proposed subdivision or on site and the probably effect of the proposed application upon traffic conditions in the vicinity. No deviation shall be granted unless the Planning Board finds:
 - (a) That there are special circumstances or conditions effecting such property such that the strict application of the provisions of this article would deprive the applicant of reasonable use of his land.
 - (b) That the deviation is necessary for the preservation and enjoyment of a substantial property right of the applicant.
 - (c) That the granting of the deviation will not be detrimental to the public health, safety and welfare or injurious to property in the area in which such property is situated. A petition for any such deviation shall be submitted, in writing, by the applicant at the time the application is submitted. The petition shall state fully the grounds upon which the application is made and the facts upon which the applicant relies on the relief requested. The petition shall be heard and acted upon by the Planning Board as a whole, but no application involving a deviation shall be approved before receipt of the County Planning Board's report thereon, if required, or the expiration of the period of time within which such report is required to be submitted. If the Planning Board deems the proposed deviation of sufficiently serious nature, it may require a public hearing to be held in accordance with this article. If the Planning Board shall disapprove the proposed deviation, the reasons therefor shall

be stated in its resolution and the applicant shall remedy said application prior to further consideration by the Board.

§ 188-16. Multifamily housing developments. [Added 8-16-1994]

- A. As used in this section, the following terms shall have the meanings indicated:

MULTIFAMILY HOUSING DEVELOPMENT — A building containing three 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 — Space allocated for collection and storage of source-separated recyclable materials.

- B. 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 of which the project is located. The dimensions 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. 13:1E-99.13) and any applicable requirements of the Municipal Master Plan adopted pursuant to Section 26 of P.L. 1987, c. 102.¹⁵
- C. The recycling area shall be conveniently located for the residential disposition of source-separated recyclable materials, preferably near but clearly separated from any refuse dumpster.
- D. 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.
- E. 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.
- F. Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling

15. Editor's Note: See N.J.S.A. 40:55D-28.

area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.

- G. Landscaping and/or fencing shall be provided around any outdoor recycling area and shall be developed in an aesthetically pleasing manner.

ARTICLE II

Zoning**[Adopted 12-21-1971 as Ch. XXII of the 1971 Code]****§ 188-17. Title.**

This article shall be known and may be cited as the "Zoning Ordinance of the Township of Hillside."

§ 188-18. Purpose.

The purpose of this article is to establish a pattern for the use of land in the Township based on the Master Plan and enacted in order to promote and to protect the public health, safety, morals, comfort, convenience and the general welfare of the people. This article is intended to regulate the use of land within zoning districts, promote orderly development, regulate intensity of use and the location of buildings, establish standards of development, prohibit incompatible uses, regulate the alteration of existing buildings, limit congestion in the streets, protect against hazards and conserve the taxable value of land.

§ 188-19. Interpretation of standards.

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

§ 188-20. Definitions and word usage.

- A. The inclusion of the definition of any words or terms within this section is not to be construed as being a permitted or allowed use, unless such use is specifically provided for in the schedule of limitations in § 188-22.
- B. Whenever a term is used in this article which is defined in Chapter 291 of the Laws of New Jersey 1975,¹⁶ such term is intended to have the meaning set forth in the definition of such term found in said statute, unless a contrary intention is clearly expressed from the context of this article. **[Added 5-31-1977 by Ord. No. G-112-77]**
- C. The word "used" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used; the word "building" includes the word "structure"; the word "dwelling" includes the word "residence."
- D. As used in this article, the following terms shall have the meanings indicated:

ACCESSORY BUILDING OR USE — A use or structure customarily incidental and subordinate to the principal use of land or buildings

16. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

and located on the same lot with such principal use or building. (See § 188-23.)

AIR RIGHTS — The control over construction above the ground, right-of-way, building or other structure by the owner of the property above which construction is sought.

AUTOMOBILE SALES LOT — An open area, other than a street, which is used for the display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

BASEMENT — A story partly underground but having less than half of its clear height below finished grade. A "basement" shall be considered a story for purposes of height measurement in determining the permissible number of stories.

BILLBOARD — Any structure or portion thereof on which lettered or pictorial matter is displayed for advertising purposes other than those on a building or its grounds giving the name and occupation of the user of the premises, the nature of the business conducted thereon or the products primarily sold or manufactured. (See definition of "sign" and § 188-32.)

BUILDING — Any structure having a roof supported by columns, posts or piers and enclosed by walls and intended for the shelter, business, housing or enclosing of persons, animals or property and including tents, lunch wagons and trailers.

BUILDING, COMMUNITY — A public building for civic, social, educational, cultural or recreational activities of a neighborhood or community.

BUILDING COVERAGE — The square footage or other area measurement by which a building or structure occupies the land as measured at the grade line around the foundation.

BUILDING, HEIGHT — The vertical dimension measured from the average elevation of the finished lot grade to the highest point of roofline, excluding dish antennas and the like. **[Amended 4-20-2010 by Ord. No. O-10-016]**

BUILDING, HEIGHT OF MAIN ENTRANCE — The vertical distance measured from the proposed garage floor. (See § 188-41A.)

CARPORT — An attached or detached accessory building designed for the storage of motor vehicles and constructed primarily as an open-sided building with only a roof and the necessary supporting columns and of an area between the columns not to exceed 300 square feet.

CELLAR — A story partly underground and having more than one half (1/2) of its clear height below the finished grade. A "cellar" shall not be considered a story for purposes of height measurement in determining the permissible number of stories.

CLINIC — A place where patients are studied or treated by physicians specializing in various ailments and practicing as a group.

COMMERCIAL VEHICLE — Includes every type of motor-driven vehicle used for commercial purposes on the highways, such as the transportation of goods, wares and merchandise.

COURT — An open, unoccupied space, other than a yard, on the same lot with a building or group of buildings and which is bounded on two or more sides by the building.

DISTRICT — Any part of the territory of the Township to which certain uniform regulations and requirements of this article apply. (See § 188-21.)

DRIVEWAY — Any area providing parking or access to paved parking spaces.

DWELLING — A building or portion thereof which is designed or used exclusively as the living quarters for one or more families.

- (1) DWELLING, APARTMENT — A multifamily building containing seven or more dwelling units. See "garden apartment" and "high rise."
- (2) DWELLING, DUPLEX — See "semidetached dwelling," Subsection (6) of this definition.
- (3) DWELLING, FOUR-FAMILY — A building occupied or intended to be occupied for residence purposes by four families living independently of each other and each with their own sleeping, cooking and sanitary facilities.
- (4) DWELLING, MULTIFAMILY — A building containing three or more dwelling units and occupied or designed for occupancy by three or more families living independently of each other each with their own sleeping, cooking and sanitary facilities.
- (5) DWELLING, ROW HOUSE — See definition of "row house."
- (6) DWELLING, SEMIDETACHED — A two-family dwelling with one dwelling unit attached and located beside the other separated by a party or common wall, whether or not the wall is a fire wall.
- (7) DWELLING, SINGLE-FAMILY — A detached building occupied or intended to be occupied for residence purposes by one family.
- (8) DWELLING, THREE-FAMILY — A building occupied or intended to be occupied for residence purposes by three families living independently of each other and each with their own sleeping, cooking and sanitary facilities.
- (9) DWELLING, TWO-FAMILY — A building containing two dwelling units only and occupied or intended for occupancy for residence purposes by two families living independently of each other and each with its own sleeping, cooking and sanitary facilities.

(10) DWELLING UNIT — A building or part thereof having cooking, sleeping and sanitary facilities for one family.

EFFICIENCY UNITS — A dwelling unit in an apartment consisting of a bath and cooking facilities separated from the main room by a permanent partition with folding or sliding doors and one large room without permanent separations to be used for living, dining and bedroom facilities.

EXAMINATION ROOM — Any room used for testing, inspecting, investigation or treatment of patients as distinguished from a waiting room, counseling room or offices and where special medical or dental equipment may be installed to assist in the examination or treatment.

FAMILY — One or more persons customarily living together as a single, nonprofit housekeeping unit and who are engaged in a stable and continuing housekeeping relationship. **[Amended 10-2-1979 by Ord. No. G-165-79; 4-16-1991 by Ord. No. G-306-91]**

FLOOR AREA RATIO (F.A.R.) — The gross floor area, in square feet, of a building or group of buildings on a lot divided by the area, in square feet, of the lot. **[Added 4-20-2010 by Ord. No. O-10-017]**

$$\text{F.A.R.} = \frac{\text{Total gross floor area}}{\text{Total lot area}}$$

GARAGE —

- (1) COMMERCIAL — A building used for parking trucks and other motor vehicles used for delivery or other commercial purposes.
- (2) PRIVATE — An accessory building or portion of a main building for parking or temporary storage of automobiles of the occupants of the main building to which the garage is accessory and constructed of substantially the same materials as the main building. Garage floors in all residential zones shall be no less than 12 inches above the established center line elevation of the roadway. Garage doors shall not exceed a height of eight feet.
- (3) PUBLIC — A building or part thereof other than a private garage used for the storage, care or repair of motor vehicles for profit, including any sale of motor vehicle accessories or where such vehicles are kept for hire.

GARDEN APARTMENT — A multifamily dwelling with seven or more dwelling units and not exceeding 35 feet in height or not more than three livable floors above ground level.

GROSS FLOOR AREA — Gross floor area shall be measured by using the outside dimensions of the building, excluding the area of an attached garage and excluding the area used as a basement. Only those

floor areas which have a ceiling height of seven feet or more shall be eligible for inclusion in the "gross floor area."

HIGH-RISE APARTMENTS — All multifamily dwellings in excess of 35 feet in height.

HOME OCCUPATION — A professional occupation of a service character located in a residence. The occupation shall be conducted solely by a resident occupant of the residential building, except that no more than one person, not a resident of the building, may be employed and provided also that no more than 350 square feet or the equivalent of 40% of the first floor area of the building, whichever is smaller, shall be used for such purposes and that no display of products shall be visible from the street; that the residential character of the building is not changed; that no sign shall be displayed exceeding a maximum of two square feet; that the occupation is conducted entirely within the dwelling; that no occupational sounds are audible outside the building; that no article is offered for sale on the premises; and that no machinery or equipment is used which will cause electrical or other interference with radio or television reception in adjacent residences as set forth in the definition of "professional occupations."

HOSPITAL — An institution where ill or injured persons may receive medical, surgical or psychiatric treatment, nursing, food and lodging during illness.

IMPERVIOUS LOT COVERAGE — That portion of one lot or more than one lot which is improved or is proposed to be improved with principal and accessory buildings and structures, including driveways, parking lots, pedestrian walkways, signs and other man-made improvements on the ground surface which are more impervious than the natural surface. **[Added 4-20-2010 by Ord. No. O-10-015]**

JUNKYARD — The use of any area of a lot for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles not in operating condition or other vehicles or machinery or parts thereof. (See § 188-36.)

LIVABLE FLOOR — The floor area of rooms other than those used for closets, bath, common hallways or utility purposes.

LOADING SPACE — An off-street space or berth to the side or the rear of a building or group of buildings for temporary parking of commercial vehicles while loading or unloading materials.

LOT — A piece or parcel of land abutting on a street whose area is sufficient to provide the yard space for the district in which it is located as required in this article and conforms to the minimum area requirements of this article. Only one building and its accessory buildings shall be erected on one "lot."

(1) LOT AREA — The acreage or square footage of a lot contained within the lot lines of the property.

- (2) LOT, CORNER — A lot on the junction of and abutting on two or more intersecting streets where the interior angle of the intersection does not exceed 135°. On a "corner lot" the owner shall have the privilege of selecting any abutting street line as the front lot line, provided that the designation is clearly shown on the building plans filed with and approved by the Construction Official. However, each "corner lot" shall meet the minimum requirements for lot width and depth at either of the street lines as set forth for the specific district included in the schedule of limitations of this article.¹⁷ (See also § 188-41D.)
- (3) LOT DEPTH — The horizontal distance between the front and rear lot lines measured from the midpoint of the front lot line to the midpoint of the rear lot line.
- (4) LOT INTERIOR — A lot other than a corner lot.
- (5) LOT LINE — The boundaries of a lot as determined on the Tax Map or in the records of the County of Union.
- (6) LOT WIDTH — The horizontal distance between side lot lines measured shall be the minimum width required at the building setback line.

LOT FRONTAGE — The horizontal distance of lot lines or portions thereof which are coexistent with a street line. In the case of a street of undefined width, said lot lines shall be assumed to parallel the center line of the street at a distance of 50% of the statutory street right-of-way width therefrom. In the case of corner lots or through lots, the smaller of the two lot lines shall be coexistent with street lines and shall be considered as the "lot frontage."**[Added 4-20-2010 by Ord. No. O-10-014]**

MOTEL — A building or group of buildings which provides for transient guest rooms.

MULTIFAMILY — See definition of "dwelling."

NONCONFORMING BUILDING — A building existing on October 6, 1970, which in its design or location upon a lot does not conform to the regulations of this article for the zone in which it is located. (See § 188-30.)

NONCONFORMING LOT — A lot of record, existing on October 6, 1970, which does not have the minimum area for the zone in which it is located. (See § 188-30.)

NONCONFORMING USE — A use which occupied a building or land on October 6, 1970, and which does not conform with the use regulations of the district in which it is located according to this article. (See § 188-30.)

17. Editor's Note: See § 188-22.

NUISANCE — An offensive, annoying, unpleasant or obnoxious thing or practice; a cause or source of annoyance, especially in a continuing or repeating invasion or disturbance on another's rights, including the actual or potential emanation of any physical characteristics or activity or use across a property line which can be perceived by or affects a human being or the generation of an excessive or concentrated movement of people or things, such as but not limited to noise, dust, smoke, odor, glare, vibration, heat, electronic or atomic radiation, objectionable effluent and traffic.

NURSING HOME — A private hospital, especially one for convalescents.

ONE-BEDROOM APARTMENT — A dwelling unit in an apartment containing not more than one room devoted to sleeping purposes.

OPEN SPACE — Land used for park or recreation space as well as any part of a lot which is unbuilt upon and intended to meet the side, rear or front yard requirements of this article; also, vacant open area of potential developable use.

PARKING AREA —

- (1) **PRIVATE** — A paved parking space, other than a street, for the same uses as a private garage.
- (2) **PUBLIC** — A paved parking space, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free or as an accommodation for clients or customers.

PARKING SPACE — A paved area of not less than 180 square feet (nine feet wide by 20 feet long) either within a structure or garage or in the open for the parking of motor vehicles, exclusive of driveways or access drives, adjacent and giving access thereto.

PERMITTED USE — Any use of the land as permitted according to this article.

PLACES OF GENERAL ASSEMBLY — A building which permits public access where people gather for purposes such as entertainment, sporting events or worship such as an auditorium, movie theater or a house of worship. Houses of worship shall include a temple, church, mosque or other place of religious worship, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by an organized religious body.**[Added 3-25-2003]**

POOLS [Amended 12-16-1975 by Ord. No. G-85-75]: —

- (1) **PRIVATE IN-GROUND RESIDENTIAL SWIMMING POOLS** — In-ground constructed swimming pools or tanks, plastic or otherwise, permanently established or maintained upon any premises by any individual for his own or his family's use or guests of his household.

- (2) PUBLIC or PRIVATE CLUB SWIMMING POOLS — Either outdoor or indoor pools which are constructed to provide recreational facilities for swimming, bathing or wading. It shall not include municipal swimming pools operated by the Township or any agency, commission or department thereof, private swimming pools as herein defined or bathing facilities installed as an integral part of a dwelling.
- (3) PRIVATE RESIDENTIAL ABOVEGROUND SWIMMING POOLS — Those swimming pools which are constructed and maintained above ground. "Aboveground swimming pools" shall not be subject to the requirements of § 188-39 but shall be subject to the requirements of Chapter 269, Swimming Pools.
- (4) WADING POOLS — Constructed pools not designed or used for swimming with a maximum area of 120 square feet and a maximum water depth of 18 inches.

PROFESSIONAL OCCUPATIONS — The offices of a dentist, doctor, physician, attorney, accountant, minister, engineer, lawyer, architect, planner, insurance or real estate agent. Where the offices are part of a structure where there are residences, the restrictions outlined for home occupations shall apply.

RECREATION SPACE — See "usable recreation space."

RESTAURANT — Any establishment at which food is sold for consumption on the premises. However, a snack bar or refreshment stand at a public or community swimming pool, playground, play field or park operated solely by the agency or group operating the recreational facility and for the sole convenience of patrons of the facility shall not be deemed to be a "restaurant."

RESTAURANT, DRIVE-IN — A restaurant at which any food or refreshments are customarily served to or consumed by any patrons while seated in automobiles, regardless of whether or not, in addition, seats or other accommodations are provided for patrons.

REST HOME — A place where ill, injured, elderly or recuperating patients may convalesce.

RIGHT-OF-WAY — The land and space established by local authorities on the surface, subsurface and overhead for the construction and installation of materials necessary to provide passageway for vehicular traffic, pedestrians, utility lines, poles, conduits and mains, signs, hydrants, trees and shrubbery and the proper amount of light and air.

ROW HOUSE — A line of three or more connected dwellings whether or not each dwelling unit is separated by a fire wall or whether it is a line of connected duplex or semidetached dwelling units.

SERVICE STATION — A place providing maintenance, service, parts and supplies for motor vehicles but not including body repair work or the storage of inoperable vehicles. (See § 188-36.)

SETBACK LINE — A line drawn parallel to a street line measured at right angles to the street line and drawn through the point of a building nearest to the street line. The term "required setback" means a line that is established a minimum distance away from the street line and beyond which a building or part of a building is not permitted to extend toward the street line or under the provisions of this article, except as provided in § 188-23G, in order to provide the required yards.

SHOPPING CENTER — One or more buildings or parts thereof designed as a unit to be occupied by more than one business enterprise for the conduct of business and conducted as an integrated and cohesively planned area.

SIGN or ADVERTISING STRUCTURE — Every sign, billboard, ground sign, roof sign, sign painted or printed on the exterior surface of a building or structure, illuminated sign and shall include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person or product when placed in view of the general public. (See § 188-32.)**[Amended 3-17-2015 by Ord. No. O-15-01]**

SITE PLAN REVIEW — The examination of the site plan and description of the proposed activities on the site of the proposed project, including the size, height, location and arrangement of all proposed buildings and structures, the proposed circulation pattern including access streets, aisles, lanes, driveways, parking spaces, loading areas, loading berths and docks, pedestrian walks and all related facilities for the movement and storage of goods, vehicles and persons on the site and for ingress and egress to and from the site; the landscaping plans including seeded or sodded areas, fencing, signs, recreation areas, shrubbery, trees and buffer areas which shall be provided for the purpose of isolating the activities conducted on the site from adjoining residentially zoned areas, if any, site drainage, sewage disposal facilities, water facilities, outdoor lighting facilities and proposed signs; a written description of the proposed operations in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution or safety hazards; all buildings, lot lines, street rights-of-way and topographic features within the lot and within 200 feet of any boundary of the lot; and proposed elevations of the front, side and rear of the building in order to show the architectural design.

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, the space between the floor and the ceiling next above it. The first "story" of any building shall be where more than 50% of the story is above the finished grade along the front of the building.

STREET — A right-of-way which is open to public travel and which has been accepted for use and maintenance by the state, county or Township and a right-of-way which has been mapped and dedicated

for street purposes. A "street" as used herein includes in its width the roadway, curbs and sidewalks.

STREET LINE — The dividing line between the street and a lot where title to land extends to the center of a street. The sideline of the street shall be deemed to be the "street line."

STRUCTURE — Anything constructed or erected which requires permanent location, including buildings, fences, tanks, towers, advertising devices or similar structures.

SWIMMING POOL — See definition of "pools."

TEMPORARY SIGN — A sign or advertising structure, whether fixed or mobile, constructed of cloth, paper, cardboard, canvas, fabric, plywood, plastic, metal, or other light material, or inflatable material, and designed, displayed, or intended to be displayed, for a short period of time. Temporary signs include but are not limited to banners, flags, posters, balloons and placards. **[Added 3-17-2015 by Ord. No. O-15-01]**

TOWN HOUSE — A form of row house.

TURNING AREA — The area necessary in a parking lot for maneuvering vehicles into and out of parking stalls and in other areas for allowing vehicles to turn around.

TWO-BEDROOM APARTMENT — A dwelling unit in an apartment containing not more than two rooms devoted to sleeping purposes.

USABLE RECREATION SPACE — Open space designed and developed to be utilized for the purpose of recreation, whether it be parkland, ball fields, playgrounds, swimming pools or game courts.

USE — The specific purpose for which a parcel of land or a building or a portion of a building is designed, arranged, intended, occupied or maintained.

USE, ACCESSORY — A use which is customarily associated with and subordinate to the principal use of a lot or a building and which is located on the same lot.

USED CAR LOT — Any place out of doors where two or more motor vehicles in operating condition are displayed or offered for sale.

VARIANCE — A departure from the terms of this article authorized or recommended by the Board of Adjustment in accordance with state statute.

YARD —

- (1) **FRONT** — An open space extending across the full width of the lot between the main building and the rear lot line. The depth of the "front yard" shall be measured at right angles from the street line to the building.

- (2) REAR — An open space extending the full width of the lot between the main building and the rear lot line. The depth of the "rear yard" shall be measured from the nearest part of the main building toward the nearest point of the rear line.
- (3) SIDE — An open space extending from the front yard to the rear yard between the main building and the side lot line. The width of the required "side yard" shall be measured from the nearest point on the side lot line toward the nearest part of the main building.

ZONE — See definition of "district."

§ 188-21. Zoning Districts and Zoning Map.

- A. Zoning districts. For the purpose of this article, the Township is divided into 12 use districts as follows: **[Amended 2-23-2010 by Ord. No. O-09-032; 2-23-2010 by Ord. No. O-09-033; 2-23-2010 by Ord. No. O-09-038]**

Symbol	Name
R-40	Residential, Single-Family, 40 Feet
R-40-T	Residential, Two-Family, 40 Feet
R-50	Residential, Single-Family, 50 Feet
R-65	Residential, Single-Family, 65 Feet
R-75	Residential, Single-Family, 75 Feet
RC	Retail Commercial
OC	Office Commercial
HC	Highway Commercial
LI	Light Industrial
HI	Heavy Industrial
PL	Public Lands
C	Cemetery

- B. Zoning Map. The boundaries of the districts are established as shown on the map entitled "Zoning Map of the Township of Hillside," adopted May 1, 1979, which accompanies and is made a part of this article.¹⁸ **[Amended 5-1-1979 by Ord. No. G-152-79; 5-15-1979 by Ord. No. G-155-79]**
- C. Interpretation of boundaries. District boundary lines are intended to follow street center lines and a lot or property lines as they existed on May 1, 1979, unless otherwise indicated by dimensions on the Zoning Map. The exact location of any disputed district boundary line shall be

18. Editor's Note: The current Zoning Map and a Table of Zoning Map Amendments are included at the end of this chapter.

determined by the Board of Adjustment. **[Amended 5-15-1979 by Ord. No. G-155-79]**

- D. Vacation of streets or other public ways. Where a vacated right-of-way is bounded on either side by more than one district, the former center line of the right-of-way shall become the new district line.

§ 188-22. Schedule of limitations; district regulations.

The restrictions and controls intended to regulate development in each zoning district are set forth in this section and schedule.

A. Permitted uses.

- (1) R-40 District. Permitted uses in this district shall be as follows:
 - (a) Single-family dwellings.
 - (b) Parks, playgrounds and recreation areas.
 - (c) Public schools.
 - (d) Government buildings.
 - (e) See § 188-30.
- (2) R-40-T District. Permitted uses in this district shall be as follows:
 - (a) Single-family dwellings.
 - (b) Two-family dwellings, provided that the same are not duplex buildings, row houses or semiattached.
 - (c) Parks, playgrounds and recreation areas.
 - (d) Government buildings.
 - (e) Public schools.
 - (f) See § 188-30.
- (3) R-50 District. Permitted uses in this district shall be as follows:
 - (a) Single-family dwellings.
 - (b) Parks, playgrounds and recreation areas.
 - (c) Public schools.
 - (d) Government buildings.
 - (e) See § 188-30.
- (4) (Reserved)¹⁹

19. Editor's Note: Former Subsection A(4), R-50-T District, was repealed 2-23-2010 by Ord. No. O-09-032.

- (5) R-65 District. Permitted uses in this district shall be as follows:
 - (a) Single-family dwellings.
 - (b) Parks, playgrounds and recreation areas.
 - (c) Public schools.
 - (d) Government buildings.
 - (e) See § 188-30.
- (6) R-75 District. Permitted uses in this district shall be as follows:
 - (a) Single-family dwellings.
 - (b) Parks, playgrounds and recreation areas.
 - (c) Public schools.
 - (d) Government buildings.
 - (e) See § 188-30.
- (7) RC District. Permitted uses in this district shall be as follows:
 - (a) A retail store where goods are sold or personal services rendered which are clearly incidental to the retail sales and primarily for the need of those living in the neighborhood, provided that there is no fabrication, manufacturing, converting, altering, finishing or assembly, except incidental to such retail sale on the premises and provided that these uses shall be confined to the first floor and basement of the premises and no supplies, materials or goods are stored, displayed or offered for sale outdoors.
 - (b) Telephone exchanges and public utility installations.
 - (c) Professional, business and government buildings.
 - (d) Designed shopping centers, which shall be required to have site plan approval by the Planning Board. See § 188-20, the definition of "shopping center."
 - (e) See § 188-30.
- (8) OC District. Permitted uses in this district shall be offices for business and professional uses.
- (9) HC District. Permitted uses in this district shall be as follows:
[Amended 9-3-1991 by Ord. No. G-310-91]
 - (a) Designed shopping centers, which shall be required to have site plan approval by the Planning Board. See § 188-20, the definition of "site plan review."

- (b) Warehousing, shipping offices, distribution centers and storage yards, except lumber yards, coal yards and fuel storage yards.
 - (c) Fabrication, assembly and packaging of finished products, provided that there is no chemical processing necessary and no smoke, noise or odors are produced during the process of fabrication, assembly or packaging.
 - (d) Laboratories and research centers.
 - (e) Business offices.
 - (f) Laundries, cleaning, dyeing and carpet- and rug-cleaning establishments.
 - (g) The manufacturing, compounding, packing, processing or treatment of beverages, candy, cosmetics, dairy products, ice and toilet supplies.
 - (h) Metal working, machining and welding shops, excluding drop hammers and similar machinery of a nuisance-producing character.
 - (i) The finishing or assembling of articles made from the following previously prepared or refined materials: bone, cellulose, cork, feathers, fiberglass, gums, hair, horn, leather, paper, plastics or textiles.
 - (j) Telephone exchanges and public utility installations.
 - (k) Uses permitted in this district shall not constitute a nuisance as defined in § 188-20 or that would be considered injurious to the health, safety and general welfare of the community.
 - (l) See § 188-30.
- (10) LI District. Permitted uses in this district shall be as follows:
[Amended 9-3-1991 by Ord. No. G-310-91]
- (a) Warehousing, shipping offices, distribution centers and storage yards, except lumber yards, coal yards and fuel storage yards.
 - (b) Fabrication, assembly and packaging of finished products, provided that there is no chemical processing necessary and no smoke, noise or odors are produced during the process of fabrication, assembly or packaging.
 - (c) Laboratories and research centers.
 - (d) Business offices.
 - (e) Laundries, cleaning, dyeing and carpet- and rug-cleaning establishments.

- (f) The manufacturing, compounding, packing, processing or treatment of beverages, candy, cosmetics, dairy products, ice and toilet supplies.
 - (g) Metal working, machining and welding shops, excluding drop hammers and similar machinery of a nuisance producing character.
 - (h) The finishing or assembling of articles made from the following previously prepared or refined materials: bone, cellulose, cork, feathers, fiberglass, gums, hair, horn, leather, paper, plastics or textiles.
 - (i) Telephone exchanges and public utility installations.
 - (j) Uses permitted in this district shall not constitute a nuisance as defined in § 188-20 or that would be considered injurious to the health, safety and general welfare of the community.
 - (k) See § 188-30.
- (11) HI District. Permitted uses in this district shall be as follows:
[Amended 9-3-1991 by Ord. No. G-310-91]
- (a) The preparation and fabrication of metal and metal products and chemicals and chemical products.
 - (b) Same as the Light Industrial District. **[Amended 6-27-2001]**
 - (c) Public utility installation.
 - (d) Manufacturing, processing, compounding, treatment, assembly and packaging of materials or uses where the composition of materials is chemically altered.
 - (e) None of the above uses shall be interpreted to permit the following uses which are specifically prohibited:
 - [1] The slaughtering or processing of animals, fowl, fish or component parts thereof.
 - [2] The manufacture of heavy chemicals such as but not limited to acids or other corrosives, ammonia, caustic soda and sulfuric acid; the manufacture of basic or semifinished chemicals such as cellulose products, resins, dye stuffs, glue, vegetable, animal or mineral fats or oils, explosives, combustible gases, soaps and detergents, fertilizers, asphalt and tar products; the manufacture or production of metals and alloys in ingot form; the manufacture or production of cement, plaster, cork and their constituents, matches, paints, rubber and rubber products.
 - [3] Sand, clay or gravel mining or other extractive processes and the commercial stripping of topsoil.

- [4] The processing, sale, storage or reclamation of junk of all kinds including automobile wrecking out of doors.
 - (f) Uses permitted in this district shall not constitute a nuisance as defined in § 188-20 or that would be injurious to the health, safety and general welfare of the community.
 - (g) See § 188-30.
- (12) PL Public Lands District. **[Added 2-23-2010 by Ord. No. O-09-033]**
- (a) Permitted principal uses in this district shall be as follows:
 - [1] Public parks, playgrounds, swimming pools, golf courses, and other recreational areas whether developed or undeveloped.
 - [2] Public buildings and public schools and grounds.
 - [3] Municipal buildings and other governmental public and quasi-public uses.
 - [4] Public and private conservations areas.
 - (b) Height, area and bulk requirements in this district shall be as follows:
 - [1] Lot area: 4,000 square feet.
 - [2] Lot width: 40 feet.
 - [3] Front yard setback: 25 feet.
 - [4] Side yard setback: 4 feet.
 - [5] Side yard (total): 10 feet.
 - [6] Rear yard setback: 25%.
 - [7] Building coverage: 60% (s).
 - [8] Impervious lot coverage: 80%.
 - [9] Building height: 40 feet.
 - [10] Stories: 3 1/2.
- (13) C District. **[Added 2-23-2010 by Ord. No. O-09-038]**
- (a) Permitted principal uses in this district shall be as follows:
 - [1] Cemeteries.
 - [2] Public parks, playgrounds and recreation areas.

- (b) Height, area and bulk requirements in this district shall be as follows:
- [1] A cemetery shall have a minimum contiguous area of 60 acres.
 - [2] A cemetery shall comply with all requirements of federal, state, county and local law. Particularly, a cemetery shall comply with Tide 8A of the Statutes of the State of New Jersey as well as all rules and regulations issued by the New Jersey Cemetery Board.
 - [3] Crematories are expressly prohibited in a cemetery.
 - [4] The perimeter of all cemeteries shall be attractively landscaped with a combination of evergreen and deciduous plantings and decorative fencing.
- (14) Any person found guilty of violating any provision of this subsection § 188-22A shall for a first offense be subject to a fine of \$250, with court costs, and mandatory court appearance; shall for a second offense be subject to a fine of not less than \$500 nor more than \$1,000, with court costs and mandatory court appearance; and shall for a third or subsequent offense be subject to a fine of not less than \$1,000 nor more than \$2,000, with court costs and mandatory court appearance; or be subject to imprisonment for a term not exceeding 90 days, or both. Each violation, and each day a violation is committed or permitted to continue, shall constitute a separate violation and shall be punishable as such. **[Added 8-20-2013 by Ord. No. O-13-012]**

B. Permitted accessory uses.

- (1) R-40 District. Permitted accessory uses in this district shall be as follows:
 - (a) Private garages. See definition in § 188-20.
 - (b) Fences and walls. See § 188-28.
 - (c) Private residential swimming pools and their accessories. See § 188-39.
 - (d) Accessory buildings. See definition in § 188-20.
- (2) R-40-T District. Permitted accessory uses in this district shall be as follows:
 - (a) Private garages. See definition in § 188-20.
 - (b) Fences and walls. See § 188-28.
 - (c) Private residential swimming pools and their accessories. See § 188-39.

- (d) Accessory buildings. See definition in 188-20.
- (3) R-50 District. Permitted accessory uses in this district shall be as follows:
 - (a) Private garages. See definition in § 188-20.
 - (b) Fences and walls. See § 188-28.
 - (c) Private residential swimming pools and their accessories. See § 188-39.
 - (d) Accessory buildings. See definition in § 188-20.
- (4) (Reserved)²⁰
- (5) R-65 District. Permitted accessory uses in this district shall be as follows:
 - (a) Private garages. See definition in § 188-20.
 - (b) Fences and walls. See § 188-28.
 - (c) Private residential swimming pools and their accessories. See § 188-39.
 - (d) Accessory buildings. See definition in § 188-20.
- (6) R-75 District. Permitted accessory uses in this district shall be as follows:
 - (a) Private garages. See definition in § 188-20.
 - (b) Fences and walls. See § 188-28.
 - (c) Private residential swimming pools and their accessories. See § 188-39.
 - (d) Accessory buildings. See definition § 188-20.
- (7) RC District. Permitted accessory uses in this district shall be as follows:
 - (a) Fences and walls. See § 188-28.
 - (b) Garages to house commercial vehicles associated with permitted commercial uses.
 - (c) Accessory buildings. See § 188-20.
- (8) OC District. Permitted accessory uses in this district shall be as follows:

20. Editor's Note: Former Subsection B(4), R-50-T District, was repealed 2-23-2010 by Ord. No. O-09-032.

- (a) Off-street parking. See § 188-31.
 - (b) Fences and walls. See § 188-28.
- (9) HC District. Permitted accessory uses in this district shall be as follows:
- (a) Fences and walls. See § 188-28.
 - (b) Garages to house vehicles associated with permitted uses.
 - (c) Accessory buildings. See § 188-20.
- (10) LI District. Permitted accessory uses in this district shall be as follows:
- (a) Garages to house vehicles associated with permitted uses.
 - (b) Off-street parking. See § 188-31.
 - (c) Fences and walls. See § 188-28.
 - (d) Accessory buildings. See § 188-20.
- (11) HI District. Permitted accessory uses in this district shall be as follows:
- (a) Garages to house vehicles associated with permitted uses.
 - (b) Off-street parking. See § 188-31.
 - (c) Fences and walls. See § 188-28.
 - (d) Accessory buildings. See § 188-20.
- (12) Any person found guilty of violating any provision of this subsection § 188-22B, shall for a first offense be subject to a fine of \$250, with court costs, and mandatory court appearance; shall for a second offense be subject to a fine of not less than \$500 nor more than \$1,000, with court costs and mandatory court appearance; and shall for a third or subsequent offense be subject to a fine of not less than \$1,000 nor more than \$2,000, with court costs and mandatory court appearance; or be subject to imprisonment for a term not exceeding 90 days, or both. Each violation, and each day a violation is committed or permitted to continue, shall constitute a separate violation and shall be punishable as such. **[Added 8-20-2013 by Ord. No. O-13-012]**
- C. Height. Height requirements are as specified for the zone(s) in the Schedule of Area, Yard and Bulk Requirements attached hereto²¹ and as set forth in § 188-22D of this chapter. **[Amended 2-23-2010 by Ord. No. O-09-032; 4-20-2010 by Ord. No. O-10-002; 4-20-2010 by**

21. Editor's Note: The Schedule of Area, Yard and Bulk Requirements is included at the end of this chapter.

Ord. No. O-10-004; 4-20-2010 by Ord. No. O-10-005; 4-20-2010 by Ord. No. O-10-006; 4-20-2010 by Ord. No. O-10-007; 4-20-2010 by Ord. No. O-10-009; 4-20-2010 by Ord. No. O-10-010; 4-20-2010 by Ord. No. O-10-011; 4-20-2010 by Ord. No. O-10-012; 4-20-2010 by Ord. No. O-10-013]

D. Area, yard and building requirements. Area, yard and building requirements are as specified for the zones in the Schedule of Area, Yard and Bulk Requirements attached hereto²² and as set forth in this Subsection D of this chapter. **[Amended 12-5-1972 by Ord. No. G-9-72; 2-23-2010 by Ord. No. O-09-032; 4-20-2010 by Ord. No. O-10-002; 4-20-2010 by Ord. No. O-10-004; 4-20-2010 by Ord. No. O-10-005; 4-20-2010 by Ord. No. O-10-006; 4-20-2010 by Ord. No. O-10-007; 4-20-2010 by Ord. No. O-10-009; 4-20-2010 by Ord. No. O-10-010; 4-20-2010 by Ord. No. O-10-011; 4-20-2010 by Ord. No. O-10-012; 4-20-2010 by Ord. No. O-10-013]**

(1) Any person found guilty of violating any provision of this subsection § 188-22D, shall for a first offense be subject to a fine of \$250, with court costs, and mandatory court appearance; shall for a second offense be subject to a fine of not less than \$500 nor more than \$1,000, with court costs and mandatory court appearance; and shall for a third or subsequent offense be subject to a fine of not less than \$1,000 nor more than \$2,000, with court costs and mandatory court appearance; or be subject to imprisonment for a term not exceeding 90 days, or both. Each violation, and each day a violation is committed or permitted to continue, shall constitute a separate violation and shall be punishable as such. **[Added 8-20-2013 by Ord. No. O-13-012]**

E. Off-street parking.

(1) R-40 District.

(a) See § 188-31. **[Amended 7-15-1975 by Ord. No. G-74-75; 5-15-1979 by Ord. No. G-155-79]**

(b) A minimum of one enclosed garage shall be provided. No more than a two-car enclosed garage shall be permitted.

(c) Public schools shall provide one space per employee for grades kindergarten through 10th grade and 2 1/2 spaces per employee for grades 11 and 12.

(d) Parking or storing of commercial vehicles is prohibited except for delivery purposes unless the same are parked or stored in a garage.

22. Editor's Note: The Schedule of Area, Yard and Bulk Requirements is included at the end of this chapter.

- (2) R-40-T District.
 - (a) See § 188-31.
 - (b) A minimum of one enclosed garage parking space shall be provided for each family unit. No more than a three-car enclosed garage shall be permitted.
 - (c) Public schools shall provide one space per employee for grades kindergarten through 10th grade and 2 1/2 spaces per employee for grades 11 and 12.
 - (d) Parking or storing of commercial vehicles is prohibited except for delivery purposes unless the same are parked or stored in a garage.
- (3) R-50 District.
 - (a) See § 188-31.
 - (b) A minimum of one enclosed garage shall be provided. No more than a three-car enclosed garage shall be permitted.
 - (c) Public schools shall provide one space per employee for grades kindergarten through 10th grade and 2 1/2 spaces per employee for grades 11 and 12.
 - (d) Parking or storing of commercial vehicles is prohibited except for delivery purposes unless the same are parked or stored in a garage.
- (4) (Reserved)²³
- (5) R-65 District.
 - (a) See § 188-31.
 - (b) A minimum of one enclosed garage shall be provided. No more than a three-car enclosed garage shall be permitted.
 - (c) Public schools shall provide one space per employee for grades kindergarten through 10th grade and 2 1/2 spaces per employee for grades 11 and 12.
 - (d) Parking or storing of commercial vehicles is prohibited except for delivery purposes unless the same are parked or stored in a garage.
- (6) R-75 District.
 - (a) See § 188-31.

23. Editor's Note: Former Subsection E(4), R-50-T District, was repealed 2-23-2010 by Ord. No. O-09-032.

- (b) A minimum of two enclosed garages shall be provided. No more than a three-car enclosed garage shall be permitted.
 - (c) Public schools shall provide one space per employee for grades kindergarten through 10th grade and 2 1/2 spaces for grades 11 and 12.
 - (d) Parking or storing of commercial vehicles is prohibited except for delivery purposes unless the same are parked or stored in a garage.
- (7) RC District.
- (a) See § 188-31.
 - (b) All offices and professional buildings shall provide one space for every 400 square feet of gross floor area.
 - (c) Retail stores shall provide one space for the first 1,500 square feet of floor area and one space for each 300 feet or major fraction thereof.
 - (d) In addition to the parking requirements noted above, one off-street loading or unloading space shall be provided for each store. Each space shall be a minimum area of 10 feet by 40 feet.
 - (e) No vehicle or trailer which is not in good working order and is not registered with the New Jersey State Division of Motor Vehicles shall be stored or parked on any premises, and no vehicle or trailer shall be used as a warehouse to store goods, merchandise or personal property. No vehicle or trailer shall be stored or parked unless used in conjunction with the use permitted on the property on which the vehicle or trailer is stored or parked.
- (8) OC District.
- (a) Offices of business and professional, executive or administrative purposes shall provide one space for each 300 square feet of gross floor area or any fraction thereof, exclusive of any access drives or aisles within the parking area.
 - (b) Where the buffer zone adjoins or abuts residential property, there shall be a ten-foot buffer zone landscaped as approved by the Planning Board under its site plan review.
 - (c) No vehicle or trailer which is not in good working order and is not registered with the New Jersey State Division of Motor Vehicles shall be stored or parked on any premises, and no vehicle or trailer shall be used as a warehouse to store goods, merchandise or personal property. No vehicle or trailer shall be stored or parked unless used in conjunction with the use

permitted on the property on which the vehicle or trailer is stored were parked. **[Amended 8-20-2013 by Ord. No. O-13-012]**

(9) HC District.

- (a) See § 188-31.
- (b) For uses permitted in the Light Industrial District, the parking and loading requirements of the Light Industrial District shall be applicable.
- (c) Wholesale uses shall provide one parking space for every 3,000 square feet of floor area used for warehousing, shipping or receiving, plus one parking space for every 700 square feet of floor area used for other purposes. Each use shall have separate loading and unloading docks for the warehouse.
- (d) Each use shall provide sufficient off-street loading, unloading and parking area for trucks and trailers both being loaded and waiting to be loaded or unloaded so that the vehicles do not interfere while maneuvering or are parked in automobile parking areas, driveways or street rights-of-way.
- (e) In addition to the parking requirements noted above, one off-street loading or unloading space shall be provided for each truck or trailer. Each space shall be a minimum area of 15 feet by 50 feet.
- (f) In any event, the intent of the above provisions is to provide sufficient off-street parking and loading spaces for the maximum demand without utilizing curbside or other parking facilities.
- (g) No vehicle or trailer which is not in good working order and is not registered with the New Jersey State Division of Motor Vehicles shall be stored or parked on any premises, and no vehicle or trailer shall be used as a warehouse to store goods, merchandise or personal property. No vehicle or trailer shall be stored or parked unless used in conjunction with the use permitted on the property on which the vehicle or trailer is stored or parked.

(10) LI District.

- (a) See § 188-31.
- (b) Off-street parking space shall be provided which shall be located within 1,000 feet of the buildings the spaces are intended to serve.

- (c) Off-street parking shall be provided on the basis of one space for every 3,000 square feet or fraction thereof of floor area used for other purposes.
- (d) Each use shall provide sufficient off-street loading, unloading and parking facilities so that no parking area, driveway or street right-of-way is used at any time for maneuvering tractor-trailers or other trucks while being loaded, unloaded or waiting to be loaded or unloaded. Each space shall be a minimum area of 15 feet by 50 feet.
- (e) In any event, the intent of the above provisions is to provide sufficient off-street parking and loading spaces for the maximum demand without utilizing curbside or other parking facilities.
- (f) No vehicle or trailer which is not in good working order and is not registered with the New Jersey State Division of Motor Vehicles shall be stored or parked on any premises, and no vehicle or trailer shall be used as a warehouse to store goods, merchandise or personal property. No vehicle or trailer shall be stored or parked unless used in conjunction with the use permitted on the property on which the vehicle or trailer is stored or parked.

(11) HI District.

- (a) See § 188-31.
- (b) Off-street parking spaces shall be provided which shall be located within 1,000 feet of the buildings they are intended to serve.
- (c) Off-street parking spaces shall be provided on the basis of one space for every 3,000 square feet or fraction thereof of floor area used for other purposes.
- (d) Each use shall provide sufficient off-street loading, unloading and parking facilities so that no parking area, driveway or street right-of-way is used at any time for maneuvering tractor-trailers or other trucks while being loaded, unloaded or waiting to be loaded or unloaded. Each space shall be a minimum area of 15 feet by 50 feet.
- (e) In any event, the intent of the above provisions is to provide sufficient off-street parking and loading spaces for the maximum demand without utilizing curbside or other parking facilities.
- (f) No vehicle or trailer which is not in good working order and is not registered with the New Jersey State Division of Motor Vehicles shall be stored or parked on any premises, and no

vehicle or trailer shall be used as a warehouse to store goods, merchandise or personal property. No vehicle or trailer shall be stored or parked unless used in conjunction with the use permitted on the property on which the vehicle or trailer is stored or parked.

(12) Any person found guilty of violating any provision of this subsection § 188-22E, shall for a first offense be subject to a fine of \$2500, with court costs, and mandatory court appearance; shall for a second offense be subject to a fine of not less than \$500 nor more than \$1,000, with court costs and mandatory court appearance; and shall for a third or subsequent offense be subject to a fine of not less than \$1,000 nor more than \$2,000, with court costs and mandatory court appearance; or be subject to imprisonment for a term not exceeding 90 days, or both. Each violation, and each day a violation is committed or permitted to continue, shall constitute a separate violation and shall be punishable as such. **[Added 8-20-2013 by Ord. No. O-13-012]**

F. Signs. Uses in all districts shall conform to those set forth herein below, except that for temporary signs, as defined in this chapter, the provisions of § 188-32.1 shall apply to all districts. **[Amended 3-17-2015 by Ord. No. O-15-01]**

(1) R-40 District. See § 188-32.

(2) R-40-T District. See § 188-32.

(3) R-50 District. See § 188-32.

(4) (Reserved)²⁴

(5) R-65 District. See § 188-32.

(6) R-75 District. See § 188-32.

(7) RC District.

(a) See § 188-32.

(b) Signs may be lighted or unlighted.

(c) Signs shall not obstruct driving vision, traffic sign or signals along any street right-of-way and shall be approved by the Police Department.

(d) All uses may have signs advertising the name of the business or product operated or sold in the building on which the sign is attached equivalent in area to 10% of the store area of the front of the first two floors of the store, but in no case shall a sign exceed 100 square feet.

24. Editor's Note: Former Subsection F(4), R-50-T District, was repealed 2-23-2010 by Ord. No. O-09-032.

- (e) New and used auto dealers may have two lighted or unlighted exterior signs, provided that they do not exceed 40 square feet each. The signs may be freestanding or attached to the building. Freestanding signs shall be set back from the property line at least 10 feet. No sign shall be higher than 15 feet at its highest point.
 - (f) Where more than one use is in a store, the sign area for all the uses shall be contained within the area requirement.
 - (g) Where both front and rear entrances are provided to stores or where a store is on a corner lot with both front and side exposures, one sign equal to 7% of the area of the front of the first two floors of the building may be attached to both the front and rear or front and side of the building.
 - (h) Picture windows and display shelves inside a store front shall not be considered sign area. Signs advertising sales or special products shall be considered sign area and may be permitted, provided that the total area occupied at any one time does not exceed an additional 5% of the area of the front of the first two floors of the building.
 - (i) All signs shall be attached to the building. Signs may be attached perpendicular to the front of the building but shall not protrude further than four feet from the front wall and shall be a minimum of 10 feet above the sidewalk at its lowest point and be no higher than the roofline of the building or 25 feet, whichever is the lowest height.
- (8) OC District. Same as the RC District.
- (9) HC District. Same as the RC District.
- (10) LI District.
- (a) See § 188-32.
 - (b) Each use may have one lighted or unlighted sign, freestanding or attached to the building, but not to exceed 120 square feet in area. Any freestanding sign shall be set back a minimum of 20 feet from the property line and be no higher than 20 feet. No sign attached to the building shall be higher than 10 feet above roof.
- (11) HI District.
- (a) See § 188-32.
 - (b) Each use may have one lighted or unlighted sign, freestanding or attached to the building, but not to exceed 200 square feet in area or the equivalent of 20% of the front of the first two floors of the building, whichever is less. Any freestanding sign

shall be set back a minimum of 20 feet from the property line and be no higher than 25 feet unless attached to the building, in which case the top of the sign may be no higher than 10 feet above the roofline of the building.

G. General district regulations.

- (1) No building shall hereafter be erected, altered, converted or enlarged, wholly or in part, except in conformity with the schedule of limitations and this article. The regulations listed for each zone as designated are hereby prescribed for such zones, subject to the other provisions in this article, and shall be deemed to be the minimum requirements in every instance of their application.
- (2) Where a lot is formed from part of a lot already occupied by a building, such separation shall be effected in such a manner as not to impair any of the requirements of this article with respect to the existing building and all yards and other open space in connection therewith, and no permit shall be issued for the erection of a new building on the new lot thus created unless it complies with all the provisions of this article.

§ 188-23. Accessory buildings in residence districts.

- A. Accessory buildings as part of principal buildings. Accessory buildings may be attached to a principal building, provided that all yard requirements of this article for the principal building, including the attached accessory building, are complied with.
- B. Accessory buildings built prior to principal buildings. Notwithstanding any other provisions of this article, no building permit shall be issued for the construction of an accessory building prior to the issuance of a building permit for the construction of the main building upon the same premises. If construction of the main building does not precede or take place at the same time with the construction of the accessory building, the Construction Official shall have cause to revoke the building permit for the accessory building.
- C. Distance from adjacent buildings and property lines. The minimum distance of any portion of the accessory building from an adjacent building or property line shall be: R-40 and R-40-T, two feet; R-50, R-50-T, R-65 and R-75, three feet.
- D. Height and area of accessory buildings. Accessory buildings shall not exceed one story or 15 feet in height and may not occupy more than 25% of a required rear yard or a maximum of 700 square feet, whichever is smaller.
- E. Location. An accessory building or private parking area shall be erected only on the rear half of the lot and, if erected on a corner lot, shall be set back from the side street to comply with the setback line applying to the principal building for that street.

- F. Second dwelling prohibited. In no case shall there be more than one residential building on any subdivision lot of record.
- G. Structures permitted within required open spaces. Balconies, eaves, breezeways, fireplaces, chimneys and patios attached to residences shall not be considered as part of a principal structure and may project into required open spaces, provided that such structures do not exceed 180 square feet, are not enclosed and do not extend any closer than three feet to any lot line.

§ 188-24. Appearance of buildings.

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

§ 188-25. Building identification.

All principal buildings in all districts shall be clearly identified as to street number by means of a small unobstructed sign clearly visible and legible from the main abutting street.

§ 188-26. Building permits pending. [Amended 5-15-1979 by Ord. No. G-155-79]

Nothing in this article shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which any building permit has been granted before May 1, 1979, provided that construction from such plans shall have been started within 60 days after May 1, 1979, and shall be diligently pursued to completion.

§ 188-27. Existing uses. [Amended 5-15-1979 by Ord. No. G-155-79; 10-21-2003]

Except as specified in § 188-30, any use, building or structure shall conform to the provisions of this article for the district in which it is located.

§ 188-28. Fences and walls.

- A. In any district on any corner lot no fence, wall, sign, structure, continuous planting or other obstruction to vision shall be erected or maintained above three feet in height as measured from the top of the curb within 25 feet of any street intersection except as provided in § 188-41D.
- B. On any interior lot in any residential district, no wall or fence shall be erected or altered so that the wall or fence shall be over six feet in height, except as required for yards with swimming pools in § 188-39.

- C. No fence around residential property shall be erected of barbed wire, topped with metal spikes constructed of any material or in any manner which may be dangerous to persons or animals.
- D. The requirements of Subsections B and C shall not apply to the industrial districts.

§ 188-29. Floodplain district.

Nothing herein provided shall be so construed as to prohibit the owners of lands within any area threatened by floodwaters or wetlands from lawfully filling, draining, constructing levees and bulkheads or otherwise improving their land with clean fill so as to eliminate or reduce the danger of flood or the erosion of soil so long as it is done in compliance with any federal, state, county or local regulations governing drainage rights-of-way. Topographical plans for such work shall be approved by the Township Engineer.

§ 188-29.1. Code enforcement and relocation assistance. [Added 3-5-2002; amended 11-12-2003; 3-28-2006; 6-24-2008 by Ord. No. O-08-018]

- A. Definitions. As used in §§ 188-29.1 through 188-29.3, the following terms shall have the meanings indicated:

LANDLORD — The owner, as defined hereinbelow, or person or persons who own or purport to own, or exercise control of, any building or project in which there is rented or offered for rent housing space for living or dwelling purposes under either a written or oral lease, provided that this definition shall not include owner-occupied two-unit premises. This definition shall include but not be limited to any dwelling subject to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq.

OWNER — Any person or group of persons, firm, corporation or officer thereof, partnership, association or trust who owns, operates, exercises control over or is in charge of a rental facility.

TENANT — The lawful occupant of a dwelling unit or property recognized by the owner and not the result of trespass or unauthorized sublease or assignment. (N.J.A.C. 5:11-1.2.)

- B. Any landlord found to be in violation of the Zoning Ordinance or the Code of the Township of Hillside, wherein it has been determined that there exists an illegally subdivided premises and the premises is found to violate any portion of the ordinance or Code, shall, for the first offense, pay a fine up to an amount equal to six times the monthly rental payment of the tenant.
- C. In the event the occupant of an illegal apartment is required to relocate from the premises which is the subject of a notice of illegal apartment and/or eviction pursuant to N.J.S.A. 2A:18-61.1 et seq. and/or the Zoning Ordinance and the Code of the Township, said person is so

considered a displaced person and is entitled to relocation assistance in an amount equal to six times the monthly rental payment of the tenant. This payment shall be made by the landlord directly to the tenant prior to or upon the effective date of the notice to vacate the premises.

- D. In the event a landlord shall fail to make the required relocation assistance payment to the displaced person as set forth in Subsection C above, then the Township shall tender the relocation assistance payment to the displaced person in an amount equal to six times the monthly rental payment of the tenant. Following any such payment made by the Township, the landlord shall be responsible for any relocation costs and payments borne by the municipality, or if not borne by the municipality then by the tenant, in accordance with the provisions of N.J.S.A. 2A:18-61.1(g), together with any security deposit and a pro rata portion of the tenant's rent which may have been paid in advance.
- E. Once a final adjudication in criminal or civil penalty action has been obtained by the Township of Hillside against the landlord in violation of the relevant portion of the Code, the Township shall present a statement of the relocation costs to the landlord and the date payment of said costs is due. If payment is not made by the landlord within 10 days of the date on which payment is due, then:
- (1) Interest shall accrue on the unpaid balance of the relocation costs and interest at the annual rate of 18%.
 - (2) The unpaid balance of the relocation costs and interest shall be a lien on the subject property.
 - (3) A statement showing the amount and due date of the unpaid balance shall be recorded with the Union County Clerk as a lien against the subject property holding the priority of a mortgage lien.
 - (4) The Township officer charged with enforcing municipal liens on real property shall enforce all relocation costs and any lien thereon shown in the statement filed in accordance with Subsection E(3) immediately hereinabove and shall deposit in the municipal treasury all sums realized upon enforcement or upon liquidation of any property acquired by the municipality by virtue of enforcement. (N.J.S.A. 20:4-4.1)
 - (5) The Township may recover all relocation costs, together with the interest accrued thereon and attorneys' fees and costs, in a civil action as a personal debt of the owner of the subject property, including, in the event the owner is a corporation, recovering relocation costs against the directors, officers, and each shareholder controlling more than 5% of the total voting shares of the corporation. (N.J.S.A. 20:4-4.2)
- F. Any landlord, person, firm or entity found liable under the foregoing who subsequently violates and is found liable under any portion of this

section for a second time shall, in addition to the provisions set forth in Subsections B through E hereinabove, be fined an amount equal to the annual cost for any residents of the illegally occupied unit to attend a public school within the Township. Said additional fine shall be calculated in the manner prescribed for nonresident pupils pursuant to N.J.S.A. 18A:38-19 and remitted to the Township of Hillside School District. Said fine shall be recovered by the Township by a summary proceeding pursuant to the Penalty Enforcement Law N.J.S.A. 2A:58-10 through 2A:58-12. Said proceedings may be commenced in Superior Court or the Township of Hillside's Municipal Court for enforcement of the fines provided herein.

- G. It shall be the duty of the Police Department and Construction Official to coordinate their efforts in this regard. Any violations found by the proper representatives of the Police Department shall be immediately forwarded to the Construction Official (not more than 24 hours from said noted violation), and the Police Department representatives designated by the Chief of Police shall assist the Construction Official and/or his representatives in obtaining legal entrance into said premises in order to effectuate the enforcement of this section.
- H. All ordinances, codes or parts thereof inconsistent with any of the provisions of this section or provisions of this chapter are hereby repealed to the extent of such inconsistency.
- I. Basement apartments, basement dwelling places or below-grade dwelling places.
 - (1) Any person, whether family member or other, who utilizes the basement or floor-below-grade area of a residence, whether multiple dwelling or not, as sleeping quarters or as a dwelling space must comply with the provisions of Ordinance O-03-025,²⁵ adopted July 15, 2003, which refers to the International Mechanical, Residential, and Building Codes, and N.J.A.C. 5:10-22.1 and N.J.A.C. 5:70 which refers specifically to basements, cellars and dwelling units made applicable N.J.S.A. 55:13A-6C and A-7.
 - (2) Failure to comply with the standards will constitute an illegal apartment as defined by the Code and ordinances, the provisions of which remain in effect.
- J. No tenant shall be eligible for relocation benefits if the tenant was displaced as a result of:
 - (1) A Code violation which was primarily caused by that tenant's conduct and not by factors for which the landlord is liable.

25. Editor's Note: See Ch. 121, Building, Housing and Property Maintenance, Art. I, Uniform Construction Code.

- (2) A natural disaster, soil subsidence, fire, a latent defect or other sudden and unforeseeable occurrence.
- K. A tenant who is displaced by code enforcement activity shall be provided a written notice to vacate the property by the Township of Hillside, which notice shall include:
- (1) The nature and types of relocation assistance available to the tenant.
 - (2) The tenant's obligation not to vacate until authorized to do so.
 - (3) The tenant's obligation to continue making rental payments to the landlord in accordance with New Jersey law.
- L. When a tenant is displaced by code enforcement activity, he or she shall be provided the following by the Township's Office of Relocation Assistance:
- (1) A list of decent, safe and sanitary replacement housing units that are available for sale or lease.
 - (2) Assistance establishing priority in subsidized housing and in applying therefor.
 - (3) Information necessary to obtain mortgage financing.
 - (4) Names and addresses of other agencies that provide housing assistance to individuals.

§ 188-29.2. Revolving Relocation Assistance Fund. [Added 6-24-2008 by Ord. No. O-08-018]

- A. The Township of Hillside hereby establishes a Revolving Relocation Assistance Fund, which fund shall receive deposits from the following actions:
- (1) Any relocation costs and interest recovered by the Township from a landlord who has been held liable for a civil or criminal penalty pursuant to a housing or construction code enforcement action.
 - (2) Any sums realized by the Township by virtue of enforcing municipal liens or liquidation of any property as against a landlord in pursuit of reimbursement for relocation assistance payments tendered by the Township to a displaced tenant.
- B. Any sums realized by the municipality pursuant to any fines and penalties imposed upon the landlord of the subject property pursuant to the illegal occupancy or other code enforcement activity regarding the subject property shall be deposited into the Township's general fund.

§ 188-29.3. Office of Relocation Assistance. [Added 6-24-2008 by Ord. No. O-08-018]

- A. The Township of Hillside hereby creates the Office of Relocation Assistance, the duties of which shall be shared and jointly carried out by the Township's Department of Buildings and the Department of Health. The Office of Relocation Assistance shall be responsible for ensuring full compliance by the Township with the provisions of §§ 188-29.1 through 188-29.3. The Office of Relocation Assistance shall be responsible for developing policies and implementing internal rules and procedures to effectuate both the express terms of §§ 188-29.1 through 188-29.3 and the statutory and regulatory requirements of the Township, including, but not limited to, those set forth in the Relocation Assistance Act, N.J.S.A. 20:4-1 et seq.; the Relocation Assistance Law, N.J.S.A. 52:31B-1 et seq.; the Anti-Eviction Law, N.J.S.A. 2A:18-61.1 et seq.; and N.J.A.C. 5:11-1.1 et seq.
- B. In addition to the responsibilities set forth in Subsection A hereinabove, the Office of Relocation Assistance shall:
- (1) Ensure that displaced persons receive proper and timely notice as to the availability of relocation payments and relocation assistance;
 - (2) Coordinate enforcement activities and communicate with local law enforcement personnel, pertinent Township officials, the Township Attorney and the New Jersey Department of Community Affairs in order to impose fines and penalties upon and recoup relocation assistance costs from property owners, where appropriate and as permitted by law, on behalf of the Township;
 - (3) Implement procedures to obtain assistance from the State of New Jersey, where appropriate, to offset, fund or recoup relocation assistance costs;
 - (4) Monitor deposits into and disbursements from the Revolving Relocation Assistance Fund; and
 - (5) Periodically report to the Mayor and Township Council as to the conduct, effectiveness, and needs of the Township's relocation assistance program and related efforts.

§ 188-30. Nonconforming uses, buildings or lots. [Amended 5-15-1979 by Ord. No. G-155-79]

Except as otherwise provided in this section, the lawful use of land existing on May 1, 1979, may be continued although such use does not conform to the regulations specified by this article for the zone in which the land is located, provided that no existing building, structure or lot devoted to a use not permitted by this article in the district in which the building or premises is located shall be enlarged, extended, constructed, reconstructed, substituted, relocated, erected, converted to another use or structurally altered except in conformity with the regulations of this article for the district in which the building or premises is located. Also, land on which a

nonconforming building is located shall not be reduced in size, nor shall any lot already nonconforming be made more nonconforming in any manner.

- A. Abandonment. A nonconforming use shall be considered to be abandoned if there occurs a cessation of the previous use or activity on the part of the owner or tenant for a period of nine months from the date of cessation of use or activity, at which time the building, structure or premises shall not be used in a nonconforming manner again.
- B. Conversion to permitted use. Any nonconforming building or use which has been changed to a conforming building or use shall not be changed back again into a nonconforming building or use.
- C. Restoration. Any nonconforming building or use which has been destroyed by fire, explosion, flood, windstorm or other act of God shall be considered partially destroyed if the cost of restoration equals 1/2 or less than 1/2 of the estimated true value of the building as determined by the Tax Assessor, and the building or use may be rebuilt, restored or repaired not to exceed the area of the building prior to its destruction. If the damage is greater than above outlined, the building or use shall be considered completely destroyed and shall not be rebuilt, restored or repaired unless in conformity with the building and use requirements of this article.
- D. Repairs and alterations. Repairs and maintenance work as required to keep a building in sound condition may be made to a nonconforming building or structure.

§ 188-31. Off-street parking.

- A. Elevation. Garage floors in all residential zones shall be no less than 12 inches above the established center line elevation of the roadway.
- B. Height. Garage doors shall not exceed a height of eight feet.
- C. Landscaping. Screen planting of a dense evergreen material not less than four feet nor more than six feet in height shall be provided in off-street parking areas for more than six vehicles. In lieu of screen planting, a fence or woven lattice, masonry wall or wooden louver-type or split cedar fence with a maximum of three-fourths-inch spacing may be provided not less than four feet nor more than six feet in height, maintained in good condition and without advertising. This provision shall not apply to the industrial districts except where industrial districts border on a residential district.
- D. Lighting. Any lighting used to illuminate off-street parking areas shall be so arranged as to reflect the light away from residential uses.
- E. Setbacks. Parking areas for more than six vehicles shall be separated from the street, right-of-way or other property line by a setback of sufficient distance to prevent any part of a vehicle from overhanging

the street, right-of-way or property lines by the installation of curbing or similar acceptable construction.

F. Surfacing and curbing.

(1) All driveways and off-street parking spaces provided under the requirements of this article for six or more vehicles shall be surfaced with an asphalt or concrete material so as to be hard surfaced, drained and dust free.

(2) All off-street parking areas shall be provided with curbing or the equivalent so that vehicles cannot drive onto required landscaped areas and street rights-of-way and so that each parking area has controlled entrances and exits.

(3) All off-street parking areas designated to accommodate six or more vehicles shall be provided with painted lines indicating traffic flow and parking spaces.

(4) A plot plan shall be provided showing parking layout and drainage and landscaping details.

G. Location of parking. Off-street parking area for six or more vehicles may occupy front, side and rear yard areas of residential uses.

H. Type of facility. Parking spaces for commercial facilities may be on the surface of the ground or within underground or other garage facilities.

I. Time of provision. All minimum requirements for off-street parking shall be met at the time of erection or enlargement of any main building or structure and shall include provisions for adequate ingress and egress.

J. Driveways. The provision of parking spaces shall also include adequate driveway and necessary turning areas for handling the vehicles for which provision is made. Aisles providing access to parking spaces shall be at least 25 feet wide.

§ 188-32. Outdoor signs. [Amended 4-19-1977 by Ord. No. G-110-77; 7-5-1978 by Ord. No. G-122-78; 3-7-1995; 9-10-2002]

No billboard shall be erected without a variance and building permit. Billboards, where permitted, shall be constructed in accordance with the Building Code and shall be set back from the established right-of-way line of any street or highway at least as far as required for principal uses in the zoning district as set forth in § 188-22. No sign of any type shall be permitted to obstruct driving vision, traffic signals, traffic direction and identification signs and places of business.

A. Flashing signs. In no case shall a flashing or revolving light be permitted in any district.

B. Illuminated signs. Where permitted, illuminated signs shall be so arranged as to reflect the light and glare away from adjoining premises

in residential districts and away from all adjoining highways. Illuminated signs shall be approved by underwriter law.

- C. Maintenance. Signs must be constructed in accordance with the Building Code and be of durable materials, maintained in good condition and not permitted to become dilapidated.
- D. Height and area. Billboards shall not exceed 250 square feet in total sign area as defined in Subsection J. Billboards shall be erected no higher than 25 feet at their highest point.
- E. (Reserved)²⁶
- F. Other signs. All other signs shall be set back at least 10 feet from all street lines. Such signs shall not exceed the maximum six square feet, except as otherwise provided in this article.
- G. Removal of signs. Removal of signs shall be at the expense of the advertiser and within 30 days after the termination or completion of the matter of business being advertised.
- H. Signs and sign structures. Signs and sign structures of all types shall be set back or elevated sufficiently to allow a clear, unobstructed line of sight from points of ingress or egress for at least 400 feet along all abutting streets and highways.
- I. Signs with two exposures. Signs with two exposures shall be measured for area by using the surface area of one side of the sign only.
- J. Sign area. Sign area shall be measured around the edges of a framed or enclosed sign or by the area utilized by isolated words, including the space between letters and the space within those letters having openings.
- K. Garage sales. The display of any signs stating that there is a "Garage Sale" or any other words indicating that there will be a garage sale is prohibited unless the following standards are complied with:
 - (1) Signs shall not exceed 10 inches by 14 inches in area.
 - (2) Signs shall consist of black lettering on a white background, which shall state only that there is a "Garage Sale."
 - (3) The sign must be removed immediately after the garage sale is over.
 - (4) The sign can only be placed on the property where the garage sale is taking place and no other areas.
 - (5) The sign shall have a setback of at least 15 feet from all street lines, if not attached to the premises.

26. Editor's Note: Former Subsection E, Real estate signs, was repealed 3-17-2015 by Ord. No. O-15-01. For current provisions, see § 188-32.1, Temporary signs.

§ 188-32.1. Temporary signs. [Added 3-17-2015 by Ord. No. O-15-01]

A. Real estate signs.

- (1) Temporary signs in the form of nonilluminated, real estate signs announcing the sale, rental or lease of the premises on which the sign is located and real estate signs announcing an open house are permitted in accordance with this subsection. The sign may be double-faced and, except as noted below, only one sign announcing the sale, rental or lease of the premises shall be permitted on each lot or parcel unless it fronts on more than one street right-of-way or property line unless attached to a portion of a building that may be nearer to said street right-of-way or property line. Temporary real estate signs announcing an open house may be located so as to provide directions to the open house, however in no event shall such signs remain in place for a period exceeding 24 hours. Real estate signs shall not be located so as to obstruct traffic in any way, and such signs shall not be located in any landscaped traffic island. Any temporary sign erected pursuant to this subsection may be erected on private property only with the authorization of the owner of the property. The maximum size of the sign shall be in accordance with the following schedule:
 - (a) Residential zones: eight square feet.
 - (b) Business zones: 12 square feet.
 - (c) Industrial zones: 24 square feet.
- (2) All real estate signs announcing the sale, rental or lease of the premises shall be removed within seven days after closing or settlement on said property or the execution of the lease. Temporary real estate signs announcing an open house or providing directions therefor shall be removed within six hours from the end of the open house event.
- (3) Developments with four or more homes for sale may be advertised on a sign not to exceed 24 square feet nor a height of 12 feet. One such sign shall be permitted on each frontage if the development fronts on more than one street. The sign shall be removed when all of the homes or lots have been initially sold or rented.
- (4) No "for sale," "for rent," "for lease" or similar real estate sign shall exceed six feet in height.
- (5) The advertised use of the structure shall be in accordance with the zoning in the district in which it is located.
- (6) Penalties. The penalty for a violation of this subsection shall be a fine of not less than \$100 for each violation. Each day during or on which a violation occurs or continues shall be deemed a separate

offense. Each sign erected in violation of this subsection shall be deemed a separate offense. The owner of any sign as identified on such sign shall be liable for any penalty assessed for any sign deemed to be in violation of this subsection.

- B. Public entities, charitable fund-raising and religious organizations. Temporary signs for advertising public functions or fund-raising events for charitable or religious organizations shall be permitted for a period of 30 days prior to and during the event and shall be removed within five days after the event. The sign shall be nonilluminated, not larger than 24 square feet in area, not exceeding eight feet in height and may be erected flat against the building or freestanding.
- C. Political signs.
 - (1) Temporary political signs, and signs not related to a political campaign, but containing political expressions, may be erected for a period of 60 days. Campaign signs shall be removed within 15 days after the election. Political signs in residential zones shall not exceed 16 square feet, the dimension shall not exceed four feet on any side and they shall not exceed the height limitation for residential zones. Political signs in all other zones shall not exceed the maximum size and height limitation for the zone in which they are placed.
 - (2) In accordance with N.J.S.A. 19:44A-22.3, temporary political signs aiding or promoting the nomination, election or defeat of any candidate or providing political information on a political candidate or aiding the passage or defeat of any public question or providing political information on any public question shall clearly state on the face thereof the name and business or residence address of the committee, group or person that financed the temporary political sign and shall contain a statement that the temporary political sign has been financed by that group, committee or person.
- D. Relocation signs. Relocation information signs may be erected for a period not exceeding 30 days. Relocation signs shall be restricted to the present location of the relocating business and the future location of the relocating business. The signs, one each at the present and the future business sites, shall not be in excess of standards set forth for the zone in which the business is located.
- E. Construction signs. One sign announcing the name of architects, engineers and/or contractors, the building enterprise and related information shall be permitted at a site under construction, alteration or repair, provided that the sign shall not exceed 24 square feet in area and that the sign shall be removed before a certificate of occupancy is issued.
- F. Window and interior signs. Permanent and temporary window signs and internal signs visible from the exterior of the building may be erected in conformance with the standards set forth under facade signs and other

applicable requirements of this chapter. Temporary window signs and internal signs advertising or describing sales or special merchandise are permitted, provided that the same sign does not remain visible from the exterior of the building for a period of longer than 20 days and that all of the signs individually or collectively do not exceed 15% of all available window space or the wall on which the signs are located.

- G. Commercial temporary signs. The construction, erection, replacement or alteration of any temporary sign advertising a grand opening, anniversary sale, moving sale, liquidation, going-out-of-business or similar temporary special event for a commercial purpose, which shall be known as a "commercial temporary sign," shall be prohibited unless the commercial entity first obtains a permit from the Zoning Officer and pays the applicable fee required by this subsection. It shall be unlawful for any person to install, maintain, erect, replace, alter or display within the Township any commercial temporary sign as defined herein without first obtaining a permit. In addition to the sign requirements applicable for the particular district within which the sign is erected, all commercial temporary signs shall also comply with the following standards:

- (1) One temporary sign not exceeding 24 square feet designed to advertise a grand opening celebration of a commercial establishment may be erected and maintained on the commercial premises which is the subject of said grand opening celebration for a period of 14 days prior to said event and for seven days thereafter. Streamers, pennants, balloons and other like accessory decorations may also be erected during the above time period.
- (2) One temporary sign not exceeding 24 square feet designed to advertise a special sales event may be erected and maintained on the commercial premises conducting said event for a period not in excess of 30 calendar days. The erection of a temporary sign advertising a special sales event shall be limited to four events per year per commercial establishment.
- (3) Where the commercial premises fronts on Route 22, the area of temporary signs shall not exceed 36 square feet.
- (4) Temporary signs shall not be so installed as to create a traffic or fire hazard to create a condition that adversely affects public safety.
- (5) Temporary signs not permitted by these regulations or the Land Use Ordinance of the Township (Chapter 188 of the Township Code) are prohibited.
- (6) Applications for a permit to install a temporary sign shall be made to the Zoning Officer at least 10 days prior to the commercial event or sale and shall contain or have attached thereto the following information:
 - (a) The name, address and telephone number of the applicant.

- (b) The name or names of the owner of the premises and location of the building, structure or lot upon which the banner is to be installed.
 - (c) Written consent of the owner or authorized agent of the building, structure or land on which the banner is to be displayed.
 - (d) The date(s) of the commercial event to be advertised on the temporary sign.
 - (e) The date when the temporary sign is to be installed.
 - (f) The date when the temporary sign will be removed.
 - (g) Chart or drawing attached to the application showing that the temporary sign will not interfere with traffic or the safety of persons using the premises.
 - (h) A statement by the applicant swearing to the truth of the information contained in the application by affidavit or certification.
- (7) The Zoning Officer, upon finding that the information contained in the application is true, shall issue the permit.
- (8) Fees for a commercial temporary sign permit: \$150. One hundred dollars of the permit fee of \$150 is refundable if the applicant has complied with all provisions of this section, including but not limited to the timely removal of said commercial temporary sign.
- (9) Any person, firm or corporation violating any provision of this section shall be fined not less than \$100 for a first offense and shall forfeit the refundable portion of the permit fee, unless no permit fee was paid, in which case the fine for such first offense shall be \$200. Second and subsequent offenders shall be fined not less than \$250 and shall forfeit the refundable portion of the permit fee, unless no permit fee was paid, in which case the fine for such second and subsequent offenses shall be \$350. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- (10) It is the duty of the Zoning Officer to enforce these regulations and the penalties hereunder and to investigate all such signs which are alleged to be unsafe, a menace to the public, or erected or displayed in violation of the provisions of this section.
- H. Other temporary signs. Non-profit and public entity organizations and agencies shall be permitted to erect or display a temporary sign which shall comply with all standards and application procedures as set forth in Subsection G of this section, but shall be exempt from payment of permit fees.

- I. Obstructions at intersections. In addition to the requirements of this chapter, all temporary signs must comply with and are subject to the requirements of §§ 265-5 through 265-8.
- J. Illegal signs. Any sign erected or applied in violation of this chapter shall be removed within 10 days after receipt of written notification from the Zoning Officer of the violation by the property owner or the person, group of persons, business, enterprise or organization that erected or applied the sign. Anything to the contrary notwithstanding, the Township reserves the right to remove any temporary sign, including, but not limited to, temporary political signs, "for sale" signs, temporary commercial signs and related advertising materials, that have been erected or applied on public property or in the public right-of-way immediately upon the determination by the Zoning Officer that the same is in violation of this chapter, in which case the cost incurred by the Township for the removal of the illegal temporary sign shall be paid by the person, group of persons, business, enterprise or organization that erected or applied the sign or, in the case of a temporary political sign, paid by the individual, organization or political campaign committee named on the temporary political campaign sign as being responsible for providing funding for the sign.

§ 188-33. Piers and bulkheads.

Piers or bulkheads for the purpose of docking boats and filling land shall be permitted along streams and rivers so long as they do not interfere with the flow of water and provided that they shall have the necessary approval of the New Jersey Bureau of Navigation and any other agency having jurisdiction thereof.

§ 188-34. Refuse disposal.

The disposal of garbage or trash shall be by means of incinerator only with the approval of the Township in accordance with all standards and specifications set forth by the New Jersey State Department of Health. Open dumps and the open burning of refuse shall not be permitted in any district.

§ 188-35. Landfill.

All lots being filled shall be filled with topsoil or clean fill to allow complete surface drainage of the lot into local storm sewer systems.

§ 188-36. Service stations.

- A. No service station shall have an entrance or exit for vehicles within 200 feet along the same side of a street of any school, public playground, church, hospital, public building or institution, except where such property is in another block or on another street which the lot in question does not abut.

- B. No service station shall be permitted where any oil draining pit or visible appliance for any purpose (other than gasoline filling pumps or air pumps) is located within 20 feet of any street line or 50 feet of any residential district. All appliances or pits, other than gasoline filling pumps or air pumps, shall be within a building. Gasoline pumps shall be permitted within the required front yard space of service stations but shall be no closer than 15 feet to the street line.
- C. Automobile, gas or service stations, car washing establishments and public garages, including the repair of motor vehicles, shall be a permitted use, provided that no use shall be located nearer than 25 feet to any residential zone, and provided further that no automobile, gas or service stations, car washing establishments and public garages shall be located within a radius of 1,000 feet of any existing automobile, gas or service stations, car washing establishments and public garages.
- D. In cases where a service station is located, no junk yards or premises used for storage of junked motor vehicles or vehicles incapable of normal operation shall be permitted within the Township. It shall be deemed prima facie evidence of violation of this article if more than three motor vehicles incapable of operation are located at any one time upon any premises not within a closed and roofed building excepting, however, that a number not exceeding six motor vehicles may be located upon any service station premises outside of a closed or roofed building for a period of time not to exceed 48 hours and provided that the motor vehicles are awaiting repair by the owners thereof.

§ 188-37. Site plan review.

- A. When required. **[Amended 8-5-1975 by Ord. No. G-76-75; 5-31-1977 by Ord. No. G-112-77; 12-19-1978 by Ord. No. G-137-78]**
 - (1) No building permit shall be issued for any of the uses listed below unless a site plan shall have first been approved by the Planning Board; provided, however, that this requirement shall not apply when the proposed development involves only a change in the use of any building or other structure or use of land for which approval is required and no new construction or structural alteration or enlargement of any existing building or other structure is contemplated:
 - (a) Any use other than a one- or two-family dwelling.
 - (b) Conditional uses.
 - (c) Use variances.
 - (d) Parking areas for four or more vehicles.

- (2) A building permit may be issued without site plan review, provided that the new construction, structural alteration or enlargement does not exceed:
 - (a) Two hundred square feet for family dwellings, other than one- or two-family dwellings.
 - (b) Three hundred square feet for commercial facilities.
 - (c) Five hundred square feet for industrial facilities.

B. Minor site plan. **[Amended 2-19-1980 by Ord. No. G-177-80]**

- (1) The Planning Board may waive notice and public hearing for an application for development if the Planning Board or Site Plan Committee of the Board appointed by the Chairman finds that the application for development conforms to the definition of "minor site plan." Minor site plan approval shall be deemed to be final approval of the site plan by the Board, provided that the Board or said Subcommittee may condition such approval on terms ensuring the provision of improvements pursuant to N.J.S.A. 40:55D-38, N.J.S.A. 40:55D-39, N.J.S.A. 40:55D-41 and N.J.S.A. 40:55D-53.
- (2) Minor site plan approval shall be granted or denied with 45 days of the submission of a complete application to the Building Department or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute minor site plan approval.
- (3) Whenever review or approval of the application by the County Planning Board is required by N.J.S.A. 40:27-6.6, the Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.
- (4) The Zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor site plan approval was granted shall not be changed for a period of two years after the date of minor site plan approval.

C. Filing. **[Amended 5-31-1977 by Ord. No. G-112-77]**

- (1) Applications for preliminary site plan approval, including those involving conditional use approval or planned development approval (where permitted by this article or other controlling land use ordinances and regulations) shall be filed with the Building Department, together with the required site plan application fee. Three copies of the application shall be filed, together with 12 copies of the site plan meeting the design and detail requirements of § 188-41 of this article. In addition, at the time of filing, but in no event less than 10 days prior to the date set for public hearing, if a

hearing is required pursuant to §§ 188-54, 188-55 and 188-56 of this article, the applicant shall file such additional information, plats, maps, drawings and other documents as is required by this article or as may be required to be filed by the rules and regulations of the Planning Board, not inconsistent with the requirements of this article.

- (2) If the applicant is not the owner of all of the lands which are the subject of the proposed development plan, all owners shall either join in the application or indicate on the application that they consent to such application. Proof of ownership in the form of deed, affidavit or other form satisfactory to the Planning Board shall be furnished with the application.
- (3) The Building Department shall retain the fee on behalf of the Township, recording on the application the amount and date of receipt and shall immediately forward the application and all copies of the plat to the Planning Board.
- (4) Applications shall be filed upon forms provided by the Planning Board and shall be obtainable from the Building Department office.
- (5) Applications shall be filed not less than 14 days prior to the date of the regular meeting of the Planning Board at which consideration of the application is desired.

D. Processing. **[Amended 2-19-1980 by Ord. No. G-177-80]**

- (1) Upon the filing of the foregoing documents and the payment of all requisite fees, the application shall be deemed complete. If the application for development is found to be incomplete or otherwise unsatisfactory or in need of amendment to meet the requirements of this article and/or the reasonable demands of the Planning Board consisted herewith and with Chapter 291 of the Laws of 1975, the applicant shall be notified, in writing, of the deficiencies therein by the Secretary or Clerk of the Planning Board for the determination of completeness within 45 days of submission of such application or it shall be deemed to be properly submitted.
- (2) Upon receipt of the complete application meeting the requirements of this article, the Planning Board shall retain two copies of the site plan and forward copies of such plan and related documents to: the County Planning Board, Township Clerk, Township Engineer, Township Board of Health, Township Construction Official, Township Tax Assessor, Township Planning Board Attorney and all other state, county and Township offices and departments having jurisdiction thereof, as required by law or by the provisions of this article, for their reports and recommendations concerning the proposed development. The reports shall be presented to the Planning Board at a regularly scheduled meeting on the application; detailed reasons for the disapproval must be set forth.

Reports shall be filed with the Planning Board within 30 days of receipt of the site plan and related documents.

E. Hearings on applications for preliminary site plan approval.

(1) Procedure.

- (a) Upon the submission of a site plan involving more than two acres of land, a public hearing shall be held pursuant to the provisions and requirements of this article.
- (b) No public hearing shall be held unless affidavit of publication and service as required by §§ 188-54, 188-55 and 188-56 of this article are submitted by the applicant to the Planning Board prior to or at the hearing.
- (c) If the Planning Board or Zoning Board requires any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development.

(2) The Planning Board may allow the applicant to obtain a performance bond in lieu of the certified check as a performance guaranty. In the event that the Planning Board shall allow a performance bond then, the following shall be submitted to the Planning Board: **[Added 8-5-1975 by Ord. No. G-77-75]**

- (a) A performance guaranty estimate shall be prepared by the Township Engineer setting forth all requirements as fixed by the Planning Board and the estimated cost of providing the same.
- (b) The applicant shall present two copies of the performance guaranty in an amount equal to the amount of the approved performance guaranty estimate for approval as to form and sufficiency by the Planning Board Attorney.
- (c) The performance bond shall be in the amount of the approved performance guaranty estimate. The applicant shall be the principal on the performance bond and the Township shall be the beneficiary. The performance bond shall be issued by an acceptable surety company authorized to do business in the State of New Jersey. The performance bond shall contain a clause to the effect that a determination by the Township Engineer that the principal has defaulted in the performance of his obligation shall be binding and conclusive upon the surety and the principal.
- (d) A final inspection of all improvements shall be made by the Township Engineer to determine whether the work is

satisfactory and in agreement with the Planning Board's requirements. The general condition of the site shall also be considered. Upon a satisfactory written inspection report filed with the Planning Board by the Township Engineer, action will be taken to release the performance guaranty covering such improvements.

F. Action upon application for preliminary site plan approval: time limitations.

- (1) Following receipt and consideration of the reports received pursuant to Subsection C of this article or the expiration of 30 days without receipt of any such report(s), the holding of a public hearing pursuant to §§ 188-54, 188-55, and 188-56 of this article, if such a hearing is required, and amendments and charges, if any, made in the site plan in accordance with the reasonable demands of the Planning Board consistent with this article and the Municipal Land Use Law,²⁷ if the proposed development plan complies with this article and said Land Use Law, the Planning Board shall grant preliminary site plan approval.
- (2) Upon the submission of a complete application for a site plan which involves 10 acres of land or fewer and 10 dwelling units or fewer, the Planning Board shall grant or deny preliminary approval within 45 days of the date of such submission or within such further time as may be consented to be the applicant in writing. Upon the submission of a complete application for a site plan, if so required by the Planning Board, which involves more than 10 acres or more than 10 dwelling units, the Planning Board shall grant or deny the preliminary approval within 95 days of the date of such submission or within such further time as may be consented to by the applicant in writing. Otherwise, the Planning Board shall be deemed to have granted preliminary approval of the site plan. **[Amended 2-19-1980 by Ord. No. G-177-80]**
- (3) Whenever review or approval of the application by the County Planning Board is required by N.J.S.A. 40:27-6.6, the Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

G. Effect of preliminary site plan approval.

- (1) Preliminary approval of a site plan shall protect the applicant, for a three-year period from the date of the preliminary approval, from changes in the general forms and conditions on which preliminary approval was granted, including but not limited to use requirements; layout and design standards for streets, curbs and

27. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

sidewalks; lot size; yard dimensions and off-tract improvements; and any requirements peculiar to such preliminary site plan approval. However, nothing herein shall be construed to prevent the Township from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety.

- (2) The applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary site plan.
- (3) The applicant may apply for and the Planning Board may grant extensions on such preliminary approval for additional periods of at least one year but not to exceed a total extension of two years, provided that if the design standards have been revised by ordinance, such revised standards may govern.

H. Applications for final site plan approval.

- (1) Installation of improvements completed.
 - (a) No application for final site plan approval shall be filed until the applicant shall have installed all the on-site and off-site improvements required as a condition of preliminary site plan approval in accordance with this article, as amended. Such installation shall have been accomplished under the supervision and inspection of the Township Engineer and a certificate of satisfactory completion filed by the Township Engineer with the Planning Board. **[Amended 10-21-2003]**
 - (b) The applicant, however, shall be permitted by the Planning Board to post adequate performance guaranties in accordance with § 188-10 of this chapter to assure the completion and installation of the following improvements or incomplete portions thereof, in lieu of the completion of the same prior to applying for and securing final site plan approval: monuments; shade trees; buffer and screening plantings and fencing; lighting; top roads, internal roadways and parking and loading areas; sidewalks; signs; traffic control signs and devices for which county and/or state approvals are required; final grading and seeding of public and open space areas; and such other on-site improvements as applicants can demonstrate will interfere with or will likely be damaged by the construction of the buildings and other structures forming a part of the development plan which will be constructed subsequent to final site plan approval or would not be in the best interest of the general public to install until after final approval due to conditions that are peculiar to the particular application for development.

- (2) Filing. Applications for final site plan approval shall be submitted at any time subsequent to the complete installation of on-site and off-site improvements as required by Subsection H(1) of this section and prior to the expiration date of preliminary approval and processed in the same manner and in accordance with the same requirements as provided above in § 188-37E for the submission of an application for preliminary site plan approval, upon forms provided by the Planning Board for final approval and accompanied by the fee specified in § 188-15 of this chapter.
- (3) Processing. Upon the filing of the required application for final site plan approval accompanied by the required number of copies 12 of the final site plan and other related documents meeting the design and detail requirements of § 188-9 of this chapter and the payment of the requisite fees and the posting of the performance guaranties required by § 188-10 of this chapter, the application shall be deemed complete. If the application for development is found to be incomplete or otherwise unsatisfactory or in need of amendment to meet the requirements of this article and/or the reasonable demands of the Planning Board consistent herewith and with Chapter 291 of the Laws of 1975, the applicant shall be notified thereof by the Secretary (or Clerk) of the Planning Board within 30 days of submission of such application or it shall be deemed to be properly submitted. Copies of the final site plan shall be submitted in the Township Engineer and to the County Planning Board and such other state, county and Township offices and departments having jurisdiction thereof, as required by law or by this article, including any and all of the persons and agencies to whom copies of the preliminary site plan were sent as specified in § 188-37C(2) of this article, if deemed advisable by the Planning Board, for their reports and recommendations. The reports shall be filed with the Planning Board within 30 days of the date of receipt of the final site plan and related documents from the Planning Board.
- (4) Decision.
 - (a) The Planning Board shall act upon the application and deny or grant final site plan approval within 45 days of the submission of a complete application in writing.
 - (b) Failure of the Planning Board to act within this forty-five-day period shall constitute final approval, and a certificate of the Secretary of the Planning Board as to the failure of the Planning Board to act within the prescribed time shall be issued upon the request of the applicant and shall be sufficient evidence of final approval for any and all purposes.
 - (c) A public hearing shall not be required on any application for final site plan approval, except those involving more than two acres of land with respect to which there is substantial amendment in the layout of improvements and other

significant changes in the site plan which was previously granted preliminary approval. In such instances, a new hearing shall be held and all the procedures required for preliminary site plan approval shall be followed.

- (d) Whenever review or approval of the application by the County Planning Board is required by N.J.S.A. 40:27-6.6, the Planning Board shall condition an approval that it grants upon timely receipt of a favorable report thereon within the required time period.

I. Effect of final site plan approval.

- (1) Final approval of a site plan application shall remain in full force and effect for a period of two years from the date of final approval, during which time the zoning requirements applicable to the preliminary approval first granted and all other rights conferred as a part of preliminary approval, whether conditional or otherwise, shall not be changed. If the developer has followed the standards prescribed for final approval, the Planning Board may extend such period of protection for extensions of one year but not to exceed three such extensions.
- (2) Final site plan approval shall expire at the end of this two-year period or two-year period as extended pursuant to this article, if applicable, unless within this period all construction work and site improvements covered by the approved site plan shall have been substantially completed and a good faith application shall have been made to the appropriate Township officer for a certificate of occupancy.

J. Performance and maintenance guaranties.

- (1) As a condition for final site plan approval, the Planning Board shall require the furnishing of a performance guaranty in favor of the Township in an amount not to exceed 120% of the cost of installation of improvements, as estimated by the Township Engineer, which the Planning Board may deem necessary or advisable to insure the installation of the same for the protection of the health, safety and welfare of the residents of the Township and other persons who may be affected by or use the development which is the subject of final approval, limited, however, to those improvements as specified above, said improvements being those which are not required to be completed and/or installed as a condition for final site plan approval.
- (2) The Planning Board shall be empowered to receive a performance guaranty for both on-site and off-site improvements, whether or not said are eventually to be accepted by and become the property and responsibility (to operate) of the Township, involving streets, graded pavement, gutters, curbs, sidewalks, shade trees, surveyor's monuments, streets, traffic control signs and devices,

water and water system appurtenances, culverts, sewers, sanitary sewers and other sewage disposal, drainage structure facilities, erosion control and control devices, public improvement space, landscaping and other on-site improvements related to the foregoing.

- (3) As a condition for final site plan approval, the Planning Board shall require the furnishing of a maintenance guaranty for a period not to exceed two years after final acceptance by the Township of those improvements which are to be accepted by and become the property and responsibility (to operate) of the Township in the amount not to exceed 15% of the cost of the improvement, as estimated by the Township Engineer.
- (4) All performance and/or maintenance guaranties required by the Planning Board as a condition for final site plan approval shall be governed by and comply with the provisions and requirements of § 188-10 of this chapter regarding development plan guaranties.

K. Site plan details and information required.

- (1) Every development plan shall be prepared by a New Jersey licensed architect or a New Jersey licensed professional engineer and shall contain the raised seal of said architect or said engineer, and the development plan shall be drawn to a scale of not less than (1) inch equals 30 feet if the subject property is fewer than two acres; to a scale of not less than one inch equals 50 feet if the subject property is more than two and fewer than five acres; and to a scale of not less than one inch equals 100 feet if the subject property is more than five acres. Every development plan shall show the following:
 - (a) The name and title, address and telephone number of the applicant, the owner and the person preparing the plan, maps and accompanying data.
 - (b) An appropriate place for the signatures of the Chairman and of the Secretary of the Planning Board.
 - (c) An appropriate place for the signature of the Township Engineer.
 - (d) The Township Tax Map lot and block number or numbers of the premises affected.
 - (e) A date, scale and North sign on any map.
 - (f) The zone district in which the premises in question is located and the zone district or districts of all the immediately adjoining properties.
 - (g) A key map showing and locating the subject property in relation to surrounding areas.

- (h) Total number of acres contained in the subject property.
- (i) The location of all existing watercourses, above and below ground, wooded areas, easements, rights-of-way, streets, roads, highways, freeways, railroads, canals, rivers, buildings, structures or any other feature directly on the property or within 200 feet of said property.
- (j) The location, use and ground area of each proposed building, structure or any other land use.
- (k) The location, widths, grades, design and construction details of proposed streets, internal roadways and driveways servicing the site and the plan of traffic circulation, if appropriate.
- (l) The location, capacity, design and construction of proposed off-street parking areas and loading and unloading facilities.
- (m) Utilities. Proposed location, design, size, construction details and capacity of all public and private utility facilities and systems, including but not limited to storm drainage, sanitary sewers and/or sanitary disposal facilities, solid waste disposal, water, gas, electricity, cable television systems and telephone.
 - [1] Where the proposed development is not to be connected to a public water system and water is to be supplied by the drilling of new wells, sufficient footing testing shall be performed and results furnished to assure the Planning Board that adequate water meeting all controlling governmental regulations can be furnished without adverse effect upon private water systems serving adjacent and nearby properties.
 - [2] For all development plans involving more than two acres, electric, telephone and cable television lines shall be installed under ground, unless waived by the Planning Board for good cause shown by applicant.
 - [3] A map showing the entire drainage area and the drainage area contributing to each pertinent drainage structure along with drainage tabulation sheets showing calculations for each drainage area shall be provided. Each drainage area shall be marked for identification purposes.
- (n) The location and treatment of proposed entrances and exits to public rights-of-way, including the possible utilization of traffic signals, channelization, acceleration and deceleration lane, additional width and any other device necessary to traffic safety and/or convenience.

- (o) The location of and identification of proposed open spaces, parks, recreation areas or other public areas.
- (p) Proposed plan for soil (erosion) and sedimentation control in accordance with the requirements of Chapter 257, Soil Removal, including all necessary design and construction details.
- (q) The location and design of landscaping, buffer areas and screening devices and shade trees, including a plan for landscaping showing the basic treatment of all unpaved areas and areas not used for buildings.
- (r) The location, widths, grades, design and construction details of sidewalks, walkways and all other areas proposed to be devoted to pedestrian use.
- (s) Specific location, size, height and design of signs and outdoor lighting, existing and proposed.
- (t) All lot line dimensions.
- (u) Existing contours and proposed final contours, at contour intervals of two feet, as well as existing and proposed finished grade elevations at all corners and entrances to buildings and structures.
- (v) Required building setback, side yard and rear yard requirements and all existing and proposed setback and yard dimensions.
- (w) Whether existing buildings and structures are to remain or be demolished.
- (x) The type, specifications for and location of all of proposed surface paving and curbing.
- (y) The location, size and nature of the entire property in question and any contiguous property owned by the applicant or owner of the subject property or in which the applicant or said owner has a direct or indirect interest even though only a portion of the entire property is involved in the site plan for which approval is sought; provided, however, that where it is physically impossible to show such entire property or contiguous property or properties on one map, a key map thereof shall be submitted.
- (z) The location, names and widths of all existing and proposed streets abutting the premises in question and the property lines of all abutting properties, together with the names and addresses of the owners as disclosed on the Township Tax Map and tax rolls on file in the Township of Hillside municipal offices as of the date of the site plan application.

- (aa) Deed restrictions. A copy of any existing or proposed protective covenants or deed restrictions applying to the land being developed shall be submitted with the preliminary plat.
- (bb) All information and data required to permit the Planning Board to determine whether or not the proposed development will conform fully with all applicable performance standards and the requirements of this article. **[Amended 10-21-2003]**
- (2) Building plans. There shall also be submitted one set of drawings of every principal or accessory structure proposed to be erected or altered on the subject property. The drawings shall show at least the schematic floor plans and exterior design. The exterior design shall show all elevations of the structures and indicate the proposed construction materials and general design and architectural styling.
- (3) Design standards and construction of on-site and off-site improvements, streets, sidewalks, curbing, roadways and internal roads, parking areas, pavement, street signs, storm drainage construction, water mains, sanitary sewers and all related improvements shall be constructed, installed and located in accordance with the design standards and improvement requirements, to the extent applicable to site plans, of this article, pursuant to this article.
- L. Scope and purpose of site plan review by the Planning Board. The Planning Board shall review every site plan or revision thereof after its submission to determine whether the plan or revised plan complies with all of the applicable provisions of this article and the purposes of the Municipal Land Use Law,²⁸ including those relating to:
 - (1) Lot requirements and location, size and height and structures.
 - (2) Off-street parking.
 - (3) Adequate landscaping, including screening and buffer planting, and shade trees.
 - (4) Stormwater disposal, impact of the same to ensure against flooding.
 - (5) Sanitary sewage disposal and waste disposal, water supply and utilities in general.
 - (6) Signs.
 - (7) Outdoor lighting.
 - (8) Building design.

28. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

- (9) Preservation of existing natural resources on the site.
 - (10) Safe and efficient vehicular and pedestrian circulation, including suitable and safe access for fire-fighting and emergency vehicles to buildings.
 - (11) Prevention of unreasonable interference with traffic on surrounding streets.
 - (12) Suitable size, shape and location of any public use areas or open space areas reserved and set aside for use and benefit of residents of planned developments including residential cluster to the extent permitted by this article.
 - (13) Protection and conservation of soils from erosion by wind, water or from excavation or grading.
 - (14) Promotion of a desirable visual environment and aesthetic consideration. The Planning Board shall in reviewing a site plan generally consider the impact of the proposed development upon the Township and its residents to determine if it is in furtherance of the purposes of the Municipal Land Use Law as set forth in N.J.S.A. 40:55D-2 and whether the proposed site plan is conducive to the orderly development of the site and the general area in which it is located.
- M. Compliance with site plan requirements and the purposes of site plan review.
- (1) Every application for preliminary site plan approval shall comply with the requirements of §§ 188-37J and K of this article, except to the extent exceptions from such requirements are granted by the Planning Board pursuant to § 188-41 of this article.
 - (2) In addition, an application for final site plan approval and the final development plan must include and show the following:
 - (a) Complete as-built plans showing the exact location, size, capacity, grade, profiles, design and construction details with respect to all on-site and off-site improvements installed in accordance with the terms and conditions of preliminary site plan approval and required as a prerequisite for final approval.
 - (b) The performance and maintenance guaranty required pursuant to § 188-9 of this chapter and meeting the requirements of § 188-10 of this chapter.
- N. Indication of approval or denial on site plan.
- (1) In the event that a preliminary or final site plan is approved by the Planning Board, a notation to that effect shall be made upon the development plan, including the date of approval, and signed by both the Chairman and Secretary of the Planning Board, following

indication of approval thereon by the Township Engineer. Copies of such plan bearing such notation and signatures shall be forwarded to the applicant, the Township Engineer, the Township Clerk and the Township Construction Official, and one such copy shall be placed in the Planning Board files.

- (2) In the event that the Planning Board disapproves the development plan or revised plan, a notation to that effect, including the reasons therefor, shall be made upon or attached to the development plan or revised plan and signed by the Chairman and Secretary of the Planning Board. A copy of the plan bearing such notation shall be returned to the submitting party.

§ 188-38. Space, use and location of dwelling units.

No person shall occupy or let to another for occupancy any dwelling unit, hotel room, hotel room or apartment for the purpose of living therein which does not comply with the ordinances of the Township.

§ 188-39. Swimming pools. [Amended 12-16-1975 by Ord. No. G-85-75]

Private in-ground residential swimming pools shall adhere to the following standards:

- A. All pools shall be located only in rear yard areas, and no pool or wading pool shall be constructed or installed on any lot unless a residence building is located on the lot or unless the lot is part of a residence curtilage.
- B. Pools shall occupy no more than 25% of the rear yard area or a maximum of 800 square feet as measured along the surface of the water, whichever is smaller.
- C. No edge of any pool shall be closer to any building or any lot line than seven feet.
- D. In the case of a corner lot, a private permanent swimming pool shall not be constructed, erected, installed or maintained closer to the side street line than the prevailing setback line on that street.
- E. Suitable and appropriate trees, shrubbery, planting or fencing shall be provided and maintained so that neither the pool itself nor the bathers using it are visible at any time to a person standing on the ground on any joining street or on any contingent property, except that this provision does not apply to diving boards or platforms or to bathers while they are on such diving boards or platforms.
- F. The pool may be lighted by underwater or exterior lights, or both, provided that all exterior lights are located so that the light is neither directed nor reflected upon adjacent properties in such a manner as to be a nuisance or an annoyance to neighboring properties. All

freestanding standards used for exterior lighting shall not exceed 12 feet in height and shall be no closer than nine feet to the edge of the pool. Underwater lighting shall be in compliance with the applicable National Electrical Code. Accompanying the application for a building permit shall be a certificate of approval from the National Board of Fire Underwriters that the underwater lighting facilities meet their specifications.

- G. The pool shall be completely surrounded by such fencing as will effectively exclude children or trespassers, except that gates shall be provided which shall be kept locked when the pool is not in use.
- H. Sound-absorbing and sound-deflecting structures and planting shrubbery and trees shall be provided in such manner and number as to effectively reduce the sounds from the pool as heard on contiguous property or streets to the end that there shall be no unreasonably loud noise or sound which is abnormal to the surrounding neighborhood.
- I. All areas surrounding the pool shall be made and kept neat and attractive so as to be in conformity with surrounding property, and no rubbish, debris or litter shall be permitted to remain or accumulate in or about the pool.
- J. All material used in the construction of swimming pools shall be waterproof and easily cleaned. The bottom and sides of the pool shall be either white or a light color, except that aluminum paint shall not be used as a finish. Sand or earth bottom shall not be used.
- K. There shall be no physical connection between a potable public or private water supply system and such pools at a point below the maximum flow line of the pool or to a recirculating or heating system of a pool unless such physical connection is so installed and operated that no pool water can be discharged or siphoned into a potable water supply system.
- L. All swimming pools hereafter constructed shall be provided with not over one two-inch-diameter galvanized iron pipe or approved equal drain extending from the pool to a brook, adequate dry well, curb gutter opening or storm sewer where capacity is adequate as determined by the Township Engineer. No pool drain shall be connected to the sanitary sewer system. Pool drainage systems must be approved by the Plumbing Inspector prior to the issuance of a permit by the Construction Official.
- M. All swimming pools shall be so constructed, installed and maintained as to provide necessary equipment for the chlorination and other disinfection and filtering to comply with such approved bacteriological standards as may be promulgated by regulations issued by the Board of Health of the Township.
- N. See also the Township regulations concerning the Board of Health ordinances.²⁹

§ 188-40. Yards not to be used by another building.

No open space provided around any principal building for the purposes of complying with the front, side, rear or other yard provisions of this article shall be considered as providing open space for meeting the same requirements for another principal building.

§ 188-41. Exceptions and modifications.

- A. Exceptions to height limits. Any portion of the roof structure above that which is used in measuring the height of a building as defined in § 188-20 as well as penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans, air-conditioning equipment or similar equipment required to operate and maintain the building and fire or parapet walls, skylights, towers, spires, steeples, flagpoles, chimneys, smokestacks, monuments, water tanks, silos or similar structures may be erected above the height limits prescribed by this article but in no case more than 25% more than the maximum height permitted in the district, except water towers and radio and television towers shall have no height restrictions and except further that all such facilities shall comply with any requirements of the Federal Aviation Agency.
- B. Exception to area requirements. Where the owner of a lot of substandard size, irregular shape or substandard area owns vacant adjacent lots or parcels of land, the lots or parcels shall be considered as a single lot and the area and yard space provisions of this article shall hold. Also, whenever land for the widening of a public right-of-way has been dedicated and conveyed to the Township as part of a subdivision approval to meet minimum street right-of-way requirements of Article I, Subdivision of Land, of this chapter or the Master Plan, the Construction Official may issue a building permit for a lot whose depth and lot area are reduced by the same dimension and area as dedicated to the Township only if the applicant has no other adjacent lands to provide the minimum requirements.
- C. Exception to front yard requirements. Where more than 50% of the street frontage in any block is developed, the required front yard for any building shall be a depth not less than the average depth of the front yards of all the existing buildings.
- D. Corner lots. Where a building is situated on a corner lot, the side yard on the street side shall be one-half (1/2) the available depth of the front yards of the existing buildings on the street but in no case less than eight feet.

§ 188-42. Prohibited uses.

- A. All uses that are not expressly permitted in this article are prohibited. An applicant for a nonpermitted use, after application for a permit has been denied, may apply to the Zoning Board of Adjustment and at the same time shall apply to the Planning Board in order that the Planning Board may review and make a recommendation of standards to the Zoning Board of Adjustment in time for the public hearing of the Zoning Board of Adjustment on the applicant's case. The Planning Board may offer an opinion as to whether such proposed new use is compatible with the uses specifically permitted in the limitations for the district in which the applicant's land is located and whether the new use will not seriously impair the intent of this article and of the Master Plan.
- B. There shall be a moratorium meaning no approvals or construction of any new or converted condominiums, townhouses or cooperatives until further decision of the Township Committee of the Township of Hillside. This subsection is enacted in view of a presently proposed Master Plan for the Township of Hillside which has not yet been considered, amended or adopted for the Township of Hillside. This moratorium shall extend until the Township Committee considers the issue of construction or conversion of condominiums, townhouses or cooperatives and enacts some procedures based upon consideration of present circumstances and the proposed Master Plan. **[Added 7-21-1987 by Ord. No. G-271-87]**

§ 188-43. Duties of Construction Official.

It shall be the duty of the Construction Official or his representative in his absence to administer and enforce this article in accordance with the provisions of this article or any other applicable ordinance except as provided in § 188-25. In no case shall a permit be granted for the construction or alteration of any building where the proposed construction, alteration or use would be in violation of any provision of this article. It shall be the duty of the Construction Official or his representative to cause any new buildings, plans or premises to be inspected or examined and to order, in writing, that any condition be remedied which is found to exist in violation of any provisions of this article, and he shall have the right to enter any building or premises during the daytime in the course of his duties and in compliance with all laws. The Construction Official shall prepare a report for the Township Committee on a monthly basis summarizing for the period since his last previous report all complaints of zoning violations and the action taken by him. A copy of each report shall be filed with the Planning Board at the same time it is filed with the Township Committee.

§ 188-44. Building and zoning permits. [Amended 1-9-2007]

- A. Building permits. Every application for a building permit shall be accompanied by three sets of printed plats and, as required by the Construction Official, showing the actual shape and dimensions of the lot to be built upon, the exact location, size and height of the buildings and accessory buildings existing and the lines within which the building

or structure is to be erected or altered, the existing or intended use of each building or part of a building, the number of families or dwelling units the building is designed to accommodate, the number and location of off-street parking spaces and off-street loading areas and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this article. One copy of the plans shall be returned to the owner when the plans have been approved by the Construction Official, together with the permit as may be granted. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on an actual survey of the lot by a licensed land surveyor in the State of New Jersey and filed upon completion of the foundation with the Construction Official. The lot and the location of the building shall be staked out on the grounds before construction is started. No building permit shall be issued for any new dwelling located in a subdivision unless that subdivision is duly approved by the Planning Board in accordance with the provisions of Article I, Subdivision of Land, of this chapter.

- B. Zoning permits. Every property owner or applicant who seeks to enlarge any structure or building footprint; erect an accessory structure; erect a shed; erect a fence; erect a deck; erect a patio or sidewalk; erect exterior stairs; erect walls or change use of any property must undergo a zoning review, to determine whether changes meet existing zoning requirements, and obtain a zoning permit. All zoning review requests shall be accompanied by:
- (1) Two sets of a sealed survey which shows all existing structures, building, accessory structures, decks, patios, sidewalks, stairs, fences and adjacent roadways;
 - (2) Two sets of plans which show the size and location of all proposed changes to the property;
 - (3) If a change of use is being sought, a complete description of the use must be included; and
 - (4) Two sets of the application in a form as designated by the Zoning Official.
- C. All zoning reviews are to be conducted by the Zoning Official, and either a permit shall be issued or a written statement of denial shall be provided to the applicant, within 20 days of the completed application and all appropriate submissions having been provided to the Zoning Official.
- D. The fee for a zoning permit is \$35, which shall be made payable to the Township of Hillside.

§ 188-45. Certificates of occupancy. [Amended 7-15-1975 by Ord. No. G-75-75]

- A. It shall be unlawful for any owner to use or permit the use of any building or part thereof hereafter erected, altered, converted or enlarged wholly or in part or transferred until a certificate of occupancy shall have been issued by the Construction Official. An application for a certificate of occupancy may be made by an owner, tenant, purchaser under contract or the legal representative of any of said persons. The certificate shall show that the building or part of a building and the proposed use conform to the requirements of this article and other applicable ordinances. It shall be the duty of the Construction Official to issue a certificate of occupancy only when he is satisfied that the building or part of a building and the proposed use thereof so conform. Occupancy permits shall be granted or denied, in writing, within five days from the date that a written request for the same is filed with the Construction Official.
- B. Should the Construction Official decline to issue a certificate of occupancy, his reasons for doing so shall be stated, in writing, on the copy of the written request and the copy shall be returned to the applicant.
- C. Upon written request from an owner, tenant, purchaser under contract or the legal representative of any of said persons, the Construction Official shall issue a certificate of occupancy for any building or use of land existing on October 6, 1970, certifying after inspection the extent and kind of use made of the building and whether the use conforms to the provisions of this article.
- D. Any application for a certificate of occupancy for a building engaging in manufacturing, processing of any form of solid waste, mixing of chemicals or housing of materials that may impact upon the health, safety and welfare of the surrounding community must include the approval of the local health administrator and appropriate fire official.
[Amended 4-7-1992 by Ord. No. G-319-92]
- E. On the serving of notice of any violation of any of the provisions or requirements with respect to any building or use thereof or of land as provided in this article, the certificate of occupancy for such use shall thereupon, without further action, be null and void and a new certificate of occupancy shall be required for any further use of the building or land.
- F. A monthly report of the certificates of occupancy issued shall be filed with the Tax Assessor, Police Department, Combustible Bureau and Board of Health. A record of all certificates of occupancy shall be kept in the office of the Construction Official, and copies shall be furnished on request to the Planning Board or to any person having a proprietary or tenancy interest in the building or land affected. The charge for each copy shall be \$5, except that there shall be no charge to a municipal agency.

§ 188-46. Action instituted by Township Attorney.

In case any building or structure is or is intended to be erected, constructed, reconstructed, altered or converted or any building or structure is or is intended to be used in violation of or contrary to the provisions of this article, the Township Attorney is authorized, in addition to other remedies set forth in the statutes of the State of New Jersey and in this article, to institute an action to enjoin, or any other appropriate action or proceeding, to prevent such erection, construction, reconstruction, alteration, conversion or use.

§ 188-47. District changes and ordinance amendments.

The Township may from time to time amend or change by ordinance the number, shape or area of districts established on the Zoning Map of the Township and the regulations set forth in this article in accordance with N.J.S.A. 40:55D-62.

§ 188-48. Zoning Board of Adjustment. [Added 5-31-1977 by Ord. No. G-112-77]

- A. A Zoning Board of Adjustment is hereby established pursuant to N.J.S.A. 40:55D-69 et seq., consisting of seven residents of the Township of Hillside appointed by the Mayor to serve for terms of four years from January 1 of the year of their appointment.
- B. The terms of the members first appointed shall be so determined that to the greatest practicable extent the expiration of such terms shall be distributed evenly over the first four years after their appointment, provided that the initial term of no member shall exceed four years. Thereafter the term of each member shall be for four years. Nothing in this article shall, however, be construed to effect 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.
- C. No member of the Zoning Board of Adjustment may hold any elective office or position under the municipality.
- D. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.
- E. Alternative members of the Zoning Board. **[Added 9-19-1978 by Ord. No. G-130-78; amended 2-19-1980 by Ord. No. G-177-80]**
 - (1) The Mayor may appoint two alternate members of the Zoning Board who are residents of the Township of Hillside. Alternate members shall be designed by the Mayor at the time of appointment as "Alternative No. 1" and "Alternative No. 2." The term of each alternative member shall be for two years.

- (2) Alternative 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 alternative member. In the event that a choice must be made as to which alternative member is to vote, Alternative No. 1 shall vote.
- F. Officers. The Board of Adjustment shall elect a Chairman and Vice Chairman from its members and shall also select a Secretary, who may be either a Board member or another municipal employee.
- G. Board of Adjustment Attorney. There is hereby created the office of Attorney to the Zoning Board of Adjustment. The Zoning Board of Adjustment may annually appoint, fix the compensation of or agree upon the rate of compensation of the Zoning Board of Adjustment Attorney, who shall be an attorney other than the Municipal Attorney.
- H. Experts and staff. The Zoning Board of Adjustment may also employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary. The Board shall not authorize expenditures which exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.
- I. Rules and regulations. The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this article. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply.
- J. Powers to the Zoning Board of Adjustment.
- (1) The powers of the Zoning Board of Adjustment shall be in accordance with N.J.S.A. 40:55D-69 et seq., and amendments and supplements thereto, and with the provisions of this article.
- (2) It is further the intent of this article to confer upon the Zoning Board of Adjustment as full and complete powers as may lawfully be conferred upon such Board, including, not by way of limitation, the authority, in connection with any case, action or proceeding before the Board, to interpret and construe the provisions of this article, or any term, clause, sentence or word hereof, and the Zoning Map, in accordance with the general rules of construction, applicable to legislative enactments.
- (3) The Board may, in appropriate cases and subject to appropriate conditions and safeguards, grant variances from the terms of this article in accordance with the general or specific rules contained herein and with the general rules hereby laid down that equity shall be done in cases where the strict construction of the provisions of this article would work undue hardship. The powers and duties of the Board having been delegated to and imposed upon it by statute, the Board shall in all cases follow the provisions applicable to it in

said Chapter 291 of the Laws of 1975³⁰ or subsequent statutes in such case made and provided, and it shall from time to time furnish to any person requesting the same a copy of its rules and information as to how appeals or applications may properly be filed with the Board for its decision thereon.

K. Appeals and applications. **[Amended 2-19-1980 by Ord. No. G-177-80]**

- (1) Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Each appeal shall be taken within the 20 days prescribed by the statute by filing a notice of appeal with the officer from whom the appeal was taken, together with three copies of said notice with the Secretary of the Board of Adjustment. Said notice of appeal shall specify the grounds for said appeal. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- (2) Applications addressed to the original jurisdiction of the Board of Adjustment without prior application to any administrative officer shall be filed with the Secretary of the Zoning Board of Adjustment. Three copies of the application shall be filed. At the time of filing the appeal or application, but in no event less than 10 days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provision of this article or any rule of the Board of Adjustment. The applicant shall obtain all necessary forms from the Secretary of the Zoning Board of Adjustment. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting dates of the Board.
- (3) An appeal stays all proceedings in furtherance of the action in respect of which the decision appealed from was made, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by the Superior Court of New Jersey on application or notice to the officer from whom the appeal is taken and on due cause shown.

- L. Power to reverse or modify decisions. In exercising the above-mentioned power, the Board of Adjustment may, in conformity with the provisions of Chapter 291 of the Laws of 1975 or amendments thereto or subsequent statutes applying, reverse or affirm wholly or partly or

30. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

may modify the order, requirement, decision or determination appealed from and make such other requirement, decision or determination as ought to be made and to that end have all the powers of the administrative officer from whom the appeal was taken.

M. Expiration of variance. Any variance from the terms of this article hereafter granted by the Board of Adjustment permitting the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance, or unless such permitted use has actually been commenced, within nine months from the date of entry of the judgment or determination of the Board of Adjustment; except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Board of Adjustment to the governing body or to a court of competent jurisdiction until the termination in any manner of such appeal or proceeding.

N. Powers granted by law.

(1) The Board of Adjustment shall have such powers as are granted by law to:

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

(b) Hear and decide requests for interpretation of the map or this article or for decisions upon other special questions upon which such Board is authorized by this article to pass.

(c) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic shape of a specific piece of property, or by reason of exceptional situation or conditions, or by reason of other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation in this article would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property to grant upon an application or an appeal relating to such property a variance from such strict application, so as to relieve such difficulties or hardship, including a variance for a conditional use; provided, however, that no variance shall be granted under this subsection to allow a structure or use in a district restricted against such structure or use; and further provided that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board shall review a

request for a variance pursuant to the Subsection 47a of the Municipal Land Use Law of 1975, Ch. 291, P.L. 1975.³¹

- (d) In particular cases and for special reasons grant a variance to allow departure from regulations pursuant to § 188-41, including, but not limited to, allowing a structure or use in a district restricted against such structure or use, but only by affirmative vote of a least five members of the Board.
 - (2) No variance or other relief may be granted under the provisions of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and this article. Any application under any subsection of this section may be referred to any appropriate person or agency, including the Planning Board, for its report, provided that such reference shall not extend the period of time within which the Zoning Board of Adjustment shall act.
- O. Additional powers. **[Amended 2-19-1980 by Ord. No. G-177-80]**
- (1) The Zoning Board of Adjustment shall, in addition to the powers specified in this article, have power given by law to:
 - (a) 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.
 - (b) Direct issuance of a permit pursuant to N.J.S.A. 40:55D-36 for a building or structure not related to a street.
 - (2) The Board of Adjustment shall have the power to grant to the same extent and subject to the same restrictions as the Planning Board subdivision or site plan approval pursuant to the statute or conditional use approval pursuant to N.J.S.A. 40:55D-67 whenever the proposed development requires approval by the Board of Adjustment of a variance pursuant to N.J.S.A. 40:55D-70. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals by the Board of Adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and this article. The number of votes of Board members required to grant any such subsequent approval shall be as otherwise provided in this article for the approval in

31. Editor's Note: See N.J.S.A. 40:55D-60a.

question, and the special vote pursuant to the aforesaid N.J.S.A. 40:55D-70 shall not be required.

- P. Time for decision. The Board of Adjustment shall render its decision not later than 120 days after the date an appeal is taken from the decision of the Construction Official or the submission of a complete application for development to the Board pursuant to the provisions of N.J.S.A. 40:55D-70b. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided by law. Failure of the Board of Adjustment to act within the time prescribed shall constitute approval of the application, and a certificate of the Construction Official as to the failure of the Board of Adjustment to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats. **[Amended 2-19-1980 by Ord. No. G-177-80]**
- Q. Appeals to the Township Committee from Board of Adjustment. **[Amended 2-19-1980 by Ord. No. G-177-80]**
- (1) When allowed. Any interested party desiring to may appeal the decision of the Board of Adjustment granting a use variance pursuant to this article and N.J.S.A. 40:55-70d.
 - (2) All other final decisions of the Board of Adjustment must be appealed to the Superior Court of New Jersey or other court of competent jurisdiction within the time required by law.
- R. Time period for appeal. Any such appeal to the Township Committee shall be made within 10 days of the date of publication of such final decision by serving the Township Clerk in person or by certified mail with a notice of appeal specifying the grounds thereof and the name and address of the appellant and name and address of his attorney, if represented. Such appeal shall be decided by the Township Committee only upon the record established before the Board of Adjustment.
- S. Notice of meeting to consider appeal. Notice of the meeting at which the appeal is to be considered on the record below shall be given by the Township Committee by personal service or certified mail to the appellant or the attorney for appellant, if represented, to those entitled to notice of a decision pursuant to this article and to the Board from which the appeal is taken at least 10 days prior to the date of the meeting. The parties may submit oral and written argument on the record at such meeting, and the Township Committee shall provide for verbatim recording and transcripts of such meeting.
- T. Time period for decision. The appellant shall, within five days of service of the notice of the appeal pursuant to § 188-48K hereof, arrange for a

transcript pursuant to § 188-54 for use by the governing body and pay a deposit of \$50 or the estimated cost of such transcription, whichever is less, or within 35 days of service of the notice of appeal submit a transcript as otherwise arranged to the Township Clerk; otherwise, the appeal may be dismissed for failure to prosecute. The Township Committee shall conclude a review of the record below not later than 95 days from the date of publication of notice of the decision below pursuant to § 188-48S, unless the applicant consents, in writing, to an extension of such period. Failure of the Township Committee to hold a hearing and conclude a review of the record below and to render a decision within such specified period shall constitute a decision affirming the action of the Board. **[Amended 2-19-1980 by Ord. No. G-177-80]**

- U. Decision of Township Committee. The governing body may reverse, remand or affirm, wholly or in part, or may modify the final decision of the Board of Adjustment. The affirmative vote of a majority of the full authorized membership of the Township Committee shall be necessary to reverse, remand or modify any final action of the Board of Adjustment.
- V. Stay of proceedings. An appeal of a grant of a use variance to the Township Committee shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the Board of Adjustment certifies to the Township Committee, after the notice of appeal shall have been filed with such Board, that by reasons of facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed other than by an order of the Superior Court on application upon notice to the Board of Adjustment and on good cause shown.
- W. Publication of decision. The Township Committee shall mail a copy of the decision to the appellant or, if represented, then to his attorney without separate charge, and for a reasonable charge to any interested party who has requested it, not later than 10 days after the date of the decision. A brief notice of the decision shall be published in the official newspaper of the Township. Such publication shall be arranged by the Township Clerk, provided that nothing contained herein shall be construed as preventing the applicant from arranging such publication if he so desires. The Township Committee shall charge the applicant the cost for its publication. The period of time in which an appeal to a court of competent jurisdiction may be made shall run from the first publication, whether arranged by the Township or the applicant.
- X. Court review. Nothing in this article shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction according to law.
- Y. Appeals from the Planning Board. All final decisions of the Planning Board must be appealed to the Superior Court of New Jersey or other court of competent jurisdiction.

- Z. Appeals by a public utility. Nothing set forth in § 188-42 shall prevent a public utility pursuant to N.J.S.A. 40:55D-19 from appealing directly to the Board of Regulatory Commissioners of the State of New Jersey from an action of decision by the Board of Adjustment involving an application for a use variance without an appeal first to the Township Committee as permitted by this article. In such case the appeal to the Regulatory Commissioners shall be taken within 35 days after the action or decision of the Board of Adjustment being appealed. **[Amended 10-21-2003]**

§ 188-49. Planning Board. [Added 5-31-1977 by Ord. No. G-112-77]

- A. Creation. There is hereby established in the Township of Hillside, pursuant to Chapter 291 of the Laws of 1975 (Municipal Land Use Law),³² a Planning Board of nine members, consisting of four classes of members as follows:

- (1) Class I: the Mayor of the Township.
- (2) Class II: one of the officials of the Township other than a member of the Township Committee, to be appointed by the Mayor, provided that if there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be deemed to be the Class II Planning Board Member for purposes of this article in the event that there is among the Class IV members of the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education.
- (3) Class III: a member of the Township Committee, to be appointed by said Committee.
- (4) Class IV: six citizens of the Township of Hillside, to be appointed by the Mayor. The members of Class IV shall hold no other municipal office except that one such member may be a member of the Zoning Board of Adjustment and one member may be a member of the Board of Education. The member of an Environmental Commission who is also a member of the Planning Board shall be a Class IV Planning Board member, unless there is among the Class IV members of the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education, in which case the member common to the Planning Board and Environmental Commission shall be deemed a Class II member of the Planning Board.

- B. Alternative members of the Planning Board. **[Added 9-19-1978 by Ord. No. G-131-78; amended 2-19-1980 by Ord. No. G-177-80]**

32. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

- (1) The Township Committee may appoint two alternate members of the Planning Board for Class IV members and shall meet qualifications of Class IV members. Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1" and "Alternate No. 2." The terms of the alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two years. A vacancy occurring otherwise than by expiration of term shall be filed by the appointing authority for the unexpired term only. An alternate member may, after public hearing if he requests one, be removed by the governing body for cause.
- (2) Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

C. Terms.

- (1) The terms of the Mayor shall correspond to his official tenure.
- (2) The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission.
- (3) The term of a Class II or Class IV member who is also a member of the Environmental Commission shall be for three years or terminate at the completion of his term of office as a member of the Environmental Commission, whichever occurs first.
- (4) The term of a Class IV member who is also a member the Board of Adjustment or Board of Education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first.
- (5) The terms of all Class IV members first appointed under this article shall be so determined that, to the greatest practicable extent, the expiration of such term shall be distributed evenly over the first four years after their appointment, provided that the initial Class IV term of no member shall exceed four years. Thereafter the Class IV term of each such member shall be four years.
- (6) Nothing contained herein shall affect the term of any present member of the Planning Board, all of whom shall continue in office until the completion of the terms for which they were appointed pursuant to N.J.S.A. 40:55D-23. Those members of the Planning

Board who are appointed pursuant to N.J.S.A. 40:55D-23 as alternate members of the Planning Board shall expire.

- (7) If a vacancy in any class shall occur otherwise than by expiration of the Planning Board term, it shall be filled by appointment, as above provided, for the unexpired term. No member of the Planning Board shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest. Any member other than a Class I member, after a public hearing if he requests one, may be removed by the governing body for cause.

D. Organization of the Board.

- (1) The Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV and select a Secretary who may or may not be a member of the Planning Board or a municipal employee.
- (2) The Planning Board Chairman may appoint from among the members of the Board a Subdivision and Site Plan Committee to review report and make recommendations to the full Board regarding subdivision and site plan applications pending before the Board. The Planning Board Chairman may also appoint from among the members of the Board such other committees as the Chairman may deem advisable in carrying out the functions of the Planning Board.
- (3) The Planning Board may employ or contract for and fix the compensation of legal counsel, other than the Municipal Attorney, and experts and other staff and services as it may deem necessary, not exceeding, exclusive of gifts or grants, the amount appropriated by the governing body.

E. Powers of the Planning Board. The Planning Board shall have such powers and authority to: **[Amended 2-19-1980 by Ord. No. G-177-80]**

- (1) Grant variances pursuant to N.J.S.A. 40:55D-70c.
- (2) Direct pursuant to N.J.S.A. 40:55D-34 the issuance of a permit for a building or structure in the bed of a mapped street of public drainage way, flood control basin or public area reserved on an Official Map pursuant to N.J.S.A. 40:55D-32.

F. Time periods governing requests for relief.

- (1) Time periods. Whenever an application for approval of a subdivision plat, site plan or conditional use includes a request for relief pursuant to § 188-49E of this article, the Planning Board shall grant or deny approval of the application within 95 days after submission by a developer of a complete application to the administrative officer or within such further time as may be consented to by the applicant. Failure of the Planning Board to act

within the period prescribed shall constitute approval of the application, and a certificate of the administrative officer as to the failure of the Planning Board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats.

- (2) Whenever review or approval of the application by the County Planning Board is required by Section 5 of P.L. 1968, c. 285 (N.J.S.A. 40:27-6.3), in the case of a subdivision, or Section 8 of P.L. 1968, c. 285 (N.J.S.A. 40:27-6.6), in the case of a site plan, the Municipal Planning Board shall condition an approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.
- G. Review of capital projects. Whenever the Planning Board shall have adopted any portion of the Master Plan, the Township Committee or other public agency having jurisdiction over the subject matter, before taking action necessitating the expenditure of any public funds, incidental to the location, character or extent of such project, shall pursuant to N.J.S.A. 40:55D-31 refer the action involving such specific project to the Planning Board for review and recommendation in conjunction with such Master Plan and shall not act thereon without such recommendation or until 45 days have elapsed after such reference without receiving such recommendation. This requirement shall apply to action by a housing, parking, highway, special district or other authority, redevelopment agency, school board or other similar public agency, state, county or municipal.
- H. Referrals and recommendations.
- (1) Prior to the adoption by the Township Committee of a development regulation, revision or amendment thereto, the Planning Board pursuant to N.J.S.A. 40:55D-26a shall make and transmit to the Township Committee, within 35 days after referral, a report including recommendations concerning the proposed development regulation, revision or amendment. The Township Committee when considering the adoption of a development regulation, revision or amendment thereto shall review the report of the Planning Board and may disapprove or change any recommendation by a vote of a majority of its full authorized membership and shall record in its minutes the reason for not following such recommendation. Failure of the Planning Board to transmit its report within the thirty-five-day period provided herein shall relieve the Township Committee from the requirements of this subsection in regard to the proposed development regulation, revision or amendment thereto referred to the Planning Board.

- (2) The Township Committee pursuant to N.J.S.A. 40:55D-26b may by ordinance provide for the reference of any matter or class of matters to the Planning Board before final action therein by a municipal body or municipal officer having final authority thereon. Such reference shall not extend the time for action by the referring body, whether or not the Planning Board has submitted its report. Whenever the Planning Board shall have made a recommendation regarding a matter authorized by N.J.S.A. 40:55D-1 et seq. to another municipal body, such recommendation may be rejected only by a majority of the fully authorized membership of such other body.
- (3) The Planning Board may exercise other duties as may be assigned to it by ordinance or resolution of the Township Committee and perform such other functions as may be authorized by the New Jersey Municipal Land Use Law (Chapter 291 of the Laws of 1975)³³ and other state statutes and administrative regulations.

§ 188-50. Conflicts of interest. [Added 5-31-1977 by Ord. No. G-112-77; amended 2-19-1980 by Ord. No. G-177-80]

No member or alternative member of the Planning Board or Zoning Board of Adjustment shall act on any matter in which he has, either directly or indirectly, any personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the Board on the hearing of such matter nor participate in any discussion or decision relating thereto. A member may, after public hearing if he requests it, be removed by the governing body for cause.

§ 188-51. Meetings. [Added 5-31-1977 by Ord. No. G-112-77]

- 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 provided for at the call of the Chairman or on the request of any two Board members, which shall be held on notice to its members and the public in accordance with all applicable legal requirements.
- C. No action shall be taken at any meeting without a quorum being present.
- D. All actions shall be taken by a majority vote of the members present at the meeting except as otherwise required by any provision of Chapter 291 of the Laws of New Jersey 1975 and its amendments and additions.³⁴ **[Amended 2-19-1980 by Ord. No. G-177-80]**

33. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

34. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

- E. 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 requirements of the Open Public Meetings Law, Chapter 231 of the Laws of New Jersey 1975.³⁵ An executive session for the purpose of discussing and studying any matters to come before either Board shall not be deemed a regular or special meeting in accordance with the provisions of N.J.S.A. 40:55D-9.

§ 188-52. Minutes.

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

§ 188-53. Fees. [Amended 6-27-2000; 10-19-2004]

Fees for application or for the rendering of any service by the Planning Board or Zoning Board of Adjustment or any member of their administrative staffs which is not otherwise provided by ordinance may be provided for and adopted as part of the rules of the Board, and copies of said rules or of the separate fee schedule shall be available to the public.

- A. Planning and Zoning Board Fee Schedule.
- (1) \$300 per adjournment, after first request.
 - (2) \$300 for informal work sessions (Planning Board only).
 - (3) \$300 for each additional hearing date, if hearing carried over.
 - (4) Concept plan fee: commercial.
 - (a) Concept plan application fee: \$350; escrow fee: \$1,000.
 - (5) Concept plan fee: residential.
 - (a) Concept plan application fee: \$350; escrow \$200 per lot/unit, one to 20; more than 20, \$2,000 escrow and \$50 per lot/unit.
 - (b) One- and two-families excluded.
 - (6) Concept plan fee: Industrial.
 - (a) Concept plan application fee: \$350; escrow fee: \$1,000.

35. Editor's Note: See N.J.S.A.10:4-6.

- (7) Preliminary site plan approval: residential.
 - (a) Initial fee: \$350, plus \$200 for first 1,000 square feet of gross floor area of proposed building and structures; \$1,000 escrow.
 - (b) One- and two-families excluded.
- (8) Preliminary site plan approval: industrial.
 - (a) Industrial uses up to 5,000 square feet of gross building floor area: \$300; 5,001 to 20,000 square feet: \$400, plus \$0.02/square foot of gross floor area; more than 20,000 square feet: \$500, plus \$0.03/additional square foot; \$1,500 escrow.
- (9) Preliminary site plan approval: commercial.
 - (a) Commercial uses up to 5,000 square feet of gross building floor area: \$300; from 5,001 to 20,000 square feet: \$400, plus \$0.02/square foot of gross building floor area; greater than 20,000 square feet: \$500, plus \$0.03/square foot of gross building floor area. Escrow fee for nonresidential application not involving new buildings: one to 25 parking spaces: \$500; 26 to 400 spaces: \$750; more than 100 spaces: \$1,000.
- (10) Final site plan approval: Residential.
 - (a) 50% of application fee; \$1,000 escrow base fee; escrow unit fee: \$50/lot or dwelling.
- (11) Final site plan approval: commercial.
 - (a) 50% of preliminary application fee; escrow fee: 100% of preliminary application fee.
- (12) Final site plan approval: industrial.
 - (a) 50% of preliminary application fee; escrow fee: 100% of preliminary application fee.
- (13) Minor subdivision approval: residential.
 - (a) \$400 application fee and escrow base fee of \$300 and \$200/lot.
- (14) Minor subdivision approval: commercial.
 - (a) \$500 application fee; \$1,000 escrow.
- (15) Minor subdivision approval: industrial.
 - (a) \$500 application fee, plus \$50 for each subdivision in lot; any improvements will be 5% of the engineer's estimate; \$1,000 escrow.
- (16) Major subdivision approval, residential.
 - (a) \$500 application fee; \$2,000 escrow.

(17) Major subdivision approval: commercial.

- (a) \$600, plus \$250/lot; \$2,500 escrow fee; escrow unit fee preliminary major subdivision: \$50/lot or dwelling unit.

(18) Major subdivision approval: industrial.

- (a) \$600, plus \$250/lot; \$2,500 escrow fee; escrow unit fee preliminary major subdivision: \$50/lot or dwelling unit.

(19) Variance applications.

- (a) "C" variances.

[1] Residential.

- [a] One- and two-families: \$300 for first variance, plus \$50 for each additional variance; escrow fee \$1,000.

[2] Commercial property.

- [a] \$400 for first variance, plus \$50 for each additional variance; escrow fee: \$2,000.

[3] Industrial property.

- [a] \$500 for first variance, plus \$100 for each additional variance; escrow fee: \$2,000.

- (b) "D" variances.

[1] Residential property.

- [a] \$400, plus \$1,000 escrow.

[2] Commercial property.

- [a] \$600, plus \$1,000 escrow.

[3] Industrial property.

- [a] \$600, plus \$1,000 escrow.

(20) Appeal of Zoning Officer decision: \$300; escrow fee: \$500.

(21) Interpretation of Zoning Ordinance: \$300; escrow fee: \$500.

(22) Modification of previously approved plans without change to floor area: 50% of original application fee; escrow fee: \$1,000.

(23) Modification of all plans: 50% of original application fee.

- B. The initial application fee entitles the applicant to a professional review of the application along with one three-hour hearing and a resolution once a decision is made. Should the applicant require additional hearing time beyond the original three hours, an additional assessment

is levied in the amount of 1/2 the application fee for every additional three hours of hearing. In the case of a nondeveloper applicant, an additional fee of \$150 shall become due upon the third inspection until the project is complete. **[Added 6-27-2000]**

§ 188-54. Hearings.

- A. Rules. The Planning Board and Zoning Board of Adjustment may make rules governing the conduct of hearings before such bodies which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et seq. or of this article.
- B. Oaths. The officer presiding at the hearing or such person as he may designate shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law, P.L. 1953, c. 1938 (N.J.S.A. 2A:67A-1 et seq.), shall apply.
- C. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
- D. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
- E. Records. Each Board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his expense. The Township shall not charge such interested party more than the maximum permitted in N.J.S.A. 2A:11-15. Said transcript shall be certified, in writing, by the transcriber to be accurate. **[Amended 2-19-1980 by Ord. No. G-177-80]**

§ 188-55. Notice requirements for hearing. [Added 5-31-1977 by Ord. No. G-112-77]

Whenever a hearing is required on an application for development pursuant to N.J.S.A. 40:55D-1 et seq., the applicant shall give notice thereof as follows:

- A. Public notice shall be given by publication in the official newspaper of the municipality at least 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 in the state and within 200 feet in all directions of the property which is the subject of such

hearing, provided that this requirement shall be deemed satisfied by notice to the condominium association, in the case of any unit owner whose unit has a unit above or below it, or horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Such notice shall be given by serving a copy thereof on the owner as shown on said current tax duplicate or his agent in charge of the property or by mailing a copy thereof by certified mail to the property owner at his address as shown on said current tax duplicate. A return receipt is not 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. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing may be made in the same manner as to a corporation without further notice to unit owners, co-owners or homeowners on account of such common elements or areas. **[Amended 2-19-1980 by Ord. No. G-177-80]**

- C. Notice of all hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the Clerk of such municipality, which notice shall be in addition to the notice required to be given pursuant to Subsection B of this section to the owners of lands in such adjoining municipality which are located within 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 shown on the Official County Map or on the County Master Plan adjoining other county land or situate within 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 Director of the Division of State and Regional Planning in the Department of Community Affairs of a hearing on an application for development of property which exceeds 150 acres or 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 Section 6b of Chapter 291 of the Laws of New Jersey 1975.³⁶
- G. All notices hereinabove specified in this section shall be given at least 10 days prior to the date fixed for hearing, and the applicant shall file

36. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

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. Notice pursuant to Subsections C, D, E and F of this section shall not be deemed to be required, unless public notice pursuant to Subsection A and notice pursuant to Subsection B of this section are required.
[Amended 2-19-1980 by Ord. No. G-177-80]

§ 188-56. Hearings. [Added 5-31-1977 by Ord. No. G-112-77]

- A. Hearings shall be held on development applications whenever required by the Municipal Land Use Law³⁷ and when any of the following are involved:
 - (1) An application before the Planning Board for preliminary major subdivision approval.
 - (2) An application before the Planning Board for preliminary site plan approval, except where the site plan involves two acres of land or fewer.
 - (3) An application before the Planning Board for final site plan approval involving more than two acres where there has been substantial and significant amendments in the layout of improvements and otherwise in the site plan which was previously granted preliminary approval.
 - (4) The adaptation, revision or amendment of the Master Plan or any part thereof by the Planning Board.
 - (5) Any application before the Board of Adjustment.
 - (6) An application for development before the Planning Board, in which relief is requested pursuant to § 188-49D(6) of this article.
 - (7) Adoption, revision or amendment of any development regulations by the Township Committee.
 - (8) Adoption revision or amendment of the Township Official Map by the Township Committee.
- B. Notwithstanding any other provisions of this article, nothing contained herein shall be construed to require hearings by the Planning Board on minor subdivisions or applications for final major subdivision or applications or final site plan approval.

37. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

§ 188-57. List of property owners furnished. [Added 5-31-1977 by Ord. No. G-112-77; amended 2-19-1980 by Ord. No. G-177-80]

Pursuant to the provisions of N.J.S.A. 40:55D-12c, the administrative officer of the municipality shall within seven days after receipt of a request therefor and upon receipt of payment of a fee not to exceed \$0.25 per name or \$10, whichever is greater, make and certify a list from the current tax duplicate of names and addresses of owners to whom the applicant is required to give notice pursuant to § 188-55 of this article.

§ 188-58. Decisions. [Added 5-31-1977 by Ord. No. 5-31-1977; amended 2-19-1980 by Ord. No. G-177-80]

- A. Each decision on any application for development shall be reduced to writing as a resolution of the Board and shall include findings of fact and conclusions based thereon.
- B. Failure of a motion to approve an application for development to receive the number of votes required for approval shall be deemed an action denying the application.
- C. The Board may provide such written decision and findings and conclusions either on the date of the meeting at which the Board takes to grant or deny the approval or, if the meeting at which such action is taken occurs within the final 45 days of the applicable time period for rendering a decision of the application for development, within 45 days of such meeting by adoption of a resolution of memorialization setting forth the decision and findings and conclusions of the municipal agency thereon.
 - (1) An action resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above, notwithstanding the time at which such action occurs within the applicable time period for rendering a decision on the application.
 - (2) The adoption of a resolution of memorialization pursuant to this subsection shall not be construed to alter the applicable time period for rendering a decision of the application for development. Such resolution shall be adopted by a vote of the majority of the members of the municipal agency who voted for the action previously taken, and no other member shall vote thereon.
 - (3) The vote on such resolution shall be deemed to be a memorialization of an action of the municipal agency and not to be an action of the municipal agency, except that failure to adopt such a resolution within the forty-five-day period shall result in the approval of the application for development, notwithstanding any prior action taken thereon.
 - (4) Whenever a resolution of memorialization is adopted in accordance with this subsection, the date of such adoption shall constitute the

date of the decision for the purposes of the mailings, filings and publications required by §§ 188-54 and 188-55 of this article.

- (5) At the request of the developer, the Planning Board shall grant an informal review of a concept plan for a development for which the developer intends to prepare and submit an application for development. The developer shall not be required to submit any fees for such an informal review. The developer shall not be bound by any concept plan for which review is requested, and the Planning Board shall not be bound by any such review.
 - (6) A member of a municipal agency who was absent for one or more meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his absence from one or more of the meetings; provided, however, that such Board member has available to him the transcript or recording of all of the hearing from which he was absent and certifies, in writing, to the Board that he has read such transcript or listened to such recording.
- D. A copy of the decision shall be mailed by the Board within 10 days of the date of decision to the applicant or if represented, then to his attorney without separate charge. 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 Municipal Clerk, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the municipality.

§ 188-59. Publication of decision. [Added 5-31-1977 by Ord. No. G-112-77]

A brief notice of every final decision shall be published in the official newspaper of the municipality. 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. Said notice shall be sent to the official newspaper for publication within 10 days of the date of any such decision.

§ 188-60. Payment of taxes. [Added 5-31-1977 by Ord. No. G-112-77]

Pursuant to the provisions of N.J.S.A. 40:55D-39 and 40:55D-65, every application for development submitted to the Planning Board or to the Zoning Board of Adjustment shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application, or, if it is shown that taxes or assessments are delinquent on said property, any approvals or other relief granted by either Board shall be conditioned upon either the prompt payment of such taxes or assessments or the making of adequate provision

for the payment thereof in such manner that the municipality will be adequately protected.

§ 188-61. Repealer. [Added 5-31-1977 by Ord. No. G-112-77]

All sections of the Article I, Subdivision of Land, of this chapter, Article III, Site Plan Review, of Chapter 121, Building, Housing and Property Maintenance, or any other ordinance of the Township of Hillside which contains provisions contrary to the provisions of this article shall be and are hereby (to the extent of such inconsistency) repealed.

§ 188-62. Ordinances continued. [Added 5-31-1977 by Ord. No. G-112-77]

Pursuant to the provisions of Chapter 291 of the Laws of New Jersey 1975, Section 81, Article I, Subdivision of Land, of this chapter, Article III, Site Plan Review, of Chapter 121, Building, Housing and Property Maintenance, the substantive provisions of and the development regulations set forth therein shall continue in full force and effect until the Township exercises the authority delegated by said statute to regulate development.

§ 188-63. Pending applications. [Added 5-31-1977 by Ord. No. G-112-77]

All applications for development filed prior to the effective date of this article may be continued, but any appeals arising out of decisions made on any such application shall be governed by the provisions of Article IV of this article.

§ 188-64. Copy to be filed with County Planning Board. [Added 5-31-1977 by Ord. No. G-112-77]

Immediately upon adoption of this article, the Municipal Clerk shall file a copy of this article with the County Planning Board as required by law. The Clerk shall also file with said County Planning Board copies of all other ordinances of the municipality relating to land use, such as the Subdivision, Zoning and Site Plan Review Ordinances.

§ 188-65. Townhouses and condominium flats. [Added 8-2-1988 by Ord. No. G-283-88]

Townhouse and condominium flats as defined below shall be permitted in Zones OC, RC, HC and LI, provided that the requirements for the same contained herein are met:

- A. As used in this section, the following terms shall have the meanings indicated:

CONDOMINIUM FLATS — Single-family occupancy dwelling units joined together by common horizontal and vertical structural elements and including patios, porches and garages. "Condominium flats" shall

be arranged in building elements containing not more than 12 dwelling units. Not more than two such building elements may be attached in an architecturally harmonious configuration.

TOWNHOUSE — A single-family attached dwelling unit within a building structure containing more than three but not more than six single-family dwelling units, provided that each single dwelling unit is attached to other similar dwelling units by one or more party walls or portions thereof extending from the foundation to the roof.

- B. Area and density requirements:
- (1) Minimum area. Each development shall have a minimum area of 30,000 square feet.
 - (2) Maximum density. There shall be no more than 15 dwelling units per acre.
 - (3) Maximum coverage. The total ground floor area of all buildings shall not exceed 35% of the lot area of the apartment development. The total area of all impervious surfaces, including buildings, shall not exceed 65% of the lot area of the apartment development.
- C. Setback requirements. No principal building shall be located within 30 feet of a street right-of-way nor within 15 feet of any property line.
- D. Distance between buildings. There shall be a minimum distance between dwelling structures of 30 feet plus 1/2 foot for each foot of opposite building wall length exceeding 51 feet up to a maximum of 75 feet between buildings. This provision shall apply to walls of the same building facing one another such as in a courtyard formed by a U-shaped building. Notwithstanding the foregoing, whenever a driveway is located between buildings, the minimum distance between building walls shall be 50 feet.
- E. Building requirements.
- (1) Height. No building shall exceed a height of 40 feet. Main roofs shall have a minimum grade of five inches per foot.
 - (2) Units per building.
 - (a) No townhouse building shall contain less than three nor more than six dwelling units.
 - (b) Condominium buildings may have up to 12 dwelling units per building structure.
 - (3) No more than four dwelling units in an unbroken building line, with a setback of at least four feet, deemed to be a satisfactory break in the building line.

- (4) Vertical masonry fire walls shall be installed between all units to the roof rafters, and with the equivalent soundproofing to eight-inch-thick concrete blocks.
- (5) Floors and ceilings and partitions between apartment units shall be constructed so as to produce an airborne sound transmission loss of at least 50 decibels. Reasonable measures shall be taken in floor and ceiling construction to avoid disturbing levels of impact sound.
- (6) Each unit shall be a minimum of 17 feet wide.

F. Dwelling unit requirements.

- (1) Each dwelling unit shall contain as a minimum a separate living room, a separate bedroom, a separate bath and a kitchen, which kitchen facility shall be located separate and apart from other rooms in the unit with the exception of the dining area.
- (2) Minimum floor area. Each dwelling unit shall have a minimum floor area of 450 square feet, plus 150 square feet for each habitable room other than a living room, dining room or kitchen.
- (3) Each dwelling unit shall have two exterior exposures, with at least one window in each exposure.
- (4) Each dwelling unit shall have two means of access to the outside. These may consist of either two doorways or one doorway plus a sliding ground-floor window wall.
- (5) A space shall be provided for storage, utilities and location of washers, dryers, water heaters and heating units in each unit at least 50 square feet in size or as directed by other codes.

G. Off-street parking and internal roadways.

- (1) Parking spaces required. At least two off-street parking spaces shall be provided for each dwelling.
 - (a) Each townhouse unit must contain a garage, minimum size 10 feet by 20 feet.
 - (b) Condominium developments shall have at least 20% of the total required parking spaces enclosed within the principal buildings, attached to them or otherwise planned so as to avoid detached rows of multiple garages.
 - (c) Townhouse and condominium developments must provide one additional space for every four dwelling units.
 - (d) No parking is permitted within the required front yard or within a required buffer strip.
- (2) Parking space size. Each parking space shall have a minimum length of 20 feet (18 feet where curb over overhand is provided)

and a minimum width of nine feet measured perpendicular to the axis of the length.

- (3) Parking aisle widths.
 - (a) The provision of parking spaces shall also include adequate driveway and necessary turning areas for handling the vehicles for which provision is made. Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided it without requiring the moving of any other motor vehicles. Aisles providing access to parking spaces shall have the following minimum dimensions. Where the angle of parking is different on both sides of the aisle, the larger aisle width shall prevail.

Angle of Parking Space	1-Way Aisle (feet)	2-Way Aisle (feet)
90°	Prohibited	24
60°	18	20
45°	15	20
30°	12	18
Parallel	12	18

- (b) Minimum width of circulation roadways shall be as follows:

- [1] One-way: eighteen feet.
- [2] Two-way: twenty-four feet.

- (4) Parking setbacks.
 - (a) All off-street parking and loading areas, except for parking which is accessory to multifamily dwellings, shall be located a minimum of 10 feet from all buildings, street and property lines (except front yards).
 - (b) No access drives or parking spaces shall be closer than 10 feet to a building, except where parking is under or within a building.
 - (c) Access drives and parking areas shall be developed according to Township specifications for paving and curbs, as related to driveways and parking areas.
- (5) Surfacing. All parking and loading areas and access drives shall be paved as outlined below or the equivalent as determined by the Township Engineer and approved as part of the development application approval. All parking areas, regardless of size and location, shall be paved, drained and maintained.

- (a) Areas of ingress or egress, loading and unloading areas, major interior driveways or access aisles and other areas likely to experience similar heavy traffic shall be paved with not less than four inches of compacted base course of plant-mixed bituminous, stabilized base course, constructed in layers of not more than two inches compacted thickness and prepared and constructed in accordance with Division 3, § 2A, of the New Jersey State Department of Transportation Standard Specifications for Roads and Bridge Construction (1983) and amendments thereto. A minimum two-inch-thick compacted wearing surface of bituminous concrete (FABC) shall be constructed thereon in accordance with Division 3, § 10, of the aforesaid New Jersey State Department of Transportation specifications and amendments thereto.
- (6) Location of parking and loading.
 - (a) No parking of vehicles shall be permitted in fire lanes, front yards, landscaped areas, aisles, buffer areas, sidewalks or turning areas.
 - (b) The off-street parking facilities shall be on the same lot or parcel of land as the buildings they are intended to serve.
- (7) Lighting. All common areas such as walkways, access drives and parking areas shall be adequately illuminated. Ornamental-type fixtures shall be used wherever possible. Sufficient details should be shown on site plans.
- (8) Landscaping and screening.
 - (a) A dense evergreen material, not less than four feet in height, shall be provided between the off-street parking areas and any lot line or street line. There shall be a minimum of one tree and five deciduous or coniferous shrubs for every 2,000 square feet of lot area.
- H. Building design. Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity. Sufficient details of the proposed exterior finishes shall be shown on the building plans. If requested, sample materials and renderings shall be submitted for Township approval.
- I. Trash and garbage. There shall be at least one trash and garbage pickup location provided by each building which shall be separated from the parking spaces by either a location within the building or in a pickup location outside the building which shall be a steel-like, totally enclosed container located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning district by a fence, wall, planting or combination of the three. If located within the building, the doorway may serve both loading and trash/garbage functions, and if located outside the building, it may be located adjacent

to or within the general loading area(s), provided that the container in no way interferes with or restricts loading and unloading functions. All refuse containers must comply with requirements of the Federal Consumer Product Safety Commission. Suitable arrangements for private pickup of refuse must be made.

- J. Site maintenance. All buildings, paved areas, landscaping and other site facilities and improvements shall be maintained at all times. Dead trees or shrubs shall be replaced by the owner or association. To comply with these provisions, any necessary replacements or repairs shall be made within 30 days of notification by the Township. The proposal addressing how common areas will be maintained (e.g., lawn maintenance, trimming trees and shrubbery, snow removal, trash pickup, etc.) shall be submitted with the site plan.
- K. General provisions and requirements.
- (1) All electric, telephone and cable television lines are to be under ground.
 - (2) Fire hydrants are to be provided on interior streets or driveways, as required by the Fire Department.
 - (3) Sanitary and storm sewer calculations shall be submitted with the site plan.
- L. Recycling.
- (1) Each individual unit should be designed to accommodate a week's accumulation of paper, glass, aluminum or other recyclable materials. This can be accomplished by allowing space under the sink areas or in a closet for a three-tier stacking unit or for five-gallon buckets. This would occupy only about three square feet of floor area and would give residents a convenient area for storing their recyclables.
 - (2) A central location should be provided so that residents can drop off their source-separated recyclables for storage until collection occurs. A suggested location for these sites would be near the refuse receptacle units. These could be outdoor recycling bins located near the refuse units or in a common area of the condominium units, for example, near the laundry room. These storage areas should be easily accessible for the residents of the building to drop off their materials. They should also be planned with truck access in mind in order to facilitate loading of materials for delivery to markets. In a multistory building, a space provided on each floor will produce the highest participation rates. The bins should be clearly labeled, so it is obvious they are for recyclables and not trash.
 - (3) It is also important that these storage areas be designed in compliance with local fire codes.

§ 188-66. Urban Enterprise Zone. [Added 5-7-1996; amended 4-24-2007]

A. Introductory provisions.

- (1) Preliminary UEZ establishment. The Township of Hillside, pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq., has been approved as of April 12, 1996, as an Urban Enterprise Zone.
- (2) UEZ Coordinator. The Township of Hillside has established that there shall be an Urban Enterprise Zone Coordinator who shall, among other duties, accept applications; verify that the business applicant is within the designated zone; answer questions; dispense information and provide any other legitimate assistance to zone applicants, members and the Township to further the goals of the UEZ program.
- (3) Designation of Zone. The Township of Hillside governing body accepts the designation by the Urban Enterprise Zone Authority of the area so described in its zone application and the designation of the zone development plan, as formulated and approved in the previously passed resolution.

B. Zone Development Corporation.

- (1) Statutory authority. Pursuant to N.J.S.A. 52:27H-67, there shall be created a nonprofit corporation, to be incorporated under Title 15A of the New Jersey Statutes, which shall function as the zone development corporation and it shall be known and incorporated under the name "Township of Hillside Zone Development Corporation."
- (2) Purpose and function of corporation.
 - (a) The corporation shall be charged with implementing the zone development plan previously approved by the Township Council and submitted in support of the Township's application for designation of the enterprise zone within the Township of Hillside. The corporation shall implement the zone development plan and shall be responsible to:
 - [1] Utilize the powers conferred on the municipality by law for the purpose of stimulating investment in and economic development of the UEZ.
 - [2] Secure involvement in, and commitment to, zone economic development by private entities, including zone neighborhood associations, voluntary community organizations supported by residents and businesses in the zone.

- [3] Utilize the powers conferred by law to propose revisions to municipal planning and zoning ordinances and other land use regulations as they pertain to the zone, in order to enhance the attraction of the zone to prospective developers.
- [4] Increase the availability and efficiency of support services, public and private, generally used by and necessary to the efficient functioning of commercial and industrial facilities in the area, and the extent to which the increase or improvement is to be provided and financed by the municipal government or by other entities.
- (b) The corporation shall be considered to be a local development corporation for the purpose of receiving any state financial or technical assistance as may be available for the purpose of implementing the zone development plan referred to in Subsection A above.
- (3) Certificate of incorporation.
- (a) The Township of Hillside is hereby authorized to act as an incorporator to create the nonprofit corporation. The Township Clerk is hereby authorized to execute and file a certificate of incorporation containing provisions authorized by and consistent with this section and required by law. The Mayor and the Township Clerk are hereby further authorized to execute any and all additional documents necessary to effectuate the express purposes of this section.
- (b) The certificate of incorporation shall include the initial address of the corporation's registered office, which shall be the office address of the Township Clerk of the Township of Hillside and the name of the corporation's initial registered agent who shall be the Township Clerk at that address as required by the New Jersey Nonprofit Corporation Act.³⁸ Thereafter, the Board of Trustees may change the corporation's registered office and the corporation's registered agent consistent with the provisions of N.J.S.A. 15A:1-1 et seq.
- (c) The certificate of incorporation shall also contain the names and addresses of the Board of Trustees of the corporation and such additional information as may be required by the New Jersey Nonprofit Corporation Act.
- (4) Board of Trustees.
- (a) The initial Board of Trustees, which shall be broadly representative of the government, businesses and residential communities within the Township of Hillside, shall serve as the

38. Editor's Note: See N.J.S.A. 15A:1-1 et seq.

Board of Directors of the Corporation and shall be appointed by majority vote of the Township Council, with their names and addresses provided in the Corporation's certificate of incorporation or bylaws, according to law.

- (b) The Board of Trustees shall consist of nine members as follows:
 - [1] Three members of the Township Council whose terms shall run for a period of three years.
 - [2] Three members from the Township's business community whose terms shall run for a period of one year.
 - [3] Three resident members from the Township community whose terms shall run for a period of one year.
- (c) All members of the Board of Trustees shall serve on a nonsalaried basis and shall serve until a successor is appointed.
- (5) Voting procedures. All ordinary business conducted by the Enterprise Zone Development Corporation shall be approved by a simple majority of those Board members who are present at any regular or special meeting of the Board of Directors. However, amendments to the zone development corporation's bylaws, modification of zone boundaries, proposals for projects to receive money from the Zone Assistance Fund, the hiring of an Enterprise Zone Administrator and the hiring of professional, technical and consultant personnel shall require the affirmative vote of 2/3 of the entire Board of Directors.
- (6) Bylaws; Enterprise Zone Administrator; hiring of additional personnel.
 - (a) The Trustees of the Corporation shall develop bylaws for the Corporation, which shall include an executive officer to be known as the Enterprise Zone Administrator. The Board shall develop qualifications for the Zone Administrator, and shall thereafter appoint an administrator who meets these qualifications for a term not to exceed four years. The Board may thereafter reappoint the same individual as Zone Administrator for successive terms, provided that no term shall exceed four years. The Board shall also hire such other persons, including professional persons, as may be necessary for the efficient operation of the Enterprise Zone Corporation. The UEZ Coordinator, if duly qualified, may serve as the Zone Administrator.
 - (b) The Board shall also hire such other persons, including professional persons or administrative personnel, as may be necessary for the efficient operation of the Enterprise Zone Corporation. Upon the affirmative vote of at least five members

of the Board of Directors of the Corporation, the Board may engage the services of such professional persons as may be necessary for the efficient operation of the Enterprise Zone Corporation. Nothing herein shall prevent the Board from entering into an interlocal agreement with a neighboring enterprise zone municipality for the services of an administrator or staff.

- (7) Reimbursement of startup money. The Corporation shall reimburse to the Township any start-up monies paid by the Township from funds collected or received by the Corporation as soon as such funds are reasonably available. Once the Corporation has been created and organized, and any initial funds provided by the Township, the Township shall not be compelled to contribute additional funds to the Corporation.
- (8) Duration of Corporation. The certificate of incorporation shall provide that the duration of the Corporation shall be for a period of 20 years following the date of incorporation, consistent with N.J.S.A. 52:27H-66, which provides that any designation of an enterprise zone shall be for a period of 20 years and shall not be renewed at the end of that period. Should Title 52 be amended allowing for the existence of designated enterprise zones for a period in excess of 20 years, the certificate of incorporation shall be amended to extend the duration of the corporation for the period of time so designated by state statute.
- (9) Tax exempt status. The Board of Trustees of the Corporation is authorized to apply to the federal government for tax-exempt status under Section 501c(3) of the Internal Revenue Code or the corresponding section of any future federal tax code. Consistent with the requirements contained therein, the following provisions apply:
 - (a) No part of the net earnings of the Corporation shall inure to the benefit of or be distributed to its members, trustees, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the purpose clause hereof. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in or intervene in (including the publishing or distribution of statements) political campaigns on behalf of any candidate for public office. Furthermore, the Corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501c(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or by a corporation, contributions to which are deductible under Section 170c(2) of

the Internal Revenue Code, or corresponding section of any future federal tax code.

- (b) Upon the dissolution of the Corporation, assets shall be distributed for one or more exempt purposes within the meaning of Section 501c(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government or to a state or local government for public purposes. Any such assets not disposed of shall be disposed of by a court of competent jurisdiction located within the county in which the principal office of the Corporation is then located, exclusively for such purposes or to such organizations as said court shall determine which are organized or operated for such purposes.

§ 188-67. Places of general assembly. [Added 3-25-2003]

Places of general assembly shall meet with the area and bulk requirements of the particular zone and the applicable state-adopted Building and Fire Codes and additional requirements.

- A. Minimum lot area: 20,000 square feet.
- B. Minimum frontage: 200 feet.
- C. Building regulations.
- (1) No building shall exceed the height limit permitted in the zone district in which it is located.
- (2) The building floor area ratio shall not exceed 0.25 of the lot area (floor area ratio times lot area equals building area permitted).
- (3) The impervious lot coverage shall not exceed the lot area, as provided in the various districts contained in Chapter 188 (Land Use) of the Code.
- D. All buildings shall be located at least 50 feet from a side property line and 50 feet from a rear property line, with a twenty-five-foot front yard setback.
- E. Any property so used shall front on an arterial or collector street, and said property shall have a minimum lot width of 200 feet.
- F. Off-street parking shall be provided in accordance with the following:
- (1) All parking areas and driveways shall be located at least 50 feet from a residential district property line, at least 25 feet from any other property line or from a street and at least 10 feet from a building.
- (2) No parking shall be permitted within the front yard setback.

- (3) Parking for places of public assemblage, places of worship, halls and auditoriums: one parking space per three seats; one space per six lineal feet of pew or one space per 25 square feet of assembly area if not fixed seats, based on maximum seating capacity, whichever is greater.
 - (4) Parking lots shall be screened by a fence no higher than six feet and/or landscaped buffer which shall be not less than 50 feet in width when adjacent to a residence or residential zoned property.
- G. Where an accessory use(s) is/are part of the application, a combined/shared parking arrangement may be permitted by the approving agency if the applicant can demonstrate that such combined/shared on-site parking will not adversely impact the health, safety and welfare of the citizens of Hillside in the area; however, the area waived for parking shall remain as additional open space on site for possible future parking.

ARTICLE III

Stormwater Management

[Adopted 9-5-2006; amended in its entirety 9-8-2008 by Ord. No. O-08-021]

§ 188-68. Scope and purpose.

A. Policy statement.

- (1) The United States Environmental Protection Agency (EPA) mandated that all states enact regulations to address the negative impacts of stormwater runoff on the nation's streams and water resources. The State of New Jersey adopted new regulations at the direction of the EPA. Under these state regulations, all municipalities in the state must implement these stormwater regulations through local ordinance(s) by April 2006. This article is intended to implement these regulations.
- (2) The purpose of this article is to control stormwater from new "major development" and not to regulate preexisting development. "Major development," under the terms of this article, means any development that provides for ultimately disturbing one or more acres of soil on a development site and/or any development that provides an additional 1/4 acre of impervious surface on a development site.
- (3) Flood control, groundwater recharge, and pollutant reduction through nonstructural or low-impact techniques shall be employed before relying on structural best management practices (BMPs) for stormwater, prepared by the New Jersey Department of Environmental Protection. Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

B. Purpose. The purpose of this article is to establish minimum stormwater management requirements and controls for major development and to reduce the amount of nonpoint source pollution entering surface and ground waters. This article guides new development in a matter that is proactive and minimizes harmful impacts to natural resources. Specifically, this article shall:

- (1) Reduce flood damages to protect public health, life and property;

- (2) Minimize increased stormwater runoff rates and volumes;
- (3) Minimize the deterioration of existing structures that would result from increased rates of stormwater runoff;
- (4) Induce water recharge into the ground wherever suitable infiltration, soil permeability, and favorable geological conditions exist;
- (5) Prevent an increase in nonpoint source pollution;
- (6) Maintain the integrity and stability of stream channels and buffers for their ecological functions, as well as for drainage, the conveyance of floodwater, and other purposes;
- (7) Control and minimize soil erosion and the transport of sediment;
- (8) Minimize public safety hazards at any stormwater detention facility constructed pursuant to subdivision or site plan approval;
- (9) Maintain adequate base flow and natural flow regimes in all streams and other surface water bodies to protect the aquatic ecosystem;
- (10) Protect all surface water resources from degradation;
- (11) Protect groundwater resources from degradation and diminution; and
- (12) Ensure that any additional 1/4 acre of impervious surface complies with this article.

C. Applicability.

- (1) This article shall be applicable to site plans and subdivisions, considered individually and/or cumulatively, as of the date of adoption of this article, for the following major developments:
 - (a) Nonresidential major developments.
 - (b) Aspects of residential major developments that are not preempted by the Residential Site Improvement Standards (RSIS) at N.J.A.C. 5:21.
 - (c) Residential development that meets the definition of "major development," as defined in this article, i.e., any "development" that provides for ultimately disturbing one or more acres of soil and/or any development that provides an additional 1/4 acre of impervious surface on a development site.
 - (d) Any agricultural or horticultural development that meets the definition of "major development" under N.J.A.C. 7:8.
- (2) This article shall also be applicable to all major developments undertaken by Hillside Township.

- D. Compatibility with other permit and ordinance requirements. Development approvals issued for subdivisions and site plans pursuant to this article 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 article shall be held to the minimum requirements for the promotion of the public health, safety and general welfare. This article shall be construed to assure consistency with the requirements of New Jersey laws and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and any existing or future municipal NJPDES permits and any amendments or revisions thereto or reissuance thereof. This article is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provisions of law except that, where any provision of this article, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

§ 188-69. Definitions.

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

AGRICULTURAL OR HORTICULTURAL DEVELOPMENT — Construction and/or land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for processing or sale of food and the manufacturing of agriculturally related products.

BEST MANAGEMENT PRACTICES (BMPs) — "New Jersey Stormwater Best Management Practices Manual," adopted by the New Jersey Department of Environmental Protection ("Department") originally in February 2004, as updated and revised. Consult www.njstormwater.org for this manual and other pertinent information.

CATEGORY ONE WATERS or C-1 WATERS — Those waters designated in the tables in N.J.A.C. 7:9B-1.15(c) through (h), for purposes of implementing the antidegradation policies set forth in N.J.A.C. 7:9B-1.5(d), for protection from measurable changes in water quality characteristics because of their clarity, color, scenic setting, other characteristics of aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, or exceptional fisheries resource(s).

COMPACTION — The increase in soil bulk density.

CORE — A pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

COUNTY REVIEW AGENCY — An agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

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

DEPARTMENT — The New Jersey Department of Environmental Protection.

DESIGNATED CENTER — A State Development and Redevelopment Plan Center as designated by the State Planning Commission, such as urban, regional, town, village, or hamlet.

DESIGN ENGINEER — A person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

DEVELOPMENT — The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under 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 Development Board (CADB) 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.

DISTURBANCE — Any activity including the clearing, excavating, storing, grading, filling, or transportation of soil or any other activity that causes soil to be exposed to the danger of erosion.

DRAINAGE AREA — A geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

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

EROSION — The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

GROUNDWATER — A body of water below the surface of the land in a zone of saturation where the spaces between the soil or geological materials are fully saturated with water.

HUC-14 — A watershed as defined by the United States Geological Survey with a fourteen-digit identifier; a subwatershed.

IMPERVIOUS SURFACE — A surface that has been covered with a layer of material so that it is highly resistant of infiltration by water.

INFILTRATION — The process by which water seeps into the soil from precipitation.

MAJOR DEVELOPMENT — Any "development" that provides for ultimately disturbing the soil on one or more acres of land and/or any development that provides an additional 1/4 acre of impervious surface on a development site. This definition applies consistently to the term "major development" as used throughout this article. (Note: "Major development," for purposes of this article, is not identical to the definition in the Municipal Land Use Law or local zoning ordinances.)

MAXIMUM EXTENT PRACTICABLE — Compliance with the specific objective to the greatest extent possible taking into account equitable considerations and competing factors, including but not limited to environmental benefits, pollutant removal effectiveness, regulatory compliance, ability to implement given site-specific environmental conditions, cost and technical or engineering feasibility.

MUNICIPALITY — Any city, borough, town, township, or village.

NODE — An area designated by the State Planning Commission concentrating facilities and activities that are not organized in a compact form.

NONSTRUCTURAL STORMWATER MANAGEMENT TECHNIQUES — Techniques that control or reduce stormwater runoff in the absence of stormwater structures (e.g., basins and piped conveyances), such as minimizing slopes, utilizing native vegetation, minimizing turf grass lawns, increasing time of concentration and maintaining and enhancing natural drainage features and characteristics.

NUTRIENT — A chemical substance and/or compound, such as nitrate or phosphate, organic materials, etc., which is essential to and promotes the development of organisms.

PERSON — Any individual(s), corporation, company, partnership, firm, association, Township of Hillside, or political subdivision of this state subject to municipal jurisdiction pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

POLLUTANT — Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substances [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, residential, and construction waste or runoff, or other residue discharged directly or indirectly to the land, groundwaters or surface waters of the state, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

RECHARGE — The amount of water from precipitation that infiltrates into the ground and is not evapotranspired (including evaporated or transpired).

SEDIMENT — Solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

SITE — The lot or lots upon which a major development is to occur or has occurred.

SOIL — All unconsolidated mineral and organic material of any origin.

SOLID AND FLOATABLE MATERIALS — Sediment, debris, trash, and other floating or suspended solids.

SPECIAL RESOURCE WATERS — Water bodies receiving special protections due to their drinking water status or role as high-quality habitat for threatened and endangered species or species of commercial or recreational importance. This includes waterways so designated through the New Jersey Stormwater Management Rules (N.J.A.C. 7:8) because of exceptional ecological significance, exceptional water supply significance, exceptional recreational significance, exceptional shellfish resource, or exceptional fisheries resource. Waters so designated are protected by a three-hundred-foot buffer extending on either side of the waterway measured perpendicular from top-of-bank or center of channel for waterways lacking a define top-of-bank; see the definition of "Category One Waters or C-1 Waters."

STATE PLAN POLICY MAP — The geographic application of the state development and redevelopment plan's goals and statewide policies, and the official map of these goals and policies.

STORMWATER — Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

STORMWATER COORDINATOR — The person(s) designated by the governing body to review all development applications for compliance with federal, state, and local stormwater control and stormwater management requirements. Unless a different officer is appointed by the Township Council, the Township Public Work Director shall serve as the Stormwater Coordinator.

STORMWATER MANAGEMENT BASIN — An excavation or embankment and related areas designated to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or

be planted mainly with wetland vegetation (most constructed stormwater wetlands).

STORMWATER MANAGEMENT MEASURE — Any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal nonstormwater discharges into stormwater conveyances.

STORMWATER RUNOFF — Stormwater flow on the surface or in the storm sewers, resulting from precipitation.

STRUCTURAL STORMWATER TECHNIQUE — A stormwater management measure that involves control of concentrated stormwater runoff or infiltration such as stormwater basins, piped conveyance systems and manufactured stormwater devices, and can include various types of basins, filters, surfaces, and devices located on individual lots in a residential development or throughout a commercial, industrial, or institutional development site in areas not typically suited for larger, centralized structural facilities.

THREATENED AND/OR ENDANGERED SPECIES — Those species whose prospects for survival in New Jersey are in immediate danger because of loss or change in habitat, overexploitation, predation, competition, disease, disturbance or contamination. Assistance is needed to prevent future extinction in New Jersey and those which may become endangered if conditions surrounding them begin to or continue to deteriorate. This definition includes protection of habitats of these species.

TIDAL FLOOD HAZARD AREA — A flood hazard area which may be influenced by stormwater runoff from inland areas but which is primarily caused by the Atlantic Ocean.

TOTAL SUSPENDED SOLIDS or TSS — Total suspended solids (TSS) are those solids in water that can be separated from water by man-made or natural filtration or by centrifuging. TSS can include a wide variety of material, such as soil, decaying plant and animal matter, as well as organic and nonorganic matter.

VEGETATION and/or VEGETATED BUFFER — Plant life and plant cover in soil, but not lawns. A suggested list of native and noninvasive species appropriate for use for purposes of this article is attached as Appendix A.³⁹ This is not exclusive. In addition, the terms "vegetation" and/or "vegetative buffer" are meant to be consistent with other NJDEP definitions, i.e., contained in the Freshwater Wetlands Regulations, etc., derived from the New Jersey Stormwater Best Management Practices Manual, Chapter 7, Tables 7-9 and 7-10.

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams, wetlands, and bodies of surface water or groundwater, whether natural or

39. Editor's Note: Appendix A is on file in the Township offices.

artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

WETLANDS or WETLAND — An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

§ 188-70. 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 § 188-71. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.
 - (2) Apply only to new major development and are intended to minimize the impact of stormwater runoff on quality and quantity of water in receiving water bodies and to maintain groundwater recharge.
 - (3) Do not apply to a 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.

§ 188-71. Stormwater management requirements.

- A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with § 188-77.
- 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 muhlenbergii* (bog turtle).
- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Subsection F and G:
- (1) The construction of an underground utility line, provided that the disturbed areas are revegetated upon completion;

- (2) The construction of an aboveground utility line, provided that the existing conditions are maintained to the maximum extent practicable; and
 - (3) The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of eight feet, provided that the access is made of permeable material.
- D. A waiver by the Planning Board, upon concurrence by the Stormwater Coordinator, from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Subsections F and G may be obtained for the enlargement of an existing public roadway or railroad, or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:
- (1) The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means; and
 - (2) The applicant demonstrates through an alternatives analysis that, through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of Subsections F and G to the maximum extent practicable; and
 - (3) The applicant demonstrates that, in order to meet the requirements of Subsections F and G, existing structures currently in use, such as homes and buildings, would need to be condemned; and
 - (4) The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through purchase or condemnation lands not falling under Subsection D(3) above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Subsections F and G that were not achievable on site.
- E. Nonstructural stormwater management strategies.
- (1) To the maximum extent practicable, the standards in Subsections F and G shall be met by incorporating nonstructural stormwater management strategies set forth at Subsection E into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in Subsection E(2) below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention, subject to approval by the Stormwater Coordinator.

- (2) Nonstructural stormwater management strategies incorporated into site design shall:
- (a) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss.
 - (b) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces.
 - (c) Maximize the protection of natural drainage features and vegetation.
 - (d) Minimize the decrease in the "time of concentration" from pre-construction to post-construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed.
 - (e) Minimize land disturbance, including clearing and grading.
 - (f) Minimize soil compaction.
 - (g) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers, and pesticides.
 - (h) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas.
 - (i) Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls can include, but are not limited to:
 - [1] Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy Subsection E(3) below;
 - [2] Site design features that help to prevent discharge of trash and debris from drainage systems;
 - [3] Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
 - [4] When establishing vegetation after land disturbance, prior to applying fertilizer in accordance with the requirements established under Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., soil tests must be conducted onsite to determine the type and quantity of fertilizer required.
- (3) Site design features identified under Subsection E(2)(i)[2] above shall comply with the following standard to control passage of solid

and floatable materials through storm drain inlets. For exemptions to this standard, see Subsection E(3)(c) below.

(a) Grates.

[1] Design engineers shall use either of the following grates to collect stormwater from a surface water body under that grate:

[a] The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

[b] A different grate, if each individual clear space in that grate has an area of no more than seven square inches or is no greater than 0.5 inch across the smallest dimension.

[2] Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

(b) Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven square inches or be no greater than two inches across the smallest dimension.

(c) This standard does not apply:

[1] Where the Planning Board, with the recommendation of the Stormwater Coordinator, determines that this standard would cause inadequate hydraulic performance that could not feasibly be corrected by using additional or larger storm drain inlets that meet these standards;

[2] Where flows from the water quality design storm as specified in Subsection G(1) are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

- [a] A rectangular space 4 5/8 inches long and 1 1/2 inches wide (this option does not apply for outfall netting facilities); or
 - [b] A bar screen having a bar spacing of 0.5 inch.
 - [3] Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars, to the elevation of the water quality design storm as specified in Subsection G(1);
 - [4] Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the National and/or New Jersey Register listed historic property or district, within the meaning of the "historic places rules."
- (4) Any land area used as a nonstructural stormwater management measure to meet the performance standards in Subsections F and G shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure, or an equivalent stormwater management measure approved by the Stormwater Coordinator, is maintained in perpetuity. The approved form to be used as "conservation restriction" shall be determined by the Township Attorney and shall be reviewed and approved by the Township Attorney as to form and by the Township Engineer as to description, on a case-by-case basis. To the greatest extent feasible, nonstructural stormwater management strategies shall be used and shall comply with those listed in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in § 188-74 or found on the Department's website at www.njstormwater.org.

F. Erosion control, groundwater recharge and runoff quantity standards.

- (1) This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.
 - (a) The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.
 - (b) The minimum design and performance standards for groundwater recharge are as follows:

- [1] The design engineer and Stormwater Coordinator shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at § 188-72, either:
 - [a] Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100% of the average annual pre-construction groundwater recharge volume for the site; or
 - [b] Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the two-year storm is infiltrated.
- [2] 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 vehicular 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 the 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.
- [3] 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

surface ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or downgradient of the groundwater recharge area.

- (c) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § 188-72, complete one of the following:
- [1] Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two-, ten-, and one-hundred-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events; or
 - [2] Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-development condition, in the peak runoff rates of stormwater leaving the site for the two-, ten-, and one-hundred-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area; or
 - [3] Design stormwater management measures so that the post-construction peak runoff rates for the two-, ten-, and one-hundred-year storm events are 50%, 75% and eighty-percent respectively, of the pre-development 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.
- (2) Any application for a new agricultural development that meets the definition of major development at § 188-69 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the

processing or sale of food and the manufacturing of agriculturally related products.

G. Stormwater runoff quality standards.

- (1) Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80% of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under an NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of nonstructural stormwater management measures.

Table 1: Water Quality Design Storm Distribution

Time (minutes)	Cumulative Rainfall (inches)	Time (minutes)	Cumulative Rainfall (inches)
0	0.0000	65	0.8917
5	0.0083	70	0.9917
10	0.0166	75	1.0500
15	0.0250	80	1.0840
20	0.0500	85	1.1170
25	0.0750	90	1.1500
30	0.1000	95	1.1750
35	0.1330	100	1.2000
40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

- (2) For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the

address identified in Section G, or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in § 188-74. TSS reduction shall be calculated based on the removal rates for the BMP 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, P.O. Box 418, Trenton, New Jersey 08625-0418.

- (3) If more than one BMP in series is necessary to achieve the required 80% TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B) / 100$$

R = Total TSS percent load removal from application of both BMPs.

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 BMP

Best Management Practice	TSS Percent Removal Rate
Bioretention systems	90%
Constructed stormwater wetland	90%
Extended detention basin	40% to 60%
Infiltration structure	80%
Manufactured treatment device	See § 188-73C
Sand filter	80%
Vegetative filter strip	60% to 80%
Wet pond	50% to 90%

- (4) If there is no more than one on-site drainage area, the eighty-percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site, in which case the removal rate can be demonstrated through a calculation using a weighted average.
- (5) Stormwater management measures shall also be designed to reduce, to the maximum extent practicable, 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 practicable, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in Subsections F and G.

- (6) Developers shall comply with the New Jersey Stormwater Best Management Practices manual, which may be obtained from the address identified in § 188-74 or www.njstormwater.org. For development projects where differing standards may apply, the stricter requirement shall be followed.
- (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 HUC-14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:
 - (a) The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:
 - [1] A three-hundred-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the center-line of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession.
 - [2] Encroachment within the designated special water resource protection area under Subsection G(8)(a)[1] above shall only be allowed with the approval of the Stormwater Coordinator, where previous development or disturbance has occurred. 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. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular

to the top of bank of the waterway or center-line of the waterway where the bank is undefined. All encroachments proposed under this subsection shall be subject to review and approval by the Department.

- (b) All stormwater shall be discharged outside of, and flow through, the special water resource protection area and shall comply with the Standard for Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey" established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.
- (c) If stormwater discharged outside of and following through the special water resource protection area cannot comply with the Standard for Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey" established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:
 - [1] Stabilization measures shall not be placed within 150 feet of the Category One waterway;
 - [2] Stormwater associated with discharges allowed by this section shall achieve a ninety-five-percent TSS post-construction removal rate;
 - [3] Temperature shall be addressed to ensure no impact on the receiving waterway;
 - [4] The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;
 - [5] A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and
 - [6] All encroachments proposed under this section shall be subject to review and approval by the Department, prior to local approval(s).
- (d) A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a

waterway subject to Subsection G(8) has been approved by the Department, then the provisions of the plan shall be applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to Subsection G(8) shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in Subsection G(8)(a)[1] above. In no case shall a stream corridor protection plan allow the reduction of the special water resource protection area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.

- (e) Subsection G(8) does not apply to the construction of one individual single-family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

§ 188-72. 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 Modified Rational Method for hydrograph computations.
- (2) For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-development condition of the site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at Subsection A(1)(a) and the Rational and Modified Rational Methods at Subsection A(1)(b).
- (3) In computing pre-development stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce pre-development 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 volume 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.

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.

§ 188-73. 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.
- (2) Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than 1/3 the width of the diameter of the orifice or 1/3 the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of § 188-75D.
- (3) Structural stormwater management measures shall be designed, sequenced, 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 2 1/2 inches in diameter.

- (5) Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at § 188-75.
 - (6) 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. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized, provided that 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 § 188-71 of this article.
- C. Manufactured treatment devices may be used to meet the requirements of § 188-71 of this article only when recommended by the Stormwater Coordinator, provided that the pollutant removal rates are verified by the New Jersey Corporation for Advanced technology and certified by the Department. Manufactured treatment devices may be used only where the maintenance plan required by § 188-77 ensures that the manufactured device will be properly maintained for its functional lifespan and will be replaced as needed with management measures that are at least as effective as the original manufactured treatment device working in accordance with manufacturers' specifications.

§ 188-74. Sources for technical guidance.

- A. Technical guidance for stormwater management measures can be found in the documents listed at Subsection A(1) and (2) below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey 08625, telephone (609) 777-1038, and at www.njstormwater.org.
- (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 State Soil Conservation, 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 District listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may also be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540.
 - (4) New Jersey Stormwater Best Management Practices Manual, and in the NJDEP Ocean County Demonstration Study, Stormwater Management Facilities Maintenance Manual (June 1989), available from NJDEP.

§ 188-75. Safety standards for stormwater management basins.

- A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.
- B. Requirements for trash racks, overflow grates and escape provisions.
- (1) A trash rack is a device to catch runoff-borne 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 should be constructed primarily of bars aligned in the direction of flow with a maximum bar spacing of approximately 1/2 the diameter or width of the hydraulic opening it is protecting. Transverse bars aligned perpendicular to flow should be sized and spaced as necessary for rack stability and strength.
 - (b) The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
 - (c) The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range and discharge.

Velocity is not to be computed based on the net area of opening through the rack.

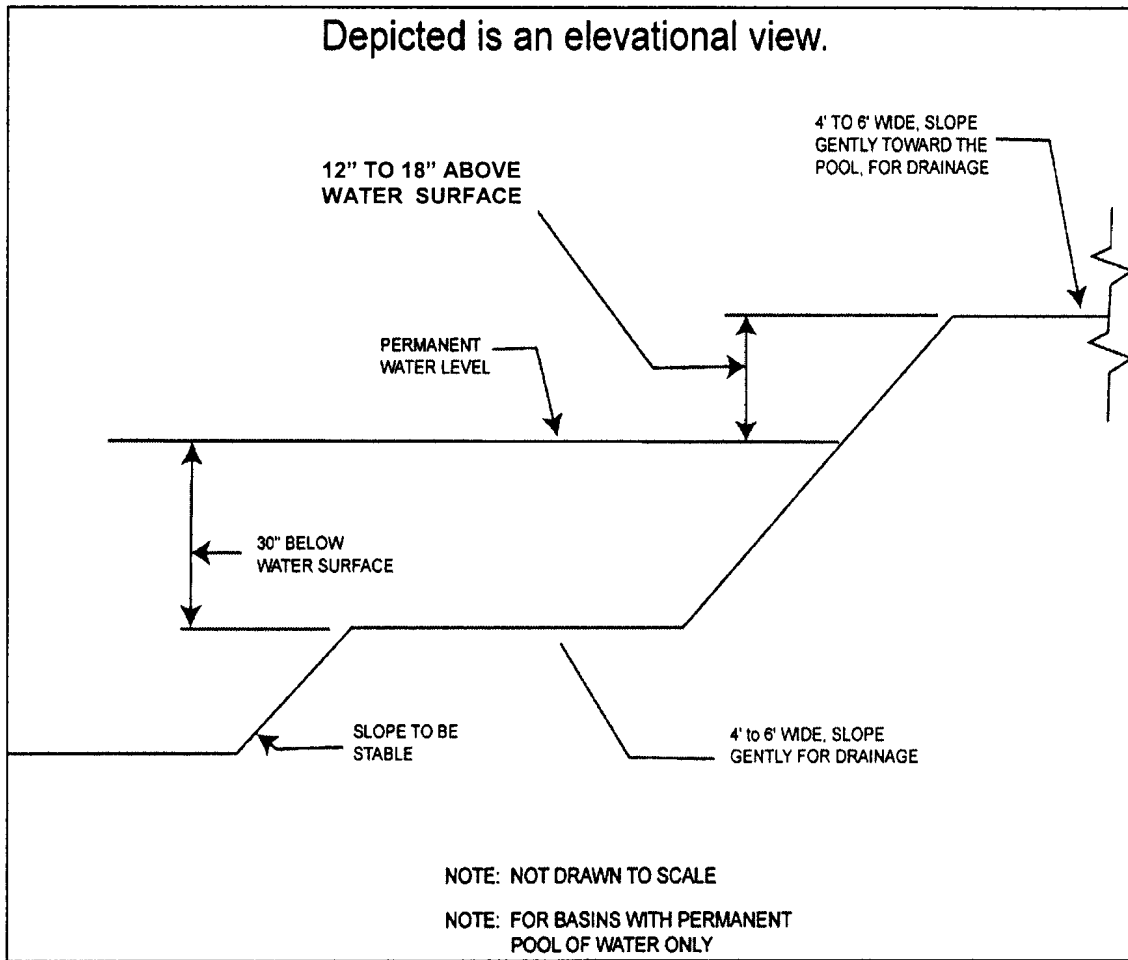
- (d) The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant and shall be designed to withstand a perpendicular live loading of 300 pounds per foot squared.
- (2) An overflow grate is designed to present obstruction of the opening in the top of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
- (a) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
 - (b) The overflow grate spacing shall be no less than two inches across the smallest dimension.
 - (c) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant and shall be designed to withstand a perpendicular live loading of 300 pounds/foot squared.
- (3) For purposes of this Subsection B(3), "escape provisions" means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:
- (a) If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in Subsection C, a freestanding outlet structure may be exempted from this requirement.
 - (b) Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than 2 1/2 feet. Such safety ledges shall be comprised of two steps. Each step shall be four feet to six feet in width. One step shall be located approximately 2 1/2 feet below the permanent water surface, and the second step shall be located one foot to 1 1/2 feet above the permanent water surface. See Subsection D, for an illustration of safety ledges in a stormwater management basin.
 - (c) In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.
 - (d) An emergency drawdown method for detention basins is required where the permanent pool will be more than 2 1/2 feet deep. This drawdown method must consider downstream

or off-site stability at the outfall in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey.

C. Variance or exemption from safety standards.

- (1) A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or Department) that the variance or exemption will not constitute a threat to public safety.

D. Illustration of safety ledges in a new stormwater management basin:



§ 188-76. Requirements for site development stormwater plan.

A. Submission of site development stormwater plan.

- (1) Whenever an applicant seeks municipal approval of a development subject to this article, the applicant shall submit all of the required components of the checklist for the site development stormwater

plan at Subsection C below as part of the submission of the applicant's application for subdivision or site plan approval.

- (2) The applicant shall demonstrate that the project meets the standards set forth in this article.
 - (3) The applicant shall submit three copies of the materials listed in the checklist for site development stormwater plans in accordance with Subsection C of this article.
- B. Site development stormwater plan approval. The applicant's site development stormwater plan shall be reviewed as a part of the subdivision or site plan review process and by the Stormwater Coordinator. The Stormwater Coordinator shall determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this article.
- C. Checklist requirements. The following information shall be required:
- (1) Existing topographic map. A topographic map (or maps) at an appropriate scale of the existing conditions indicating the location of existing buildings, roads, parking areas and utilities. The map(s) shall also clearly show 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.
 - (2) Existing conditions base map. The reviewing engineer and/or Stormwater Coordinator may require upstream tributary drainage system information as necessary. All applicants should contact the Municipal Engineer and/or Stormwater Management Coordinator for specific requirements.
 - (3) Environmental site analysis. A written and graphic description of the natural and man-made features of the site and its environs may be required. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.
 - (4) Proposed description and site plan.
 - (a) A map or maps at an appropriate scale of the proposed conditions, indicating the location of existing and proposed buildings, roads, parking areas, utilities, stormwater and sediment control management facilities and other permanent structures. The maps shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns, and other landscaping, and seasonal high groundwater elevations. The map shall also include:

- [1] 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.
 - [2] 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.
- (b) A written description of the site plan features and justifications of proposed changes in natural conditions shall be provided.
- (5) Stormwater site planning and design summary narrative. This narrative shall provide a demonstration of how the goals and standards of §§ 188-70 through 188-73 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. Refer to the Township of Hillside Municipal Stormwater Management Plan, as amended, for additional requirements.
 - (6) Calculations.
 - (a) Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms in § 188-71 of this article.
 - (b) When the proposed stormwater management control measures (e.g., infiltration basins) depend on the hydrologic properties of soils, a soils report shall be submitted. This 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 soils present at the location of the control measure. The municipality shall be notified of site investigation activities and given the opportunity to have a witness, either prior to approval or as a condition of approval, as appropriate for the specific type of measure. Subsequent to approval of the major development, post-construction bulk soil density and infiltration testing shall be required for all infiltration measures that were used as justification for meeting the recharge standard, to ensure that they were properly constructed.
 - (7) Maintenance and repair plan. The design and planning of the stormwater management facility shall meet the maintenance requirements of § 188-77.

§ 188-77. Maintenance and repair.

- A. Applicability. Projects subject to review as in § 188-68C of this article shall comply with the requirements of Subsections B and C.
- B. General maintenance.
- (1) The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development, subject to review and approval of the Stormwater Coordinator. This plan shall be separate from all other documents and designed for ongoing use by the site owners or operators in performing and documenting maintenance and repair, and by the municipality in ensuring implementation of the maintenance plan. The final maintenance plan shall be updated and provided to the municipality post-construction to include an evaluation based on the specifications of the initial maintenance plan and as-built conditions.
 - (2) The maintenance plan shall contain specific preventative maintenance and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal and disposal; safety needs; identification of methods and disposal sites for materials removed during maintenance; maintenance requirements for created wetlands and other ecological systems; safety devices and systems; warranty and operational standards from the manufacturers of any manufactured treatment devices (see § 188-73C) and the name, address, and telephone number of the person or persons responsible for preventive and corrective maintenance (including replacement), using maintenance guidelines for stormwater management measures from § 188-74, the municipal stormwater management plan, the municipal stormwater pollution prevention plan and any relevant regional stormwater management plan. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for continuing maintenance, the plan shall include documentation of such person's agreement to assume this responsibility or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
 - (3) Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.
 - (4) If the person responsible for maintenance identified under Subsection B(2) above is not a public agency, the maintenance plan and any future revisions based on Subsection B(7) below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be

undertaken. Such recorded instruments shall be subject to the review and approval of the Township Attorney prior to recording the same with the Union County Clerk's office.

- (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 nonvegetative linings.
- (6) The person responsible for maintenance identified under Subsection B(2) above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.
- (7) The person responsible for maintenance identified under Subsection B(2) above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed. Such person shall report his findings to the Municipal Clerk, annually, by February 1 of the following year.
- (8) The person responsible for maintenance identified under Subsection B(2) above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Subsections B(6) and B(7) above.
- (9) The requirements of Subsections B(3) and B(4) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency. In the event that any stormwater control structure is not dedicated to the Borough, the developer shall post a two-year maintenance guarantee in accordance with N.J.S.A. 40:55D-53, and provide any other maintenance measures as required by the Borough, to ensure proper maintenance and functioning of the system. Guidelines are available from NJDEP; see § 188-74B(4).
- (10) In the event that the stormwater management facility becomes a danger to public safety or public health, if it is in need of maintenance or repair, or if the annual report is not received by February 1 of the following year, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have 14 days to effect maintenance and repair of the facility in a manner that is approved by the Municipal Engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform

such maintenance and repair, the municipality or county may immediately proceed to do so and shall bill the cost thereof to the responsible person.

- 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, or a sinking fund, in accordance with N.J.S.A. 40:55D-53.
- D. The maintenance plan shall specifically provide a specific municipal right of access for inspection of measures and for maintenance if required under Subsection B(10).

§ 188-78. Violations and penalties.

Any person, entity, or association who erects, constructs, alters, repairs, converts, maintains, fails to maintain as required in § 188-77 hereof, or otherwise uses any building, structure or land in violation of this article, shall be subject to a fine of not more than \$2,000 and/or a term of imprisonment of not more than 30 days, or both. Each day that a violation persists shall be a separate violation hereof.