Borough of Watchung

COUNTY OF SOMERSET
STATE OF NEW JERSEY

PROPOSED

Land Development Ordinance

Chapter XXVIII

To be adopted by the Mayor and Borough Council of the Borough of Watchung.

Chapter XXVIII was adopted by Ordinance No. OR:09/01 on _____, 2009. Amendments are noted where applicable.

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BY
CODED SYSTEMS LLC

LAND DEVELOPMENT

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ARTICLE 28-100
TITLE AND PURPOSE

28-101. TITLE

The title of this chapter shall be "Land Development Chapter of the Borough of Watchung." (Ord. No. OR:-- § 28-101)

28-102. AUTHORITY AND INTERPRETATION

This chapter is adopted pursuant to the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-1 et seq. The standards and requirements of the MLUL shall be used in companion with this chapter and shall control its interpretation. (Ord. No. OR:-- § 28-102)

28-103. PURPOSES

The purposes of this chapter are the same as those of the MLUL and are hereby incorporated by reference. (Ord. No. OR:-- § 28-103)

28-104. INTERPRETATION OF STANDARDS

A. The provisions of this chapter shall be held to be minimum requirements.

B. Where this chapter imposes a greater restriction than is imposed and required by other provisions of law or by other rules, regulations or resolutions, the provisions of this chapter shall control unless they are preempted by such other provisions, in which case the provisions of this chapter shall nevertheless remain a viable and valid expression of the interests and concerns of the Borough regarding the applicable subject matter.

C. Where other laws, rules, regulations or resolutions require greater restrictions than are imposed by this chapter, the provisions of such other laws, rules, regulations or restrictions shall control.
(Ord. No. OR:-- § 28-104)

28-105. NUMBER OF PRINCIPAL USES, BUILDINGS AND DWELLINGS PER LOT

A. Unless otherwise specifically permitted by this chapter, no more than one (1) principal use shall be permitted on any one (1) lot.

B. Unless otherwise specifically permitted by this chapter, no more than one (1) principal building shall be permitted on any one (1) lot.

C. Unless otherwise specifically permitted by this chapter, no more than one (1) dwelling unit shall be permitted on one (1) lot.
(Ord. No. OR:-- § 28-105)

28-106. PROHIBITED USES

A. Billboards are specifically prohibited throughout the Borough.

B. Boarding houses are specifically prohibited throughout the Borough.

C. Junk yards are specifically prohibited throughout the Borough.

D. Adult bookstores, businesses showing X-rated movies or live acts, massage parlors, and other businesses dealing primarily with indecent or obscene materials, acts, or paraphernalia are specifically prohibited within any zone in the Borough.

E. All uses not expressly permitted by this chapter are prohibited.
(Ord. No. OR:-- § 28-106)

28-107. COMPLIANCE

A. No building or any other structure shall be erected, enlarged, altered, added to, reduced, moved or changed in use unless in conformity with the applicable requirements of this chapter.

B. All applicable requirements of this chapter shall be met at the time a building or any other structure is first erected, enlarged, altered, added to, reduced, moved or changed in use.

C. All applicable requirements of this chapter shall apply to the entire structure, whether or not the entire structure was involved in the erection, enlargement, alteration, addition, reduction, moving or change in use.

D. Reserved.

E. No structure or land area in the Borough shall be used for any purpose or in any manner other than as specified in this chapter and/or in accordance with a site plan or subdivision plat as specifically approved by the Planning Board or Zoning Board of Adjustment, including any conditions of approval.
(Ord. No. OR:-- § 28-107)

ARTICLE 28-200
DEFINITIONS AND DESCRIPTIONS

28-201. WORD USAGE

For the purpose of this chapter, certain phrases and words are herein defined as follows:

Words used in the present tense include the future tense.
Words used in the singular number include the plural number and vice versa.
Words used to include the male gender include the female gender and vice versa.
The word "used" shall include "arranged," "designed," "constructed," "altered," "converted," "rented," "leased" or "intended to be used."
The word "lot" includes the words "plot" and "premises."
The word "building" includes the word "structure."
The word "shall" is mandatory and not discretionary.
The word "may" is discretionary and not mandatory.
(Ord. No. OR:-- § 28-201)

28-202. COMPLIANCE WITH OTHER DEFINITIONS

Whenever a word or term is used in this chapter which is not defined in this chapter, but is defined in the Municipal Land Use Law (MLUL) or the New Jersey Residential Site Improvement Standards (RSIS), the word or term is intended to be consistent with the meaning as defined in the MLUL or the RSIS and with the permissible standards pertaining to the word or term. Any word or term used in this chapter which is not defined in this chapter or in the MLUL or RSIS is being used with a meaning of standard usage as defined in Webster's New International Dictionary of the English Language, unabridged and latest edition. (Ord. No. OR:-- § 28-202)

28-203. DEFINITIONS AND DESCRIPTIONS

The following words and terms shall have the meanings as indicated below. For ease of reference, terms defined below are italicized where used in this chapter.

Accessory Apartment: In accordance with N.J.A.C. 5:93-5.9 of the Substantive Rules of the New Jersey Council on Affordable Housing, the term accessory apartment shall mean a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters, and a private entrance, which is created within an existing home, or through the conversion of an existing attached accessory structure on the same site, or by an addition to an existing home or accessory building. An accessory apartment shall only be permitted in accordance with the

applicable requirements of this chapter and the Housing Element and Fair Share Plan that has received Substantive Certification from the New Jersey Council on Affordable Housing.

Accessory Building, Structure: A building or structure that is customarily associated with and subordinate and incidental to the principal building(s) or principal structure(s) and not intended for habitation. Any accessory building or accessory structure attached to the principal building shall be considered part of the principal building.

Accessory Use: A subordinate use, which does not violate this chapter, the purpose of which is subordinate and incidental to the principal use and located on the same lot thereto.

Addition: An extension or an increase in the floor area, height or coverage of a building or structure.

Administrative Officer: The Clerk of the Planning Board or the Clerk of the Zoning Board of Adjustment, as the case may be, unless a different municipal official is designated by this chapter to administer certain of the responsibilities specified for the Administrative Officer in the MLUL.

Adverse Effect: Conditions or situations created by a proposed development that impose, aggravate or lead to impractical, unsafe or unsatisfactory conditions on properties including, but not limited to, inadequate drainage facilities, unsuitable street grades, street locations that fail to compose an effective circulation system, failure to provide or make future allowance(s) for access to the interior portion of adjoining lots or for other facilities required by this chapter, and danger from fire, flooding, erosion or other menace.

Affordable Housing: A residential dwelling that is sold or rented for an amount within the means of a low or moderate income household as defined by the New Jersey Council on Affordable Housing.

Alteration: As applied to a building or structure, a change or rearrangement in the structural parts or in the means of ingress and egress; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another.

Applicant: A developer submitting an application for development.

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

Attic: A space between the ceiling beams of the top habitable story and the roof rafters. Attic space which has a stairway for access and egress and in which the ceiling area at a height of seven feet four (7' 4") inches above the attic floor is more than one-third (1/3) the area of the floor next below shall be considered a story for the purposes of this chapter.

Basement: That portion of a building partly below and partly above grade, where the ceiling of such area averages four (4) feet or more above the finished grade where such finished grade meets the outside walls of the building. A basement shall be considered a story when the distance from finished grade to the finished surface of the floor above the basement is more than six (6) feet for more than fifty percent (50%) of the total perimeter surrounding the interior basement area or when the distance from finished grade to the finished surface of the floor above the basement is more than twelve (12) feet at any point.

Bedroom: A room planned or used primarily for sleeping.

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

Board: The Planning Board or the Zoning Board of Adjustment of the Borough, as the case may be.

Boarding House: A building or part thereof, other than a building containing apartments or townhouses as permitted by this chapter, arranged or used for lodging for compensation, monetary or otherwise, with or without meals included, and not occupied as a single housekeeping unit.

Borough: The Borough of Watchung, Somerset County, New Jersey.

Bridge: A structure designed to convey motorized/nonmotorized vehicles and/or pedestrians over a watercourse, railroad, street or other obstacle or depression.

Buffer or **Buffer Strip:** An unoccupied portion of land maintained as a landscaped area and used to visibly separate one structure or use from another structure or use.

Buffer Screening: An unoccupied portion of land maintained as a landscaped area, consisting primarily of densely planted vegetation, fencing and/or walls used to visually shield or obscure one abutting or nearby structure or use from another.

Building: A structure constructed for the permanent, temporary or continuous occupancy and having a roof.

Building Height: The vertical distance measured from the lowest exterior finished grade elevation adjacent to the building to the highest point of the building in the case of flat roofs, or measured to the mean level between the eaves and the highest

point of the roof in the case of pitched roofs. In all cases where this chapter provides for height limitations by reference to a specified height and a specified number of stories, the intent is to limit height to the specified maximum footage and the specified number of stories within said footage.

Cartway: That paved portion of a street (public or private) or right-of-way that is intended for vehicular movement.

COAH: The New Jersey Council on Affordable Housing.

Cellar: That portion of a building partly below and partly above grade, where the ceiling averages less than four (4) feet above the finished grade where such grade meets the outside walls of the building.

Cemetery: Any land or place used for the interment of human remains.

Certificate of Occupancy: The certificate issued by the Construction Official pursuant to N.J.A.C. 5:23 and in accordance with this chapter permitting the use of a structure.

Conditional Use: A use permitted in a particular zoning district when it is shown that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in Section 28-501.

Conservation Easement: An easement in favor of the Borough for the purpose of preserving open space, aquatic buffers and/or the natural, scenic, aesthetic or historic value of land and precluding any disturbance of the area.

Coverage, Building: That proportion of a lot covered by buildings as measured in a horizontal plane around the periphery of the foundation and including the area under any roof extending more than two (2) feet beyond the foundation.

Coverage, Lot: That proportion of a lot covered by impervious surfaces. The area is measured in a horizontal plane to the limits of the structure or improvement.

Critical Areas: Wetlands, 100-year floodplain or flood hazard areas, and lands with a topographic slope fifteen (15%) percent or greater.

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 (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change in the use of any building or other structure, or land

or extension of use of land, for which permission may be required pursuant to the MLUL.

Development Fees: Money paid by an individual, person, partnership, association, company, or corporation to the improvement of property as permitted in N.J.A.C. 5:92-18 et seq.

Driveway: A private travel way providing access for a lot to a street or highway.

Driveway Entrance: The area of the driveway within the right-of-way limits of any street extending from the cartway to the street line.

Driveway Turnaround: An area adjacent and connected to the driveway providing a convenient location for vehicles to reverse direction.

Dwelling Unit: A room or series of connected rooms designed for permanent residency and containing living, cooking, sleeping and sanitary facilities for one (1) housekeeping unit. A dwelling shall be self-contained and shall not require the use of outside stairs, passing through another dwelling unit or any other indirect route(s) to get to any portion of the dwelling unit, nor shall there be shared facilities with another housekeeping unit.

a. **Apartment (rental or condominium):** A building, other than a building of attached townhouses, containing a minimum of three (3) dwelling units.

b. **Detached Single Family:** A building containing sleeping, sanitary and general living facilities which is physically detached from any other building or portion thereof and which is occupied or intended to be occupied for residential purposes by one (1) housekeeping unit only, including any domestic servants employed on the premises.

c. **Patio Home:** A one-family dwelling unit on an individual lot which may be attached to a second one-family dwelling unit on an adjacent lot.

d. **Townhouse:** A building containing at least three (3), but no more than eight (8), connected dwelling units, where each dwelling unit:

   (1) Has its own front and rear access to the outside;

   (2) Is not located over any portion of another unit;

   (3) Is separated from any other dwelling unit by one (1) or more common fire resistant walls; and

   (4) Is compatibly designed in relation to all other units, but is distinct by such design features as width, setback, roof design, color, exterior materials, and other features, singularly or in combination.

Enlargement: An addition to the floor area of any existing building, or an increase in the size of any existing structure, or an increase in that portion of a tract of land occupied by any existing use.

Equalized Assessed Value: The value of a property determined by the Borough Tax Assessor through a process designed to ensure that all property in the Borough is assessed at the same assessment ratio or ratios required by law. Estimates at the time of building permit may be obtained by the Tax Assessor utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the Tax Assessor.

Erect: To construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish, but it shall not include any of the foregoing activities when performed as an incident to the change of advertising message or normal maintenance or repair of a sign or sign structure.

Estate Fence: An ornamental fence style reminiscent of elegant wrought iron custom craftsmanship. Fencing materials shall be aluminum, steel, wrought iron, metal or composite; finished or painted in one (1) color only, harmonized with the surrounding area. An estate fence section shall consist of a combination of horizontal rails and vertical pickets in either a straight, concave or convex style. Pickets may not be fitted with finials or spear points at the top of the fence. Circles and scroll castings may be added between the rails and pickets to enhance the uniqueness of the design. Each fence section shall attach to posts of similar construction. Monumental columns, which may be of wood, stone, brick or masonry construction not to exceed three (3) feet of any side or diameter and located at the corners of the fence or driveway entrance or walkway entrance.

Family: The word family shall mean the same as housekeeping unit.

Farm: A lot with at least five (5) acres of land devoted to the growing and harvesting of crops and/or the raising and/or breeding of animals, including truck farms, fruit farms, nurseries and greenhouses, silva culture operations, dairies and livestock produce, except that commercial piggeries and commercial slaughtering are prohibited. Structures incidental to a farm such as barns and packing, grading and storage buildings for produce raised on the premises; fences; buildings for the keeping of permitted poultry and livestock; and garages for the keeping of trucks and other equipment used in farm operations are permitted when accessory to a permitted farm.

Fence: An artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas. All fences shall be symmetrical in appearance, with posts separated by identical distances, with the fencing conforming to a definite pattern and uniform design.

Flag Lot: A lot whose building area, i.e., the "flag" portion, is connected to the street giving access to it by a strip of land, i.e., the "pole" portion, whose principal purpose is to provide legal and/or actual access to the buildable area. In general, the buildable area of a flag lot is located to the rear of another lot(s) fronting on the same or intersecting street.

Floor Area, Gross (G.F.A.): The sum of the area of all floors of buildings or structures.

Floor Area, Net Habitable (N.H.F.A.): The finished and heated area fully enclosed by the inside surfaces of walls, windows, doors and partitions including working, living, eating, cooking, sleeping, stair, hall, service and storage areas, but excluding garages, carports, parking spaces, cellars, utility (heating and cooling) rooms, half-stories, and unfinished attics and basements. Moreover, for the purposes of determining the off-street parking requirements of this chapter for nonresidential uses, any net habitable floor area having a headroom of six and one-half (6 1/2) feet or more shall be utilized in the calculation.

Floor Area Ratio: The ratio of the gross floor area of all buildings on a lot divided by the lot area.

Front Facade Area: The square footage of the total wall surface of the front of building below the roofline, including any windows or doors. The front of the building shall be where the main entrance is located.

Garage, Private Nonresidential: An accessory building to a principal nonresidential building and use, which is utilized primarily for the parking and storage of vehicles operated by the customers, visitors and employees of such nonresidential building and use, and which is not available to the general public.

Garage, Private Residential: An accessory building for the storage of motor vehicles regularly operated by occupants of the principal building.

Garage, Public: A building or portion thereof, other than a private nonresidential garage or private residential garage, utilized primarily for the parking and storage of vehicles and available to the general public.

Garage, Repair: Any building, premises and land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of vehicles is conducted or rendered.

Golf Course: A land area at least one hundred (100) acres in size containing an eighteen (18) hole play area, together with necessary and usual accessory uses and accessory structures.

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

Historic Resource: Any site, building, area, structure or object important in American history or prehistory, architecture, archaeology and culture at the national, State, County, local or regional level.

Homeowners' Association: An organization operating in a development under recorded agreements through which each lot owner shall be a member and each dwelling unit is subject to a charge for a proportionate share of the expenses for the organization's activities and maintenance, including any maintenance costs levied against the association by the Borough in accordance with N.J.S.A. 40:55D-43.

Hotel and Motel: A building or group of buildings consisting of individual sleeping units designed for transient travelers and not for permanent residency.

Housekeeping Unit: One (1) or more persons living together in one (1) dwelling unit on a nonseasonal basis and sharing living, sleeping, cooking and sanitary facilities on a nonprofit basis.

Impervious Surface: As applied to all surfaces, that portion of the premises covered by buildings, principal and accessory, and improvements, such as driveways, parking lots, pools, tennis courts (except grass), patios, porches, decks and walkways. All surfaced parking areas and driveways, all required parking areas which are permitted to remain unsurfaced, and all gravel driveways and gravel parking lots shall be considered an impervious surface for the purposes of this chapter.

Junk yard: Any space, whether inside or outside a building, used for remuneration in connection with the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition, salvage, resale or abandonment of automobiles or other vehicles or machinery or parts thereof.

Land Disturbance: Any activity involving the clearing, cutting, excavating, or grading of land or any other activity which alters land topography and/or vegetative cover exclusive of personal or home gardening by a homeowner on their own real property.

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

Lot: A designated parcel, tract, or area of land established by plat, or otherwise as permitted by law, and to be used, developed or built upon as a unit.

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

Lot, Corner: A lot abutting the intersection of two (2) or more streets, where the interior angle of intersection does not exceed one hundred thirty-five (135) degrees. Each corner lot shall have two (2) front yards (along each street), one (1) side yard and one (1) rear yard, the side yard and rear yards to be designated at the time of application for a construction permit.

Lot Depth: The shortest perpendicular distance, or radial distance in the case of a curved frontage, between the street line and the midpoint of the rear lot line. The lot depth requirements shall apply to lots created subsequent to the adoption of this chapter. **(See Figure 1: Lot Depth and Lot Width graphic in Appendix A*).**

Lot Frontage: The distance between side lot lines measured along the street line. In the case of a corner lot created subsequent to the adoption of this chapter, the shorter street line shall equal or exceed the minimum frontage requirement, while the other street line shall equal or exceed the applicable lot depth requirement.

Lot, Interior: A lot other than a corner lot.

Lot Line: Any line forming a portion of the exterior boundary of a lot and is the same line as the street line for that portion of a lot abutting a street.

Lot Width: The straight line distance between side lot lines measured at the minimum required front yard setback line. In the case of a corner lot created subsequent to the adoption of this chapter, lot width shall be measured parallel to the shorter street line along the minimum required front yard setback line. **(See Figure 1: Lot Depth and Lot Width graphic in Appendix A*).**

Low Income Housing: Housing affordable according to COAH regulations, to a household with a total gross annual income equal to fifty (50%) percent or less of the median gross household income for households of the same size within the housing region in which the housing is located as adopted by COAH, and which is subject to affordability controls consistent with COAH regulations.

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

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

Marquee: A permanent roof-like shelter extending from part or all of a building face.

Membership Swim Club: A swimming pool and the apparatus and equipment pertaining thereto, operated on a membership basis without a daily admission charge.

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* **Editor's Note:** Appendix A, referred to herein, maybe found at the end of this chapter.

Minor Site Plan: Any plan for development which:

a. Is limited to the proposed construction of any permitted or accessory use which is not exempted from site plan review pursuant to this chapter; or

b. Consists of an expansion of, or addition to, an existing conforming structure and/or use which is not exempted from site plan review pursuant to this chapter and which:

(1) Does not account for more than five thousand (5,000) square feet of additional lot coverage;

(2) Does not exceed more than one thousand (1,000) square feet of enclosed and roofed area;

(3) Does not involve a planned development; and

(4) Does not entail the installation of any road improvements or the expansion of public facilities.

c. The minor site plan application shall contain information reasonably required in order to make an informed determination as to whether the requirements established by chapter for approval of a minor site plan have been met.

Minor Subdivision: Any division of land for the creation of not more than three (3) lots none of which can be further subdivided except upon filing of major subdivision application, each fronting upon, and provided vehicular access to, an existing street either improved in accordance with N.J.S.A. 40:55D-35 or granted relief therefrom in accordance with N.J.S.A. 40:55D-36, and which:

a. Does not involve any new street or access easement or the installation of any street improvements or the extension of Borough facilities, except as may be required along the street frontage of the subject property.

b. Does not involve any streets requiring additional right-of-way width as specified in the currently adopted Traffic Circulation Plan Element of the Borough Master Plan and/or the street requirements of this chapter, unless such additional right-of-way width, either along one (1) or both sides of said street(s), as applicable, is offered in fee to the Borough or to some other governmental authority prior to classification as a minor subdivision and deeded over in fee as a condition of any approval.

c. Does not involve any required off-tract improvements.

d. Does not involve a planned development.

e. Is not deficient in those details and specifications required of minor subdivisions as specified in this chapter.

f. Is not a further division of an original tract of land for which previous minor subdivision approval had been granted by the Borough and where the combination of the proposed and any previously approved minor subdivisions constitute a major subdivision.

g. Any readjustment of lot lines resulting in no additional lots shall be classified as a minor subdivision for purposes of the application and review requirements specified in this chapter.

Moderate Income Housing: Housing affordable according to COAH regulations, to a household with a total gross annual income in excess of fifty (50%) percent but less than eighty (80%) percent of the median gross household income for households of the same size within the housing region in which the housing is located as adopted by COAH, and which is subject to affordability controls consistent with COAH regulations.

Municipal Land Use Law or MLUL: N.J.S.A. 40-55D-1 et seq.

Nonconforming Lot: A lot having an area and dimensions which were lawful prior to the adoption, revision or amendment of this chapter, but which fails to conform to the currently applicable requirements of this chapter by reason of such adoption, revision or amendment.

Nonconforming Structure: A structure, the size, dimensions and location of which were lawful prior to the adoption, revision or amendment of this chapter, but which fails to conform to the currently applicable requirements of this chapter by reasons of such adoption, revision or amendment.

Nonconforming Use: A use or activity which was lawful prior to the adoption, revision or amendment of this chapter, but which fails to conform to the currently applicable requirements of this chapter by reason of such adoption, revision or amendment.

Nuisance: Any offensive, annoying, unpleasant or obnoxious thing or practice which unreasonably interferes with the enjoyment and use of property.

Open Porch: A porch that is open on three (3) sides except for possible wire screening. A porch shall not be considered to be an open porch if it is enclosed either by permanent or detachable glass panes on any of the three (3) open sides.

Open Space Organization: An incorporated, nonprofit organization, oftentimes called a "Homeowners' Association," which operates under a recorded land agreement and provides that:

a. Each owner is automatically a member;

b. Each occupied dwelling unit is automatically subject to a charge for a proportionate share of the expenses for the organization's activities and maintenance, including any maintenance costs levied against the organization by the Borough; and

c. Each owner and tenant has the right to use the common property.

Owner: An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

Parking Area: Any public or private area designed and used for parking of motor vehicles, including parking lots and garage, and legally designated areas of public streets.

Parking Space: Any area for the parking of motor vehicles within a public or private parking area.

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

Planned Development: An area to be developed as a single entity according to a plan in accordance with the applicable requirements of this chapter and which includes common or public open space area as an appurtenance; i.e., a development in which the permitted buildings are grouped closer to each other than would otherwise be permitted, and in which the open space so saved remains an integral element of the development.

Principal Building Envelope: The two-dimensional space within a lot defined by the minimum required yard setback dimensions, upon which a principal building or structure is permitted to be built. **(See Figure 3: Required Setbacks, Yards and Principal Building Envelope graphic in Appendix A*).**

Principal Building, Structure or Use: A building, structure or use that is the main or primary building, structure or use on the lot.

Private Street: A street that is not publicly maintained or not intended to be publicly maintained.

Professional Resident Home Office: The office of a member of a recognized profession as hereinafter indicated when conducted on a residential property and conducted by a member or members of the residential family entirely within a residential building, and including only offices of ministers, architects, professional engineers, land surveyors, lawyers, accountants, medical doctors and dentists.

* **Editor's Note:** Appendix A, referred to herein, maybe found at the end of this chapter.

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

Public View: Visible from a public thoroughfare, public lands or public building.

Regional Retail Shopping Complex: A shopping center which contains at least seven hundred fifty thousand (750,000) gross square feet of floor area on at least seventy (70) acres of contiguous land and which includes at least three (3) commercial establishments which individually occupy at least fifty thousand (50,000) gross square feet of floor area and at least two (2) additional commercial establishments which individually occupy at least forty thousand (40,000) gross square feet of floor area.

Residential Tool Shed: A building, accessory to a detached dwelling unit, which is utilized for the storage of tools, lawn and garden equipment and furniture and similar items of personal property owned by the occupants of the detached dwelling unit.

Restaurant: Any establishment, however designated, at which food is sold primarily for consumption on the premises and within a building, providing that a drive-through window shall be considered as an accessory use to the restaurant requiring conditional use approval by the Borough where permitted and in accordance with the applicable provisions of this chapter. However, a snack bar or refreshment stand at a public swimming pool, golf course, playground, playfield or park, operated solely by the agency or group operating the recreational facility and for the convenience of the patrons of the facility, shall not be deemed a restaurant.

Right-of-Way: Any property either owned by the Borough, County of Somerset or State of New Jersey in fee simple, dedicated for street purposes by way of a filed plat approved pursuant to the law or over which the Borough has an easement which is held for road, utility or any other municipal purpose.

Search Area: That geographic area (which may or may not extend beyond Borough boundary lines) within which additional wireless telecommunications facilities are required to provide reliable and adequate coverage consistent with the licensing requirements of the Federal Communications Commission.

Senior Citizen: A person who is sixty-two (62) years of age or older.

Service Station: Lands and buildings providing for the sale of automotive fuel, lubricants, and automotive accessories. Maintenance and minor repairs for motor vehicles may be provided, but no body repairs or painting or the storage of inoperable, wrecked or unregistered vehicles shall be permitted. Additionally, no car wash operation, car or truck rental, parking for a fee or other activity not specifically a part of the service station shall be permitted.

Setback: A line that is established a minimum horizontal distance from the street line or proposed street line or lot line and beyond which a building or part of a building is not permitted to extend toward the street line or proposed street line or lot line **(See Figure 3: Required Setbacks, Yards and Principal Building Envelope graphic in Appendix A*).**

a. **Front Yard Setback:** The minimally required distance between the street line and the closest point of a building on a lot, measured horizontally and at right angles to either a straight street line or the tangent of curved street lines, and extending across the full width of the lot. The required front yard setback shall be measured from the street line when the street line and property line do not coincide.

b. **Rear Yard Setback:** The minimally required distance between the rear lot line and the closest point of a building on the lot, measured horizontally and at right angles to either a straight rear lot line or the tangent of curved rear lot line, and extending across the full width of the lot.

c. **Side Yard Setback:** The minimally required distance between each side lot line and the closest point of a building on the lot, measured horizontally and at right angles to either a straight side lot line or the tangent lines of curved side lot lines, and extending from the required front yard setback to the required rear setback and lying between.

Shared Driveway: A single driveway serving two (2) or more adjoining lots.

Shopping Center: A group of commercial establishments which are planned, constructed and managed as a total entity in accordance with a common architectural theme and which are provided on-site customer and employee parking and the location for the delivery of goods separated from customer access.

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

Sign: Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identity, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images, provided that the display of public notices, the flag, emblem or insignia of the United States of America, political unit,

* **Editor's Note:** Appendix A, referred to herein, maybe found at the end of this chapter.

temporary signs or temporary display in connection with a charity drive for contributions shall not be considered signs under the provisions of this chapter.

Sign Area: The entire area within a continuous perimeter enclosing the limits of the actual message or copy area. It does not include any structural elements outside the limits of the sign surface and not forming an integral part of the display. For projecting or double-faced signs, where the sign faces are parallel, the sign area of only one (1) display face shall be measured in computing total sign area.

Sign, Business: A sign which directs attention to a business, industry, profession, commodity, service or entertainment sold or offered upon the same premises where such sign is located

Sign, Directional: A sign containing directional information about public places owned or operated by Federal, State or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational and religious sites; and areas of natural beauty or naturally suited to outdoor recreation.

Sign Flashing: A sign, the illumination of which is not kept constant in intensity at all times when in use.

Sign, Indirectly Illuminated: An illuminated sign with illumination that is derived from an external artificial source.

Sign, Nameplate: A sign that states the name or address or both of the occupant of the premises where the sign is located.

Sign, Open House: A sign noticing a real estate event whereby a residential property in the Borough is made available for public inspection without the necessity of an interested person having to make a specific appointment for inspection.

Sign, Outdoor Advertising: A sign which directs attention to a business, industry, profession, commodity, service or entertainment not necessarily sold or offered upon the premises where the sign is located.

Sign, Professional: A sign listing only the name and profession of the practitioner.

Sign, Projecting: A sign that is attached to the building wall and extends more than eighteen (18) inches from the face of such wall.

Sign, Revolving: A sign which moves in any manner by mechanical means.

Sign, Roof: A sign constructed or supported upon the roof of any building or structure.

Sign, Temporary: A sign which is intended to advertise community or civic projects, real estate for sale or lease, or other special events on a temporary basis. Except for real estate and nonprofit community or civic projects, all temporary signs shall require a zoning permit except for those specifically exempted by this chapter.

Sign, Wall: A sign which is attached to the wall of a building with the face in a plane parallel to such wall and not extending more than eighteen (18) inches from the face of the wall.

Steep Slope: Any slope exceeding ten percent (10%) in grade.

Stormwater Detention Facility: Any storm drainage technique that provides for the controlled release of stored water and that also provides water quality enhancement or ground water infiltration, such as bioremediation, detention or retention basins, parking lot storage, rooftop storage, dry well, water quality swales or any combination thereof.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the next floor above it or, if there is no floor above it, then the surface between the floor and the ceiling next above it. For the purpose of this chapter:

a. The interior of a roof shall not be considered a ceiling.

b. Cellars shall not be considered a story.

c. A basement shall be considered a story when the distance from finished grade to the finished surface of the floor above the basement is more than six (6) feet for more than fifty percent (50%) of the total perimeter surrounding the interior basement area or when the distance from finished grade to the finished surface of the floor above the basement is more than twelve (12) feet at any point.

d. Regardless of the level of the finished grade surrounding it, a finished basement and/or cellar in a nonresidential buildings shall be considered a story for the purposes of the height, floor area, and parking requirements of this chapter, unless used solely for ancillary storage.

e. A half-story is the area under a pitched roof at the top of a building that has possible headroom of seven feet four (7' 4") inches or greater occupying less than one-third (1/3) of the area of the floor next below. Additionally, in order to be considered a "half-story," the floor area of such space shall not be more than three (3) feet above the line of the intersection of the roof and wall face. An area under a pitched roof at the top of a building that is accessed by a stairway and that has area with possible headroom of seven feet four (7' 4") inches or greater occupying one-third (1/3) or more of the area of the floor next below shall be considered a story for the purposes of this chapter.

Street Line: The dividing line between the street right-of-way and the lot which is shown upon a plat approved pursuant to law and recorded in the office of the County Clerk or which is approved by official action as provided by law. Where the street line has not been established, the street line shall be assumed to be twenty-five (25) feet from the centerline of the existing road.

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.

Subdivision and Site Plan Committee: A committee appointed by the Chairperson of the Planning Board for the purpose of reviewing, commenting and making recommendations with respect to subdivision and site plan applications. Only those Committee members who are members or alternates of the Board having jurisdiction to act have the power to vote on a matter involving a minor site plan or minor subdivision pursuant to the MLUL.

Swimming Pool: A water-filled enclosure, above and/or below the ground, having a depth of more than twenty-four (24) inches and designed, used and maintained for swimming and bathing.

a. The term swimming pool includes hot tubs and whirlpools and other similar water-filled enclosures.

b. The term swimming pool includes all ordinary appurtenances such as buildings, structures and equipment.

c. Any portable pool that is not permanently installed and that meets all of the following criteria is not considered a swimming pool and is not subject to the provisions of this chapter:

   (1) Does not require water filtration, circulation and purification;

   (2) Does not exceed twenty-four (24) inches in depth;

   (3) Does not exceed a water surface of two hundred fifty (250) square feet; and

   (4) Does not require braces or supports.

Tract: An area of land composed of one (1) or more lots adjacent to one another, having sufficient dimensions and area to make one (1) parcel of land meeting the requirements of this chapter for the use(s) intended.

Use: The purpose or activity for which land or structures are arranged or designed, or the purpose or activity for which either land or structures are, or may be, used, occupied or maintained. The term permitted use does not include the term nonconforming use.

Wireless Telecommunications Antenna: A system of electrical conductors that transmit or receive radio frequency signals, digital signals, analog signals, or electromagnetic waves for wireless communications.

Wireless Telecommunications Equipment Compound: A fenced-in area which houses any combination of wireless telecommunications structures, buildings, antennas, equipment and/or towers.

Wireless Telecommunications Structures, Antennas, Equipment and/or Towers: Buildings and/or structures and equipment for the receiving or sending wireless telecommunications except for satellite dish antennas. For purposes of this definition, "wireless telecommunications structures, antennas, equipment and/or towers" may be collectively referred to herein as "wireless telecommunications facilities." This definition shall not include any tower, or the installation of any antenna, that is under fifty (50) feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.

Wireless Telecommunications Tower: A vertical structure designed for and intended to support wireless telecommunications antennas.

Yard: The open space existing between the principal building or accessory building and the nearest lot line.

a. **Front Yard:** The open space extending across the full width of the lot and lying between the street line and the closest point of any building on the lot. The depth of the front yard shall be measured horizontally and at right angles to either a straight street line or the tangent of curved street lines.

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

c. **Side Yard:** The open space extending from the front yard to the rear yard and lying between each side lot line and the closest point of the principal building on the lot. The width of the side yard shall be measured horizontally and at right angles to either a straight side lot line or the tangent lines of curved side lot lines. **(See Figure 3: Required Setbacks, Yards and Principal Building Envelope graphic in Appendix A*)**

Zoning Map: The map referred to in Article 28-300 of this Ordinance which shows the boundaries of the zoning districts within the Borough.
(Ord. No. OR:07/21 § 1; Ord. No. OR:-- § 28-203)

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* **Editor's Note:** Appendix A, referred to herein, maybe found at the end of this chapter.

ARTICLE 28-300
ZONING DISTRICTS AND ZONING MAP

28-301. ZONING DISTRICTS

For the purpose of this chapter, the Borough is divided into the following zoning districts:

R-R Rural Single-Family Residential
R-A Single-Family Residential
R-B Single-Family Residential
B-A Neighborhood Commercial
B-B Professional Office
B-C Highway Commercial
H-D Highway Development
O-C Office Business/Conference Center Overlay District
QU Quarry District
CE Cemetery

* R-M-L I	Multi-Family Affordable
* R-M-L II	One-Family Residential
* R-M-L III	One-Family Residential
* R-M-L IV	One-Family Residential
* R-M-L V	Multi-Family Housing
* R-M-L VI	Senior Citizen Affordable

* Indicates Residential Mount Laurel-related Housing District.
(Ord. No. OR:-- § 28-301)

28-302. ZONING MAP

The boundaries of the zoning districts are established on the Zoning Map of the Borough of Watchung, which accompanies and is part of this chapter.* (Ord. No. OR:-- § 28-302)

***Editor's Note:** The Zoning Map referred to herein may be found in Appendix E at the end of this chapter.

28-303. INTERPRETATION OF ZONING DISTRICT BOUNDARIES

A. Zoning district boundary lines are intended to follow street centerlines, railroad rights-of-way, streams and lot lines as they exist on lots of record at the time of enactment of this chapter unless otherwise indicated by dimensions on the Zoning Map.

B. Any dimensions shown on the Zoning Map are in feet and are measured horizontally and, when measured from a street, are measured from the street right-of-way line even if the centerline of that street is used for the location of the zoning district line.

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

D. The zoning standards, controls and designations apply to every structure, lot and use within each zoning district, and the zoning district boundary lines extend vertically in both directions from ground level.
(Ord. No. OR:-- § 28-303)

28-304. VILLAGE CENTER HISTORICAL OVERLAY ZONE

A. The Village Center Historical Overlay Zone is delineated on the Zoning Map and includes the lands within the central portion of the Borough known as the "Town Center" in accordance with recommendations of the Borough's Village Center Historical Preservation Commission.

B. The provisions of this chapter specific to the Village Center Historical Overlay Zone and the Village Center Historical Preservation Commission, including its membership, powers and duties, are located in Article 28-700 of this chapter.
(Ord. No. OR:-- § 28-304)

ARTICLE 28-400
ZONING DISTRICT REGULATIONS

28-401. GENERAL ZONING DISTRICT REGULATIONS

The following zoning provisions shall apply in all instances; inconsistencies or conflicting interpretations shall be resolved in accord with the provisions of this chapter.

A. **Floodplain Development Restrictions.** No structure or use shall be moved, added to, enlarged and/or established, nor shall any fill be placed nor shall the elevation of any land be substantially changed, in the floodplain hazard area except in accordance with the Floodplain-Flood Hazard Ordinance* of the Borough of Watchung or other applicable statute or regulation.

B. **Accessory Buildings and Structures.**

1. Regulations Applicable in all Zoning Districts.

a. Except as otherwise permitted in this chapter, an accessory building attached to a principal building shall comply in all respects with the requirements of this chapter applicable to the principal building and shall be deemed a part thereof.

b. The minimum requirements specified in this chapter for accessory structures shall not apply to air conditioners, underground sprinkler systems or similar appurtenances.

c. Any accessory building located outside of the principal building envelope shall not exceed twelve (12) feet in height, nor shall it exceed four hundred (400) square feet in area.

d. Any accessory structure located within the principal building envelope shall not exceed the building height of the principal building.

e. The construction of a permitted accessory building or accessory structure, other than the construction of permitted construction trailers, storage sheds, or accessory buildings for farms, shall not proceed faster nor be completed before than the construction of the principal building on the same lot.

f. No detached accessory structure or building shall be located in the front yard area for the principal building, or within that area between the front lot line and the front yard setback line.

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*__Editor's Note:__ See Chapter XXII for Flood Damage Prevention.

g. All accessory buildings and accessory structures on a corner lot shall be set back from all street lines as required by this chapter for the principal building on the lot.

h. Whenever any accessory building is located nearer to the rear or side lot lines than that which would be permitted for the principal building or structure, said accessory building shall be screened from view from the adjoining properties and/or street by plantings.

i. Whenever any residential driveway or residential parking area is permitted by variance to be located nearer to the rear or side lot lines than that which would be permitted for the principal building or structure, said residential driveway or parking area shall be screened from view from the adjoining properties by plantings.

j. In connection with a subdivision or site plan and as may be approved by the Board, temporary construction trailers and one (1) sign not exceeding thirty-two (32) square feet, advertising the prime contractor, subcontractor(s), architect, financing institution and similar data for the period of construction beginning with the issuance of a construction permit and concluding with the issuance of a certificate of occupancy or one (1) year, whichever is less, provided said trailer(s) and sign are on the site where the construction is taking place, are not on any existing or proposed street or easement, and are set back at least thirty (30) feet from all street lines and lot lines. Additional signs subject to the same dimensions may be erected as permitted by the Board having jurisdiction upon review of an application.

2. Accessory Structures – Special Provisions in the R-R, R-A, and R-B Single-Family Residential Districts.

a. There shall be no minimum separation requirement between a swimming pool and a single-family detached dwelling unit.

b. Any accessory building or structure that is attached to the principal building or structure by any means other than an unenclosed structure shall be deemed part of the principal building or structure and shall comply in all respects with the requirements of this chapter applicable to the principal building or structure.

c. Any accessory building or structure that is connected to the principal building or structure solely by an unenclosed structure shall be considered detached for the purposes of this chapter and subject to the requirements for accessory structures.

3. Accessory Structure Restrictions Pertaining to Parking Areas, Driveways and Stormwater Detention Facilities. Any parking area, driveway or stormwater detention facility serving a use shall be deemed to be an accessory structure, and no said parking area, driveway or stormwater detention facility that is accessory to a business or industrial use shall hereafter be established in any residential district. Notwithstanding the provisions of this chapter governing permitted uses and/or permitted accessory uses, driveway(s) and stormwater detention facilities serving a development containing low and moderate income housing units may be provided on a lot in a different zone adjoining R-M-L VI Zoning District subject to approval by the Board having jurisdiction and further provided that the area of any such lot designated for such use and adjoining the R-M-L VI Zoning District will not be included in the land area calculation for density purposes.

4. Residential Driveway Entrances. No person shall construct or alter any portion of a driveway entrance within the limits of any municipal or private street within the Borough, without first obtaining a street and right-of-way opening permit issued by the office of the Borough Engineer, whose duty it shall be to grant such permit only when all the requirements and specifications of this chapter have been fulfilled. For driveway entrances constructed within County or State roadway rights-of-way, permits must be obtained from the County or State as appropriate and filed with the office of the Borough Engineer.

C. **Professional Resident Home Offices.** Where permitted, professional resident home offices as defined in this chapter, shall be an accessory use provided that no more than twenty-five percent (25%) of the total floor area is used for said purpose.

D. **Height Limits.**

1. The height of a building shall be measured as stipulated in the definition of building height in Section 28-203.

2. Chimneys on a residential dwelling unit are not bound by the height restrictions of this chapter.

3. Silos and barns on farms are not bound by the height restrictions of this chapter.

4. Noncommercial radio and television antennas are not bound by the height restrictions of this chapter provided: such features do not exceed in total coverage fifteen percent (15%) of the total roof area; provided that the height is not increased by more than fifteen percent (15%) than the maximum height otherwise permitted and provided further that no antenna shall exceed fifty (50) feet in height.

5. On a nonresidential principal building, the following may be erected above the maximum height specified in this chapter for the subject building provided: such features do not exceed in total coverage fifteen percent (15%) of the total roof area; that the height is not increased by more than fifteen percent (15%) than the maximum height otherwise permitted; and provided further that no said appurtenance shall exceed fifty (50) feet.

a. Penthouses or other roof structures for the housing of stairways, tanks, bulkheads ventilating fans, air conditioning equipment and similar equipment required to operate and maintain the building.

b. Skylights, spires, cupolas, flagpoles, chimneys and similar structures associated with the building.

c. The parapets used to screen the roof-mounted structures and equipment.

E. **Open Space in Relation to Yard Requirements.** No open space provided around any principal building for the purpose of complying with the required front, side or rear setback requirements of this chapter shall be considered as providing the setback requirements for any other principal building. Moreover, no yard or other open space on a lot shall be considered as providing a required setback or other open space on another lot or for any other building.

F. **One Principal Structure per Single-Family Residential Lot.** All lots in the R-R, R-A, R-B, R-M-L II, R-M-L III, and R-M-L IV Residential Districts shall have no more than one (1) principal structure erected upon them.

G. **Maximum Lot Coverage on Steep Slopes.**

1. The maximum lot coverage (i.e., the coverage of impervious surfaces) permitted on steep slopes on existing and newly created lots shall be based on the percentage of slope as follows:

Slope Category:	*Maximum Permitted Lot Coverage on Slope Area:*
1 (Slopes zero to less than or equal to 10%)	As permitted in the zone
2 (Slopes greater than 10% but less than or equal to 20%)	83% of that permitted in the zone
3 (Slopes greater than 20% but less than or equal to 30%)	63% of that permitted in the zone
4 (Slopes greater than 30%)	50% of that permitted in the zone

2. The maximum total permitted lot coverage for lots containing one (1) or more categories of steep slopes shall be computed as follows:

That part of the lot area containing slope category 4 slope x 50% x (maximum permitted lot coverage in the zone)

+ that part of the lot area containing slope category 3 slope x 63% x (maximum permitted lot coverage in the zone)

+ that part of the lot area containing slope category 2 slope x 83% x (maximum permitted lot coverage in the zone)

+ that part of the lot area containing slope category 1 slope x 100% x (maximum permitted lot coverage in the zone) = Total permitted lot coverage allowed on a lot.

H. **Density Computations for Lots with Steep Slopes.** Minimum lot sizes for newly created lots shall be increased and density of development shall be decreased in areas containing slopes greater than ten percent (10%), except that no lot need be larger than five (5) acres.

1. The modification shall be determined by multiplying the total land area in various slope categories by the following factors:

Slope Category	*Factor*
4 (Slopes greater than 30%)	0.0
3 (Slopes greater than 20% but less than or equal to 30%)	0.5
2 (Slopes greater than 10% but less than or equal to 20%)	0.67
1 (Slopes zero to less than or equal to 10%)	1.0

2. The maximum number of dwelling units allowed on any tract shall be computed as follows:

Area of land with category 4 slopes x 0
+ Area of land with category 3 slopes x 0.5
+ Area of land with category 2 slopes x 0.67
+ Area of land with category 1 slopes x 1.0
= Total Land Available for Development (TLD)

$$\frac{\text{TLD}}{\text{Minimum Lot Area required/d.u.}} = \textbf{Total number of dwelling units on tract}$$

I. **Parking of Commercial, Recreational, Inoperable or Unregistered Vehicles in Single-Family Residential Zones.** The following restrictions shall apply to the parking of commercial, recreational, inoperable or unregistered vehicles in the R-R, R-A, R-B, R-M-L I, R-M-L II, R-M-L III and R-M-L IV Residential Zoning Districts:

1. Parking of Commercial Vehicles. Not more than one (1) commercial vehicle of a rated capacity not exceeding one and one-half (1 1/2) tons with two (2) axles not exceeding a front and rear axle, owned or used by a resident of the premises, shall be permitted to be regularly parked or garaged on any residential lot, provided that said vehicle is kept in a private garage and shall not be permitted to be regularly parked or stored on or in the vicinity of any such premises in the open air. No commercial vehicle of a rated capacity of more than one and one-half (1 1/2) tons, whether owned or used by the resident of the premises or not, shall be regularly parked, stored or garaged on any premises in a residence zone district. For purposes of this chapter, a commercial vehicle is a bus and/or vehicle containing advertising matter intending to promote the interest of any business, whether or not said vehicle is registered as a "commercial" vehicle in the State of New Jersey or elsewhere, except that this provision shall not be deemed to limit the number of commercial trucks or cars used on a farm or construction equipment which is used on the site for construction purposes.

2. Parking of Recreational Vehicles. Travel trailers, campers, motor homes, horse trailers, boat trailers, ATV and motorcycle trailers may be parked or stored outdoors on any residential lot only in a rear yard or side yard, behind the front edge of the dwelling, in a location which is ten (10) feet or more from the property line and which area is screened from neighboring properties by plantings at least five (5) feet in height. Such vehicles and trailers shall not be used for temporary or permanent living quarters while situated on the lot. Such vehicles shall be annually licensed with a valid registration and shall be capable of use on a public road; no junked vehicles shall be permitted.

3. Parking of Inoperable or Unregistered Vehicles. No motor vehicle which is incapable of being operated or which lacks proper motor vehicle registration plates affixed to such vehicle or which is not currently registered in the State of New Jersey or elsewhere shall be kept, stored, parked or maintained on a lot in any such zone other than in a garage or other building on the premises.

J. **Maximum Percent of Lot Coverage.** No lot shall exceed the permitted percent of coverage by impervious surfaces as defined and specified in this chapter.

K. **Subdivision of Lots.** When a lot is to be subdivided from a lot which already is occupied by an existing building, any subdivision of the lot shall not lessen any of the requirements of this chapter pertaining to the existing building.

L. **Outdoor Display.** Business structures or uses shall not display goods for sale purposes outside of the structures or area in which such activity is carried on without having obtained a special permit from the Board of Adjustment to display such goods. The Board of Adjustment shall not issue such a permit unless it is established by the applicant that the property upon which such display is to be placed is not in a public easement and until a determination by the Board of Adjustment that the display does not create a hazard for motor vehicle traffic or pedestrians, that it does not substantially affect the value of adjoining properties and that it is not injurious to the health and welfare of the general public.

M. **Intersection Visibility.** At the intersection of two (2) or more streets, no hedge, fence or wall higher than two and one-half (2 1/2) feet above curb level, nor any obstruction to vision between the height of two and one-half (2 1/2) feet to seven (7) feet above the curb level, other than a post, tree or utility pole, shall be permitted with the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are twenty-five (25) feet distant from the point of intersection measured along said street line.

N. **Christmas Tree Sales.** The annual sale of Christmas trees is permitted in the B-A Neighborhood Commercial, the B-C Highway Commercial and the H-D Highway Development Zoning Districts between the last Saturday in November and December 25, inclusive, provided that all trees shall be removed and the premises cleared no later than January 1.

O. **Poultry and Livestock Shelters.** No animal poultry or livestock shelter, whether permanent or temporary, shall be located closer than fifty (50) feet to any property line or to any dwelling unit on the same lot.

P. **Public Election Voting Places.** The temporary use of any property as a voting place in connection with a municipal or other public election is permitted throughout the Borough.

Q. **Public Utilities.**

1. Lines. Public utility lines for the transportation, distribution or control of water, electricity, gas, oil, steam, cable television and telephone or telegraph communications are permitted throughout the Borough and need not necessarily be located on a lot.

2. Transformer and Junction Boxes. Public utility transformer and junction boxes are permitted throughout the Borough and need not necessarily be located on a lot, provided they are adequately screened with landscaping, fencing or a combination of the two (2) and do not exceed three (3) feet in height.

R. **Survey Plan for Foundations.** A location survey plan drawn by a licensed land surveyor or civil engineer shall be furnished to the Construction Official no later than the time of completion of the foundation on any structure being erected as proof that the location of such structure conforms to the requirements of this chapter.

S. **Community Residences and Community Shelters, Family Day Care Homes and Child Care Centers.**

1. Community residences for the developmentally disabled, the terminally ill, or persons with head injuries and community shelters for victims of domestic violence, as such terms are defined in the MLUL, shall be a permitted use in any residential zoning district and shall be subject to the same standards and restrictions for single-family dwelling units located within the same district, provided that such residence or shelter houses no more than fifteen (15) persons excluding resident staff, in accordance with the provisions of N.J.S.A. 40:55D-66.1 and 66.2.

2. Family day care homes and child care centers, as such terms are defined in the MLUL, shall be permitted in the Borough in accordance with the requirements of the MLUL.

T. **Applicability to Municipal Development and Parks and Open Space Uses.**

1. Any existing or proposed Borough-owned, operated, or controlled building, structure, facility, or use shall be permitted in any zoning district.

2. Public playgrounds, conservation areas, parks, open space uses shall be permitted principal uses in any zoning district.

U. **Performance Standards for all Uses.** All use of land in the Borough shall comply with the following performance standards. These provisions shall not apply to any sewage treatment plant that has received approval by the Department of Environmental Protection.

1. Electrical and/or Electronic Devices. All electric or electronic devices shall be subject to the standards, rules and regulations promulgated by the appropriate State and/or Federal agency.

2. Glare. No use shall produce a strong, dazzling light or reflection of a strong, dazzling light or glare beyond its lot lines. Exterior lighting shall be shielded, buffered and directed so that glare, direct light or reflection will not

become a nuisance to adjoining properties, adjoining units, adjoining zoning districts or streets. Unless required by law, no lighting shall be a rotating, pulsating or with other intermittent frequency.

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

4. Noise. Noise levels shall not exceed the standards set forth in the General Code of the Borough of Watchung nor those standards established by the Department of Environmental Protection as they may be adopted and amended.

5. Odor. Odors due to nonagricultural and nonresidential uses shall not be discernible at the lot line or beyond.

6. Storage and Waste Disposal. No provision shall be made for the depositing of materials or waste upon a lot where they may be transferred off the lot by natural causes or forces or where they can contaminate an underground aquifer or otherwise render such underground aquifer undesirable as a source of water supply or recreation, or where they will destroy aquatic life. Provision shall be made for all material or waste which might cause fumes or dust, which might constitute a fire hazard or which might be edible or otherwise attractive to rodents and insects to be enclosed in appropriate containers in order to eliminate such potential hazards. With respect to solid waste, each property owner shall:

a. Assume full responsibility for adequate and regular collection and removal of all refuse, except to the extent such services are provided by the Borough, in which case the property owner shall assume full responsibility for compliance with all regulations governing the provision of those services.

b. Comply with all applicable regulations of the Department of Environmental Protection.

c. Permit no accumulation on the property of any solid waste, junk or refuse.

d. Comply with all provisions of the State Sanitary Code, Chapter VIII, Refuse, Disposal, Public Health Council of the NJ Department of Health.

e. Provide adequate, covered solid waste containers, except where provided by the Borough, which are not to be stored within the public view and which are to be secured from vandalism. Compactor units shall afford completely sealed operation and shall be provided efficient vehicular access by collection vehicles.

7. Ventilation. No use shall obstruct the natural ventilation of adjacent uses nor contaminate the air with excessive heat or odor. Further, no air conditioners or exhaust fans shall be permitted to discharge exhausted air unless they comply with the minimum building setback requirements of this chapter and are equipped with baffles to deflect the discharged air away from the adjacent use.

8. Vibration. There shall be no vibration that is discernable to the human senses of feeling beyond the immediate lot line or beyond, except for quarry operations which shall be subject to N.J.S.A 21:1A-139.

9. Dust. Dust due to nonagricultural and non-quarry operations shall not be permitted to escape beyond the immediate lot.

10. Radiation. No use shall produce levels of radiation in excess of the level established by the Radiation Protection Act, L.1958, c.116 (N.J.S.A. 26:2D-l et seq.) and any standards promulgated pursuant thereto by the New Jersey Department of Environmental Protection.

11. Air, Water, and Environmental Pollution. No use shall emit any pollutant into the ground, water or air that exceeds the most stringent applicable Federal, State or local statute, regulation and ordinance.

12. Nuisance. No use shall produce any nuisance, any identifiable source of injury or sickness, foul or noxious waters, gases or vapors that may be hazardous or injurious to the public health, safety and welfare.

V. **Flag Lots in the R-R, R-A and R-B Districts.** As a result of the Borough's concern with the impact of flag lots upon adjacent properties and upon the neighborhoods in which they are located, it is the intent of this section to prevent the creation of new flag lots, except within the R-R, R-A and R-B Districts and only if all of the following conditions are satisfied:

1. All flag lots shall have a lot area of at least three (3) acres.

2. Required setbacks for flag lots, whether front, side or rear, shall be fifty (50) feet.

3. The access strip or "pole" portion of each flag lot shall be at least twenty (20) feet in width and shall be excluded from the calculation of minimum lot area.

4. The "flag" portion of any flag lot shall contain a principal building envelope that is at least fifty (50) feet in every direction.

5. All non-flag lots that are part of a subdivision containing a flag lot shall comply fully with all applicable area, dimensional and setback standards.

6. The total number of flag lots in any subdivision containing one (1) or more flag lots shall not exceed the number of lots that could have been permitted without variance, in the judgment of the Board having jurisdiction, if no flag lots were involved.

7. Prior to the creation of any flag lot, the Board having jurisdiction shall first determine that: (a) it will serve to reduce potential disturbance to the natural environment in comparison to a compliant subdivision without a flag lot; and (b) it will result in the placement of the potential new home(s) in an appropriate relationship to neighboring homes and other uses on surrounding properties.

W. **Residential Driveway and Parking Area Requirements.**

1. General Provisions. The residential driveway and parking area requirements of this section 28-401W shall apply to and govern all present and future single-family residential uses including all grandfathered nonconforming uses and uses approved by variance.

2. Construction and Location of Driveway Entrances and Residential Driveways.

a. General Regulations (May be waived in accordance with Section 28-401W5).

(1) Driveway entrance(s), for properties fronting on County and Borough streets, shall access only the Borough street.

(2) Driveway entrances for properties fronting on two (2) Borough streets shall access the lower order Borough street.

(3) Driveway entrances shall not be located where visibility is limited due to horizontal and vertical curves, topography and other features which restrict adequate sight distance.

(4) Only one (1) driveway entrance to the street is permitted for residential lots with less than one hundred fifty (150) feet of lot frontage.

(5) No more than two (2) driveway entrances are permitted for residential lots with a lot frontage of one hundred fifty (150) feet and greater.

(6) Multiple residential driveway entrances on any individual lot shall be separated a minimum of fifty (50) feet as measured along the street line from the edge of driveway to edge of driveway.

(7) The edge of pavement for a residential driveway shall be located no closer than fifty (50) feet to the intersection of the street lines for the two (2) streets.

(8) Driveway entrance construction shall conform to the existing street grade or to the proposed final street grades for subdivisions and site plans. All existing curb cuts not utilized for driveway purposes shall be removed and replaced with full height curbing.

(9) Provision shall be made for adequate street drainage across the driveway entrance. Drainage culverts if required shall be constructed of reinforced concrete and shall be a minimum of fifteen (15) inches in diameter. Such culvert shall be installed at a sufficient depth to permit the unrestricted flow of stormwater.

(10) No portion of a driveway entrance shall be closer than three (3) feet to any structure, public utility pole or fire hydrant.

(11) Residential driveways shall have a minimum width of twelve (12) feet and a maximum width of twenty-four (24) feet.

(12) Residential driveways shall be constructed of asphalt pavement, concrete paving, block or gravel. Curbing with granite block or other materials is optional.

(13) A street and right-of-way opening permit pursuant to Chapter XVII of the Code of the Borough of Watchung, shall be required for the construction or alteration of any portion of a driveway entrance within the right-of-way of any public or private street. Application for such permit shall be made to the office of the Borough Engineer. For driveway entrances constructed within County or State roadway rights-of-way, permits must be obtained from the County or State as appropriate and filed with the office of the Borough Engineer prior to construction.

b. Specific Requirements (Variance required for noncompliance).

(1) Residential driveways shall be located in compliance with the principal building side yard and rear yard minimum setback requirements, except for shared driveways.

(2) Shared driveways are not permitted except as approved as a variance by the Board having jurisdiction over the application. Private access cross easements are required to be recorded.

(3) All residential driveway entrances for a minimum of twenty (20) feet in length from the cartway, shall be surfaced prior to the issuance of a temporary or final certificate of occupancy.

(4) Grades of residential driveway entrance shall not exceed a maximum of six percent (6%).

(5) Grades of residential driveway shall not exceed a maximum of six percent (6%) within twenty-five (25) feet of the street line and shall not exceed a maximum of twelve percent (12%) elsewhere.

3. Construction and Location of Residential Parking Areas.

a. General Regulations (May be waived in accordance with Section 28-401W5).

(1) The minimum number of parking spaces to be provided for any residential use shall be determined in compliance with RSIS. In determining the number of parking spaces to be provided, parking spaces on residential driveways shall not be counted, except that an area in front of each garage may be counted as one (1) parking space provided the driveway area provides a minimum of one hundred fifty (150) square feet in area and provides a minimum of eighteen (18) feet in length between the face of the garage door and the street right-of-way line.

(2) Driveways and/or residential parking areas shall allow for vehicles to turn around onsite.

(3) Residential driveway turnaround areas located within the front yard shall not exceed twenty-four (24) feet in any direction.

(4) Residential parking areas shall be constructed of asphalt pavement. concrete, paving block or gravel. Curbing with granite block or other materials is optional.

b. Specific Requirements (Variance required for noncompliance).

(1) Residential parking areas shall be located in compliance with the principal building "one (1) side" yard and rear yard minimum setback requirements.

(2) Residential parking area and designated driveway parking space grades shall not exceed four percent (4%).

(3) No residential parking area, except for residential driveway turnaround areas, shall be permitted in the front yard in any residential district (i.e., from the front of the house to the street line).

(4) Residential parking areas that provide for an excess of six (6) residential parking spaces shall be buffered from any adjacent residential use with a continuous landscaped area at least four (4) feet in height.

4. Residential Driveway And Parking Area Lighting General Regulations.

a. All freestanding lighting for driveways and off-street parking areas shall be incandescent type lighting and shall be so shielded (i.e., concealed source non-glare lighting), arranged and focused so as to reflect the light downward and away from adjoining streets and adjoining residential properties.

b. Lighting shall be provided by fixtures with a mounting height of not more than eight (8) feet at the street entrance and not more than two (2) feet along the driveway measured from the ground level to the top of the light fixture.

5. Waiver. The provisions set forth within this Section 28-401W are designed as minimum requirements for the safety and welfare of the general public. However, if an applicant can demonstrate that, with reference to the application, that strict enforcement of Sections 28-401W2a. and 28-401W3a. will exact an undue hardship, the Zoning Officer, upon a written finding that the waiver will not constitute a threat to the safety and welfare of the general public, may permit such waiver or waivers as may be reasonable and within said general purposes.

X. **Statewide Site Improvement Standards Act.** To the extent required by law, the provisions of this chapter shall be superseded by the Residential Site Improvement Standards (RSIS).

Y. **Frontage Modifications.** The minimum required lot frontage shall be the same as the minimum required lot width, except where a lesser frontage is permitted by this chapter (e.g., in the R-R District) and except where the lot frontage in its entirety is a curve with an outside radius of less than five hundred (500) feet, the minimum required frontage shall not be less than seventy-five percent (75%) of the required minimum lot width.

Z. **Affordable Housing Growth Share.**

1. General Provisions for Constructing Affordable Units.

a. Affordable housing units being constructed onsite or offsite shall meet the requirements of the Borough's Affordable Housing Ordinance*, and shall be in conformance with COAH's third round rules at N.J.A.C. 5:94-1 et seq. and the Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq., including, but not limited to, requirements regarding phasing schedule, controls on affordability, low/moderate income split, heating source, maximum rent and/or sales prices, affordability average, bedroom distribution, and affirmative marketing.

b. To the greatest extent possible, affordable housing units being provided within inclusionary developments shall be disbursed throughout inclusionary developments and shall be located within buildings designed to be architecturally indistinguishable from the market-rate units otherwise being constructed within the development. To that end, the scale, massing, roof pitch and architectural detailing (such as the selection of exterior materials, doors, windows, etc.) of the buildings containing the affordable housing units shall be similar to and compatible with that of the market-rate units.
(Ord. No. OR:-- § 28-401)

28-402. SINGLE-FAMILY DETACHED DWELLING UNITS IN NONRESIDENTIAL ZONES

Any single-family detached dwelling unit located in the B-A, B-B, B-C, O-C, H-D or QU Zoning Districts and existing as of the date of adoption of this chapter shall be permitted to construct additions to the detached dwelling unit and/or construct accessory buildings without an appeal for variance relief provided that:

A. The existing lot and improvements thereon conform in all respects to the minimum requirements of this chapter for detached dwelling units in the R-R District.

B. The addition(s) to the detached dwelling unit and/or the construction of any accessory building(s) do not violate any of the requirements of this chapter for development in the R-R District.
(Ord. No. OR:-- § 28-402; Ord. No. OR:08/03 § 1; New)

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*Editor's Note: Affordable Housing regulations may be found in Articles 28-1000 and 28-1100.

28-403. NONCONFORMING STRUCTURES, USES AND LOTS

A. **Continuance.** Any existing nonconforming structure or nonconforming use existing at the time of the passage of this chapter may be continued upon the lot or in the structure so occupied, and any such structure may be restored or repaired in the event of partial destruction thereof, in accordance with the following requirements.

1. No nonconforming use shall be expanded, increased or extended to occupy a greater area of land.

2. No structure containing a nonconforming use shall be enlarged, extended, constructed, reconstructed or structurally altered in any manner without an appeal for variance relief. The addition or subtraction of lands associated with a structure containing a nonconforming use shall require variance approval pursuant to N.J.S.A. 40:55D-70d.

3. Structural alterations, internal rearrangements, renovations and/or structural additions may be made to a nonconforming structure provided the structure does not contain a nonconforming use and provided such alterations, rearrangements, renovations and/or additions do not exacerbate the nonconforming condition and otherwise fully comply with the requirements of this chapter.

4. Repairs and maintenance work required to keep a structure in sound condition may be made to a nonconforming structure or to a structure containing a nonconforming use provided no such repairs or maintenance work shall increase the nonconformity in any manner and shall otherwise fully comply with the requirements of this chapter.

5. A nonconforming structure may be altered, but not enlarged or extended, during its life to an extent not exceeding in aggregate fifty percent (50%) of the current recorded assessed true value, as appraised in the Tax Assessor's records, of the structure unless said structure is changed to a structure conforming to the requirements of this chapter.

6. Should any nonconforming structure or any structure containing a nonconforming use be destroyed by any means by at least fifty percent (50%) as determined by the Construction Official, it shall not be reconstructed except in conformity with the provisions of this chapter. Reconstruction of a nonconforming structure or structure containing a nonconforming use that is destroyed less than fifty percent (50%) may be restored to its prior condition provided that it may not enlarge the previously existing nonconformance.

B. **Nonconforming Lots.** No lot that is nonconforming with regard to the minimum lot area or dimensional requirements shall be further reduced in size or modified so as to increase the nonconforming dimensional condition.

C. **Abandonment.** A nonconforming use shall be considered abandoned if such nonconforming use is terminated by the owner. If the owner fails to use the property for a period of twelve (12) consecutive months, it shall be determined to be abandoned; thereafter, such building, structure and/or land shall not be used in a nonconforming manner.

D. **Reversion.** No nonconforming use shall, if once changed into a conforming use, be changed back again into a nonconforming use.

E. **Residential Driveway Entrances, Driveways and Parking Areas.** Any existing nonconforming residential driveway entrance, driveway or parking area may be continued upon the lot, and any such nonconforming residential driveway entrance, driveway or parking may be repaired or maintained unless the existing primary residence is demolished or the building impervious coverage is increased in size by more than one thousand (1,000) square feet. However, no repair or maintenance work shall expand the nonconformity in any manner.

F. **Lots Not Conforming with Lot Depth, Lot Width and Lot Frontage Requirements.** As of the effective date of this chapter, any pre-existing, developed lot shall not be subject to the newly created standards for lot depth and/or to the newly created standards for lot frontage and/or lot width applicable to corner lots herein set forth unless the owner or developer of such lot shall file a Deed of subdivision for conforming lots or apply for subdivision approval of such pre-existing lot.

28-404. "R-R" RURAL SINGLE-FAMILY RESIDENTIAL

A. **Principal Permitted Uses on the Land and in Buildings.**

1. Detached single-family dwelling units.

2. Farms, provided that said use shall have a minimum lot area of five (5) acres.

3. Public and private nonprofit schools.

4. Public playgrounds, conservation areas, parks, open space and public purpose uses.

5. Houses of worship.

6. Golf courses provided said use shall have a minimum of one hundred (100) acres.

7. Membership swim clubs as a conditional use.

B. **Accessory Uses Permitted.**

1. Accessory structures in accordance with Section 28-401.

2. Private residential swimming pools, bathhouses, cabanas or other structures customarily incidental to a private swimming pool, provided that the pool is located in the rear yard only, is no closer than twenty (20) feet to any lot line and occupies no more than seventy-five percent (75%) of the rear yard area.

3. Private tennis courts and other usual recreational facilities and landscaping features, such as trellises and gazebos, customarily associated with residential dwelling units.

4. Residential tool sheds not exceeding twelve (12) feet in height and/or four hundred (400) square feet in total area used for only the storage of objects owned by the residents of the property.

5. Off-street parking and private residential garages, either attached or detached.

6. Fences and walls in accordance with Section 28-502.

7. Signs in accordance with Section 28-504.

8. Low and moderate income accessory apartments as a conditional use.

9. Professional resident home offices in accordance with Section 28-401C.

C. **Maximum Building Height.**

No principal building shall exceed thirty-five (35) feet in height and two and one-half (2 1/2) stories.

Houses of worship shall not exceed thirty-five (35) feet and two and one-half (2 1/2) stories except as permitted in Section 28-401D of this chapter.

D. **Area and Yard Requirements for the R-R District.**

	Detached Dwelling Units	*Houses of Worship & Schools*
Principal Building		
Minimum		
Lot Area	60,000 s.f.	10 ac.
Lot Frontage	100'	200'
Lot Width	150'	200'
Lot Depth	200'	300'
Front Yard	50'	75'
Side Yard - one (both)	15'(50')	50'
Rear Yard	35'	100'
Accessory Building		
Minimum		
Distance to Side Line	10'	50'
Distance to Rear Line	10'	50'
Distance to Other Building	20'	20'
Maximum		
Building Coverage	15%	15%
Lot Coverage	25%	25%
Minimum Net Habitable Floor Area	2,000 s.f.	N.A.

E. **Off-Street Parking.**

1. See Section 28-503 for parking requirements.
(Ord. No. OR:-- § 28-404)

28-405. "R-A" SINGLE-FAMILY RESIDENTIAL AND "R-B" SINGLE-FAMILY RESIDENTIAL

A. **Principal Permitted Uses on the Land and in Buildings.**

1. Detached single-family dwelling units.

2. Public and private nonprofit schools.

3. Public playgrounds, conservation areas, parks, open space and public purpose uses.

4. Houses of worship.

B. **Accessory Uses Permitted.**

1. Accessory structures in accordance with Section 28-401.

2. Private residential swimming pools, bathhouses, cabanas or other structures customarily incidental to a private swimming pool, provided that the pool is located in the rear yard only, is no closer than twenty (20) feet to any lot line and occupies no more than seventy-five percent (75%) of the rear yard area.

3. Private tennis courts and other usual recreational facilities and landscaping features, such as trellises and gazebos, customarily associated with residential dwelling units.

4. Residential tool sheds for the storage of objects owned by the residents of the property, each not exceeding four hundred (400) square feet in area and twelve (12) feet in height.

5. Off-street parking and private residential garages, either attached or detached.

6. Fences and walls in accordance with Section 28-502.

7. Signs in accordance with Section 28-504.

8. Professional resident home offices in accordance with Section 28-401C.

C. **Maximum Building Height.**

1. No principal building shall exceed thirty-five (35) feet in height and two and one-half (2 1/2) stories.

2. Houses of worship shall not exceed thirty-five (35) feet in height and two and one-half (2 1/2) stories except further as permitted in Section 28-401D of this chapter.

D. **Area and Yard Requirements for the R-A and R-B Districts.**

	Detached Dwelling Units		*Houses*	*Schools*
	R-A	*R-B*	*of Worship*	
Principal Building				
Minimum				
Lot Area	20,000 s.f.	15,000 s.f.	10ac.	10ac.
Lot Frontage	100'	75'	200'	300'
Lot Width	100'	75'	200'	300'
Lot Depth	150'	150'	300'	600'
Front Yard	50'	35'	100'	100'
Side Yard- one (both)	12'(36')	8'(18')	50'	100'

	Detached Dwelling Units		*Houses*	*Schools*
	R-A	*R-B*	*of Worship*	
Accessory Building				
Rear Yard	35'	35'	100'	100'
Accessory Building Minimum				
Distance to Side Line	10'	10'	50'	50'
Distance to Rear Line	10'	10'	50'	50'
Distance to Other Building	20'	20'	20'	50'
Maximum				
Building Coverage	15%	20%	15%	8%
Lot Coverage	25%	30%	25%	25%
Minimum				
Net Habitable Floor Area	1,500 s.f.	1,500 s.f.	1,500 s.f.	N.A.

E. **Off-Street Parking**

1. See Section 28-503 for parking requirements.
(Ord. No. OR:-- § 28-405)

28-406. "B-A" NEIGHBORHOOD BUSINESS

A. **Principal Permitted Uses on the Land and in Buildings.**

1. Retail business activities of the following type:

a. Groceries, foodstuffs and dry goods.

b. Package liquors.

c. Drugs and pharmaceuticals.

d. Confectionery and bakery.

e. Funeral parlor.

f. Florist and gardening supplies.

g. Stationery.

h. Hardware and paints.

i. Radio and television sales and repair services.

j. Books and tobacco.

k. Periodicals and newspapers.

l. Antiques.

m. Barber and beauty shops.

n. Tailoring and dressmaking.

o. Dry-cleaning collection, but not processing.

p. Shoe repair.

q. Computers and telecommunications accessory sales and repairs.

2. Banks.

3. Professional offices, photographic studios and real estate offices.

4. Restaurants and cafes, provided that no food is consumed out of doors.

B. **Accessory Uses Permitted.**

1. Off-street loading and parking and private nonresidential garages, either attached or detached.

2. Storage buildings not exceeding two hundred (200) square feet in size and fifteen (15) feet in height.

3. Fences and walls in accordance with Section 28-502.

4. Signs in accordance with Section 28-504.

C. **Maximum Building Height.**

1. No principal building shall exceed thirty-five (35) feet in height and two and one-half (2 1/2) stories.

2. No accessory building located within the principal building envelope shall exceed twenty-five (25) feet in height and two (2) stories.

3. No accessory building located outside the principal building envelope shall exceed fifteen (15) feet in height and one (1) story.

D. **Area and Yard Requirements for the B-A District.**

Principal Building	*Individual Uses*
Minimum	
Lot Area	10,000 s.f.
Lot Frontage	100'
Lot Width	100'

Principal Building	*Individual Uses*
Lot Depth	75'
Front Yard	30'
Side Yard- one (both)	5'(15')
Rear Yard	25'
Accessory Building	
Minimum	
Distance to Side Line	5'
Distance to Rear Line	10'
Distance to Other Building	20'
Maximum	
Building Coverage	30%
Lot Coverage	70%
Minimum Net Habitable Floor Area	1,000 s.f.

E. **General Requirements**

1. One (1) building may contain more than one (1) use provided that the total building coverage and lot coverage of the combined uses does not exceed the maximums specified for the district and, further, that each use occupies a minimum gross floor area of five hundred (500) square feet.

2. Unless otherwise specifically approved by the Board as part of a site plan application, no merchandise, product, equipment or similar material or objects shall be displayed or stored outside. Where merchandise, products, equipment or similar material or objects are approved by the Board to be displayed or stored outside, the materials shall be suitably screened to be obscured from view from adjacent residential uses and must be situated within the property lines of the principal use.

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

4. All buildings shall be compatibly designed whether constructed all at one (1) time or in stages over a period of time. All building walls facing any street or residential use or district shall be suitably finished for aesthetic purposes and shall be compatible in design and scale to the surrounding residential areas.

5. The minimum setback area shall include a landscaped buffer strip of twenty (20) feet in width along any common property line with a residential district or use. Where topography, tree growth or other natural or manmade features exist

to provide adequate year-round separation of residential and business uses, the Board may waive the buffer screening requirement.

6. At least the first five (5) feet adjacent to any lot line shall not be used for parking and loading and shall be planted and maintained in lawn areas or ground cover and landscaped with evergreen shrubbery.

F. **Off-Street Parking and Loading.** Parking spaces and loading areas shall be provided for each use in accordance with the requirements of Section 28-503 and the design standards in Article 28-600.
(Ord. No. OR:-- § 28-406)

28-407. "B-B" PROFESSIONAL AND OFFICE

A. **Principal Permitted Uses on the Land and in Buildings.**

1. Offices of professional occupations, including but not limited to, the offices of a physician, bookkeeper, surgeon, dentist, minister, architect, engineer, lawyer and accountant.

2. Photography studios.

3. Offices of an insurance agent, real estate broker, travel agent and stockbroker.

4. Funeral parlor.

B. **Accessory Uses Permitted.**

1. Off-street loading and parking and private nonresidential garages, either attached or detached.

2. A storage building not exceeding two hundred (200) square feet in size and fifteen (15) feet in height.

3. Fences and walls in accordance with Section 28-502.

4. Signs in accordance with Section 28-504.

C. **Maximum Building Height.**

1. No principal building shall exceed thirty-five (35) feet in height and two and one-half (2 1/2) stories.

2. No accessory building located within the principal building envelope shall exceed twenty-five (25) feet in height and two (2) stories.

3. No accessory building located outside the principal building envelope shall exceed fifteen (15) feet in height and one (1) story.

D. **Area and Yard Requirements for the B-B District.**

Principal Building	*Individual Uses*
Minimum	
Lot Area	30,000 s.f.
Lot Frontage	150'
Lot Width	150'
Lot Depth	100'
Front Yard	25'
Side Yard - one (both)	5'(20')
Rear Yard	25'
Accessory Building	
Minimum	
Distance to Side Line	5'
Distance to Rear Line	10'
Distance to Other Building	20'
Maximum	
Building Coverage	30%
Lot Coverage	70%
Minimum Net Habitable Floor Area	1,000 s.f.

E. **General Requirements.**

1. One (1) building may contain more than one (1) use provided that the total building coverage and lot coverage of the combined uses does not exceed the maximums specified for the district and, further, that each use occupies a minimum gross floor area of five hundred (500) square feet.

2. Unless otherwise specifically approved by the Board as part of a site plan application, no merchandise, product, equipment or similar material or objects shall be displayed or stored outside. Where merchandise, products, equipment or similar material or objects are approved by the Board to be displayed or stored outside, the materials shall be suitably screened to be obscured from view from adjacent residential uses and must be situated within the property lines of the principal use.

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

4. All buildings shall be compatibly designed whether constructed all at one time or in stages over a period of time. All building walls facing any street or residential district line shall be suitably finished for aesthetic purposes and shall be compatible in design and scale to the surrounding residential areas. All buildings shall have a gable, hip, gambrel or mansard roof (or other dual pitched, single ridge roof).

5. The minimum setback area shall include a landscaped buffer strip of twenty (20) feet in width along any common property line with a residential district or use. Where topography, tree growth or other natural or manmade features exist to provide adequate year-round separation of residential and business uses, the Board may waive the buffer screening requirement.

6. At least the first five (5) feet adjacent to any lot line shall not be used for parking and loading and shall be planted and maintained in lawn areas or ground cover and landscaped with evergreen shrubbery.

F. **Off-Street Parking and Loading.**

Parking spaces and loading areas shall be provided for each use in accordance with the requirements of Section 28-503 and the design standards in Article 28-600. (Ord. No. OR:-- § 28-407)

28-408. "B-C" HIGHWAY COMMERCIAL

A. **Principal Permitted Uses on the Land and in Buildings.**

1. Retail business activities of the following type:

a. Groceries, foodstuffs and dry goods.

b. Package liquors.

c. Drugs and pharmaceuticals.

d. Confectionery and bakery.

e. Funeral parlor.

f. Florist and gardening supplies.

g. Stationery.

h. Hardware and paints.

i. Radio and television sales or repair services.

j. Books and tobacco.

k. Periodicals and newspapers.

l. Antiques.

m. Barber and beauty shops.

n. Tailoring and dressmaking.

o. Dry-cleaning collection, but not processing.

p. Shoe repair.

q. Computers and telecommunications accessories, sales and services.

2. Banks.

3. Professional offices, real estate and travel agent offices and general business offices of similar professional and service occupations.

4. Photographic studios.

5. Restaurants and cafes, provided that no food is consumed out of doors.

6. General service businesses, except that no sales, storage, or rental of goods or material shall be permitted.

7. Funeral parlors.

8. Service stations as a conditional use.

B. **Accessory Uses Permitted.**

1. Off-street loading and parking and private nonresidential garages, either attached or detached.

2. Storage buildings not exceeding two hundred (200) square feet in size and fifteen (15) feet in height.

3. Fences and walls in accordance with Section 28-502.

4. Signs in accordance with Section 28-504.

C. **Maximum Building Height.**

1. No principal building shall exceed thirty-five (35) feet in height and two and one-half (2 1/2) stories.

2. No accessory building located within the principal building envelope shall exceed twenty-five (25) feet in height and two (2) stories.

3. No accessory building located outside the principal building envelope shall exceed fifteen (15) feet in height and one (1) story.

D. **Area and Yard Requirements for the B-C District.**

Principal Building	*Individual Uses*
Minimum	
Lot Area	30,000 s.f.
Lot Frontage	150'
Lot Width	150'
Lot Depth	100'
Front Yard	30'
Side Yard - one (both)	5'(20')
Rear Yard	25'
Accessory Building	
Minimum	
Distance to Side Line	5'
Distance to Rear Line	10'
Distance to Other Building	20'
Maximum	
Building Coverage	30%
Lot Coverage	80%
Minimum Net Habitable Floor Area	2,000 s.f.

E. **General Requirements.**

1. One (1) building may contain more than one (1) use provided that the total building coverage and lot coverage of the combined uses does not exceed the maximums specified for the district and, further, that each use occupies a minimum gross floor area of five hundred (500) square feet.

2. Unless otherwise specifically approved by the Board as part of a site plan application, no merchandise, product, equipment or similar material or objects shall be displayed or stored outside. Where merchandise, products, equipment or similar

material or objects are approved by the Board to be displayed or stored outside, the materials shall be suitably screened to be obscured from view from adjacent residential uses and must be situated within the property lines of the principal use.

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

4. All buildings shall be compatibly designed whether constructed all at one (1) time or in stages over a period of time. All building walls facing any street or residential use or district shall be suitably finished for aesthetic purposes and shall be compatible in design and scale to the surrounding residential areas. All buildings shall have a gable, hip, gambrel or mansard roof (or other dual pitched, single ridge roof).

5. The minimum setback area shall include a landscaped buffer strip of twenty (20) feet in width along any common property line with a residential district or use. Where topography, tree growth or other natural or manmade features exist to provide adequate year-round separation of residential and business uses, the Board may waive the buffer screening requirement.

6. At least the first five (5) feet adjacent to any lot line shall not be used for parking and loading and shall be planted and maintained in lawn areas or ground cover and landscaped with evergreen shrubbery.

F. **Off-Street Parking and Loading.** Parking spaces and loading areas shall be provided for each use in accordance with the requirements of Section 28-503 and the design standards in Article 28-600.
(Ord. No. OR:-- § 28-408)

28-409. "H-D" HIGHWAY DEVELOPMENT

A. **Permitted Principal Uses on the Land and in Buildings.**

1. Retail business activities.

2. Offices and office buildings.

3. Banks.

4. General service businesses, except that no sales, storage or rental of goods or material shall be permitted.

5. Restaurants and cafes, provided that no food is consumed out of doors.

6. Indoor theaters.

7. Indoor recreational uses, such as bowling alleys.

8. Shopping centers comprised of the preceding uses.

9. Regional retail shopping complexes on tracts of land at least seventy (70) acres in area in accordance with the applicable provisions of Section 28-203 and of this section.

10. Funeral parlors.

11. Photographic studios.

12. Hotels and motels with a minimum of forty (40) units and with at least three (3) stories.

13. Public utility uses as a conditional use.

B. **Accessory Uses Permitted.**

1. Off-street loading and parking and private nonresidential garages, either attached or detached.

2. Storage buildings not exceeding four hundred (400) square feet in size and fifteen (15) feet in height.

3. Fences and walls in accordance with Section 28-502.

4. Signs in accordance with Section 28-504.

5. Employee cafeterias limited in services to the employees of the principal use designated on the site plan as approved by the Board.

6. Business offices accessory to a permitted principal use.

7. Usual or customary ancillary uses associated with hotels and motels such as restaurants, cocktail lounges, meeting rooms and recreation uses, provided that all such accessory uses, except for recreation uses, are located within the principal building.

8. Drive-through windows for restaurants as a conditional use.

C. **Maximum Building Height.**

1. No principal building shall exceed thirty-five (35) feet in height and three (3) stories.

2. No accessory building located within the principal building envelope shall exceed twenty-five (25) feet in height and two (2) stories.

3. No accessory building located outside the principal building envelope shall exceed fifteen (15) feet in height and one (1) story.

D. **Area and Yard Requirements for the H-D District.**

	Individual Uses	*Shopping Centers*[1]	*Hotels and Motels*[1]
Principal Building			
Minimum			
Lot Area	100,000 s.f.	10 ac.	4 ac.
Lot Frontage	300'	500'	300'
Lot Width	300'	500'	300'
Lot Depth	200'	500'	300'
Front Yard	75'[2]	100'	100'
Side Yard one (both)	15'(50')[2]	100'	100'
Rear Yard	25'[2]	100'	100'
Accessory Building			
Minimum			
Distance to Side Line	15'[2]	100'	40'[2]
Distance to Rear Line	25'[2]	100'	50'[2]
Distance to Other Building	20'	20'	20'
Maximum			
Building Coverage	40%	40%	40%
Lot Coverage	80%	75%	80%
Minimum Net Habitable Floor Area	5,000 s.f.	5,000 s.f.	10,000 s.f.[3]

Footnotes:

1. More than one (1) principal building shall be permitted. All buildings shall be separated by a minimum of twenty (20) feet, provided such separation is to be used solely for pedestrian circulation. All buildings shall be separated by a minimum of fifty (50) feet where any part of such separation is to be used for parking or vehicular circulation. However, the separation requirements should not be construed to prohibit covered pedestrian walkways when the roof or covering of such walkway extends between the buildings.
2. Or not less than one hundred (100) feet from any side where a lot abuts a residential district.
3. Exclusive of hallways and common areas.

E. **General Requirements.**

1. One (1) building may contain more than one (1) use provided that the total building coverage and lot coverage of the combined uses does not exceed the maximums specified for the district and, further, that each use occupies a minimum gross floor area of seven hundred (700) square feet.

2. Unless otherwise specifically approved by the Board as part of a site plan application, no merchandise, product, equipment or similar material or objects shall be displayed or stored outside. Where merchandise, products, equipment or similar material or objects are approved by the Board to be displayed or stored outside, the materials shall be suitably screened to be obscured from view from adjacent residential uses and must be situated within the property lines of the principal use.

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

4. All buildings shall be compatibly designed whether constructed all at one (1) time or in stages over a period of time. All building walls facing any street or residential use or district line shall be suitably finished for aesthetic purposes, which shall not include unpainted or painted cinder block or concrete block walls.

5. No hotel or motel shall contain less than forty (40) units of accommodations. A permanent on-site superintendent's apartment of living quarters shall be permitted within a hotel or motel and shall not be included in the calculation of the number of units.

6. Each hotel and motel unit of accommodation shall provide a minimum of two (2) rooms; a bedroom and a separate bathroom. Each unit of accommodation shall contain a minimum floor area of two hundred fifty (250) square feet. No hotel or motel unit, except for the on-site superintendent's apartment, shall provide cooking facilities of any kind, excluding a microwave oven and coffee maker. There shall be a residency limitation on all guests of thirty (30) days maximum, provided that the residency limitation shall not apply to an employee living on the premises.

7. Where a use in the H-D District abuts a residential use or district, the minimum setback for any use, structure, parking or loading area, driveway or roadway shall be one hundred (100) feet, except that existing access roads are exempt if the roads are hundred (100) feet, except that existing access roads are exempt if the roads are utilized at the time of the adoption of this chapter to serve an existing permitted use. The minimum setback area shall include a landscaped buffer strip of sixty (60) feet in width along any common property line with a residential district or use.

8. At least the first twenty-five (25) feet adjacent to any street line and fifteen (15) feet adjacent to any lot line shall not be used for parking or loading and shall be planted and maintained in lawn area or ground cover and landscaped with evergreen shrubbery. A landscaped screening shall be required along the side and rear property lines to reduce the noise beyond the lot and to obscure headlights and site lighting and vision of the business activity.

F. **Off-Street Parking and Loading.** Parking spaces and loading areas shall be provided for each use in accordance with the requirements of Section 28-503 and the design standards in Article 28-600.

G. **Regional Retail Shopping Complex.**

1. The minimum tract size shall be seventy (70) acres, with at least one thousand (1,000) feet of frontage along United States Highway Route 22.

2. Adjacent vacant land in the R-R Rural Single-Family Residential Zoning District which is under the same ownership as the land within the H-D Highway Development Zoning District proposed for the regional retail shopping complex may be consolidated with the lands in the H-D Zoning District for the purposes of floor area ratio and lot coverage calculations only, subject to the following:

a. No development shall be permitted upon any lands within the R-R Zoning District except for regrading and/or the installation of any utility infrastructure as may be approved by the Board having jurisdiction during its review of the submitted site plan; and

b. Any removal of existing vegetation upon any lands within the R-R Zoning District as a result of any approved regrading and/or utility infrastructure installation shall require that the applicant submit a restoration landscaping plan for review and approval by the Board having jurisdiction.

3. Except for allowances for emergency vehicular access as may be required by the Board having jurisdiction during its review of the submitted site plan, vehicular access to the site shall be restricted to United States Highway Route 22.

4. A regional retail shopping complex may include any combination of the following individual uses: any use engaged in the retail sale of goods and/or services; banks, including drive-in facilities; offices; restaurants; theaters; and any use of the land or buildings by the Borough of Watchung or any officially created authority or agency thereof.

5. The maximum floor area ratio shall be 0.30 and the maximum aggregate lot coverage of the lot by buildings, structures, parking areas, walkways and driveways shall be seventy percent (70%).

6. The minimum front yard building setback shall be seventy-five (75) feet, provided that the front yard building setback may be reduced to fifteen (15) feet where the Blue Star Drive conservation easement owned by the State of New Jersey separates the subject tract and the developable portion of the Route 22 right-of-way by a distance of at least seventy-five (75) feet and where adequate emergency vehicular access is provided.

7. The minimum front yard parking setback shall be twenty-five (25) feet, provided that the front yard parking setback may be reduced to five (5) feet where the Blue Star Drive conservation easement owned by the State of New Jersey separates the subject tract and the developable portion of the Route 22 right-of-way by a distance of at least twenty-five (25) feet.

8. The minimum rear yard building and parking setback shall be twenty-five (25) feet, provided that the rear yard building and parking setback may be reduced to zero (0) feet where the lands to be developed in the H-D Zoning District abut vacant lands under the same ownership in the R-R Zoning District which shall remain under the same ownership, which are at least twenty-five (25) feet deep and which have been consolidated for the purposes of floor area ratio and lot coverage calculations in accordance with this chapter.

9. More than one (1) principal building shall be permitted, provided that all buildings are separated by a minimum of twenty (20) feet when the separation area is to be used solely for pedestrian circulation or by a minimum of fifty (50) feet when any portion of the separation area is to be used for parking and/or vehicular circulation.

10. The maximum height of all buildings shall be thirty-five (35) feet, provided that, subject to review and approval by the Board having jurisdiction, skylights, cupolas, decorative towers, flagpoles, and penthouses or parapets for the housing and/or screening of stairways, ventilating fans, air conditioning equipment or other similar equipment required for the operation and maintenance of the building, may be erected above the thirty-five (35) foot maximum building height, but in no case more than seven (7) feet above the thirty-five (35) foot maximum building height.

11. Restaurants and theaters shall be provided parking at the ratio of one (1) space per every three (3) seats; all other uses shall be provided parking at the ratio of four and one-half (4 1/2) parking spaces per one thousand (1,000) square feet of net habitable floor area.

12. No merchandise, products, waste, equipment or similar material or objects shall be displayed or stored outside, except that up to twenty percent (20%) of the gross floor area of a building occupied by a single tenant may be unroofed if used for the storage of material offered for sale within the building or for the sales area for plants and garden supplies, provided that the unroofed area shall be completely walled and appear from the outside to be part of the roofed portion of the building.

13. All parking areas and walkways thereto and appurtenant passageways and driveways shall be adequately illuminated for security and safety purposes according to the following:

a. Lighting shall be provided by sodium vapor fixtures with a mounting height not more than twenty-five (25) feet.

b. The lighting fixtures shall include non-glare, recessed lens lights focused downward in order to mitigate against adverse impacts upon adjacent and nearby residential properties, the safety of the traffic along adjacent roadways, and overhead sky glow.

c. Except for lighting determined by the Board having jurisdiction to be necessary and/or advisable for security purposes, all other lighting shall be on circuit timers and shall be automatically turned off after business hours.

d. A lighting plan shall be submitted indicating the location, direction of illumination, hours of operation, power and isolux curves for each fixture, including details of the lighting poles and the luminaires.

14. The development fees provided herein to be imposed upon developers of a Regional Retail Shopping Complex in the H-D Highway Development Zoning District shall be collectable from said developers only upon receipt by the Borough of Substantive Certification from COAH for the Borough's Housing Plan Element and Fair Share Plan. All development applications submitted or approvals granted prior to the receipt by the Borough of Substantive Certification from COAH shall be conditioned upon the developer or its successors and assigns paying said development fees in accordance with the provisions of this chapter. In accordance with the Substantive Rules of COAH, the development of a Regional Retail Shopping Complex shall be assessed a development fee equal to two percent (2%) of the equalized assessed value of the development, provided the following:

a. The total development fee collected from any one site plan application for development approved by the Planning Board shall not exceed four hundred fifty thousand ($450,000.00) dollars.

b. Fifty percent (50%) of the estimated fee for the specific development shall be collected prior to and as a condition of the issuance of each building permit in the Regional Retail Shopping Complex; the remaining fifty percent (50%) of the development fee shall be collected prior to and as a condition of the issuance of a certificate of occupancy of each such building.

c. Within one (1) month after the issuance of a certificate of occupancy for each building in the Regional Retail Shopping Complex, the final equalized assessed value of the subject building shall be determined by the Tax Assessor of the Borough.

d. If the final equalized assessed value is greater than the estimated equalized assessed value, the developer shall, within ten (10) business days from receipt of notification, pay the difference between the development fees required to be paid and the estimated development fees actually paid.

e. If the final equalized assessed value is less than the estimated assessed value, the developer shall promptly be refunded the difference between the estimated development fees actually paid and the development fees required to be paid.

f. Any developer who has obtained a building permit and/or a certificate of occupancy prior to the granting of Substantive Certification shall pay the development fees due under this chapter within five (5) days after the developer has received written notice from the Borough that Substantive Certification has been received.

15. All of the other requirements of this chapter governing development within the H-D Highway Development Zoning District which are not contrary to the provisions specified in this Section shall be met.
(Ord. No. OR:-- § 28-409)

28-410. "O-C" OFFICE BUSINESS/CONFERENCE CENTER OVERLAY DISTRICT

A. **Purpose and Application.**

1. Intent. The O-C Office Business/Conference Center Overlay District is intended to allow the redevelopment of the Weldon Quarry area as a planned development consisting of office buildings, and conference and hotel facilities in a manner that minimizes disturbance to the site and that minimizes potential impacts to adjoining properties and the local traffic network.

2. Application of Requirements. The requirements of the O-C Office Business/Conference Center Overlay District shall be applied to development applications for planned developments as permitted in the district. The requirements of the "underlying" zoning districts shall remain in full force in the area encompassed by this Overlay District until such time that an application is proposed for such a planned development. The requirements of the O-C Office Business/Conference Center Overlay District shall only be applicable to the lands involved in such a development application. Lands not included in such a development application shall continue to be subject to the requirements of the "underlying" zoning district.

B. **Principal Permitted Uses on the Land and in Buildings.**

1. Planned developments consisting of office building(s) for professional, executive, corporate, business or medical/dental purposes and one (1) or more of the following uses: hotel(s) and/or conference center.

2. Affordable housing to the extent required for the development by the affordable housing growth share provisions of Section 28-401Z and subject to the requirements of Section 28-410H., below.

C. **Accessory Uses Permitted.**

1. Uses that are customarily associated with and incidental to a planned development as permitted in the district shall be permitted as an accessory use. Such accessory uses shall be designed to primarily serve employees, visitors, and/or patrons of the planned development and may consist of the following: coffee shops, restaurants and other food service facilities; recreational facilities; health and fitness facilities; educational and training facilities; child care facilities; beauty salons and barber shops, pharmacies and gift shops, banks, post office services, and similar convenience shops and services. With the exception of restaurants and banks, such accessory uses shall be included only as tenants of one of the principal uses and shall not occupy separate buildings. The total square footage of all such accessory uses shall exceed no greater than five percent (5%) of the total gross floor area of the entire development, inclusive of such accessory uses but exclusive of floor space of parking garages.

2. Storage, mechanical and other buildings necessary for the servicing of the development, provided any such buildings are appropriately screened from public view.

3. Off-street loading and parking and private nonresidential garages, either attached or detached.

4. Fences and walls in accordance with Section 28-502.

5. Signs in accordance with Section 28-504.

D. **Maximum Building Height.**

1. No principal building shall exceed one hundred (100) feet or eight (8) stories in height.

2. No parking structure shall be greater than (3) levels above ground or fifty (50) feet in height.

E. **Area and Yard Requirements for the O-C District.**

Principal Buildings	*Requirement*
Minimum Tract Area	150 acres
Minimum Building Setback from All Tract Boundaries	500 feet
Maximum Building Coverage	5%
Maximum Lot Coverage	8%
Maximum Floor Area Ratio	0.10

F. **General Requirements.**

1. The minimum tract area and maximum building coverage, lot coverage and floor area ratio requirements allow for the future provision of an approximately 27-acre part of the tract that may be required for regional flood and drainage control purposes. Thus, portions of the tract used for regional flood and drainage control purposes shall be counted towards the 150-acre minimum tract area requirement.

2. Any development shall be designed so that primary vehicular access point(s) to the development are from Valley Road, with secondary access via New Providence Road. To the degree practicable, such access roads shall meet surrounding roadways at signalized intersections.

3. All undisturbed areas located within required yard setbacks shall remain in their natural and undisturbed state except as may be minimally required for the construction of access drives and utilities.

4. A fully landscaped buffer at least fifty (50) feet in width shall be provided around the perimeter of the tract, except that the approving Board may modify or waive the requirement for such a buffer where existing topography, tree growth or other natural features exist to provide year-round screening equal to that which would be provided through the creation of new buffer screening.

5. The layout of buildings, parking areas, driveways and other site improvements shall be done in a manner that preserves and follows the existing topography to the greatest degree possible.

6. All parking and loading facilities shall be located within the principal building envelope required in the district.

7. The development site may include lands located on the east side of New Providence Road only for the purpose of meeting the tract area requirement of the district. However, once so used, such lands shall not be used for the purpose of meeting the zoning requirements of any other development application or lot. In addition, if so used such lands shall be permanently preserved through conservation easement and/or through another instrument deemed appropriate by the Board having jurisdiction.

8. All areas not utilized for buildings, parking, loading, access aisles and driveways or pedestrian walkways or other such site improvements, shall be suitably landscaped with ground cover or plantings or retained in its natural undisturbed state.

9. All buildings and structures shall be designed so as to present an attractive and consistent architectural appearance, whether constructed all at one (1) time or in stages over a period of time.

10. Buildings may contain more than one (1) use provided that the total building coverage and lot coverage of the combined uses does not exceed the maximums specified for the district.

11. The calculation of floor area ratio shall be exclusive of areas with parking garages. The ground area covered by such parking garages shall, however, be included in the calculation of building coverage.

12. All accessory structures and accessory uses shall be located within the principal building envelope required in the district except that a guardhouse shall be permitted at each entrance provided that each such guardhouse is no greater than two hundred (200) square feet in area and twelve (12) feet in height, and is located no closer than fifty (50) feet to the boundary of the tract.

13. Developments shall be served by public water and public sewer. All utility wires shall be underground.

G. **Off-Street Parking and Loading.** Off-street parking and loading areas shall be provided for each use in accordance with the requirements of Section 28-503. However, the Board having jurisdiction may reduce the number of required parking

spaces by up to fifty percent (50%) where shared parking is likely to occur as a result of patrons utilizing several of the uses comprising the development in a single visit or where variations in peak demand for parking spaces would occur between different uses.

H. **Affordable Housing.** Affordable housing shall be provided subject to the following requirements.

1. Principal permitted uses shall consist of multi-family residential attached and/or detached dwelling units.

2. Permitted accessory uses shall consist: of uses and structures customary and incidental to the principal permitted use including, but not limited to, private garages, swimming pools and tennis courts; off-street parking as required by RSIS; private residential garages; fences and walls in accordance with Section 28-502; and signs in accordance with Section 28-504.

3. The maximum number of dwelling units permitted shall be computed on the basis of fourteen (14) dwelling units per gross acre of land area dedicated to such use.

4. Maximum building height shall be thirty-five (35) feet or three (3) stories.

5. The area, yard and other requirements applicable to the use shall be as follows:

a. Minimum building setback from all tract boundaries: three hundred (300) feet.

b. Maximum number of units per structure: twenty-four (24).

c. Minimum distance between structures: thirty-five (35) feet.

d. Maximum percent building coverage of land area dedicated to such use: thirty percent (30%).

e. Maximum percent lot coverage of land area dedicated to such use: fifty percent (50%).

6. Such development shall be subject to the general requirements of Section 28-410.F.

7. The land area dedicated to such use shall be counted towards the 150-acre minimum tract area requirement.

8. The affordable housing development shall not be included towards the maximum building coverage, maximum lot coverage and maximum floor area ratio applicable to other permitted uses in the district.
(Ord. No. OR:-- § 28-410)

28-411. "QU" QUARRY

A. **Permitted Principal Uses on the Land and in Buildings.**

1. Quarrying, handling and processing of stone, sand and gravel, including transportation and storage, crushing, grinding, pulverizing and processing of raw materials, provided said use existed and was operating on or before August 16, 1962 and is limited to:

a. All buildings, machinery and other facilities necessary to conduct permitted uses.

b. Mixing or batching plant for concrete.

c. Manufacture of pre-stressed concrete, bituminous concrete, dry concrete mixes and other concrete products.

d. Buildings and facilities for the repair and storage of motor vehicles and equipment used in permitted operations.

e. Stone shall be quarried only as a result of the normal physical expansion of the quarry face existing at the date this chapter becomes effective , and no new or separate faces shall be quarried, except that existing working faces may be converted into more than one (1) level through multiple benching in compliance with State statutes and regulations.

f. The recycling of concrete and asphalt materials.

B. **Accessory Uses Permitted.**

1. Uses and structures customary and incidental to the principal use, including but not limited to storage buildings, garages and toolhouses.

2. Fences and walls in accordance with Section 28-502.

3. Signs in accordance with Section 28-504.

C. **Maximum Building Height.**

1. No principal building shall exceed thirty-five (35) feet in height.

2. No accessory building located within the principal building envelope shall exceed thirty-five (35) feet in height.

3. No accessory building located outside the principal building envelope shall exceed fifteen (15) feet in height.

D. **Area and Yard Requirements for the QU District.**

Principal Building	*Individual Uses*
Minimum	
Lot Area	100,000 s.f.
Lot Frontage	200'
Lot Width	200'
Lot Depth	300'
Front Yard	30'[1]
Side Yard (each)	15'[1]
Rear Yard	25'[1]
Accessory Building	
Minimum	
Distance to Side Line	15'[E1]
Distance to Rear Line	25'[E1]
Maximum	
Building Coverage	20%
Lot Coverage	40%
Minimum Net Habitable Floor Area	5,000 s.f.

E. **Other Requirements and Regulations.**

1. Buffer Area Requirement. Where a front, side or rear yard in the district abuts or is across the street from a residential district, one hundred (100) feet shall be added to the required setback for the yard so situated. Such area shall contain no development or use other than an access road, which shall be as nearly as possible perpendicular to the property line length of the additional yard requirement and approved by the Board having jurisdiction, which shall give due consideration to the design of the road, its effect on existing Borough roads and residential areas, suitable traffic safety conditions and the type and burden of traffic that will result. All interior roads shall be maintained at all times so as to be kept free of dust.

2. Landscaping Requirement. In order to protect the well-being of adjacent properties and districts and to minimize the effects of the district upon the neighborhood and the Borough, the additional yard setback requirement as provided herein shall be planted with trees and shrubs to provide an adequate screen at planting time for an appropriate depth of not less than twenty (20) feet. To the greatest possible extent, existing native forest trees shall be retained and the existing native forested nature of the ground shall be maintained.

3. Parking Setback. Off-street parking areas shall not be closer than twenty-five (25) feet to a street line nor closer than ten (10) feet to any other lot line.

F. **Off-Street Parking and Loading.** Off-street parking and loading shall be provided in accordance with the requirements of Section 28-503. All parking and loading areas shall be designed in accordance with and the design standards in Article 28-600.
(Ord. No. OR:-- § 28-411)

28-412. "R-M-L I" MULTIFAMILY AFFORDABLE HOUSING

A. **Principal Permitted Uses on the Land and in Buildings.** Multi-family residential attached and/or detached dwelling units including congregate care units. A congregate care unit shall be deemed a residential unit for the purposes of determining the permitted density. This zone shall allow two hundred eighty (280) residential rental units which are based upon fourteen (14) units per acre, on condition that at least forty (40) units shall be low and moderate income rental units.

B. **Accessory Uses Permitted.**

1. Uses and structures customary and incidental to the principal permitted use including, but not limited to private residential garages, swimming pools, tennis courts, greenhouses, cabanas, bathhouses, or other structures incidental to a swimming pool and/or tennis courts.

2. Fences and walls in accordance with Section 28-502.

3. Signs in accordance with Section 28-504.

C. **Maximum Building Height.** No building shall exceed thirty-five (35) feet in height and three (3) stories.

D. **Maximum Number of Dwelling Units Permitted.** This maximum number of units permitted shall be three hundred (280) residential units which is based upon fourteen (14) units per acre, provided that at least forty (40) units shall be reserved for

occupancy by low and moderate income households, all of which shall be made available as rental units.

E. **Area, Yard and Other Requirements for the R-M-L I District.**

1. No building or structure shall be located closer than fifty (50) feet from the right-of-way line of any existing street or twenty (20) feet from any sideline.

2. The minimum distance between structures shall be one-half (1/2) the sum of the height of the adjacent structures, except that a minimum of fifteen (15) feet shall be maintained when structures abut end to end.

3. The minimum number of dwelling units in a building shall be four (4) and the maximum number of dwelling units in a building shall be twenty-four (24), except that the number of units in a congregate care building may exceed twenty-four (24).

4. The minimum net habitable floor area per dwelling unit shall be six hundred fifty (650) square feet, except that congregate care units shall comply with New Jersey Housing and Mortgage Finance Agency (NJHMFA) standards.

5. The maximum building coverage: thirty percent (30%).

6. All portions of the tract not utilized by buildings or paved surfaces shall be landscaped, utilizing combinations such as landscaped fencing, shrubbery, lawn area, ground cover, rock formations, contours, existing foliage, and the planting of conifers and/or deciduous trees native to the area in order to either maintain or reestablish the tone of the vegetation in the area and lessen the visual impact of the structures and paved areas.

7. Architectural building elevations and floor plans for each typical building shall be submitted as part of the site plan application.

F. **Roadways, Off-Street Parking and Private Residential Garages.**

1. No on-street parking shall be permitted.

2. Off-street parking may be permitted under or within a building structure provided that the building shall not exceed the maximum building height.

3. Number of Required Parking Spaces per Unit: Two (2) spaces; except congregate care units: one and five-tenths (1.5) spaces. A garage space shall be deemed one (1) parking space, and a driveway having a minimum paved area of one hundred eighty (180) square feet shall also be deemed a parking space.

4. No parking area or driveway shall be located within ten (10) feet of any side property line.

G. **Off-Street Loading/Solid Waste Disposal.** Adequate trash, recycling, and garbage pickup containers shall be provided within a totally enclosed area(s) and located in a manner so as to be obscured from view from parking areas, streets and adjacent residential uses by a fence, wall, planting or combination of the three (3). (Ord. No. OR:-- § 28-412)

28-413. "R-M-L II" ONE-FAMILY RESIDENTIAL

A. **Principal Permitted Uses on the Land and in Buildings.**

1. Detached single-family dwelling units, provided that a maximum of twenty (20) dwelling units may be permitted.

B. **Accessory Uses Permitted.**

1. Uses and structures customary and incidental to the principal permitted use including, but not limited to private residential garages, swimming pools, tennis courts, greenhouses, cabanas, bathhouses, or other structures incidental to a swimming pool and/or tennis courts.

2. Fences and walls in accordance with Section 28-502.

3. Signs in accordance with Section 28-504.

4. Professional resident home offices in accordance with Section 28-401C.

C. **Maximum Building Height.** No principal building shall exceed thirty-five (35) feet in height.

D. **Area and Yard Requirements for the R-M-L II District.**

Principal Building	*Detached Dwelling Units*
Minimum	
Lot Area	40,000 s.f.
Lot Frontage	100'
Lot Width	150'
Front Yard	50'
Side Yard - one (both)	17' (34')
Rear Yard	65'

Accessory Building	
Minimum	
Distance to Side Line - one (both)	17' (34')
Distance to Rear Line	35'
Maximum Building Coverage	17.5%
Minimum Net Habitable Floor Area	2,000 s.f.

E. **General Requirements.**

1. A conservation easement not less than thirty-five (35) feet in width along the entire perimeter of the property being Lot 10, Block 74.03 on the Watchung Tax Map, except along the southerly border of the tract, wherein the width of the conservation easement shall be thirty-five (35) feet, or the distance between the southerly border of the tract and the stream which traverses the property, whichever distance is greater. Said conservation easement and permitted uses as herein described shall be part of a deed restriction to be recorded in the Somerset County Clerk's office, and shall be considered as a condition of any developmental approval of the lands that are the subject matter of this zoning district. Said deed restriction and restrictive covenant shall run with the land and be enforceable by the Borough as well as the owners of property within two hundred (200) feet of said Lot 10, Block 74.03. No construction, soil disturbance, or tree removal shall be permitted within the confines of the conservation easement, subject to the right of the Board having jurisdiction to set forth standards as part of any proceeding for developmental approval to:

a. Allow for a sight easement at the intersection of Bonnie Burn Road and the access road servicing any lands to be developed;

b. Allow for the installation of a water retention and/or detention facility within that part of the conservation easement that is adjacent and parallel to Bonnie Burn Road; and

c. Allow any property owner through whose lands the conservation easement traverses to maintain the easement area and permit the removal of dead trees, always bearing in mind that the purpose of the conservation easement is to provide a natural buffer area between the development of this district and adjoining property owners. The standards and conditions set forth herein governing the development of this district shall deem to be restrictive covenants, and same shall be a condition of any developmental approval that said restrictive covenant shall be incorporated by reference in any deed of conveyance of the property, or any part thereof. Any application to the Planning Board and/or Board of Adjustment of the Borough for relief from the restrictions herein set forth must be upon notice to property owners within two hundred (200) feet of the perimeter lines of the zone district.

2. All residential dwellings shall be connected to and serviced by a public sewer system.

3. No street or cul-de-sac, right-of-way, or any part thereof shall be located less than thirty-five (35) feet from the perimeter property line of the tract.

4. All other provisions and standards required under paragraph B of the "Developers Mount Laurel Agreement" dated the 25th day of August, 1988, which Developers Agreement has been recorded in the office of the Clerk of Somerset County, same having been approved by the Borough Council of the Borough of Watchung and the New Jersey Council on Affordable Housing, shall be considered as additional standards and conditions of the within designated zone.

F. **Off-Street Parking.**

1. See Section 28-503 for parking requirements.
(Ord. No. OR:-- § 28-413)

28-414. "R-M-L III" ONE-FAMILY RESIDENTIAL

A. **Principal Permitted Uses on the Land and in Buildings.**

1. Detached single-family dwelling units, provided that a maximum of twelve (12) dwellings may be permitted.

B. **Accessory Uses Permitted.**

1. Uses and structures customary and incidental to the principal permitted use including, but not limited to private residential garages, swimming pools, tennis courts, greenhouses, cabanas, bathhouses, or other structures incidental to a swimming pool and/or tennis courts.

2. Fences and walls in accordance with Section 28-502.

3. Signs in accordance with Section 28-504.

4. Professional resident home offices in accordance with Section 28-401C.

C. **Maximum Building Height.** No principal building shall exceed thirty-five (35) feet in height.

D. **Area and Yard Requirements for the R-M-L III District.**

Principal Building	*Detached Dwelling Units*
Minimum	
Lot Area	40,000 s.f.
Lot Frontage	100'
Lot Width	125'
Front Yard	50'
Side Yard - one (both)	15' (30')
Rear Yard	35'
Accessory Building	
Minimum	
Distance to Side Line - one (both)	15' (30')
Distance to Rear Line	35'
Maximum Building Coverage	17.5%
Minimum Net Habitable Floor Area	2,000 s.f.

E. **General Requirements.**

1. No structure, appurtenance, pavement or any other disturbance of natural conditions shall be permitted within thirty-five (35) feet of the side or rear property lines of each subdivided lot resulting from any developmental approval of the lands in the within district, where such a side or rear property line borders on a single-family lot in existence before August 25, 1988. Said thirty-five (35) foot buffer shall be in the form of a dedicated conservation easement along the perimeter lines of the tract. Said conservation easement and permitted uses as provided for in this zone district, and as above set forth, shall be part of a deed restriction to be recorded in the Somerset County Clerk's office, and shall be considered as a condition of any developmental approval of the lands that are the subject matter of this zone district. Said deed restriction and restrictive covenant shall run with the land and be enforceable by the Borough as well as owners of properties listed on Schedule 1 annexed to the "Developers Mount Laurel Agreement" hereinafter referred to. It is the intended purpose of said conservation easement that no structure, appurtenance, pavement or any other disturbance of natural conditions may be placed or permitted within said easement, subject only to the approved exceptions by the Board having jurisdiction wherein a lot owner through which the easement traverses shall have the right to maintain the easement, remove dead trees, bearing in mind that the intent and purpose of the conservation easement is to maintain a natural buffer between the subdivided lots on the lands which are the subject matter of the within zoning district and adjoining property owners.

2. All residential dwellings shall be connected to and serviced by a public sewer system.

3. No street, cul-de-sac, right-of-way, or any part thereof shall be located less than fifty (50) feet from the perimeter property line of the zone district.

4. All other provisions and standards required under paragraph C of the "Developers Mount Laurel Agreement" dated the 25th day of August, 1988, which Developers Agreement has been recorded in the office of the clerk of Somerset County, same having been approved by the Borough Council of the Borough of Watchung and the New Jersey Council on Affordable Housing, shall be considered as additional standards and conditions of the within designated zone.

F. **Off-Street Parking.**

1. See Section 28-503 for parking requirements.
(Ord. No. OR:-- § 28-414)

28-415. "R-M-L IV" ONE-FAMILY RESIDENTIAL

A. **Principal Permitted Uses on the Land and in Buildings.** Detached single-family dwelling units, provided that a maximum of twenty-six (26) dwelling units may be permitted.

B. **Accessory Uses Permitted.**

1. Uses and structures customary and incidental to the principal permitted use including, but not limited to private residential garages, swimming pools, tennis courts, greenhouses, cabanas, bathhouses, or other structures incidental to a swimming pool and/or tennis courts.

2. Fences and walls in accordance with Section 28-502.

3. Signs in accordance with Section 28-504.

4. Professional resident home offices in accordance with Section 28-401C.

C. **Maximum Building Height.** No principal building shall exceed thirty-five (35) feet in height.

D. **Area and Yard Requirements for the R-M-L IV District.**

Principal Building	*Detached Dwelling Units*
Minimum	
Lot Area	40,000 s.f.
Lot Frontage	100'
Lot Width	150'
Lot Depth	200'
Front Yard	50'
Side Yard - one (both)	15' (50')
Rear Yard	35'
Accessory Building	
Minimum	
Distance to Side Line - one (both)	10' (20')
Distance to Rear Line	10'
Maximum Building Coverage	17.5%
Minimum Net Habitable Floor Area	2,000 s.f.

E. **General Requirements.** All other provisions and standards required under paragraph D of the "Developers Mount Laurel Agreement" dated the 25th day of August, 1988, which Developers Agreement has been recorded in the office of the Clerk of Somerset County, same having been approved by the Borough Council of the Borough of Watchung and the New Jersey Council on Affordable Housing, shall be considered as additional standards and conditions of the within designated zones.

F. **Off-Street Parking.**

1. See Section 28-503 for parking requirements.
(Ord. No. OR:-- § 28-415)

28-416. "R-M-L V" MULTI-FAMILY HOUSING

A. **Principal Permitted Uses on the Land and in Buildings.** Multi-family residential attached and/or detached dwelling units. This zone is intended to confirm by rezoning this district to conform to the variance granted by the Board of Adjustment or the Borough of Watchung Resolution BA-86-22 dated December 4, 1986.

B. **Accessory Uses Permitted.**

1. Uses and structures customary and incidental to the principal permitted use including, but not limited to, private garages, swimming pools, tennis courts, greenhouses, cabanas, bathhouses or other structures incidental to swimming pools and/or tennis courts.

2. Off-street parking and private residential garages, either attached or detached.

3. Fences and walls in accordance with Section 28-502.

4. Signs in accordance with Section 28-504.

C. **Maximum Building Height.** Thirty-five (35) feet in height or three (3) stories.

D. **Maximum Number of Dwelling Units Permitted.** The maximum number of dwelling units permitted shall be computed on the basis of six (6) dwelling units per gross acre of land area within the tract.

E. **Area and Yard Requirements for the R-M-L V District.** The height, area, yard, and other standards for this zone are:

1. Minimum setback distance of any structure from existing street: fifty (50) feet.

2. Minimum building setback from any property line: twelve (12) feet.

3. Minimum setback of parking from any property line: twenty-five (25) feet.

4. Minimum floor area per unit: nine hundred (900) square feet.

5. Maximum building height: thirty-five (35) feet or three (3) stories.

6. Minimum number of units per structure: four (4).

7. Maximum number of units per structure: ten (10).

8. Minimum distance between structures: twenty (20) feet.

9. Maximum percent building coverage: thirty percent (30%).

F. **General Requirements.**

1. Floor plans and building elevation plans for each typical development shall be required.

2. Other standards established in the Borough of Watchung Ordinance for the development of land not inconsistent with the standards contained in the Board of Adjustment approval.

3. Paved interior roadway: twenty-four (24) feet wide.

4. All other provisions and standards required under paragraph E of the "Developers Mount Laurel Agreement" dated the 25th day of August, 1988, which Developers Agreement has been recorded in the office of the Clerk of Somerset County, same having been approved by the Borough Council of the Borough of Watchung and the New Jersey Council on Affordable Housing, shall be considered as additional standards and conditions of the within designated zone.

G. **Off-Street Parking.**

1. Minimum total overall parking requirement: two and one-quarter (2 1/4) spaces per unit.

2. Parking space sizes:

a. Residential: nine (9) feet by eighteen (18) feet.

b. Guest: ten (10) feet by twenty (20) feet.

c. Parking shall be permitted under the building structure.
(Ord. No. OR:-- § 28-416)

28-417. "R-M-L VI" SENIOR CITIZEN AFFORDABLE HOUSING

A. **Principal Permitted Uses on the Land and in Buildings.** Multi-family residential attached and/or detached dwelling units.

B. **Accessory Uses Permitted.**

1. Open space areas and recreational facilities as approved by the Board having jurisdiction as part of a site plan application for development, provided the following:

a. Land area equal to a minimum of twenty-five percent (25%) of the total tract of land shall be set aside for open space provided that:

(1) The calculation of open space area shall not include any improved area, including driveways, sidewalks, structures or parking areas; and

(2) The calculation of open space area may include the minimum yard area as set forth below to the extent that such area is unimproved; and

(3) An unimproved area is defined as a portion of land not containing any structures, driveways, parking area or the like, but may include those areas that have been landscaped or provide open recreation areas.

b. The open space area shall include: existing natural areas, recreational facilities for resident senior citizen occupants and other open areas appropriately landscaped as determined by the Board having jurisdiction.

c. The developer shall establish a homeowner's association, subject to the approval of the Board having jurisdiction, for the purposes of owning and assuming the maintenance responsibilities for the set aside open space and any improvements thereon.

2. Off-street parking and private garages, provided the following:

a. Off-street parking spaces shall be provided as required by RSIS.

b. Each unit shall have at least one (1) garage.

c. Parking spaces shall be provided in areas designed specifically for parking and there shall be no parallel or diagonal parking along interior streets.

3. Fences and/or walls may be constructed as approved by the Board having jurisdiction as part of a site plan application for development.

C. **Maximum Building Height.** No building shall exceed thirty-five (35) feet and be more than three (3) stories in height.

D. **Maximum Number of Dwelling Units Permitted.** The maximum number of dwelling units permitted shall be computed on the basis of ten (10) dwelling units per gross acre of land area within the tract.

E. **Area and Yard Requirements for the R-M-L VI District.**

1. Minimum setback distance of any structure from existing street: fifty (50) feet.

2. Minimum building setback from any property line: thirty-five (35) feet.

3. Minimum setback of parking from any property line: twenty-five (25) feet.

4. Maximum number of units per structure: ten (10).

5. Minimum distance between structures shall be as follows:

a. Side to side distance: twenty (20) feet.

b. Front to back distance: thirty-five (35) feet.

c. Back to back distance: thirty-five (35) feet.

6. Maximum percent building coverage: thirty percent (30%).

7. Maximum lot coverage: forty-five percent (45%).

8. A buffer area shall be provided within a property or site, adjacent to and parallel with the property line. The buffer area shall either consist of natural existing vegetation or be landscaped with trees, shrubs and/or earth berms, and/or retaining walls designed to continuously limit the view of and/or sound from the site to adjacent properties. The use of existing vegetation or landscaping shall be subject to the review and approval of the Board having jurisdiction. A fence may also be required by the Board in specified locations. No roadway shall be permitted to cross the buffer area except as necessary to permit access to and from the development. The buffer area shall be a minimum of twenty-five (25) feet deep, generally adjacent to the perimeter lot line and situated within the thirty-five (35) foot setback from the property line.

F. **General Requirements.**

1. All dwelling units shall be restricted for occupancy by senior citizen households; i.e. households in which the primary wage earner is over sixty-two (62) years of age, or for a household in which there is no primary wage earner, in which at least one (1) member of the household is over sixty-two (62) years of age.

2. Each building shall have an architectural theme designed to provide attractiveness to the development and compatibility with surrounding land uses. All buildings shall have single ridge roof lines and no flat roofs shall be permitted. Architectural elevations and typical floor plans shall be submitted to the Board for its review and approval as part of a submitted site plan application.

3. All dwelling units shall be connected to approved and functioning public water and sanitary sewer systems prior to the issuance of a certificate of occupancy.

4. All site improvements shall be constructed in accordance with RSIS.

G. **Affordable Housing Requirements.**

1. Inclusionary developments shall comply with all of the requirements of Article 28-1000.

2. All market rate units shall be for sale.

3. Within each inclusionary development, there shall be a set aside (either paragraph a or b below) of affordable housing for low and moderate income households as follows:

a. Twenty percent (20%) of the total number of units in the project shall be affordable to low and moderate income households if units are for sale.

b. Fifteen percent (15%) of the total number of units in the project shall be affordable to low and moderate income households if units are for rent. (Ord. No. OR:-- § 28-417)

28-418. CE CEMETERY

A. **Principal Permitted Uses on the Land and in Buildings.**

1. Cemeteries.

B. **Accessory Uses Permitted.**

1. Uses and structures customarily incidental to the principal permitted use including, but not limited to, mausoleums, columbaria, mortuary facilities, and chapel facilities.

2. Off-street parking, subject to the setback requirements for accessory buildings.

3. Fences and walls in accordance with Section 28-502.

4. Signs in accordance with Section 28-504 including one (1) freestanding identification sign in accordance with Sections 28-504.F.2 and 28-504.F.8.

C. **Maximum Building Height.** No principal building shall exceed thirty-five (35) feet in height and two and one-half (2 1/2) stories.

D. **Area and Yard Requirements for the Cemetery District.**

Minimum	
Lot Area	60,000 s.f.
Lot Frontage	100'
Lot Width	150'
Front Yard	50'
Side Yard - one (both)	25'(50')
Rear Yard	35'
Maximum	
Building Coverage:	15%
Lot (Impervious Surface) Coverage:	25%

E. **Grave Sites.** Grave sites shall be located no closer than forty (40) feet to a dwelling unit located on an adjoining property.

F. **Lot Coverage.** For the purpose of calculating the lot coverage, all surfaces and structures typically included in the calculation, per the Borough's applicable definitions, shall be included with the exception of graves stones and grave markers.

G. **Buffer Requirement.** A landscaped buffer shall be provided along all property lines that adjoin residentially-zoned properties with the exception of property lines abutting Interstate 78. The buffer shall consist of evergreen trees and other such plantings that serve to provide adequate year-round buffering of the cemetery from adjoining dwellings. The Board may modify or waive the buffer screening requirement where topography, tree growth or other natural or man-made features exist to provide adequate year-round buffering or where the site configuration does not allow for provision of such a buffer.
(Ord. No. OR:-- § 28-418)

ARTICLE 28-500
CONDITIONAL USES, FENCES & WALLS, SIGNS, PARKING, AND SPECIAL ZONING PROVISIONS

28-501. CONDITIONAL USES

Before a construction permit or certificate of occupancy shall be issued for any conditional use as permitted by this chapter, application for a conditional use shall be made to the Planning Board. The review by the Planning Board of a conditional use shall include any required site plan and/or subdivision review as may be necessary pursuant to this chapter. Noticing and time limits for review of a conditional use application shall be in accordance with the MLUL. Conditional uses in the Borough shall include the following:

A. **Low and Moderate Income Accessory Apartments.**

1. Purpose. This Article has been enacted for the specific purpose of providing additional opportunities for low and moderate income housing in the Borough.

2. An accessory apartment is a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance which is created to be occupied by a low or moderate income household. The accessory apartment may be created within an existing dwelling unit and may be created within an existing structure on a lot or be an addition to an existing home or accessory building.

3. Accessory apartment units shall meet all of the following conditions:

a. The bulk requirements of the zone in which the accessory apartment is created shall be met.

b. Accessory apartments shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all local building codes.

c. Accessory apartments shall be rented only to a household that is either a low or a moderate income household at the time of initial occupancy of the unit.

d. Accessory apartments shall, for a period of at least ten (10) years from the date of the issuance of a certificate of occupancy for the same, be rented only to low or moderate income households.

e. Rents of accessory apartments shall be affordable to low or moderate income households as per the COAH rules and regulations and shall include a utility allowance.

f. No more than ten (10) accessory apartments shall be created to address the Borough's fair share obligation.

g. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental or sale to the requirements of paragraphs c and d above.

h. Accessory apartments shall have living/sleeping space, cooking facilities, a kitchen sink and complete sanitary facilities for the exclusive use of its occupants. It shall consist of no less than two (2) rooms, one (1) of which shall be a full bathroom.

i. Accessory apartments shall have a separate door with direct access to the outdoors.

j. The potable water supply and sewage disposal system for the accessory apartment shall be adequate as evidenced by the approval of the Watchung Board of Health.

k. Accessory apartments shall be affirmatively marketed to the housing region in accordance with the requirements of this chapter.

l. Accessory Apartments Permitted as a Conditional Use. Accessory apartments, as that term is described in and meeting the requirements of this paragraph A, shall be permitted as a conditional use in all districts provided that the property on which the accessory apartment is proposed is a conforming lot which abuts and has direct driveway access to a County of Somerset road or a United States highway.

m. The net habitable floor area devoted to the accessory apartment shall not exceed twenty-five percent (25%) of the aggregate net habitable floor area within all buildings on the site, including both the principal single-family building on the site and all accessory buildings on the site.

n. The construction of an accessory apartment shall be predicated upon both conditional use and minor site plan review and approval by the Watchung Planning Board.

4. Illegal Existing Accessory Apartments. In the case of an accessory apartment created illegally or without proper permits which the property owner desires to legitimize as an accessory apartment under this chapter, all of the requirements of this chapter shall apply in addition to meeting COAH criteria, except that no subsidy shall be provided by the municipality.

5. The following designations are made to administer various components of the accessory apartment program:

a. The Department of Community Affairs, Affordable Housing Management Service shall administer the following portions of the accessory apartment program: income qualifying of prospective renters, setting rents and annual rental increases, maintaining a waiting list of prospective accessory apartment residents, and handling application forms.

b. The Borough Administrator shall administer the following portions of the accessory apartment program: advertising, distribution of the subsidy set forth herein, insuring that certificates of occupancy are obtained before occupancy, qualifying properties for the program, giving guidance for required Planning Board applications, filing of deed restrictions and COAH monitoring reports, affirmatively marketing of the accessory apartment program and any and all other administrative requirements of the program.

6. An application for an accessory apartment shall only be denied if the project is not in conformance with COAH's requirements or this chapter. All denials shall be in writing with the reasons clearly stated.

7. In accordance with COAH requirements, the Borough shall provide at least ten thousand ($10,000.00) dollars to subsidize the physical creation of an accessory apartment conforming to the requirements of this section and COAH requirements. The said subsidy may be in the form of a low or no interest loan or a grant provided that the property owner shall enter into a written agreement with the Borough insuring that (i) the subsidy shall be used to create the accessory apartment and (ii) the accessory apartment shall meet the requirements of this chapter and COAH regulations.

8. Applicants for the creation of an accessory apartment shall submit to the Planning Board an application for conditional use and minor site plan approval and the following:

a. An applicant shall obtain from the Watchung Planning Board an application checklist and shall submit all documents required in accordance therewith.

b. A sketch of floor plan(s) showing the location, size and relationship of both the accessory apartment and the primary dwelling within the building or in another structure as to size and other matters.

c. Rough elevations showing the modification of any exterior building facade to which changes are proposed.

d. A site development sketch showing the location of the existing dwelling and other existing buildings; all property lines; proposed addition if any, along with the minimum building setback lines: the required parking spaces for both dwelling units and any natural or manmade conditions which might affect construction.

9. Based upon the above, the applicant shall be advised if the application is complete in accordance with MLUL requirements. When complete, the application shall be placed on the Planning Board agenda and a decision shall be made in accordance with MLUL requirements.

B. **Drive-Through Windows for Restaurants.**

1. A drive-through window for a restaurant shall be permitted only if the subject restaurant is part of a shopping center or is otherwise associated with a shopping center with direct vehicular access thereto.

2. A drive-through window for a restaurant shall be permitted only if the subject restaurant does not have direct driveway vehicular access to a public street.

3. A drive-through window for a restaurant, the accompanying driveway, and any associated signage shall be set back a minimum distance of five hundred (500) feet from any lands zoned for residential development.

4. A drive-through window for a restaurant, associated signage and driveway shall be visually screened from adjacent properties by landscaping.

C. **Membership Swim Clubs.**

1. Any membership swim club shall have a minimum lot size of ten (10) acres.

2. No parking area shall be located within fifty (50) feet of a property line adjoining a residential use.

3. Said use shall have access to a public street.

4. No edge of any pool shall be closer than seventy-five (75) feet from a property line adjoining a residential use.

5. The total land devoted to the use of the pool shall be enclosed with a fence in accordance with applicable requirements.

6. No lighting shall be directed or reflected upon any residential building or adjacent property. All lighting shall be in compliance with the applicable National Electric Code.

7. All pools shall be landscaped to effectively screen the view of the pool from neighboring properties.

8. All pools shall be kept neat and attractive, and no rubbish, debris or litter shall be permitted to remain or accumulate in or about the pool.

9. The design of all pools shall comply with applicable construction code standards.

10. Landscaped buffer of twenty-five (25) feet between the property line and any adjoining residential property.

11. The club shall not be open for use between 11:00 p.m. and 8:00 a.m.

D. **Public Utility Uses.**

1. For purposes of this chapter, the term "public utility uses" shall include such uses as telephone equipment centers, power substations, sewage treatment plants and other utilities serving the public, but shall exclude dumps, sanitary landfills and telecommunications towers except where otherwise permitted by ordinance.

2. The proposed installation of a public utility use in a specific location must be necessary for the convenient and efficient operation of the subject public utility and for the satisfactory provision of service by the utility to the neighborhood or area in which the particular use is located. The application for conditional use and site plan approval shall include a statement setting forth the need and purpose of the installation.

3. The design of any building in connection with the public utility installation and improvement of such site must not adversely affect the safe and comfortable enjoyment of the properties in the surrounding area.

4. Adequate fences, screening devices and other safety devices must be provided as may be required. Fences, when used to enclose public utility installations such as electrical power substations, shall be built in accordance with the applicable requirements of the New Jersey Board of Public Utility Commissioners and the National Electrical Code in effect at the time of the construction.

5. The maximum building coverage shall be thirty-five percent (35%) and the maximum lot coverage shall be fifty percent (50%). Landscaping, including shrubs, trees and lawns, shall be provided and maintained.

6. Off-street parking and buffer screening shall be provided as determined by the Planning Board during site plan review.

E. **Service Stations.**

1. The minimum lot size for service stations shall be thirty thousand (30,000) square feet. The minimum lot width and lot frontage shall be one hundred fifty (150) feet.

2. The minimum required front yard setback shall be thirty (30) feet for any structure except permitted signs, the minimum required side yard setback shall be twenty (20) feet for any structure, and the minimum required rear yard setback shall be twenty-five (25) feet for any structure. Gasoline filling pumps or air pumps shall be permitted within the required front yard setback, but shall be no closer than fifteen (15) feet from any street line or side lot line.

3. No new service station shall be located within five hundred (500) feet of any residential zone boundary nor within one thousand (1,000) feet of any property upon which a firehouse, school, playground, church, hospital, public building or institution is located. Moreover, any service station which had been abandoned and which is proposed for reuse as a service station shall meet the location requirements specified herein.

4. All appliances, pits, storage areas and trash facilities other than gasoline filling pumps or air pumps shall be within a building except as specifically approved as part of a site plan application.

a. All lubrication, repair, painting or similar activities shall be performed in a fully enclosed building and no motor vehicle parts or partially dismantled vehicles shall be displayed or stored outside of an enclosed building.

b. Electric motors and other spark-emitting devices, when provided, shall be installed in a well-ventilated room where no flammable liquids are stored or handled, unless such devices are approved by the Chief of the Fire Department for use in explosive atmosphere.

5. No damaged, wrecked or dismantled vehicle, junk or trailer shall be allowed to remain in the open on the premises, but must be kept completely within a building or behind a fence screening at least six (6) feet in height so as not to be

visible from the street fronting the premises or from any adjoining property. In any case, no damaged, wrecked or dismantled vehicle, junk or trailer shall be kept on the premises for a period exceeding seven (7) days and, further, no more than seven (7) vehicles awaiting repair and/or service including commercial vehicles otherwise kept on site shall be stored overnight on the premises.

6. The maximum building coverage shall be thirty percent (30%) and the maximum lot coverage shall be sixty-five percent (65%). Landscaping shall be provided in the front yard area and shall be reasonably distributed throughout the entire front yard area.

7. The exterior display, storage and parking of motor vehicles, trailers, boats or other similar equipment for sale or rent shall not be permitted as part of a service station.

8. There shall be no outside display or storage of merchandise, supplies, product, equipment or similar material or objects unless specifically approved as part of a site plan application, unless such accessory goods or supplies for sale are contained within a permanent rack, case, cabinet or enclosure of metal or other fireproof material and located on the pump islands or within the principal building.

9. No gasoline service station shall accumulate or store any used parts or tires, whether for sale, storage or waste, on any portion of the premises, unless enclosed within the principal building. Drainage from crankcases shall be kept in closed metal containers, and an oil interceptor shall be provided, subject to the approval of applicable Borough officials. Where flammable liquids are kept, used or handled, provision for, and the use of, dry sand, chemical extinguishing devices or materials shall be as directed by the Fire Department. A reasonable quantity of containerized and labeled and identified noncombustible adsorbents, such as sand, shall be kept conveniently available for use in case of leakage or overflow. All storage shall be in compliance with applicable regulations including N.J.S.A.13:1D et seq.

10. All gasoline and other fuels shall be kept in tanks of an approved design and the tanks shall be buried so that the tops of the tanks shall be at least three (3) feet below the surface of the ground.

a. All tanks are to be buried in such locations approved by the Fire Department, and shall not be located within six (6) feet from any building except upon special permission in writing from the Fire Department.

b. No tank shall be permitted under any shed or building, and all underground tanks shall rest on a bed or cradle of concrete at least six (6) inches thick.

c. Two (2) or more tanks may be installed and connected by pipes, if such tanks are separated by a wall of concrete not less than two (2) feet in thickness or by a wall of earth not less than four (4) feet in thickness; provided that, in any case, the most current standards set forth by the Department of Environmental Protection shall be met.

11. Service stations shall provide off-street parking in accordance with the following provisions:

a. At least six (6) off-street parking spaces shall be provided for the first lift, wheel alignment pit or similar work area, five (5) additional spaces for a second work area, and an additional three (3) spaces for each additional work area, or one (1) marked parking space shall be provided for every one thousand (1,000) square feet of lot area, whichever provides the greater number of parking spaces, provided that no more than twenty (20) parking spaces shall be provided for any service station in any case.

b. Parking spaces shall be separated from the driveway and general apron areas which give access to the gasoline and air pumps and service areas, and no designated parking space shall obstruct access to such facilities.

c. No parking shall be permitted on an unpaved area nor within fifteen (15) feet of any property line. Driveways shall be a minimum of ten (10) feet from all lot lines.

12. Any building or buildings to be erected for use as a service station, or in connection therewith, shall be of masonry construction with a fire-resistive roof.

13. Service stations shall provide one (1) public rest room facility for male use and one (1) public rest room facility for female use.

14. Food marts, where the sale of food items requires additional floor area above and beyond that which is customarily necessary for a service station, shall be considered "fast food convenience stores" and are not permitted as part of a service station.

15. Service stations may be permitted one (1) freestanding sign and one (1) sign attached flat against the building. The freestanding sign shall not exceed an area of fifty (50) square feet and a height of ten (10) feet, and shall be set back at least ten (10) feet from all street rights-of-way and lot lines. The signs attached to any building on site shall not exceed thirty (30) square feet in area. Additional signage shall be permitted as may be specifically approved by the Board.

16. Any part of the site subject to access by motor vehicles shall be hard-surfaced, with concrete or bituminous concrete or asphalt, and shall be graded and drained to adequately dispose of all surface water accumulated. Provision shall be made to prevent gasoline spills or spills from other hazardous substances from flowing into the interior of station buildings or upon the highway or into streams by grading driveways, raising door sills and/or other equally effective methods.

17. In addition to the general site plan requirements, scaled maps accompanying the application for any service station shall clearly delineate the following:

a. The actual floor space and/or ground area to be devoted to, or used for, the storage of motor vehicles;
b. The location of any church, hospital, theater, library, public playground, athletic field, public or parochial school, firehouse, municipal building, existing service station, public building and/or any other building in which the public gathers within one thousand (1,000) feet of the proposed service station;
c. The number and location of fuel tanks to be installed, the dimensions and capacity of each storage tank, the depth the tanks will be placed below ground, the number and location of pumps to be installed, and the type and location of all principal structures and accessory structures to be constructed.

18. All of the other area, yard, setback and general requirements of the respective zones and other applicable requirements of this chapter shall be met.
(Ord. No. OR:-- § 28-501; Ord. No. OR:08/06 § 1)

28-502. FENCES AND WALLS

Fences and walls may be erected on a lot, subject to the following provisions:

A. General Requirements.

1. In a residential district, a fence or wall may be erected to a total height of four (4) feet above the ground, except that the supporting post may extend to a height of four and one-half (4 1/2) feet above the ground. However:

(a) Fences shall be no more than fifty (50%) percent solid;

(b) An estate fence may be erected to a height of six (6) feet above the ground, except that the supporting post may extend to a height of six and one-half (6 1/2) feet above the ground.

2. Along boundaries of residential and nonresidential districts, a fence or wall may be erected to a height of six and one-half (6 1/2) feet above the ground,

except that the supporting post may extend to a height of seven (7) feet above the ground, to screen nonresidential activities from the view of abutting residences. Fences in this instance may exceed the restrictions contained in Section 28-502A.

3. Except where specifically prohibited under the terms of any other applicable ordinance or regulation of the Borough, nothing herein shall be construed to prohibit the use of hedges, trees or other planting anywhere on a lot.

4. Restrictions herein contained shall not be applied so as to prohibit the erection of a wall for the purpose of retaining earth or otherwise contouring or terracing the property.

B. **Construction within Road Right-of-Way Prohibited.** No private fence, wall or structure shall be erected within a public right-of-way.

C. **Construction Appearance and Materials.** All fences shall be situated on a lot in such a manner that the finished side of the fence shall face adjacent properties. All fences shall be uniform and symmetrical in appearance, shall have posts or columns separated by identical distances, except for deviations required by construction factors, and shall consist of materials conforming to a definite pattern unless waived in whole or in part by the Construction Official. No fence shall be erected of barbed wire, razor wire, topped with metal spikes or other sharp objects, nor constructed of any material or in any manner which may be dangerous to persons or animals, except barbed wire shall be permitted for qualified (under the State Farmland Assessment Act) farms.

D. **Location within Sight Triangle.** No fence, hedges, trees or other plantings shall be located within a required clear sight triangle.

E. **Electrically Charged Fences Permitted.** Electrically charged fences are permitted provided that the fence does not exceed six (6) feet in height, is attached to poles that do not exceed six and one-half (6 1/2) feet in height and is charged with a voltage that does not exceed one thousand (1,000) volts. Said fences are to be stained or painted dark brown, dark green or black to blend with landscaping. Poles, insulators and any attachments shall be painted the same color. Wires are not included in the painting requirement. No fence shall be erected on the front of the property, nor shall the fence encompass the entire property.

F. **Mesh Deer Fences Permitted.** Deer fences which are nonmetallic in appearance are permitted provided they do not exceed eight (8) feet in height above the ground, except that the supporting post may extend to a height of eight and one-half (8 1/2) feet above the ground. Deer fences and poles are to be dark brown, dark green or black to blend with the landscaping.

Deer fences shall be erected from the front edge of the house and may extend around the house to encompass the backyard. No deer fence shall be erected in the front

of the property, nor shall the deer fence encompass the entire property, unless the deer fence is shielded from view from adjoining properties and the street by trees, shrubs and other natural conditions. In the case of a corner lot, this restriction only applies to that yard which the property owner designates as the primary front yard.

G. **Temporary/Construction Fences.** A temporary/construction fence may be erected for the duration of a construction project if required by the Borough or owner for safety reasons. The property owner must obtain a permit for the erection of a temporary construction fence and the temporary construction fence shall be removed upon completion of the construction.

H. **Construction within Property Boundary Lines.** All fences shall be constructed within property boundary lines.

I. **Construction Enclosing and/or Crossing an Easement Prohibited.** No fence or wall shall be constructed so as to enclose or cross a Borough easement or an easement in which there are public rights. Fences shall not be built within three (3) feet of any such easement.

J. **Maintenance.** All fences shall be maintained in a safe, sound and upright condition.

K. **Existing Fences.** The provisions of this Article shall apply to all fences hereafter constructed. Fences currently existing which violate any provision set forth herein shall not be reconstructed, repaired or replaced to an extent exceeding twenty percent (20%) thereof without the total fence being brought into conformity with the provisions hereof.

L. **Swimming Pools.**

1. Fences that meet the requirements of Section 28-502 and the minimum requirements for swimming pool fences under the Building Official and Code Administrators ("BOCA") International, Inc., as amended by the State of New Jersey Uniform Construction Code ("UCC") may be used.

2. Additionally, fences around a swimming pool are allowed to a maximum height of six (6) feet provided that the following conditions are met:

a. Fences around a swimming pool shall only be permitted in the rear yards and side yards of a lot, subject to compliance with the setback limitations applicable to principal structures.

b. The rear of the principal permitted structure may serve as part of the fence around a swimming pool.

c. Fences around a swimming pool must not be more than twenty-five (25) feet from the water's edge.

d. Fences around a swimming pool shall not be more than fifty percent (50%) solid.

M. **Buffer Zones, Conservation Easement Areas and Conservation Areas.** No fence shall be permitted in any area designated as a buffer zone, conservation easement or conservation area by any other part of the Code of the Borough of Watchung including, but not limited to, Sections 28-413E1 and 28-414E1.

N. **Permits.** In order to ensure compliance with the provisions of this Article, before any fence or wall is erected, a zoning permit and building permit, if required, must be obtained from the Building Construction Official and Zoning Official of the Borough. The request for permits shall be accompanied by a survey or plan, to show height and location of the proposed fence or wall in relation to all other structures or buildings and in relation to all streets, lot property lines and yards, and showing type and design of fencing materials. Any plan that includes construction within an easement shall be approved by the Borough Engineer prior to the issuance of the required permit. The zoning permit or building permit, if required, is conditioned upon the as-built conditions meeting the terms and conditions of the permit and this Article.

O. A chain-link fence up to a height of ten (10) feet from the ground may be erected around a sports court.
(Ord. No. OR:07/21 §§ 2–8; Ord. No. OR:-- § 28-502)

28-503. OFF-STREET PARKING AND LOADING REQUIREMENTS

A. **General Requirements.**

1. The requirements of this section shall apply to all uses in the Borough. Except as provided in this chapter, no application for a building permit shall be approved unless there is included with the plan for such building, improvement or use, an area showing the required space reserved for parking and loading provided and designed in accordance with this chapter as set forth in Section 28-607. A certificate of occupancy shall not be issued unless the required parking and loading facilities have been provided in accordance with those shown on the approved plan except that where, due to weather conditions, paving is not possible, a temporary certificate of occupancy may be issued for a specified period of time, at the end which said temporary permit shall expire and the improvements shall have been completed. Such period of time shall not exceed one hundred twenty (120) days.

2. Off-street parking areas shall be located on the same lot as the main building or principal use of the property served by said parking area. Notwithstanding any provision of this chapter to the contrary, parking to serve a development containing low and moderate income housing units may be provided

on a lot in another zone adjoining the R-M-L VI Zoning District subject to Planning Board approval or approval by the Board having jurisdiction and further provided that the area of any such lot containing such use adjoining the R-M-L VI Zoning District shall not be included in the land area calculation for density purposes

3. Landscaping shall be provided in all parking areas serving multi-family residential and all nonresidential uses in accordance with the design requirements of Article 28-600.

B. **Residential Uses.**

1. Except as provided herein, off-street parking for residential uses shall be provided and designed in accordance with RSIS. Off-street parking requirements for multi-family development approved or completed within any R-M-L Mount Laurel or other multi-family residential district as of June 3, 1997 shall remain in compliance with this chapter.

2. Except where regulated by RSIS in connection with a subdivision or site plan, detached single-family dwelling units shall be provided with two (2) spaces per 2-bedroom unit; three (3) spaces per 3-bedroom unit; three (3) spaces per 4-bedroom unit; and four (4) spaces per 5 or more bedroom unit.

3. The placement of off-street parking and driveways for single-family residential uses shall be in compliance with the requirements of Section 28-401W.

C. **Nonresidential Uses – General Standards.**

1. All parking and loading areas shall be designed in accordance with the standards contained in Article 28-600 of this chapter. Stormwater drainage for all parking and loading areas shall be designed in accordance with Article 28-600 so as to prevent damage to adjoining properties. All parking and loading areas shall be maintained in a clean, orderly and dust-free condition.

2. Where off-street nonresidential and multi-family parking, loading or service areas are located adjacent to any lot in a residential zoning district and where such parking, loading or service areas are not entirely screened visually from such lot by an intervening building or structure, there shall be provided a continuous planting screen at least five (5) feet in height.

3. Garage space or space within buildings, basements, or on the roofs of buildings, if permitted, may be used to meet the parking requirements of this chapter.

4. Parking spaces and loading spaces shall be clearly marked on the pavement and/or with markers, directional arrows, or traffic directional signs in accordance with the design requirements of Article 28-600.

5. Parking areas for individual nonresidential uses shall be designed to be interconnected with adjacent nonresidential properties and shall utilize common entrance(s) and exit(s), where feasible, to minimize access points to the street.

6. The off-street parking requirements for two (2) or more uses whether the same or different types of use, may be satisfied by allocating some or all of the required parking for each use in a combined parking facility, provided that the total number of parking spaces is not less than the sum of the required spaces for each individual use and the other design requirements of this chapter are satisfied. Off-street parking facilities for one use shall not be considered as providing off-street parking for another use, except that one half (1/2) of the off-street parking spaces required by any use where peak utilization of the parking facilities will be at night or on Sundays (such as houses of worship, theaters and assembly halls), may be assigned to a use that will be closed at night or on Sundays.

7. The number of off-street parking spaces and loading spaces required by land or buildings used for two (2) or more purposes shall be the sum of the requirements for the individual uses.

8. No off-street parking or loading area shall be used for the sale, repair, dismantling, or servicing of any vehicle, equipment, materials, or supplies.

D. **Nonresidential Uses – Parking Requirements.**

1. Nonresidential uses shall be provided with adequate off-street parking to accommodate the permitted activities and shall be subject to approval by the Board during site plan review. Each individual use shall provide parking spaces according to the following minimum provisions. Where a permitted use of land includes different activities with different specified parking requirements, the total number of required parking spaces shall be obtained by computing individually the parking requirements for each different activity and adding the resulting numbers together. Parking requirements based on square footage increments or other standards shall include the number of spaces rounded up to the nearest whole number for any fraction thereof.

Type of Use	Number of Parking Spaces Required
Banks, studios and offices	1 per 250 sq. ft. of floor area[1]
Bowling alley[2]	4 per lane
Club, lodge or service organization	1 for each 200 sq. ft. of floor area
Elementary schools (Grades K-4)	1 per employee[3]
Conference facilities	1 per 250 sq. ft. of floor area
Funeral parlor	1 per 25 sq. ft. of floor area devoted to viewing rooms/services plus 4 spaces

Type of Use	Number of Parking Spaces Required
General service businesses	1 per 200 sq. ft. of floor area
Professional resident home offices	2 in addition to residential requirements
Hotels and motels	1.25 per unit plus the required spaces for each additional use on site (restaurants and other commercial uses)
Houses of worship	1 per 3 permanent seats (1 seat = 22 inches in calculating the capacity of pews or benches)
Hospital, convalescent and nursing home	1.5 per bed
Intermediate schools (Grades 5-8)	1.5 per employee[3]
Manufacturing and industrial uses	1 per 400 sq. ft. of floor area or 1 per 2 employees, whichever is greater
Offices	1 per 250 sq. ft. of gross floor area
Offices, Medical	6.0 per 1,000 of gross floor area
Restaurants and cafes	1 per 3 seats[4]
Quarry	1 per employee
Retail businesses and other commercial activities not otherwise classified herein	1 per 250 sq. ft. of floor area
Scientific or research laboratories	1 per 800 sq. ft. of floor area used for laboratories plus 1 per 250 sq. ft. of floor area used for offices.
Service stations	See §28-501.E.11
Shopping centers	4.5 per 1,000 sq. ft. of net habitable floor area
Single-family dwellings	See §28-503.B
Theaters	1 per 3 seats
Warehouses and storage buildings	1 per 600 sq. ft. of floor area or 1 per 2 employees during the peak hour shift, whichever is greater

Footnotes:

1. Drive-in banks shall provide room for at least eight (8) automobiles per drive-in window for queuing purposes.
2. All other indoor recreational uses shall provide sufficient off-street parking as determined by the Board during site plan review.
3. In all cases sufficient space for school bus loading and unloading shall be provided.
4. In all cases, a sufficient number of spaces shall be provided to prevent any parking along public rights-of-way or private driveways, fire lanes and aisles.

2. In the case of a use not specifically mentioned in the parking schedule above, the requirements of off-street parking facilities for a use most similar, compatible or consistent with the use that is mentioned, shall apply. In the event that there is no similar, compatible or consistent use, off-street parking requirements shall be determined by the Board based upon accepted industry standards.

E. **Nonresidential Uses - Loading Requirements.**

1. Each principal use shall provide for off-street loading and unloading with adequate ingress and egress from streets and with adequate space for maneuvering and shall provide such area at the side or rear of the building. A minimum of one (1) space shall be provided for each building. Additional spaces may be necessary and required by the Board depending upon the specific activity. There shall be no loading or unloading from the street.

2. There shall be at least one (1) solid waste pickup location including provision for recyclable materials collection provided by each building which shall be separated from the parking spaces by either a location within the building or in a pick-up location outside the building within a metal container, located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence, wall, planting or combination of all three. If located within the building, the doorway may serve both the loading and solid waste functions and if located outside the building, it may be located adjacent to or within the general loading area(s) provided the container(s) in no way interferes with or restricts loading and unloading functions.

3. No loading or solid waste area shall be permitted in the front yard. (Ord. No. OR:-- § 28-503)

28-504. SIGNS

A. **General Provisions.** All signs hereafter erected or maintained shall conform with the provisions of this Article and the Uniform Construction Code of the Borough of Watchung. Any sign not specifically permitted is hereby prohibited.

1. Permits Required. It shall be unlawful for any person to erect or structurally alter any sign without first obtaining a permit and making payment of the fee required by the Uniform Construction Code of the Borough of Watchung. The erection or relocation of a freestanding sign as defined herein shall require minor site plan submission prior to issuance of any permit.

2. Reference to Zoning Districts. Except as otherwise provided, no outdoor sign or other form of exterior advertising shall be erected or maintained unless the sign complies with the requirements established in this Article for each zoning district.

B. **Exempt Signs.** The provisions and regulations of this Article shall not apply to the following signs:

1. Professional nameplate signs indicating the name and profession of the occupant of a dwelling, provided such signs do not exceed two (2) square feet. Said signs shall not be lighted between the hours of 9:00 p.m. and 8:00 a.m.

2. Temporary signs placed on windows in commercial establishments or on any other interior or exterior surface of commercial establishments covering no more than twenty-five percent (25%) of the total window area of any given side of the building. Such signs shall not be placed on establishment doors. Glass used in any such doors shall be excluded from calculations for total window area coverage under this section. Such temporary signs shall not be placed for periods exceeding thirty (30) days in duration.

3. Temporary signs of nonprofit and charitable organizations announcing a special event or function provided such signs do not exceed thirty-two (32) square feet. Such temporary signs shall not be placed for periods exceeding thirty (30) days in duration and shall be removed within five (5) days after completion of the event or function.

4. Bulletin boards not over sixteen (16) square feet in area for public, charitable or religious institutions when same are located on the premises of said institutions and located no less than twenty-five (25) feet from any lot line.

5. Signs denoting the architect, engineer or contractor, when placed upon work under construction, and not exceeding sixteen (16) square feet in area. Said signs shall be permitted for fourteen (14) days on any one (1) project while the work is under construction. Such sign shall be located no less than ten (10) feet from any lot line.

6. Memorial signs or tablets, names of buildings and dates of construction when cut into any masonry surface or when constructed of bronze or other incombustible metal.

7. Temporary signs indicating a political preference for a person and/or political party seeking election provided such signs do not exceed sixteen (16) square feet in area on any one (1) side. Said signs shall be placed no sooner than

thirty (30) days prior to the election and shall be removed within five (5) days after the completion of the election.

8. Traffic directional signs as follows:

a. Official traffic and street signs.

b. As shown on an approved subdivision or site plan map.

c. If no development plan is required, such sign shall be located no less than five (5) feet from edge of on-site pavement and have dimensions that do not exceed one foot by two (1 x 2) feet and shall not extend more than three (3) feet in height.

9. On-site real estate or lease signs not exceeding four (4) square feet in area and off-site real estate sales/directional signs not exceeding four (4) square feet in area, when erected and maintained in accordance with the requirements set forth in paragraphs E, F, and G in this section.

C. **Prohibited Sign Features.**

1. No sign shall be erected, used or maintained which in any way simulates official, directional or warning signs erected or maintained by the State of New Jersey, by any county or municipality thereof, or by a public utility or similar agency concerned with the protection of the public health or safety.

2. No neon sign or similar illustrated advertisement shall be of such color or located in such a fashion as to diminish or detract in any way from the effectiveness of any traffic signal or similar safety or warning device.

3. The following advertisements are specifically prohibited: any advertisement which uses a series of two (2) or more signs placed in a line parallel to the highway or in similar fashion all carrying a single advertisement message, part of which is contained on each sign.

4. No sign shall have flashing lights or exposed high flashing lights or exposed high intensity illumination.

5. No sign may be placed in such a position to cause a danger to traffic by obscuring visibility.

6. No sign may obstruct any window, or opening intended to provide light by more than twenty-five percent (25%) of the total window, or opening.

7. Exterior signs using moving parts or banners, spinners, pinwheels, flags, pennants or similar signs are prohibited, with the exception of clocks and weather information.

8. Signs visible from the street using the word "stop" or "danger" or any other word, phrase, symbol or character simulating a public safety warning or traffic signal.

9. Roof signs on buildings, structures and vehicles excluding commercial vehicles advertising the intended use.

10. Signs or advertising matter of an indecent or obscene nature as defined by law.

11. Except where specifically permitted, signs advertising a product or service not sold on the premises, signs advertising or directing attention to another premise and any other signs unrelated to the premises on which the sign is erected.

12. Signs placed on trees, fences, utility poles or light poles, signs attached to other signs and signs placed upon motor vehicles which are continuously or repeatedly parked in a conspicuous location to serve as a sign, but nothing herein contained is intended to prohibit the placement of signs directing traffic or identifying various locations within a lot or parcel on light poles and utility poles erected therein.

13. Signs on vacant property, excluding commercial properties advertising future use, advertising a proposed use without Borough Planning or Zoning Board approval.

D. **Prohibited Signs.**

1. Billboards, outdoor display structures and signs mounted on trailers, platforms and atop vehicle(s). No existing billboard structure may be replaced.

2. Signs projecting more than three (3) feet from the wall of a building and all roof signs.

3. Signs other than officially authorized signs, tacked, pasted, painted or otherwise attached to poles, posts, trees, fences, sidewalks or curbs.

4. No sign other than official traffic control devices or street signs shall be erected within, or encroach upon, the right-of-way of any street unless authorized by other ordinances or regulations of the Borough.

5. Signs rotating or moving by mechanical means.

E. **General Regulations.**

1. Illumination. All signs shall be shielded to prevent the direct rays of illumination from being cast onto adjoining properties and approaching vehicles.

2. Location. No sign shall be located in a required buffer area.

3. Nonconforming Signs. Nonconforming signs shall not be enlarged, relocated, altered or rebuilt. Further failure to keep such signs in good repair for a period of six (6) consecutive calendar months shall constitute abandonment and the sign shall not be replaced or rehabilitated and shall be removed by the owner.

4. Maintenance of Signs. Signs and, in the case of permitted freestanding signs, the mounting area on the ground level beneath the sign, must be constructed of durable materials, maintained in good condition and not allowed to become dilapidated or unsightly. Any sign that is or shall become dangerous or unsafe in any manner whatsoever shall be repaired and made safe or shall be removed.

5. Permit Required. No temporary or permanent sign(s) shall be installed without first obtaining a temporary or permanent sign permit from the Zoning Officer, unless specifically exempted by this chapter.

6. Permitted Hours of Illumination. All signs may be illuminated during the hours of operation of that particular business but in no event later than 1:00 a.m. in the HD District and 10:00 p.m. in all other permitted districts.

F. **Signs Permitted in R-R, R-A and R-B Districts.**

1. Signs not exceeding one (1) square foot for entrances and exits to driveways or for warning or directional purposes.

2. Identification signs for schools, churches or similar public or quasi-public institutions, clubs, lodges, farms, estates or similar uses provided the area of such signs does not exceed twenty (20) square feet. No such sign shall be located closer than twenty-five (25) feet to a lot line.

3. Signs advertising the sale of products from a farm as defined in this chapter, when the products are grown or raised on the premises, provided the area of such signs does not exceed thirty-two (32) square feet. All such signs shall be located at least twenty-five (25) feet from the edge of pavement or ten (10) feet from a lot line, whichever is greater.

4. Windsocks, flags, holiday banners and wind chimes.

5. One (1) unlighted real estate sign, not over four (4) square feet in area, that is located on the building or lot that is advertised for sale or lease, provided that the same is removed within ten (10) days of the execution of a contract relative to the sale or lease of the property.

6. One (1) unlighted "garage sale" sign per lot that advertises a garage sale on that lot, provided that the sign is removed no later than the day after the end of the sale. Said sign shall not exceed four (4) square feet in area, shall not extend more than seven (7) feet above the ground, shall not interfere with the safe movement of vehicles on adjacent roads and shall not be installed more than five (5) days prior to the date of the sale. "Garage sale" signs placed off-site shall be subject to the same requirements stipulated in the sentence above as well as the following: (a) "garage sale" signs shall be situated only at intersections where a motorist must change direction to find the garage sale and provided that no more than one (1) "garage sale" sign shall be permitted at any single intersection; and (b) no "garage sale" sign shall be located at an intersection controlled by a traffic control signal.

7. Reserved.

8. Open House Signs. Open house signs shall be permitted in the Borough in accordance with the following conditions, limitations, and restrictions:

a. Open house events shall be conducted between the hours of 9:00 a.m. and 6:00 p.m. and the open house signs shall be permitted only during the actual hours of the open house event.

b. Each open house sign shall be no more than four (4) square feet in area, located so that the top of the sign is no more than two and one-half (2 1/2) feet from ground level, and placed or anchored on the ground in a manner that prevents the sign from being removed by any breeze, wind, or other forces of nature.

c. An open house sign shall only be located within the right-of-way of a municipal street at the intersection of said street with another street. The sign shall be set back from the paved cartway a minimum distance of three (3) feet and located so that visibility at the intersection is in no way diminished.

d. More than one (1) open house sign may be permitted for each open house event, provided that such signs are situated only at intersections where a motorist must change direction to find the open house event and provided further that no more than one (1) open house sign for each open house event shall be permitted at any single intersection. Under no circumstances, however, shall an open house sign be located at an intersection controlled by a traffic control signal. In addition to the foregoing, one (1) open house sign shall be permitted to be displayed at the property that is for sale, but only during the open house event and only in accordance with the same restrictions as are applicable to real estate signs referenced in paragraph 5 above.

e. The writing and symbols appearing on any open house sign shall be limited only to that necessary to assist the automobile-traveling public in locating the subject property in the Borough.

f. All open house signs shall be nonilluminated.

g. Any person posting an open house sign shall be responsible for any damage to person or property caused by the placement or movement of the sign.

9. The maximum height of any ground freestanding sign shall not exceed four (4) feet except as exempted elsewhere in this chapter.

G. **Signs Permitted in B-A, B-B, B-C, O-C, H-D and QU Districts.**

1. A sign shall identify only the business or use conducted on the premises except that one (1) directory freestanding sign in addition to business or use identity sign shall be permitted in accordance with paragraphs 5 through 8 below and that the height of a directory sign shall not exceed ten (10) feet.

2. Sign(s) attached to a wall of a building shall not exceed five (5) feet in vertical dimension nor exceed in width more than fifty percent (50%) of the width of the wall to which it is attached.

3. The sign area for signs attached to a wall of a building shall not exceed ten percent (10%) of the area of the wall to which the sign is attached. No one (1) individual sign attached to a wall of a building shall exceed one hundred (100) square feet in area.

4. Temporary signs covering any portion of the inside windows of grocery stores which have a gross floor area exceeding twenty thousand (20,000) square feet provided, however such signs shall not exceed fifty percent (50%) of the gross window area. The covering of windows located on doors is prohibited.

5. The maximum above ground height of any freestanding sign shall not exceed the lesser of eighteen (18) feet or the height of the principal building.

6. Freestanding signs shall not exceed fifty (50) square feet in area and shall be limited to one (1) per lot except for corner lots, for which one (1) sign per street frontage will be allowed provided the total street frontage exceeds three hundred (300) feet.

7. No freestanding sign shall be located closer to a lot line than ten (10) feet (excluding the right-of-way line) or the height of the freestanding sign, whichever is greater.

8. No freestanding sign shall be permitted in a side yard or rear yard.

9. One (1) unlighted real estate sign, not over four (4) square feet in area, advertising the sale or lease of the building or lot upon which the sign is maintained, provided that the same is removed within ten (10) days of the execution of a contract relative to the sale or lease of the said property. One (1) unlighted garage sale sign, not over four (4) square feet in area, advertising a garage sale upon the lot which the sign is maintained, provided that same is removed immediately upon the end of the garage sale. "Garage sale" signs placed off site shall be subject to the same requirements stipulated in the sentence above as well as the following: (a) "garage sale" signs shall be situated only at intersections where a motorist must change direction to find the garage sale and provided that no more than one (1) "garage sale" sign shall be permitted at any single intersection; and (b) no "garage sale" sign shall be located at an intersection controlled by a traffic control signal.

10. The Zoning Officer may allow, on a individual basis and upon showing of substantial need, a limited number of unlighted real estate sale or lease, directional signs, and garage sale signs not over four (4) square feet in area, to be placed at locations approved by the Zoning Officer and for limited periods as also approved by the Zoning Officer.

11. Open House Signs. Open house signs shall be permitted in the Borough in accordance with the following conditions, limitations, and restrictions:

a. Open house events shall be conducted between the hours of 9:00 a.m. and 6:00 p.m.; and the open house signs shall be permitted only during the actual hours of the open house event.

b. Each open house sign shall be no more than four (4) square feet in area, located so that the top of the sign is no more than two and one-half (2 1/2) feet from ground level, and placed or anchored on the ground in a manner so as to prevent the sign from being removed by any breeze, wind, or other forces of nature.

c. An open house sign shall only be located within the right-of-way of a municipal street at the intersection of said street with another street. The sign shall be set back from the paved cartway a minimum distance of three (3) feet and located so that visibility at the intersection is not diminished

d. More than one (1) open house sign may be permitted for each open house event, provided that such signs are situated only at intersections where a motorist must change direction to find the open house event and provided

further that no more than one (1) open house sign, regardless of the number of open houses being conducted on a given day, shall be permitted at any single intersection. Under no circumstances, however, shall an open house sign be located at an intersection controlled by a traffic control signal.

e. The writing and symbols appearing on any open house sign shall be limited only to that necessary to assist the automobile-traveling public in locating the subject property in the Borough.

f. All open house signs shall be nonilluminated.

g. Any person or organization posting an open house sign shall be responsible for any damage to person or property caused by the placement, removal or movement of the sign, and the removal thereof consistent with the terms of this chapter.

H. **Signs Permitted in Regional Shopping Center Complexes.**

All signs for a regional retail shopping complex shall adhere to a common architectural theme and may include the following:

1. A Regional Retail Shopping Complex may have two (2) internally illuminated freestanding signs identifying the name of the shopping complex and other information as may be approved by the Board having jurisdiction, with each sign not exceeding one hundred fifty (150) square feet on each side. Each free-standing sign may be attached to a decorative tower as may be approved by the Board. Each freestanding sign shall not exceed twenty (20) feet in height and each sign and any decorative tower to which it is attached shall be set back at least five (5) feet from the Blue Star Drive conservation easement and at least thirty (30) feet from all other property lines.

2. Where an individual activity occupying at least five hundred (500) square feet of net habitable floor area has direct access from the outside, an additional sign identifying the name of the activity also shall be permitted to be attached flat against the building at the entrance to the activity. The size of each additional sign shall be equal to one (1) square foot of sign area per one (1) linear foot of building frontage occupied by the activity.

3. Where the design of a regional retail shopping complex includes a roof over a common walkway along the front of a building, an additional sign identifying the name of an individual activity occupying at least five hundred (500) square feet of net habitable floor area may be suspended in perpendicular fashion from the roof over the common walkway. The size of the suspended signs shall be as determined by the Board. In any case, suspended signs shall be no closer than ten (10) feet at their lowest point to the finished grade below.

4. Additional signs may be approved by the Board to be situated within a regional retail shopping complex, provided that the aggregate square footage of all the signs within the regional retail shopping complex does not exceed the maximum aggregate square footage allowed hereinabove.

I. **Signs Permitted in Commercial Zones.** Within commercial areas, signs shall be coordinated so as to create an overall appearance of uniformity of style and color, and a proportionality of size and shape. In addition to the standards set forth in the general provisions of this Subchapter, signs within commercial areas for which a sign plan has not been approved by the Planning Board or Board of Adjustment, shall:

1. Comply with all sign regulations for the zone in which the commercial area is located; or

2. All signs within each commercial area shall comply with the area (square footage) restrictions.

3. Complement each other in material, shape, color and lettering style.

J. **Awning Signs.**

1. All frames are to be manufactured from tubular or shaped structural steel or aluminum with finishes or coatings as required to prevent against corrosion. The frame shall be designed to safely support wind and snow loads as specified in the latest adopted BOCA Code.

2. Vinyl fabric coverings are to be fourteen (14) ounces per yard minimum weight with certification as to tensile strength and flame resistance to meet industry and NEPA and BOCA codes.

3. Fasteners and/or structural attachments shall only be anchored to structural members of the building.

4. All electrical components and/or lighting equipment used in connection with an awning are to be labeled and rated for protective outdoor use and installed by a licensed electrical contractor.

5. Ceilings are optional and may consist of "egg crate," mesh fabric or solid plastic material. Removable panels or sections must be provided to allow access for service and cleaning.

6. All awning signs which project over or above backup walls are to be covered and weather protected with structural plastic, rustproof metal or aluminum.

7. Letter copy on awning signs is to be applied with manufacturer-approved processes.

8. Awning signs may be attached to buildings or structures with the following projection and height limitations:

a. Minimum clearance shall be eight (8) feet unless projecting over a vehicular right-of-way, in which case clearance must be at least fourteen and one-half (14 1/2) feet to avoid damage by trucks or other high vehicles.

b. If the structure has a fringe or valance such fringe or valance may hang below the ceiling line no more than twelve (12) inches.

c. Such signs shall be limited to single-story buildings or to the first level only of multi-story buildings.

d. Awning signs may be attached to buildings requiring property setbacks not to exceed property lines. In the case of buildings in shopping centers or multi-unit developments, such signs may not extend beyond curbs or extend into safety zones. In such installations, drainage gutters are required.

9. Only the copy area of awning signs shall be considered in the square footage limitations. The remaining portion should be considered as awning area only.
(Ord. No. OR:-- § 28-504)

28-505. RECREATION AND OPEN SPACE

A. Recreation Required for Multi-family Development.

1. A recreation area shall be provided and improved by the developer for each multi-family residential development. All active recreation areas shall be no closer to any residential structure than the minimum required setback for the residential structure.

2. All active recreation areas shall be cleared as required, graded for proper drainage, leveled, topsoiled, limed, fertilized and seeded with athletic field and general purpose mixture and must be suitable for playing games, such as touch football and softball on an informal basis. In addition to such multi-purpose field, the active recreation area shall include such recreational facilities as needed to serve the residents of the development. The recreation area shall meet all design standards as set forth in this chapter. Final design should be submitted to Board having jurisdiction for approval as part of any site plan review.

3. The recreation area shall not include any wetlands, wetland transition areas of any kind, streets, drives or space occupied for off-street parking or loading purposes for other facilities. The recreation area shall be contained within the subject development and be entirely within the Borough and readily accessible to all dwelling units proposed within the subject development.

4. The development shall provide for a homeowners' association in accordance with this chapter for the ownership and maintenance of the recreation area(s) for the benefit of the owners and residents of the development, unless the Borough accepts dedication of the recreation area(s) pursuant to Section 28-506B4.

B. **Open Space.**

1. In the designation of the required open space and the uses proposed thereon, the developer shall be guided by the following:

a. Any lands proposed as open space shall be suitable for the purposes for which it is intended in terms of its location, size, and improvements.

b. Common open space to be administered by a homeowners' association or other open space organization shall be distributed throughout the proposed development so that as many residential dwelling units or buildings as is practicable abut and have direct access to the common open space.

c. Consideration for the protection of environmentally fragile and important resource land areas such as aquatic buffer areas, 500-year flood plains, wetlands and wooded acreage.

2. Board shall review the submitted open space plan in the context of the particular development proposal, the particular characteristics of the subject land area, and the ability, desirability and practicality of relating the proposed open space to adjacent and nearby lands.

3. Should the proposed development consist of a number of stages, the Board may require the set aside of open space acreage proportionate in size to the stage of development being considered for final approval, even though these lands may be located in a different section of the overall development.

4. Open space may be offered by deed to the Borough or dedicated as common open space to a homeowners' association or other open space organization.

a. If the applicant proposes that the open space shall be dedicated to the Borough, then within forty-five (45) days of the receipt of such application, the Board shall forward such request with its recommendation to the Borough Council prior to the granting of preliminary approval of any application for development containing the subject open space.

b. All open space not offered to and/or not accepted by the Borough shall be common open space owned and maintained by a homeowners' association or other open space organization as provided in the MLUL and this chapter. Such organization shall not be dissolved, nor shall it dispose of any common open space by sale or otherwise.
(Ord. No. OR:-- § 28-505)

28-506. HOMEOWNERS' ASSOCIATION AND OTHER OPEN SPACE ORGANIZATIONS.

A homeowners' association or other open space organization shall be established in accordance with the MLUL for the purposes of owning and assuming maintenance responsibilities for the common open space property and the improvements thereon within a development, provided that the Board is satisfied that the organization will have a sufficient number of members to reasonably expect a perpetuation of the organization in a manner enabling it to meet its obligations and responsibilities in owning and maintaining the property. A homeowners' association or other open space organization shall be established prior to the issuance of any certificate of occupancy for any building in the development. When established, the homeowners' association or other open space organization shall incorporate into their bylaws the following provisions:

A. Membership shall be limited to and mandatory for all property owners, condominium owners, stockholders under a cooperative development, and other owners of property or interest in the development. Required membership and the responsibilities upon the members shall be in writing between the organization and each member in the form of a covenant, with each agreeing to liability for his/her pro rata share of the organization's costs.

B. The organization shall be responsible for liability insurance, taxes, maintenance and other obligations assumed by the organization and shall hold the municipality harmless from any liability. The organization shall not be dissolved and shall not dispose of any open space property by sale or otherwise, except to an organization conceived and established to own and maintain the open space or property for the benefit of such development, and thereafter such organization shall not be

dissolved or dispose of any of its open space or property without first offering to dedicate the same to the Borough. This offer shall be in the form of a right of first refusal extended to the Borough for action and not withdrawn for a period of one hundred twenty (120) days thereafter, whereupon the right shall expire and the Association be permitted to dissolve.

C. The assessment levied by the organization upon each member may become a lien on each member's property. The organization shall be allowed to adjust the assessment to meet changing needs.

D. The organization shall clearly describe in its bylaws and resolutions all the rights and obligations of each tenant and owner, including a copy of the covenant, model deeds and articles of incorporation of the organization and the fact that every tenant and property owner shall have the right to use all the common property.

1. The articles of incorporation shall contain provisions to ensure that adequate funds are available for maintenance of the common open space and the improvements thereon.

2. In the case of townhouse and patio home dwelling units, the bylaws or resolutions shall include regulations governing the provisions for accessory decks, patios and fences for the dwelling units which shall be approved as part of the original site plan application and/or amendments thereto.

3. The articles of incorporation of the organization and the bylaws and resolutions shall be submitted for review by the Board prior to the granting of the original final site plan approval and/or any amended final site plan approval by the Board.

E. The articles of incorporation, covenants, bylaws, model deeds and other legal instruments shall ensure that control of the organization and title to the common open space shall be transferred to the members of the homeowners' association based upon a percentage of the dwelling units sold and/or occupied; such schedule shall be subject to review and approval by the Board.

F. Should the association fail to maintain the common open space and the improvements thereon in reasonable order and condition, the Borough may serve written notice upon such organization and shall follow the procedures set forth in the MLUL and if it becomes necessary for the Borough to provide maintenance, the imposition of a lien as set forth in the MLUL shall be followed.
(Ord. No. OR:-- § 28-506)

28-507. WIRELESS TELECOMMUNICATIONS FACILITIES

A. **Purpose.** The purpose of this chapter is to provide sound land use policies, procedures and regulations for the location and placement of wireless telecommunications structures, antennas and equipment within the Borough in order to protect the community from the adverse impacts of wireless telecommunications facilities and to preserve the scenic and historic and environmental character of the countryside that the Borough Master Plan seeks to protect. This chapter seeks to meet the mandate of the Telecommunications Act of 1996, and at the same time, without limiting the generality of the foregoing, to:

1. Protect residential areas and land uses from the adverse impacts of towers and antennas.

2. Require the location of towers in the H-D Highway Development District, QU Quarry District and B-C Highway Commercial District ("Permitted District") and on high voltage electric transmission towers and water tanks in all districts within the Borough.

3. Encourage use of Borough owned properties or structures.

4. Minimize the total number of towers within the Borough.

5. Strongly encourage the joint use of existing tower sites or structures as a primary option rather than construction of additional single-use towers.

6. Encourage users of towers and antennas to locate them to the extent possible in areas where the adverse impact on the community is minimal.

7. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape, screening and innovative camouflaging techniques.

8. Avoid potential damage to adjacent properties from tower failure through proper engineering and careful siting of tower structures.

B. **Permitted Use.**

1. Notwithstanding anything in this chapter to the contrary, the installation of wireless telecommunications antennas on existing structures, subject to site plan approval, shall be a permitted use in the H-D Highway Development District, QU Quarry District and B-C Highway Commercial District ("Permitted District") and on high voltage electric transmission towers and water tanks in all districts within the Borough. The installation thereof shall be as inconspicuous as possible.

2. Notwithstanding anything in this chapter to the contrary, no new wireless telecommunications tower shall be permitted unless the applicant proves that no existing tower, structure or alternative technology can accommodate the applicant's need. Costs of alternative technology that exceed new wireless telecommunications tower or wireless telecommunications antenna development shall not be presumed to render any alternative technology unsuitable or unavailable.

3. If a Borough property or structure can fulfill the requirements of the applicant's antenna location, the applicant must locate on Borough property or structure, if the Borough consents to such location and the property or structure is within a "permitted district."

4. Each applicant shall present competent proof that it has examined the use of Borough owned properties or structures, minimized the total number of towers and telecommunication antennas within the Borough, examined the joint use of existing tower sites or structures as a primary option rather than construction of additional single-use towers or structures and considered areas where the adverse impact on the community is minimal.

5. A wireless telecommunications tower or wireless telecommunications antenna may be permitted as either a principal use or accessory use. Notwithstanding any other provision of the Code of the Borough of Watchung, a different existing structure on the same lot shall not preclude the installation of a wireless telecommunications tower or wireless telecommunications antenna on such lot.

C. **Bulk Standards.** An applicant proposing to construct a wireless telecommunications tower shall comply with the following bulk standards:

1. Minimum total lot size (the lot upon which the applicant has leased or purchased a portion thereof for its use) - 2 acres (excluding Borough owned properties or structures)

2. Minimum setback of wireless telecommunications tower from:

a. Any property line - Towers must be set back a distance equal to at least 120% of the tower height from any adjoining lot line

b. Any existing residence - Towers must be set back a distance equal to at least 200% of the tower height from all nonappurtenant buildings

c. Any wireless telecommunications tower - 1,500 feet

3. Minimum setback for equipment compound from any property line - The "permitted district" setback requirements for any principal building

4. Maximum height of wireless telecommunications tower - 150 feet

5. Maximum height of attached antenna - 10 feet beyond the highest elevation of the building or structure on which attached

D. **Site Plan Requirements**. In addition to the site plan requirements contained in this chapter, the following site plan application requirements apply to the installation of wireless telecommunications towers.

1. Wireless telecommunications antennas on existing structures or buildings and wireless telecommunications towers shall be designed, located and screened to blend with and into the existing natural or built surroundings so as to eliminate to the maximum extent practicable adverse visual impacts through the use of color and camouflaging, screening, architectural treatment, landscaping and other appropriate means which shall minimize the visual impact of such antennas and towers on neighboring residences and the character of the Borough as a whole. All potential visual impacts of the wireless telecommunications installation must be analyzed by the applicant to illustrate that the selected site provides the best opportunity to minimize the visual impact of the proposed facility. Wireless telecommunications installations should be located to avoid being visually solitary or prominent when viewed from residential areas or public view.

2. Wireless telecommunications antennas on existing structures or buildings and wireless telecommunications towers shall be placed to ensure that significant viewscapes, streetscapes, and landscapes are not visually impaired. The views of and vistas from architecturally significant structures shall not be impaired or diminished by the placement of telecommunications facilities.

3. The wireless telecommunications equipment compound shall be located and screened from residential areas and the public way.

4. The wireless telecommunications equipment compound shall be enclosed within a solid wooden fence no less than seven (7) feet nor more than eight (8) feet high, as authorized by the approving authority. Such fence shall include a locking security gate. The height of the equipment building shall not exceed nine (9) feet for flat roofs and fourteen (14) feet for pitched roofs and the area of the equipment building shall not exceed two hundred (200) square feet. Fences authorized under this chapter shall be exempt from Section 28-502 of the Code of the Borough of Watchung.

5. A wireless telecommunications equipment compound no more than one thousand (1,000) square feet in area may be erected in support of wireless telecommunications antenna but only if:

a. It is situated behind existing vegetation, tree cover, structures, buildings or terrain features which will shield completely the wireless telecommunications equipment compound from view; or

b. When a location completely out of public view is not possible, a landscape buffer not less than twenty (20) feet in width shall be provided outside the fence enclosing the wireless telecommunications equipment compound to shield completely the facility from public view. Landscaping shall include native evergreen and deciduous trees not less than eight (8) feet high at the time of planting. The number of trees to be planted shall be the equivalent of staggered double rows at fifteen (15) feet on center around the compound perimeter.

6. A wireless telecommunications equipment compound shall be maintained in accordance with the site plan approved for it in a serviceable, safe and aesthetically pleasing manner.

7. Noise from the telecommunications equipment shall be less than forty (40) decibels at the property line, except for emergency situations requiring the use of a backup generator.

8. All site plan details required herein for wireless telecommunications towers shall be provided and shall include the property and site boundaries, tower location, existing and proposed structures, including accessory structures, existing and proposed ground-mounted equipment, vehicular parking and access and structures and land use designations on the site and abutting parcels.

9. A landscape plan drawn to scale showing proposed landscaping, including species type size, spacing, other landscape features, and existing vegetation to be retained, removed or replaced. The applicant shall be required to comply with the approved landscaping plan and to maintain the plantings.

10. A report from a qualified expert certifying that the wireless telecommunications tower and equipment facility comply with the latest structural and wind loading requirements as set forth in the Building Officials and Code Administrators ("BOCA") International, Inc., Code, or the Electronic Industries Association Telecommunications Industries Association ("EIATIA") 222 Revision F Standards, entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures" (or equivalent), as it may be updated or amended, or such other code as may apply to these facilities, including a description of the number and type of antennas it is designed to accommodate.

11. A binding, irrevocable letter of commitment by the applicant and the property owner to lease excess space on the tower to other potential users at prevailing market rates and conditions. The applicant's counsel shall simultaneously submit a separate opinion of counsel expressing such counsel's opinion as to the enforceability of such binding, irrevocable letter of commitment by the Borough under the laws of the State of New Jersey. A Short Form Memorandum of the letter of commitment shall be recorded with the County Clerk prior to issuance of a building permit. The letter shall commit and be binding upon the tower owner and successors in interest.

12. Elevations of the proposed tower and accessory building generally depicting all proposed antennas, platforms, finish materials and all other accessory equipment.

13. A copy of the lease or deed for the property.

14. A plan which shall reference all existing wireless telecommunications facilities in the Borough, any such facilities in the abutting municipalities which provide service to areas within the Borough and any changes proposed within the following twelve (12) month period, including plans for new locations and the discontinuance or relocation of existing facilities.

15. A three hundred sixty (360) degree drawn perspective or a photo simulation at four (4) locations (at ninety (90) degree increments) of the proposed tower drawn to an appropriate scale.

16. In implementing the National Environmental Policy Act ("NEPA"), the Federal Communications Commission requires applicants to prepare "environmental assessments" for towers that are proposed to be located in certain environmentally sensitive areas, including: officially designated wildlife preserves or wilderness areas; 100-year floodplain; situations which may affect threatened or endangered species or critical habitats; or situations which may cause significant change in surface features, such as wetland fills, deforestation or water diversion. In addition, an environmental assessment must be prepared when sites listed or eligible for listing in the National Register of Historic Places may be affected. That an environmental assessment is required does not necessarily mean the tower cannot be built. It does, however, call for public notice and opportunity to comment on the environmental impacts of the proposed tower. If the Federal Communications Commission, after review of the comments, makes a finding of "no significant impact," the project has cleared NEPA scrutiny.

E. **Design Standards.**

1. A wireless telecommunications tower shall be designed and constructed to accommodate at least three (3) antenna arrays of separate telecommunication providers (the applicant's and two (2) co-locators).

2. Signs shall not be permitted except for a sign displaying owner contact information, warnings, equipment information and safety instructions. Such sign shall not exceed two (2) square feet in area. No commercial advertising shall be permitted on any wireless telecommunications facility.

3. No lighting is permitted except as follows:

a. Wireless telecommunications equipment compounds enclosing electronic equipment may have security and safety lighting at the entrance, provided that the light is attached to the facility, is focused downward and is on timing devices and/or sensors so that the light is turned off when not needed for safety or security purposes; and

b. No lighting is permitted on a wireless telecommunications tower unless required by the Federal Communications Commission or Federal Aviation Administration.

c. If lighting is required, the lighting alternatives and design chosen shall cause the least disturbance to the surrounding views.

4. Wireless telecommunications antennas and wireless telecommunications towers shall be properly maintained by the owner or lessee to assure their continued structural integrity. The owner of the tower or antenna shall also perform regular maintenance of the structure and of the site as to assure that it does not create a visual nuisance. An independent licensed professional engineer shall submit a written report to the Borough Engineer every two (2) years and/or after tower modification or the addition of any antennas as to the structure of the tower and any related matters.

5. Wireless telecommunications towers, wireless telecommunications antennas and other equipment shall be of a color appropriate to the tower's locational context and to make it as unobtrusive as possible, unless otherwise required by the Federal Aviation Administration.

6. Wireless telecommunications facilities shall be surrounded by security features such as a fence. All towers shall be designed with anti-climbing devices in order to prevent unauthorized access. Additional safety devices shall be permitted or required, as needed, and as approved by the approving authority.

7. Any proposed new telecommunications tower shall be a monopole unless the applicant can demonstrate that a different type structure is necessary for the co-location of additional antennas on the tower. Such structures shall employ camouflage technology where appropriate and where required by the approving authority.

8. Wireless telecommunications towers and wireless telecommunications antennas shall be constructed to the Electronic Industries Association Telecommunications Industries Association ("EIATIA") 222 Revision F Standards, entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures" (or equivalent), as it may be updated or amended.

9. All equipment shall be designed and automated to the greatest extent reasonably possible in order to reduce the need for on-site maintenance and thereby minimize the need for vehicular trips to and from the site. Access shall be from established site access points whenever possible, minimal off-street parking shall be permitted as needed and as authorized by the approving authority.

10. If required by the Borough Engineer, a 20-foot long by 10-foot wide paved apron at the edge or the road with an accompanying curb out.

F. **Health Report.**

1. Every application shall be accompanied by a health report certifying that the radio frequency emissions from the antennas are within Federal and State guidelines.

2. Where there are multiple carriers at a location, the health report shall discuss the cumulative effect of the radio frequency emissions of all of the carriers.

G. **Antenna Modifications; Abandonment.**

1. Whenever antennas are modified or replaced, operators of wireless telecommunications facilities shall provide to the Borough a report from a qualified expert certifying that a wireless telecommunications tower or building or other support structure as modified complies with the latest structural and wind loading requirements as set forth in the Building Officials and Code Administrators ("BOCA") International, Inc. Code and the EIATIA Standard referenced above. Such modifications shall be subject to site plan review and approval.

2. Operators of wireless telecommunications facilities shall notify the Borough when the use of such antennas and/or ancillary equipment is discontinued. Facilities that are not in operational use for wireless telecommunications purposes for a period of six (6) months shall be removed by the operator at its cost. This removal shall occur within ninety (90) days of the end of such six (6) month period.

Upon removal, the telecommunication facility site shall be cleared, restored, and revegetated to blend with the existing surrounding vegetation at the time of abandonment. If the above is not accomplished by the operator or owner, the Borough may remove the same at the operator's or owner's expense. The operator shall be required to submit to the Borough Zoning Officer verification of continued use of the facilities as issued by the State and/or the Federal Communications Commission on or about the first of every calendar year or other renewal period. The Borough retains the right to use any abandoned wireless telecommunications equipment on municipal property for its own use.

3. The applicant for the telecommunications tower shall post a performance bond in the amount of an estimate prepared by the Borough Engineer to ensure the removal of the tower.

H. **Co-location and Shared Facilities and Sites.**

1. Federal Communications Commission licensed wireless telecommunications providers are encouraged to construct and site their facilities with a view toward sharing facilities with other utilities, co-locating with other existing wireless facilities and accommodating the co-location of other future facilities where technically, practically and economically feasible.

2. The applicant for the telecommunications tower shall ensure that there is sufficient space on the tower for the installation of Borough communications equipment, if necessary.

I. **Nonconforming Wireless Telecommunications Sites.**

1. Wireless telecommunications sites in existence on the date of the original adoption of this chapter which do not comply with the requirements of this chapter (are nonconforming), are subject to the following provisions:

a. Such nonconforming sites may continue in use for the purpose presently used, but may not be expanded without complying with this chapter, except as provided below.

b. Such nonconforming sites whose structures are partially damaged or destroyed due to any reason or cause may be repaired and restored to their former use, location and physical dimensions subject to obtaining a building permit therefor, but without otherwise complying with this chapter, unless destruction to the structure is greater than fifty percent (50%), then repair or restoration will require compliance with this chapter.

c. The owner or operator of any nonconforming site may repair, rebuild and/or upgrade (but not expand such site or increase its height or reduce its setbacks), in order to improve the structural integrity of the facility, to allow the facility to accommodate co-located antennas or facilities, or to upgrade the facilities to current engineering, technological, or communications standards, without having to conform to the provisions of this chapter.

J. **Fees**. Site plan application fees and escrows for telecommunications installations shall be as follows:

1. If no new tower is proposed, an application fee of two thousand five hundred ($2,500.00) dollars and an escrow fee of two thousand five hundred ($2,500.00) dollars.

2. If a new tower is proposed, an application fee of four thousand ($4,000.00) dollars and an escrow fee of five thousand ($5,000.00) dollars.
(Ord. No. OR:-- § 28-507)

ARTICLE 28-600
DEVELOPMENT REQUIREMENTS AND STANDARDS

28-601. PURPOSE

The purpose of development standards is to foster functional and attractive development of property, to minimize adverse impacts, and to ensure that development projects will be an asset to the community. Design guidelines provide a framework for sound planning; design standards set forth specific site improvement requirements. (Ord. No. OR:-- § 28-601)

28-602. GENERAL DEVELOPMENT STANDARDS

In filing an application for development, the applicant shall comply with the following development standards:

A. **General Standards.**

1. In reviewing an application for development, the Planning Board, Zoning Board of Adjustment or Administrative Officer shall ascertain compliance with the following general requirements:

a. The provisions of this chapter with respect to lot areas, setbacks, building coverage and lot coverage, floor area, building height, open space, and all other applicable zoning requirements.

b. Adequate provision is made for off-street parking in accordance with this chapter, and adequate access, traffic circulation, traffic safety and protection to adjoining property is provided in accordance with this Article.

c. Adequate provisions are made for the disposal of stormwater as approved by the Borough Engineer and those provisions meet the requirements of Section 28-604 of this chapter.

d. Adequate provision is made with respect to soil erosion and sediment control as approved by the Borough Engineer and in compliance with the requirements of the Section 28-603 of this chapter.

e. Utilities and other public improvements are designed in a manner approved by the Borough Engineer and in compliance with the requirements of the Section 28-605 of this chapter.

f. Lighting and landscaping is designed in a manner consistent with the applicable standards contained in Sections 28-608 and 28-609, respectively.

g. The location, design, or construction of any building shall not impose any unreasonable risks with regard to traffic safety, public safety or hazard.

h. The design or construction of any building or use will be consistent with the character of the neighborhood and zone.

i. Conformance with all applicable standards of this Article.

j. Conformance to regulations of appropriate local, County, State and Federal agencies and RSIS, as applicable.

2. All developments shall be designed to encourage good planning concepts and quality development patterns within the municipality and conform to the Master Plan and Official Map and the proposals and conditions shown thereon.

3. An application for development shall take into consideration all existing local and regional plans for the surrounding communities.

4. The design of the development shall be based on a site analysis which investigates geology, topography, surface and ground water, depth to seasonal high water table, existing vegetation, environmentally sensitive areas, structures, road networks, visual features, past and present use of the site, and other factors that may affect proper development of the site.

5. The following specific areas shall be preserved to the extent consistent with the reasonable utilization of land, and in accordance with applicable Federal, State and local regulations:

a. Unique and/or fragile areas, including wetlands;

b. Specimen trees or stands of trees;

c. Lands in the flood plain, as defined by State and local regulations;

d. Steep slopes in excess of ten percent (10%) as measured over a two-foot interval unless appropriate engineering measures concerning slope stability, erosion, and public safety are taken;

e. Habitats of endangered or threatened wildlife, as identified on Federal and State lists;

f. Historically significant structures and sites, as designated by the Borough in the Master Plan or as listed on a Federal, State or County register or map of historic places; and,

g. Preservation of lakes, streams and drainage swales to avoid eutrophication or other degradation due to development.

6. The development shall be laid out to avoid adversely affecting ground water and aquifer recharge; to reduce cut and fill; to avoid unnecessary impervious cover, to prevent flooding; to provide adequate access to lots and sites; to protect scenic views; and to mitigate adverse effects of shadow, noise, odor, traffic, drainage, and utilities on neighboring properties.

7. To the extent consistent with the reasonable use of land, site design shall promote the conservation of energy through the use of planning practices designed to reduce energy consumption and to provide the maximum utilization of renewable energy resources. Where topography permits, encourage the placement of buildings and streets to maximize a southern orientation. Significant solar access to buildings and roads are possible with a maximum deviation of thirty (30) degrees of true south. Where possible, roadways shall be placed south of ridgelines.

8. Stormwater management techniques and storm drainage facilities shall be designed and developed as an integral part of the development, and arranged to use as much of the existing natural drainage as possible.

9. The use of open space shall be encouraged to reduce the perceived density of subdivisions, to provide a buffer between land uses and to provide recreation and pedestrian circulation opportunities.

10. Buildings shall be placed so that adequate privacy, light and air is provided for all units.

11. All site improvements shall conform to the requirements of this chapter and/or RSIS and other standards as developed by the Borough Engineer and on file with the Borough Clerk.

12. The application shall conform to design standards that will encourage sound patterns of development within the Borough. If any Master Plan or the Official Map provides for the reservation of designated streets, public drainageways, flood control basins, or public areas within the proposed development, before approving a subdivision or site plan, the respective Board shall further require that such streets, ways, basins or areas be shown on the plat for a period of one (1) year after the approval of the final plat or for such further time as may be agreed to by the developer. Unless during such period or extension thereof the municipality shall have entered into a contract to purchase or institute condemnation proceedings according to law for the fee or a lesser interest in the land comprising such streets, ways, basins or areas, the developer shall not be

bound by such reservations shown on the plat and may proceed to use such land for private use in accordance with applicable development regulations. The provisions of this section shall not apply to streets and roads, flood control basins or public drainage ways necessitated by the subdivision or land development and required for final approval. (Reference MLUL 40:55D-44)

13. The applicant shall observe the requirements and principles of land subdivision, as applicable, in the design of each subdivision or portion thereof, as set forth in this chapter.

14. No development shall have a name that will duplicate or so nearly duplicate the name of an existing development so as to be confused with such names. All development names shall be designated by the respective Board in its resolution of preliminary and/or final approval.

B. **Blocks.**

1. Block length and width or acreage within bounding roads shall be such as to accommodate the size of lots required by this chapter and to provide for convenient access, circulation control and safety of street traffic.

2. In blocks over one thousand (1,000) feet long, pedestrian walks extending from street to street and suitably paved may be required in locations deemed necessary by the Board.

3. Blocks shall not be in excess of one thousand two hundred (1,200) feet unless the Board having jurisdiction, at its discretion, believes such requirement to be contrary to the best interests of the Borough.

C. **Lots.**

1. Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as rock formation, poor drainage conditions, flood conditions, steep slopes, wetlands, inadequate sewage disposal, inadequate water supply or other such circumstances, the respective Board, after adequate investigation, may decline approval of such lots or require that such lots be enlarged and/or otherwise modified so as to avoid construction within such areas to mitigate negative conditions.

2. Dimensions of lots and lot areas shall conform to the requirements of this chapter. Where extra right-of-way width has been dedicated for widening of streets, lots shall begin at such extra width line, and all setbacks shall be measured from such line. Lot area shall be measured excluding proposed rights-of-way.

3. Insofar as is practical, side lot lines shall be at right angles to straight streets, and radial to curved streets.

4. Every lot shall have access that is sufficient to afford a reasonable means of ingress and egress for emergency vehicles.

5. In the case of corner lots, or lots which run through from one street to another, yard areas facing each street shall be considered front yards. Each corner lot shall have one (1) rear yard and one (1) side yard.

D. **Monuments.**

1. Outbound monuments shall be set and identified by survey, as required by the Map Filing Law prior to the acceptance of any application for minor subdivision or major subdivision.

2. Monuments shall be provided in accordance with N.J.S.A 46:23-9.11. All internal monuments not installed at the time of final subdivision approval shall require a cash performance bond.

E. **Grading.**

1. Lots shall be graded so that the surface waters will flow unimpeded to the street or to any system of drainage designed to convey the surface waters away from the lots and the development so as to prevent the collection of surface water on the lots.

2. Elevations of lots adjacent to abutting properties shall not be altered to create a slope of greater than 3:1 to any adjacent abutting property unless a retaining wall is installed. Retaining walls constructed within ten (10) feet of any property line shall not exceed four (4) feet in height and shall be constructed subject to the approval of the Borough Engineer.

3. All grading of lots shall be subject to the approval of the Borough Engineer. Individual lot grading and drainage plans shall be submitted and approved prior to construction.

4. Grading shall be designed in accordance with the standards established in Section 28-603, "Soil Erosion And Sediment Control Standards."

5. Only those trees necessary to permit the construction of streets, driveways, dwellings and other authorized structures shall be removed.

F. **Easements.**

1. Utility and drainage easements shall be of sufficient width, as determined by the Borough Engineer, to accommodate the facilities to be constructed including access for maintenance, but in no case shall be less than twenty (20) feet in width.

2. Where a site is traversed by a watercourse, drainageway, channel or stream, there shall be provided a conservation easement conforming substantially with the lines of such watercourse and of such width or construction, or both, as will be deemed adequate by the respective Board for the purpose of guaranteeing the protection and continuance of such watercourse, drainageway, channel or stream.

3. Where feasible, easements for utility and drainage installations within individual lots shall be located along property lines.

4. Constructed swales, berms, or other topographical drainage features designed to intercept and direct stormwater shall be described in a deed of easement in such a way as to give notice of their existence to future owners of said property and to ensure the continued maintenance of the drainage features. Disturbance of these features shall be restricted by the deed of easement.

5. All easements shall be described in the deed by metes and bounds and shall be shown on the plat and clearly labeled and dimensioned to permit the accurate location of the easement limits.

6. The application shall provide for sight easements at intersections and/or at curves or deflection points on streets in order to allow for proper sight distance in accordance with the applicable standards contained in Section 28-606.

G. **Flood-Prone or Other Unsuitable Lands.**

1. Land deemed by the Board having jurisdiction to be unsuitable for development for any reason specified in Section 28-602C1. shall not be platted for residential or nonresidential use, nor for other such uses as may increase the danger to health, life or property, or aggravate the flood hazard; but such land within the plat may be set aside for such uses as will not be endangered by periodic or occasional inundation or will not produce unsatisfactory living conditions in accordance with N.J.A.C. 7:13:1-1.

2. For development controls in flood hazard areas, refer to the Floodplain-Flood Hazard Ordinance of the Borough of Watchung* or other applicable State statute or regulation.

H. **Circulation System Design.**

1. The road system shall be designed to permit the safe, efficient and orderly movement of traffic; to organize and define communities and their neighborhoods; to meet, but not exceed the needs of the present and future population served; to

*Editor's Note: See Chapter XXII, Flood Damage Prevention.

have a simple and logical pattern; to respect natural features and topography; to present an attractive streetscape; and to comply with New Jersey State Department of Transportation and County of Somerset design standards.

2. In residential subdivisions, the road system shall be designed to serve the needs of the neighborhood and to discourage use by through traffic.

3. Residential streets shall be designed in accordance with RSIS "Street Hierarchy" as defined by N.J.A.C. 5:21-4.1; including standards relating to residential major collectors, residential minor collectors and residential access/cul-de-sacs.

4. Residential developments shall avoid, where possible, direct vehicular access to residential lots from major arterial and arterial roads.

5. Residential driveways and parking areas shall be developed in accordance with the requirements of Section 28-401W.

6. All developments shall comply with applicable standards contained in Section 28-607 and 608.

7. The pedestrian system shall be located as required for safety. In conventional developments, sidewalks are required and shall be placed parallel to the street, with exceptions permitted to preserve natural features or to provide visual interest.

8. Pedestrian circulation systems shall be integrated into subdivisions and site plans and provide links between residences, recreation areas, neighborhood schools, commercial areas, houses of worship, parking areas and public facilities.

I. **Solid Waste and Recyclables.***

1. All developments shall provide for adequate disposal of solid waste and provisions for handling recyclable materials.

2. For nonresidential uses and multi-family developments there shall be at least one (1) location for trash disposal and recyclable material situated either within a building or within the side yard or rear yard. Solid waste and recycling storage areas shall be set back a minimum of ten (10) feet from adjoining property lines and are prohibited within the front yard.

***Editor's Note:** See also Section 30-610, Recycling and Solid Waste Requirements for New Developments of Multi-Family Residential Units or Commercial, Institutional, Government or Industrial Properties.

3. Nonresidential exterior trash and recyclable containers shall be fully screened through use of a gated board-on-board wood fence and landscaping or masonry wall and landscaping. If a fence is provided, the distance between opposite boards separated by a rail/beam shall not exceed two (2) inches. A one (1) inch overlap of opposite boards shall be provided. If a masonry wall is provided, it shall be designed to be compatible with the architectural character of the development. Such fence shall be no less than six (6) feet in height nor more than eight (8) feet in height.

4. Adequate access shall be provided to a solid waste and recycling storage facility.

J. **Nonresidential Architecture and Design.**

1. The design and layout of buildings shall provide an aesthetically pleasing design that is compatible with the character of surrounding development. To the extent possible, new nonresidential development within an existing commercial area shall be consistent and compatible with buildings in the adjacent area in terms of setbacks of buildings, building height, building materials and color, roof designs, entrance design, window design and placement, and architectural style.

2. New structures shall relate to the natural terrain.

3. The architectural design of nonresidential uses shall, to the maximum extent possible, avoid the appearance of clutter by integrating mechanical, electrical, storage structures, loading facilities, chimneys, smokestacks, etc., into the general architectural concept for the site.

4. Nonresidential developments consisting of two (2) or more buildings, whether individually owned or owned by separate entities, shall maintain a consistent design theme including building silhouette, architectural style and scale; massing of building form; surface material, finish and texture; decorative features; window and doorway proportions, entryway placement and location, signage and landscaping throughout the development. Within this overall design theme, individual buildings may be differentiated by size, shape, detailing and fenestration.

5. Buildings shall be designed so as to have attractive, finished appearances from all public spaces and streets. Where sides and rear of a building would be visible from a public space or street, such side and rear elevations shall present a finished and attractive architectural appearance. Such rear and side elevations shall incorporate the architectural features of the primary or front facade.

6. Blank walls shall be avoided. Facade articulations such as windows, trellises, recesses, arcades, openings, ornamentation, changes of material, landscaping and/or other such features shall be used to lessen the impact of blank walls.

7. All rooftop equipment shall be screened from view by materials of the same nature as the main structure. If feasible, mechanical equipment shall be located below the highest vertical element of the building.

8. All additions, alterations and accessory structures shall be compatible with the principal structure and design and material and shall share a common architectural theme.

9. Where applicable, the preservation of existing historic structures on redevelopment sites to protect the scenic character of an area is encouraged

K. **Phasing of Development.** Each phase of a phased development project shall be able to stand alone as architecturally and visually complete and shall be able to stand alone considering infrastructure, grading, and drainage so that if subsequent phases are not completed, each completed phase will be self- sufficient.
(Ord. No. OR:-- § 28-602)

28-603. SOIL EROSION AND SEDIMENT CONTROL STANDARDS

In filing an application for development, the applicant shall comply with the following soil erosion and sediment control standards:

A. **Soil Erosion and Sediment Control Standards.** The soil erosion and sediment control plan shall meet or exceed the "Standards and Specifications for Soil Erosion and Sediment Control," adopted by the Somerset-Union County Soil Conservation District and, in addition, shall meet all of the following standards:

1. Each soil erosion and sediment control plan shall contain the following:

a. A designation of the on-site soils and the soil boundaries.

b. The location and description of all existing natural and manmade features on and within five hundred (500) feet of the site boundary, including existing and proposed contours, at two (2) foot intervals.

c. The location and description of all proposed changes to the site.

d. All temporary and permanent measures to be utilized to control, minimize and protect against soil erosion from a proposed land disturbance, taking into account the particular nature and characteristics of the land. The

plan shall cover all stages and aspects of the proposed land disturbance and planned development from grading, stripping, excavation and other site preparation activities through and including both final grading and the installation of permanent improvements.

e. A schedule of the sequence of installation for the planned erosion and sediment control measures as related to the progress of the project including anticipated starting and completion dates.

2. Each soil erosion and sediment control plan shall conform to the following general design principles:

a. Control measures shall apply to all aspects of the proposed land disturbance and shall be in operation during all stages of the land disturbance activity.

b. The smallest practical area of land shall be exposed at any time during development and when feasible, all natural vegetation shall be retained and protected.

c. Vegetative protection or mulching shall be used to protect critical erosion areas during development.

d. Temporary and permanent diversions and outlets shall be constructed or installed to accommodate the increased runoff caused by the changed soil and surface conditions during and after development.

e. Sediment basins, debris basins, desilting basins or silt traps shall be installed to trap and remove sediment from runoff waters.

f. Adequate provisions shall be made to minimize surface water from damaging slopes and embankments. Diversion structures, consisting of temporary compacted earth embankment areas, bales of straw, ditches, and swales shall be constructed to intercept surface water runoff before it reaches erodible areas.

g. Cut and fill slopes shall not be steeper than 2:1 unless stabilized by a retaining wall or cribbing, except as approved by the respective Board and when handled under special conditions.

h. Adequate provisions shall be made to prevent surface water from damaging the cut face of excavation and the sloping surfaces of fills.

i. Cut and fills shall not endanger adjoining property.

j. Fill shall be placed and compacted so as to minimize sliding or erosion of the soil.

k. Fill shall not encroach on natural watercourses or constructed channels.

l. Fill placed adjacent to natural watercourses or constructed channels shall be protected against erosion during periods of flooding.

m. Grading shall not be done in such a way to as to divert water onto the property of another landowner without the expressed consent of the affected property owner and approval of the respective Board.

n. All disturbed land area shall be stabilized with the proposed permanent final plant cover, lawn, ground cover, etc., as quickly as possible on any site.

o. Permanent site improvements, such as detention basins, roads, catch basins and curbs shall be installed or constructed to detain the increased runoff resulting from modifications to the land prior to the development of the approved buildings or structures.

p. Nonconflicting requirements of Chapter XXIIIA, Stormwater, Steep Slopes and Erosion Control, shall apply. In the case of conflicting or redundant requirements between this section and Chapter XXIIIA, the more protective requirement, in the opinion of the Borough Engineer, shall apply.

3. All necessary soil erosion and sediment control measures installed under this section shall be adequately maintained after completion of the approved project by the applicant until such measures are approved by the Borough Engineer or the Somerset-Union Soil Conservation District. Prior to the acceptance of the work performed in accordance with the approved plan, provision shall be made by the applicant for a maintenance guarantee pursuant to Article 28-900.

4. Regular inspection of projects to determine execution in accordance with the approved plan shall be carried out by the Borough Engineer. The Borough Engineer shall determine at each inspection whether or not the provisions of the approved plan are being followed by the applicant. The Borough Engineer shall inform the applicant in writing of any observed deviation from the approved plan and request immediate compliance with the plan. The Borough Engineer may issue a stop-construction order if the applicant fails to comply with the provisions of the approved plan within ten (10) days of issuance of the stop-construction order. When a stop-construction order is issued, no further construction activity may take place until the applicant achieves compliance with all provisions of the approved plan. The Construction Official or Zoning Officer shall not issue any certificate of occupancy unless there has been compliance with the provisions of the approved plan. The Borough Engineer shall provide the Construction Official or Zoning Officer with a "Report of Compliance" upon satisfactory completion of the project.

The "Report of Compliance" shall attest to the completion of all work in compliance with good engineering practice and the Code of the Borough of Watchung.

5. Certain words, terms and phrases which relate directly to soil erosion and sediment control shall have the following meanings:

Approved Plan. A plan to control soil erosion and sedimentation which has been approved by the Board having jurisdiction.

Erosion. Detachment and movement of soil or rock fragments by water, wind, ice and gravity.

Excavation or Cut. Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated.

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

Land. Any ground soil or earth including marshes, swamps, drainageways and areas not permanently covered by water within the municipality.

Land Disturbance. Any activity involving the clearing, grading, transporting, filling and any other activity which causes land to be exposed to the danger of erosion.

Mulching. The application of plant residue or other suitable materials to the land surface to conserve moisture, hold soil in place and aid in establishing plant cover.

Sediment. Solid material, both mineral and 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.

Sediment Basin. A barrier or dam built at suitable locations to retain rock, sand, gravel, silt or other material.

Site. Any plat, parcel or parcels of land

Soil Erosion and Sediment Control Plan. A plan, which fully indicates necessary land treatment measures, including a schedule of the timing for their installation, will effectively minimize soil erosion and sedimentation. Such measures shall be at least equivalent to the standards and specifications as adopted by the Somerset-Union County Soil Conservation District.

Soil. All unconsolidated mineral and organic material of any origin.

Soil Conservation District. A governmental subdivision of this State, which encompasses this municipality, organized in accordance with the provisions of Chapter 24, Title 4, N.J.R.S.

Stripping. Any activity which significantly disturbs vegetated or otherwise stabilized soil surfaces including clearing and grubbing operation.

Vegetative Protection. The stabilization of erosive or sediment producing areas of land by covering the soil with one (1) or more of the following: (1) permanent seeding or permanent plantings producing long-term vegetative cover of land; (2) short-term seeding or short-term plantings producing temporary vegetative cover of land; (3) sodding, producing areas covered with a turf or perennial sod-forming grass.

Watercourse. Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, gully, ravine, wash, or other waterway in which water flows in a definite direction, either continuously or intermittently, within a definite channel and including any area adjacent thereto subject to flooding. (Ord. No. OR:-- § 28-603)

28-604. STORMWATER MANAGEMENT PLAN STANDARDS

In filing an application for a preliminary major subdivision or preliminary major site plan approval, the applicant shall comply with the following stormwater management requirements:

A. **Stormwater Management Plan Standards.** The Stormwater Management Plan (SWM Plan) shall be a written description together with maps, diagrams, charts and data consistent with the purposes, policies and requirements of these provisions which fully indicates the necessary land treatment measures and techniques including a schedule of implementation and maintenance.

1. Purpose. To protect the public health, safety and welfare of the citizens of the Borough and the surrounding communities, these provisions are deemed necessary and essential in order to:

a. Maintain the adequacy of natural stream channels and prevent accelerated bank erosion by controlling the rate and velocity of runoff discharge to these water courses.

b. Prevent disruption of the stream vegetation caused by excessive flushing and sedimentation.

c. Prevent degradation of stream water quality due to impairment of the stream's biological function.

d. Enhance the quality of nonpoint runoff by water retention measures.

e. Preserve present adequacy of culverts and bridges by suppressing artificially-induced flood peaks.

f. Reduce public expenditures for replacement or repair of public facilities resulting from artificially-induced flood peaks.

g. Prevent damages to life and property from flooding resulting from excessive rates and velocities of runoff.

h. Prevent the degradation of property by enhancing the environmental character of the streams.

B. **Required Data.** The SWM Plan shall be coordinated with the submission requirements of other provisions of this chapter including the Soil Erosion and Sediment Control Plan requirements and shall contain:

1. Lot and block numbers of the site as shown on the current tax map of the Borough.

2. Name and address of the owner of the land.

3. Location, description and quantification of significant natural and manmade features on and surrounding the site, including topography, all impervious surfaces, soil and drainage characteristics, with particular attention to the location and description of presently existing surface water runoff control devices, swamps, flood plains, swales, woods and vegetation, steep slopes and other features critical to the purposes of this chapter.

4. Size of the nearest culvert or bridge downstream of discharge area with profiles and cross sections of the channel upstream of that structure as inventoried on a map showing roads, streams, culverts and bridges in the Borough. Profiles and cross sections of stream channel at all points of proposed surface water discharge from the site, as required by the Borough Engineer, shall be provided as well.

5. All existing or proposed storm sewer lines within or adjacent to the tract showing profile, size and slope of the lines, direction of flow and the location of each catch basin, inlet, manhole, culvert, headwall and utility lines including pipe size and grades. A map drawn to scale (minimum scale 1" = 100') showing the contributing area to each inlet or cross drain shall be provided as well.

6. Location, description and quantification of proposed changes to the site whether of a permanent or temporary nature, with particular attention to impervious surfaces, and the interception of presently dispersed flow which may impact upon the capacity of the soil, vegetative cover and drainageways to absorb, retard, contain or control surface water runoff.

7. Designation of critical or other areas to be left undisturbed shall be shown in sufficient detail to be accurately marked on the land.

8. Computation of the total surface water runoff before, during and after the disturbance of land and/or construction of impervious surfaces. A weighted runoff coefficient for each drainage area shall be determined for use in the computations.

9. Proposed measures for surface water management, including the location and extent of any proposed groundwater recharge basins, detention basins or other water, or soil conservation or drainage devices. Cross sections every fifty (50) feet at right angles to the long axis of the basin, each extending seventy-five (75) feet beyond the top of the rim of the basin on each side shall be provided as well.

10. A schedule of the sequence of installation of the surface water management structures, related to the starting and completion dates of the project.

11. Proposed maintenance schedule for all surface water management structures, stipulating current maintenance, continued maintenance and responsibility for same.

12. A stormwater management report by the design engineer containing the criteria used, alternates considered, reasons for selection and design calculations.

13. All proposed revisions of required data as well as such additional data as the Board having jurisdiction may require.

C. **Review and Approval.** The reviewing Board's consideration of applications may be guided by, but not limited to, the following factors:

1. The suitability of the applicant's proposed surface water management measures, devices and planning techniques, whether involving on-site or off-site measures, or some combination thereof, in respect to the total surface water runoff, velocities and rates of discharge which the applicant's proposed construction or land disturbance may generate.

2. Existing topography, present vegetation and hydrologic soil factors, as shown on map entitled "Hydrologic Soils, USDA Soil Conservation Service," subject to field verification.

3. Groundwater recharge and discharge areas and wet soils, subject to field verification.

4. Seasonal high groundwater.

5. The design storm.

6. Natural drainage flow and pattern throughout the subwatershed(s) affected by the plan.

7. Land uses in both the immediate vicinity and surrounding drainage region.

8. Any other applicable or relevant environmental and resource protection ordinance, statutes and regulations.

D. **Implementation.**

1. Disturbance. Critical impact areas and other areas to be left undisturbed shall be physically marked with survey stakes or protected with temporary snow fence prior to any land disturbance:

2. Timing. The Board shall require the construction and/or installation of surface water management improvements in accordance with the scheduled sequence of installation as approved.

3. Bonding. Performance and maintenance guarantees as required under this chapter shall include guarantees as to approvals given by the Board in connection with Stormwater Management Plans.

4. Inspection. The applicant shall bear full and final responsibility for the installation and construction of all required surface water runoff control measures according to the provisions of the approved plan and this chapter. The applicant's engineer shall prepare and submit as-built drawings and certify that all surface water management measures have been constructed in accordance with the provisions of the applicant's approved plan under this chapter.

During the twelve (12) months subsequent to the date of completion, the Borough Engineer shall be responsible for having the site inspected to ascertain that the provisions of the applicant's approved plan are complied with, including limit of disturbance for areas to be left undisturbed. The Borough Engineer shall give the applicant, upon request, a certificate indicating the date on which the required stormwater management measures were completed and/or accepted.

5. Maintenance. At the time of approval of the plan, responsibility for continued maintenance of surface water runoff control structures and measures shall be stipulated and properly recorded.

6. Board Approval. The stormwater management plan or any major revision shall be approved by the Board having jurisdiction in the manner and form and according to the regulations hereafter set forth. The Board, in approving said surface water management plan, may impose lawful conditions or requirements

designated or specified on or in connection therewith. These conditions and requirements shall be provided and maintained as a condition to the establishment, maintenance and continuance of any use or occupancy of any structure or land.

7. Minor Amendments. Minor revisions to a surface water management plan may be approved by the Borough Engineer who shall notify the Board having jurisdiction of the nature and reason for the change.

8. Enforcement. If at any time the Borough Engineer finds existing conditions not as stated in the applicant's approved plan, the Borough Engineer or his/her designated agent shall by certified mail return receipt requested, order cessation of all work and seek to enjoin the violation or take such steps looking to the enforcement of the plan as may be lawful.

E. **General Standards.** In the preparation of a stormwater management plan, the following general principles shall be adhered to:

1. The Stormwater Management Plan shall address the following primary requirements of N.J.A.C. 7:8-5.2(a):

a. Nonstructural stormwater strategies

b. Groundwater recharge standards

c. Stormwater quality standards

d. Peak reduction factors for erosion and flood control.

2. The rate and velocity of runoff under proposed conditions shall not exceed that which would prevail under total coverage in a "Meadow of Good Hydrologic Condition" as defined by Soil Conservation Service Standards, or under existing conditions, whichever produces the least amount of runoff.

3. Maximum use shall be made of presently existing surface water runoff control devices, mechanisms or areas such as terraces, grass waterways; favorable hydrologic soils, swamps, swales, watercourses, woodlands, floodplains, as well as any proposed retention structures.

4. Evaluation shall be made of the nature of the subwatershed(s) of which the site is a part, the receiving stream channel capacities and point of concentration structure as shown on the base map showing roads, streams, culverts and bridges, and reference requirements or conditions of any Stormwater Management Study and/or Plan.

5. Surface water runoff shall not be transferred from one watershed to another.

6. The plan shall coordinate with the soil erosion/sediment control plan and, where applicable, conform to other environmental ordinances in force.

7. To the greatest possible extent, the plan shall avoid the concentration of flow and shall provide for dissipation of velocities at all concentrated discharge points.

8. Vegetative cover shall be reestablished in accordance with "Standards and Specifications for Soil Erosion and Sediment Control in New Jersey" (latest edition).

9. Prior to construction or other land disturbance, the applicant's Stormwater Management Plan shall establish permanent surface water management measures, such as seeding or establishing sod in grass waterways.

10. Calculations for stormwater runoff rates shall be submitted for the 1-, 5-, 10-, 25-, 50- and 100-year storm frequencies.

11. The applicant shall provide adequate stormwater quality in accordance with applicable State standards.

12. Nonconflicting requirements of Chapter XXIIIA, Stormwater, Steep Slopes and Erosion Control, shall apply. In the case of conflicting or redundant requirements between this section and Chapter XXIIIA, the more restrictive requirement, in the opinion of the Borough Engineer, shall apply.

F. **Definitions.** Certain words, terms and phrases that relate directly to stormwater management shall have the following meaning:

Channel. A watercourse with defined bed and banks which confine and conduct continuously or intermittently flowing water.

Conservation Easement. A recorded agreement or covenant running with the land which limits all land or vegetation disturbance in favor of a reservation for natural open space; each agreement to be entered into between the applicant and the municipality.

Drainageway. Any watercourse, trench, ditch or depression in the ground, natural or artificial, which collects or disperses surface water from land.

Land Disturbance. Any activity involving the clearing, grading, transporting, filling of land and any other activity which alters land, topography or vegetative cover.

Meadow of Good Hydrologic Condition. As defined by sheet RTSC-NE Engineer 200, sheet 1 of 2 published by USDA-SCS February 1970.

Natural Drainage Flow. The existing topographical pattern or system of drainage of surface water runoff from a particular site, including the various drainageways and watercourses which carry surface water.

Non-Point Runoff. Surface water entering a channel from no definable discharge source.
(Ord. No. OR:-- § 28-604)

28-605. UTILITY AND PUBLIC IMPROVEMENT STANDARDS

In filing an application for development, the applicant shall comply with the following utility and public improvement standards:

A. **General.**

1. All electric, telephone and cable television lines shall be installed underground within the road right-of-way or appropriate easements, except as noted in this section.

2. Lots which abut existing streets where overhead electric or telephone distribution lines have been installed, which poles are not to be relocated, may be supplied with electric and telephone service from such overhead lines or extensions thereof but the service connections to the structure from the overhead lines shall be installed underground.

3. The applicant shall arrange with the serving utility for the underground installation of utility supply lines and service connections in accordance with the provisions of the applicable standard terms and conditions incorporated as part of its tariff as are on file with the State of New Jersey Board of Public Utilities. The applicant shall also submit to the respective Board as a condition of site plan or subdivision approval a written instrument from each serving utility that utility service will be provided.

4. Except as crossings required for system distribution and individual services, public utilities shall be routed within the road right-of-way.

5. Utility easements shall be located along the side or rear property lines where possible.

6. All work in connection with the installation of underground utilities within the street right-of-way shall be completed sufficiently in advance of the construction of curbs, pavement, sidewalks and other surface installations to allow for complete settlement and compaction by approved methods of all trenches and other excavations. In no case shall any construction work be permitted over any excavation which in the opinion of the Borough Engineer has not completely settled or been properly compacted.

7. Suitable provisions for disposal of trash and recyclables shall be provided.

B. **Sewer and Water.**

1. No subdivision or site plan application shall be deemed complete unless the property which is the subject of the proposed subdivision or site plan application is serviced by septic system or sanitary sewer and well water or public water. Applicants shall be required, as a condition of completeness for all subdivision and site plan applications, to obtain approval from the Board of Health for a septic system and well water or obtain a public sanitary sewer and public water utility certifications allocating capacity to the property. A sanitary sewer capacity allocation and connection or collection system extension approval to serve the proposed development must be obtained from the Borough Governing Body. A Water Main Extension Agreement or Will Serve Letter must be obtained from the appropriate water utility.

2. Prior to being deemed complete, the Health Officer shall have approved each lot as capable of proper sewage disposal, either by being connected to the public sewage disposal system or by use of some other approved method pursuant to the Code of the Borough of Watchung and by the Board of Health Ordinances.

3. Where there is a need for off-tract public sanitary sewer or public water service, the applicant shall, as a condition of completeness and at the applicant's sole cost and expense, obtain all property rights outside the boundaries of the development for the installation of sanitary sewer or water services. Such property rights, upon completion and acceptance of the off-tract utility improvements shall be dedicated to the Borough of Watchung and water utility.

4. If a public sewer system is not in place or cannot be extended, individual septic systems may be provided where approved by the respective Board and designed in accordance with the standards of the Middle-Brook Regional Health Commission.

5. All proposals for new public sewer systems or extensions to existing public sewer systems or the installation of "dry lines" or the use of individual subsurface disposal systems shall comply with the requirements of the Code of the Borough of Watchung and applicable State statutes.

6. All uses and lots shall be properly connected with an approved functioning sanitary sewer system or septic system that is adequate to accommodate the reasonable needs of such a use and lot prior to the issuance of a certificate of occupancy. The design and installation shall be adequate to handle all present and probable future development. Plans and specifications shall be submitted for approval by the Borough Engineer and shall be in compliance with the Sanitary Sewer Master Plan adopted by the Governing Body.

7. Prior to the issuance of a certificate of occupancy, every principal use and every lot shall be provided with an approved and functioning water supply system that is adequate to accommodate the reasonable needs of such use or lot. The design and installation shall handle all present and probable future development.

8. Subdivisions shall provide for the installation of water mains, fire hydrants, valves and connections to each lot. Said water mains shall be connected to an established water supply system that will adequately serve anticipated needs.

9. Fire protection shall be furnished for any development connected to a community water supply system. The domestic demand and fire demand shall be included in the total system demand.

10. All proposals for extensions to existing public water systems or the use of private wells shall comply with the requirements of the Borough Health Department, the servicing public water company and/or applicable State statutes. (Ord. No. OR:-- § 28-605)

28-606. STREET, INTERSECTION, SIGHT TRIANGLE, CURB, SIDEWALK AND DRIVEWAY STANDARDS

In filing an application for development, the applicant shall comply with the following street, intersection, sight triangle, curb, sidewalk and driveway standards:

A. **Purpose.** This section establishes standards for road and associated improvements and the design of streets serving residential and nonresidential projects as they relate to subdivisions and site plans. The purpose is to:

1. Create a well planned community
2. Promote the safety and convenience of vehicular traffic
3. Protect the safety of neighborhood residents
4. Assure appropriate drainage flows

5. Minimize costs for maintenance and repair of infrastructure

6. Maintain the character of the area while providing for safety improvements along existing and proposed roads.

B. **Functional Street Classification.** The functional street classification system divides Watchung's municipal roadways into the following classifications based upon the residential street hierarchy definitions contained in RSIS:

1. Major Collector. Highest order of residential streets. Conducts and distributes traffic between lower-order residential streets and higher order streets--arterials and expressways. Carries the largest volume of traffic at higher speeds. Function is to promote free traffic flow; therefore parking should be prohibited and direct access to homes from this level of street should be avoided. Collectors should be designed so they cannot be used as shortcuts by non-neighborhood traffic.

2. Minor Collector. Middle order of residential streets. Provides frontage for access to lots and carries traffic of adjoining residential access streets. Designed to carry somewhat higher traffic volumes than lower order streets, with traffic limited to motorists having origin or destination within the immediate neighborhood. It is not intended to carry regional traffic.

3. Residential Access/Cul-de-Sac. Lowest order of residential streets. Provides frontage for access to lots and carries traffic with destination or origin on the street itself. Designed to carry the least amount of traffic at the lowest speed. All, or the maximum number of housing units, shall front on this class of street.

C. **Right-of-Way and Cartway Widths.**

1. Municipal right-of-way widths, for all streets to be dedicated into the Borough road system shall have a right-of-way width of fifty (50) feet.

2. Cartway widths shall conform to the RSIS standard for the corresponding street classification subject to the approval of the respective Board and Borough Engineer, except that where an extension of an existing municipal street is proposed, maintenance of the existing cartway width shall be encouraged particularly on lower streets and where the existing character of the neighborhood would be maintained by continuing the existing cartway width. Where the cartway of the extension would differ from the street to which it is connected, an appropriately designed transition shall be provided.

3. Right-of-way and cartway widths may be increased in special cases where, because of traffic volumes, steep grades, orientation, the presence or absence of curbs and on-street parking or other such reasons, the respective Board and Borough Engineer determine that such action is necessary.

4. Site plans or subdivisions that adjoin or include existing streets that do not conform to the right-of-way or cartway widths as shown on the Master Plan or Official Map or the requirements of this chapter shall dedicate additional right-of-way width along either one (1) or both sides of said road. Additionally, that portion of the existing street or road adjoining or included within a site plan or subdivision shall be improved, including excavation, grading, subbase, base course and surface course in accordance with the road improvement standards of this chapter.

5. The right-of-way and cartway widths for internal roads within multi-family, commercial and industrial developments shall be determined on an individual basis, and shall in all cases be of sufficient width and design to safely accommodate traffic, parking and loading, and to provide maximum access for school buses, snow plows, garbage trucks, fire fighting and rescue equipment and the like.

D. **Street Design.**

1. The arrangement of streets shall conform to the circulation plan element of the Master Plan or Official Map for the municipality.

2. For streets not shown on the Master Plan or Official Map, the arrangement of streets shall provide for the appropriate extension of existing streets.

3. Residential access (local) streets shall be placed to discourage through traffic and provide for maximum privacy.

4. The right-of-way width shall be measured from lot line to lot line and shall not be less than fifty (50) feet or as designated in Section 28-606.C. The right-of-way shall be sufficiently wide to contain the cartway, curbs, shoulders, sidewalk, graded areas, utilities and street trees.

5. Subdivisions abutting State and/or County highways may be required to provide access by way of a residential access street.

6. Future road connections and/or road right-of-way dedications shall be provided as deemed appropriate by the respective Board to develop a coherent street plan within the Borough.

7. In addition to frontage improvements, the respective Board may require the construction of safety improvements for the proposed development as identified by the Borough Engineer.

8. Street grades shall neither be greater than ten percent (10%) nor less than one percent (1%), except that the respective Board, at its discretion, may approve grades in excess of ten (10%) percent or less than one percent (1%) where warranted by existing topography or other conditions.

9. Horizontal and vertical curves shall be of such radius and length respectively to obtain reasonable and safe sight distances for the anticipated traffic speed. Horizontal curves shall generally have a minimum centerline radius of three hundred (300) feet, which may be reduced to no less than one hundred forty-five (145) feet for residential access streets at the discretion of the respective Board. Horizontal and vertical alignments shall generally conform to standards of the American Association of State Highway and Transportation Officials.

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

11. When connecting street lines deflect from each other at any one point, they shall be connected by a curve with a radius of not less than one hundred (100) feet for residential collector and residential access streets and not less than three hundred (300) feet for all other streets.

12. A tangent of at least two hundred (200) feet shall be introduced between reverse curves on all streets, except those classified as residential collector or residential access streets.

13. Street jogs with centerline offsets of less than one hundred fifty (150) feet are prohibited.

14. Four-way street signs conforming to the standards of Watchung shall be placed at each intersection. No street shall have a name which will duplicate, or so nearly duplicate as to be confused with, the names of existing streets. The continuation of an existing street shall have the same name. All street names shall be determined by the respective Board and approved by the Governing Body.

15. Traffic signs and pavement markings complying with the Manual on Uniform Traffic Devices, latest edition, shall be provided to enhance the safety of motorists and pedestrians.

E. **Cul-de-Sac Streets.**

1. Cul-de-sacs shall provide access to no more than twenty (20) single-family units. The length of a cul-de-sac shall be no greater than one thousand five hundred (1,500) lineal feet and shall be measured from the centerline of the

intersecting through street along the centerline to the radius point of the cul-de-sac turnaround. Where appropriate for safety purposes, the Board may require mid-point turnarounds and/or enhanced fire protection measures.

2. Cul-de-sac turnarounds shall be provided with a minimum outside cartway radius of not less than fifty (50) feet and a right side tangent. A cul-de-sac right-of-way shall have a diameter of no less than one hundred twenty (120) feet.

3. Cul-de-sac landscape islands shall be permitted by the respective Board when it is determined that such islands can safely accommodate emergency vehicles and an organization is established to properly maintain the islands. Vegetation exceeding a mature height of thirty (30) inches shall be prohibited along the perimeter of the landscape island.

4. Dead end streets without turnarounds or sufficient width to turn around are prohibited.

5. Streets designated for future extension or future street connections shall be constructed prior to the receipt of temporary or final certificates of occupancy for the adjoining properties.

6. Temporary cul-de-sacs may be permitted by the respective Board only when such cul-de-sac is required to insure adequate safety. Temporary cul-de-sacs shall be constructed only on dedicated municipal easements, which shall be vacated upon extension of the planned roadway.

F. **Street Construction Specifications.**

1. NJDOT Specifications. The New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction shall apply.

2. Construction Drawings. Road plans and profiles shall be submitted to the Borough Engineer as a part of preliminary approval. The horizontal scale for plan and profile shall be 1" = 20'. The vertical scale of the profile shall be 1" = 5'. The profile shall be shown directly under the plan and if the space on the sheet permits it, two sections of plan and profile may be shown on the same sheet. Drawings are to be on 24" = 36" or 30" = 42" sheets. Before the plans are prepared in their final form the Borough Engineer will, if so requested by the applicant, examine them and advise as to their acceptability, or as to such changes, if any, that should be made in order to make them conform to the requirements of the Borough. The plans of the road shall show the centerline, right-of-way lines, stations of beginnings and ends of curves, curve data, fifty (50) feet station points, equations of stationing, streams, culverts, roads and driveways on or near the right-of-way, utility poles, trees, buildings and other obstructions within the right-of-way, houses, and buildings

within fifty (50) feet of the right-of-way, property division lines and names of adjoining property owners. All construction under streets such as water lines, gas, electric and cable lines, sanitary sewers and storm sewers, shall be shown on both plan and profile.

3. Subgrade. All topsoil and other unsuitable material shall be stripped from the proposed subgrade. The subgrade when completed shall be true to the lines and grades given on the plan. After the subgrade has been shaped correctly, it shall be brought to a firm unyielding surface by rolling the entire area with a power roller weighing not less than ten (10) tons, or other NJDOT approved methods. All soft and spongy places shall be excavated and refilled solidly with broken stone, gravel, suitable fill or sand. All loose rock and/or boulders shall be removed or broken off six (6) inches below the subgrade surface. All stumps shall be removed in their entirety. This shall be done before completing the rolling of the entire surface of the subgrade. Subsurface drainage shall be provided where necessary.

4. Fills. Embankments shall be formed of suitable materials placed in successive layers, not more than twelve (12) inches in depth, for the full width of the cross section and shall be compacted by distributing the necessary hauling uniformly over each succeeding layer, or by rolling with a ten (10) ton power roller or other NJDOT approved methods. Stumps, trees, rubbish or any other unsuitable materials or substance shall not be placed in the fill.

5. Grading. The entire street right-of-way of all new streets shall be graded, and in addition, in those areas where the right-of-way is on fill, the grading shall be extended two (2) feet beyond the right-of-way on either side as necessary; and a maximum slope with a ratio of 3:1 shall be established except where it is in rock, in which case the slope can be graded according to NJDOT standard practice. Variation from this requirement may be permitted at the discretion of the Borough Engineer.

6. Sub-base. The sub-base is to consist of four to eight (4-8) inches of compacted, frost-free material consisting of millings, bank run slag, washed gravel with sand binder, or mine run slag. No aggregate sizes are to exceed two and one-half (2 1/2) inches on any material. This sub-base shall be rolled until solid and proof rolled with a loaded tandem prior to placement of stabilized base.

7. Pavements. All bituminous stabilized base and surface course pavements shall be constructed to the following finished cross section:

(a) A parabolic surface with a six (6) inch crown shall be provided for thirty (30) foot wide streets. All other streets are to have a crown based on one quarter (1/4) inch to one (1'0) inch slope for half width of the street.

(b) All roads are to be paved from curb to curb.

(c) The bituminous stabilized base course shall be five (5) inches thick and shall be laid in one layer. The stabilized base course shall be rolled with a ten (10) ton vibratory roller or other NJDOT approved method.

(d) The stabilized base course will be the working surface used during construction of all developments and must be constructed prior to issuance of any building permits.

(e) Prior to final surfacing the stabilized base course must be broom cleaned and all ruts, pot holes and any other damages must be replaced or repaired at the discretion of the Borough Engineer.

(f) A tack coat of 0.10 to 0.25 gal/sy shall then be applied. After sufficient drying a two (2) inch thick F.A.B.C. Bituminous Concrete Surface Course shall be applied.

8. General. All material, workmanship and the manner of performing any and all work under these specifications shall be equivalent to the requirements of the New Jersey State Highway Standard Specifications and Supplements thereto for bridge and road construction and shall meet the Borough Engineer's approval.

9. Drainage. Adequate provisions shall be made for the drainage of all roads. All drainage provisions shall be approved by the Borough Engineer.

10. Easements. Drainage easements of a width sufficient to allow proper maintenance shall be provided for all stormwater drains and pipe lines to provide for adequate stormwater discharge to streams, existing storm drains or other drainage courses. These easements shall be granted to the Borough by approved legal procedure.

11. Inspection. All work shall be inspected throughout the course of construction by the Borough Engineer or his/her representative. The Borough Engineer shall be notified, in writing, ten (10) days before any work is started.

G. **Street Intersections.**

1. All new streets connecting to a Borough street shall be located to afford maximum safety to traffic at the intersection.

2. Street intersections shall be laid out as nearly at right angles as is possible and in no case shall be less than seventy-five (75) degrees. The block corners of intersections shall be rounded at the property line with a curve radius of not less than twenty-five (25) feet for residential access streets, thirty (30) feet for

residential collector streets and thirty-five (35) feet for secondary arterials. Approaches to all intersections shall follow a straight line for at least one hundred (100) feet.

3. Street intersections involving residential collector streets and secondary arterials shall have a grade (either ascending or descending) of not more than three percent (3%) for a distance of not less than fifty (50) feet from the near curbline on the intersecting street. Residential access streets shall not have a grade of more than five (5%) percent for a distance of not less than fifty (50) feet from the near curbline of the intersecting street.

4. Use of "T" intersections in subdivisions shall be encouraged.

5. Intersections shall be offset a minimum of one hundred fifty (150) feet between centerlines.

6. Design of intersections with State or County roads shall be governed by the appropriate agency having jurisdiction.

H. **Sight Triangle Easements.**

1. A minimum sight triangle easement of thirty feet by one hundred (30 x 100) feet, with the thirty (30) foot dimension located along the street subject to stop control, shall be provided at all intersections. However, the Board having jurisdictions may require different dimensions in the event that local conditions dictate that such different dimensions are necessary and appropriate.

2. Sight triangle easements shall be dedicated to the Borough.

3. Within the required sight triangle easement there shall be no obstruction (such as embankments, fences, walls, hedges or other objects) over thirty (30) inches in height above the street pavement. All corners on the new streets shall be cleared of obstructions in the manner and to the limits described.

4. Street trees are permitted within sight easements; however, branches occurring between the ground and seven (7) feet above grade shall be pruned prior to the release of the maintenance bond. Shrubs are permitted within sight easements but shall not exceed a mature height of thirty (30) inches.

I. **Curbs.**

1. Curbs shall be required on both sides of all streets. Granite block curbs shall be used on all streets unless otherwise mandated by State or County agencies or as permitted by the respective Board.

2. Depressed curb ramps shall be provided for the handicapped at all intersections and where sidewalks intersect curbs. Handicap ramps shall be installed in accordance with State and Federal laws.

J. **Curb Construction Specifications.**

1. Curbs shall be installed as shown on the drawings to line and elevation.

2. Construction of all curbs shall conform to NJDOT Standard Specifications for Road and Bridge Construction and supplements thereto and shall meet the Borough Engineer's approval.

3. Concrete curbs, where permitted, are to be six (6) inches wide at the top and twelve (12) inches wide at bottom and twenty (20) inches deep, (6" exposed - 14" buried). The batter shall be on the front face and the back face shall be vertical. All concrete curbs are to consist of air-entrained Class "B" concrete.

4. Granite block shall be installed as follows:

Granite block shall be laid on end vertically with 1/4" to 1/2" joint openings.

The granite block shall be jumbo block, a minimum of 4" x 4" x 10" in size and shall be medium or fine grained granite and laid in a trench with a 12" wide x 10" thick footing. The finished granite block curb shall maintain a six (6) inch exposed face. All block shall be backed with concrete and all joints pointed with Portland cement mortar. The concrete shall be class "B" air-entrained concrete.

At driveway openings of both concrete curbs and granite block curbs the curb shall be two (2) inches above finished pavement. If an opening in an existing curb is to be made or changed, the section of the curb involved shall be entirely removed including the concrete foundation and new curb poured or laid to proper elevation.

5. The breaking of existing curbs to a lower elevation is prohibited.

6. Depressed curbs shall be constructed in accordance with Borough details or RSIS, as applicable.

7. All blocks shall be clean and free from mortar, bituminous materials or other substances.

8. Bituminous material, cement or other substance, deposited on blocks during or after construction shall be removed by the applicant by sandblasting or other approved means.

9. Inspection. The work shall be inspected throughout the course of construction by the Borough Engineer or his/her representative. The Borough Engineer shall be notified, in writing, ten (10) days before any work is started.

K. **Sidewalks.**

1. Sidewalks shall be provided on both sides of all streets, except residential access roads, where the respective Board may determine that sidewalks on one (1) side of a street are adequate to service the pedestrian circulation to and from the development. Sidewalks may be required elsewhere when the Board having jurisdiction determines them necessary to provide pedestrian connections between residential areas and neighborhood schools, churches, commercial areas, other such facilities and probable future development.

2. Sidewalk construction may be waived by the Board along residential access roads when the applicant can clearly demonstrate that the property in question lends itself to this modification. When sidewalk construction is waived, the applicant shall donate the cost of construction to the Borough of Watchung Sidewalk Fund.

3. Sidewalks shall be placed parallel to the street within the right-of-way no closer than three (3) feet from the edge of the curb. The Board may permit exceptions to sidewalk placement to preserve existing vegetation, topographical or other natural features, or to provide visual interest, or where the applicant proves to the Board's satisfaction that an alternative pedestrian system provides safe and convenient circulation.

4. Sidewalks shall measure a minimum four (4) foot width; wider widths may be necessary near pedestrian generators and employment centers. Where sidewalks abut the curb the width shall be five (5) feet. Where cars overhang the sidewalk the minimum width shall be six (6) feet.

5. Pedestrian way easements (ten feet wide) may be required by the Board to provide circulation or access to schools, playgrounds, shopping or other community facilities.

L. **Sidewalk Construction Specifications.**

1. Sidewalks shall be constructed true to the lines, grades and dimensions as shown on the plans and in accordance with Borough details.

2. Subgrade. The site shall be cleared, stripped of topsoil and vegetation and rough graded. Unsuitable material in the subgrade shall be excavated and replaced by broken stone, gravel or other suitable material. The contractor shall fine grade the subgrade of the sidewalk area smooth and even and roll with a tandem roller weighing not less than three (3) tons as directed by the Borough Engineer. The sidewalk shall be brought to the prescribed line, grade and dimensions.

3. Concrete Sidewalks. Concrete sidewalks shall meet the requirements of the "New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction."

a. Class B, minimum 4,000 psi, air entrained transit mix concrete must be used.

b. The sidewalks shall be constructed on a four (4) inch thick compacted sand base. The sand shall be properly graded, clean moderately sharp, and free from clay, loam, mica, organic or other foreign matter.

c. The concrete shall be placed on damp base.

d. After the concrete is placed, it shall be compacted to a true grade and surface, working up enough fines to allow a flat finish without addition of added mortar. The surface shall be floated, edged, and jointed. Just prior to final set, a hair broom shall be used to sweep concrete to a uniform broomed surface.

e. Premolded bituminous expansion joint material shall be installed every twenty (20) feet and half depth contraction joints installed every four (4) feet.

f. The sidewalk shall have a minimum thickness of four (4) inches. Driveway aprons and concrete sidewalk located within driveways shall be six (6) inches thick with six inch by six inch (6" x 6") welded wire mesh with two (2) inches cover from the bottom of the slab.

g. Driveway approaches (if concrete) are to be laid with two (2) inch lip at curbline. Monolithic curb approaches are prohibited.

4. Forms. Wood or metal forms shall be used for the construction of concrete sidewalks and braced at proper intervals as directed by the Borough Engineer on each side of the sidewalk in order to maintain a true and straight edge on said walk. Damaged or crooked forms shall not be used.

5. Grading. After the forms have been removed the earth shall be graded on each side of the sidewalk in a finished and workmanlike manner from the curb to the property line.

6. Line and Grade Information. Where no curb grade, or curb or sidewalk lines have previously been established on an accepted Borough street, an application must be made to the Borough Engineer for the necessary information.

7. Grading Unpaved Area. The unpaved area between the curbline and the adjacent edge of the sidewalk pavement shall be graded so that it has a uniform slope from the pavement edge toward the curbline of not less than one-quarter (1/4) inch, nor more than one-half (1/2) inch per foot, except by permission of the Borough Engineer. There shall be six (6) inches of screened top soil between the curb and sidewalk and between the sidewalk and the property line.

8. Curing. All concrete shall be protected from dehydration by use of mats or suitable material. These mats shall be kept wet during the curing period or by use of approved curing compounds.

9. Seasonal Conditions. As the weather and freezing conditions from November 15 to March 15 are unpredictable, any construction of roads, sidewalks and driveway approaches during the above mentioned time shall be permitted only by approval of the Borough Engineer. He shall permit such construction only if weather and soil conditions permit.

10. All construction is subject to reinspection and replacement at the discretion of the Borough Engineer.

M. **Nonresidential Driveways.**

1. Driveways shall not be located where visibility is limited due to horizontal and vertical curves, topography and other features.

2. The edge of curb for a nonresidential driveway shall be located no closer than twenty-five (25) feet to the curb return of a street intersection.

3. Proposed driveways shall be separated a minimum of fifty (50) feet measured along the right-of-way line from edge of driveway to edge of driveway within the subject property.

4. Nonresidential and multifamily driveways shall be set back a minimum of ten (10) feet from the side and rear property lines.

5. Nonresidential driveways shall be paved and provided with a concrete apron extending from the drop curb to property line.

6. No curb cut or driveway installation may extend past a line projected from the adjoining property line at a right angle to the street centerline.

7. Driveway access shall favor lower order streets.

8. A permit shall be required for the installation of all driveway approaches. Application for such permit shall be made to the Borough Engineer and shall be accompanied by a fee payable to the Borough of Watchung. A driveway approach

is deemed to be that area extending from the property line to the paved street. The existing gutter and sidewalk shall at all times during and after construction be maintained at the same grade and line. If a change in line and grade for the sidewalk or gutter is desired, the approval of the Borough Engineer is required. (Ord. No. OR:-- § 28-606)

28-607. PARKING AND LOADING

In filing an application for development, the applicant shall comply with the following parking and loading standards:

A. **Off-Street Parking – General.**

1. Each off-street parking area, with the exception of single family residential parking areas, hereinafter created within the Borough shall be subject to the approval of the Board having jurisdiction to insure its adequacy to provide for traffic safety, to provide ingress and egress for emergency vehicles and to protect adjacent properties.

2. Ingress and egress drives including access to off-street parking in nonresidential zones shall be so designed that traffic is not routed through residential zones.

3. Off-street parking shall be provided and maintained as specified herein and shall be surfaced with an asphalt, bituminous or cement binder pavement which shall be graded and drained to dispose of all surface water as required by Borough Ordinance and approved by the Borough Engineer.

4. For nonresidential uses and multifamily developments, parking areas and access drives shall be enclosed by a concrete or belgian block curb six (6) inches above the paved surface. The type of curb shall be determined by the Board having jurisdiction; however, granite block curb shall be utilized where a paved area is adjacent to vegetated or other pervious surface areas.

5. No residential building permit (excluding multifamily) shall be granted for the erection of a new dwelling nor a certificate of occupancy issued unless the construction includes a garage, carport or approved shelter for at least one motor vehicle.

6. Drive-thru lanes and windows for banks and fast food restaurants shall be provided with room for queuing of ten (10) automobiles for each drive-thru lane and/or window.

7. Any change or alteration of a use which increases the parking requirements beyond the capacity of available on-site parking shall require site plan approval by the Board having jurisdiction.

8. Where the Board reviewing a plan for a nonresidential development determines, in connection with its review of such plan, that less than the required number of parking spaces or loading spaces will satisfy the intent of this chapter because of the unique nature of the proposed use, variations in the probable time of maximum use by joint users or for any other reason, the Board may waive or "landbank" the improvement of not more than one-third (1/3) of the total number of spaces as required by this chapter, subject to the following requirements:

a. It shall be demonstrated on the plan that sufficient area remains for the future provision of the total number of spaces required. The site plan shall clearly indicate both that portion of the parking area to be initially improved and that portion of the required spaces proposed to be "land-banked."

b. The site plan shall provide for adequate drainage, lighting and landscaping of both the initial and "land-banked" parking areas.

c. The "land-banked" parking area shall be landscaped in accordance with this chapter. Such unimproved or "land-banked" spaces shall be maintained as additional landscaped area until and unless required for parking or loading use.

d. Written guarantees, satisfactory to the Attorney to the Board having jurisdiction, shall be submitted by the applicant, insuring the improvement of such "land-banked" spaces within six (6) months of the date of written notice to the property owner by the Board having jurisdiction stating that all or a portion of such spaces have been determined to be necessary and shall be constructed.

e. An application for site plan approval shall be required in the event there is a proposed change of use that requires more total parking spaces than was required on the plan involving the "land-banking" on parking spaces.

f. Requirements for handicapped parking shall be in accordance with the laws of the State of New Jersey.

9. All off-street nonresidential and multifamily parking, off-street loading and service facilities shall be so drained as to prevent damage to abutting properties and/or public streets and shall be constructed of materials and shall be installed as required by the Borough Engineer. All such areas shall be, at all times maintained at the expense of the owners in a clean, orderly and dust-free condition. All parking areas and driveways shall be constructed in accordance with Borough Engineering Department design standards, and parking areas shall be paved with one-and-one-half (1 1/2) inch bituminous concrete or materials of equivalent strength and durability, unless otherwise directed.

B. **Parking Lot Design.**

1. Each nonhandicapped off-street parking space shall not be less than nine (9) feet wide by eighteen (18) feet in length. On-street parallel parking spaces shall measure ten (10) feet by twenty-three (23) feet. The width and length of each space shall be measured perpendicular to each other regardless of the angle of the parking space to the access aisle or driveway. **(See Figure 2: Parking Space Measurement graphic in the Appendix A*).**

2. Each handicapped space for people with disabilities shall not be less than eight (8) feet wide by eighteen (18) feet in length and shall have an adjacent pedestrian access aisle at least five (5) feet wide, except that the first handicapped space provided shall have a van accessible pedestrian access aisle at least eight (8) feet wide. If a different requirement for a handicapped space has been adopted by the State, then the most current requirement of the New Jersey Uniform Construction Code (N.J.A.C. 5:23-7) or the Americans with Disabilities Act shall be met.

3. Off-street parking areas shall be oriented to and within a reasonable walking distance of the buildings they are designed to serve.

4. Access to parking lots shall be designed so as not to obstruct free flow of traffic. There shall be adequate provision for ingress and egress for all parking spaces to ensure ease of mobility, ample clearance, and safety of vehicles and pedestrians.

***Editor's Note:** Appendix A, referred to herein, may be found at the end of this chapter.

5. Two-way traffic aisles shall be a minimum width of twenty-four (24) feet. The width of all aisles providing direct access to individual parking stalls shall be in accordance with the following requirements:

Parking Angle (degrees)	*One-Way Aisle Width* (feet)	*Two-Way Aisle Width* (feet)
30	12	Not permitted
45	15	Not permitted
60	18	Not permitted
90	Not permitted	24
parallel	12	20

(See Figure 2: Parking Space Measurement graphic in the Appendix A*).

Where the angle of the parking is different on both sides of the aisle or driveway, the larger dimension shall be required.

6. Parking areas in commercial or industrial zones may be located in the required front, side or rear yard, but shall be placed a minimum of twenty (20) feet from the right-of-way and front property line, and ten (10) feet from the side and rear property lines.

7. Access drives shall be located at least ten (10) feet from any side or rear property line.

8. Off-street parking areas and traffic aisles shall not be closer than six (6) feet to any building.

9. Curbed pedestrian sidewalks, not less than six (6) feet wide, shall be provided along the length of any building wall which contains public entrance or exit ways. Said walks shall be at least six (6) inches higher than the abutting paved parking area. Sidewalks with a minimum ten (10) foot width shall be provided along the front building wall of a shopping center that contains public entrance or exit ways. Handicap ramps shall be provided as required per ADA requirements. Curb cuts shall be provided at appropriate locations so that handicapped persons may gain access from parking areas onto sidewalks. In addition, the Board having jurisdiction, at its discretion, may require increased sidewalk widths and the installation of pedestrian walkways within any curbed islands that are required

10. A minimum sidewalk width of six (6) feet is required where parked vehicles overhang or extend over the sidewalk.

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*Editor's Note: Appendix A, referred to herein, may be found at the end of this chapter.

11. All off-street nonresidential parking, off-street loading and service areas shall be separated from walkways, sidewalks, streets or alleys by curbing or other protective devices.

12. All off-street parking spaces, driveways, aisles and pedestrian walkways shall be clearly and legibly marked within the parking lot. Hairpin striping shall be required at the discretion of the Board having jurisdiction. Hairpin striping shall consist of two (2) stripes located twelve (12) inches on center.

13. Traffic signs and pavement markings, complying with the Manual on Uniform Traffic Devices, latest edition, shall be provided to enhance the safety of motorists and pedestrians.

14. Where feasible, parking areas for individual nonresidential uses shall be designed to be interconnected with adjacent properties and shall utilize common entrance(s) and exit(s) to minimize the disruption to traffic flow, reduce access points to adjacent roadways and reduce conflicts with pedestrian traffic.

15. Nine (9) foot wide curbed planting end islands shall be placed at the end of each parking bay.

16. Nine (9) foot wide curbed planting islands shall be required to separate any parking bay exceeding twenty (20) spaces in a row. At the Board's discretion, seven foot by seven foot (7 x 7) curbed planting diamonds containing shade trees may be considered if the overall effect exceeds that which would be created by standard planting islands.

17. Where practical, large parking lots in excess of one hundred (100) vehicles shall be subdivided into modules utilizing continuous curbed planting islands of a minimum ten (10) foot width located perpendicular to the parking stalls.

18. Parking areas shall be suitably landscaped to minimize noise, glare and other nuisance characteristics as well as to improve the environment of the site and surrounding area in accordance with Section 28-609.

19. When parking spaces are provided within a garage or other structure, said structure shall adhere to the required setbacks applicable to the principal building.

20. All off-street parking areas required by this chapter shall be used exclusively for the parking of automobiles. No commercial repair work or sales of any kind shall be conducted in any parking area.

C. **Off-Street Loading and Unloading.**

1. For every building or part thereof, which is to be occupied by manufacturing, storage, goods display, retail store, wholesale store or warehouse, market, hospital, or other use similarly requiring the receipt or distribution in vehicles of materials or merchandise, there shall be provided and maintained on the same premises with such building one off-street loading space measuring twelve feet by forty-eight (12 x 48) feet with a fifteen (15) foot clearance above grade. At the discretion of the Board having jurisdiction, a smaller loading space may be permitted if justified by the applicant based upon the type of use and type and frequency of vehicles servicing the facility.

2. Office buildings shall provide an appropriate location(s) within any yard area for parcel delivery and pick-up in a manner that will not negatively impact internal traffic flow.

3. Additional loading and unloading spaces may be necessary and required dependent upon the specific activity.

4. Off-street loading shall be permitted in the side yard and/or rear yard but in no case shall it be located closer than ten (10) feet to a property line. There shall be no loading or unloading within the street. Off-street loading within the front yard is prohibited.
(Ord. No. OR:-- § 28-607)

28-608. LIGHTING STANDARDS

A. **Lighting Plan.**

1. A lighting plan prepared by a qualified individual shall be provided with all major subdivision and all site plan applications.

2. Street lighting of a type supplied by or approved by the utility and of a type and number approved by the Board having jurisdiction shall be provided for all street intersections for safety reasons.

3. Lighting shall be provided within nonresidential and multi-family developments at building entrances, parking areas, driveways, major walkways and loading areas.

4. The lighting plan shall show the proposed light intensity at ground level, measured in foot-candles. Dimensioned manufacturers lighting details and specifications including foot-candle distributions shall be provided. For nonresidential uses the light lens shall be flush with the fixture housing and parallel

to the ground; however, deviations may be permitted by the Board having jurisdiction where an alternative fixture is considered an attractive upgrade. Canopy lights associated with nonresidential uses shall have the light lens flush with the canopy ceiling. All lights shall be concealed source non-glare lighting and shall be focused downward so that the direct source of light is not visible from adjoining streets or properties. No light shall shine into building windows nor onto streets and driveways so as to interfere with or distract driver vision.

5. Lighting shall be provided by fixtures with a mounting height not more than twenty-five (25) feet or the height of the building, whichever is less, measured from the ground level to the centerline of the light source. For shopping centers, the Board having jurisdiction may deviate from this standard to a maximum of thirty (30) feet based upon the scale of the development and proximity to adjoining land uses.

6. For nonresidential development, the light intensity at ground level shall average no greater than 3.0 foot-candles; however, variations are permitted depending upon the intensity of the use. Light intensity shall not exceed 0.5 foot-candles along any property line and shall be so arranged and shielded to reflect the light away from adjoining streets or properties; however, this regulation shall not apply to lights used at driveway entrances and exits.

7. Freestanding lights at the perimeter of parking lots shall be aligned with parking stall striping and located a minimum of two and one-half (2 1/2) feet from the edge of curb. Exposed concrete light foundations shall not exceed two (2) feet above grade when located within paved areas or four (4) inches above grade when located within a lawn area.

8. The style of any light or light standard within nonresidential and multi-family developments shall be consistent with the architectural style of the principal building and, where appropriate, the architectural character of the surrounding area.

9. Adjustable or tilting fixtures are prohibited.

10. Any other outdoor lighting such as building and sidewalk illumination, the lighting of signs and ornamental lighting, shall be shown on the lighting plan, in the form of manufacturers details and specifications to allow a determination of effects upon adjacent properties, traffic safety and overhead sky glow.

11. To achieve the above requirements, the light source, the intensity of light source, light shielding and similar characteristics shall be subject to site plan approval.
(Ord. No. OR:-- § 28-608)

28-609. LANDSCAPE AND SHADE TREE STANDARDS*

In filing an application for development, the applicant shall comply with the following landscaping, retaining wall, site furniture and shade tree standards:

A. **Purpose.**

Landscaping shall be provided as part of site plan and subdivision design. It shall be conceived in a total pattern throughout the site, integrating the various elements of site design, preserving and enhancing the particular identity of the site and creating a pleasing site character.

The design standards contained herein are minimum requirements. The Borough may request additional features exceeding these standards if conditions warrant.

B. **Landscape Plan Required.** A landscape plan prepared by a landscape architect, certified by the New Jersey State Board of Landscape Architects, or other qualified individual, shall be submitted with each major site plan or major subdivision application. The landscape plan shall include the following information:

1. Plan scale no less than one inch equals one hundred feet (1"=100') for major subdivision and no less than one inch equals thirty feet (1 "=30') for major site plans. Important detail landscape areas within major subdivision may be requested at a scale of no less than one inch equals thirty feet (1"=30'). The scale shall be in both written and graphic form.

2. North arrow.

3. Building and accessory structure layout.

4. Road, parking, service area layout, and other paved areas.

5. Location of outdoor storage and trash/recycling areas.

6. Sidewalks, fences and walls.

7. Existing and proposed topography.

8. Existing and proposed underground and aboveground utilities such as site lighting transformers, valve boxes, lawn inlets, catch basins, headwalls and outlet structures.

9. Stormwater management facilities including detention basins, retention basins, bio-retention basins and swales. Location of plant material shall not interfere with underground utilities or stormwater management facilities.

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*Editor's Note: See Chapter XXIV, Tree Preservation.

10. Existing wooded areas, rock outcroppings and existing and proposed water bodies.

11. Indicate all existing vegetation to be saved or removed and provide information required for tree preservation.

12. Location, species and sizes of all proposed shade trees, ornamental trees, evergreen trees, shrubs and areas for lawns or any other ground cover. Different graphic symbols shall be used to show the location and spacing of shade trees, ornamental trees, evergreen trees, shrubs and ground cover. The size of the symbol must be representative of the size of the plant and shown to scale.

13. A plant schedule indicating botanical name, common name, size at time of planting (caliper, height and spread), quantity, root condition and any special remarks (spacing, substitutions, fall planting hazards, etc.) for all plant material proposed. Plants within the plant schedule shall be keyed to the landscape plan utilizing the first letter of the genus and species of the botanical plant name (i.e., Acer Rubrum = AR).

14. Planting details and specifications.

C. **General Landscape Design.**

1. Landscaping shall be provided in public areas, within recreation sites, to accentuate buildings, to enhance driveway entrances, to screen parking and loading areas, to provide privacy screenings within the required side and rear yard areas, to mitigate adverse impacts and to improve climate control by providing windbreaks for winter winds and summer cooling of buildings, streets and parking lots.

2. Plant and other landscaping material shall be selected with regard to aesthetic and functional considerations. With regard to aesthetics, the landscape design shall create visual diversity and contrast through variation in size, shape, texture and color. With regard to functional, the selection of plants shall take into account susceptibility to disease and insect damage, wind and ice damage, habitat (wet-site, drought, sun and shade tolerance), soil conditions, growth rate, longevity, root pattern and maintenance requirements.

3. Landscaping may include plant materials such as trees, shrubs, ground cover, perennials, and annuals and other materials such as rocks, water, sculpture, art, walls, fences and paving materials.

4. All land disturbance areas not remaining in their natural state shall be landscaped, including, but not limited to, lawns, ground covers, shrubbery and trees.

5. Proposed landscaping shall be considered at various growth intervals. Shrubs that may eventually block sight distances and windows or encroach upon roads and sidewalks shall not be used.

6. All plant materials, planting practices and specifications shall be in accordance with the "American Standard for Nursery Stock" promulgated by the American Association of Nurserymen Standards.

D. **Site Protection and General Planting Requirements.**

1. Topsoil Preservation. No topsoil shall be removed from the site or used as fill. Topsoil moved during the course of construction shall be redistributed on all regraded surfaces so as to provide at least six (6) inches of even cover to all disturbed areas of the development and shall be stabilized by seeding or planting. Additional topsoil shall be provided as needed.

2. Removal of Debris. All stumps and other tree parts, litter, brush, weeds, excess or scrap building materials, or other debris shall be removed from the site and disposed of in an approved disposal/recycle facility, in accordance with law. No tree stumps, portions of tree trunks or limbs shall be buried anywhere in the site. All dead or dying trees, either standing or fallen, shall be removed from the site.

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

4. Additional Landscaping. In residential developments, besides the required screening and street trees, additional plantings or landscaping elements may be required throughout the subdivision or site plan, as applicable, where necessary for climate control, privacy, or for aesthetic reasons in accordance with a planting plan approved by the Board having jurisdiction. In nonresidential developments, all areas of the site not occupied by buildings and required improvements shall be landscaped by the planting of grass or other ground cover, shrubs, trees, or other landscape material as part of a site plan approved by the Board having jurisdiction.

5. Plant Species. The plant species selected shall be hardy for the particular climatic zone in which the development is located and appropriate in terms of function and size.

6. Sight Triangles. Landscaping within sight triangles shall not exceed a mature height of thirty (30) inches. Shade trees shall be permitted within sight triangles but located 40 feet from the intersecting curbline and pruned up to a seven (7) foot branching height above grade. The placement of plants within sight triangles that will eventually grow to obstruct sight distances shall be avoided. The

landscaping of parking areas, such as within landscape islands at the end of parking rows, shall similarly take into consideration sight lines for motorists traversing the parking area.

7. Any area or disturbed land not used for buildings, structures or paved areas shall be planted with an all-season ground cover or lawn and other landscape materials as approved by the Board having jurisdiction.

E. **Landscape Buffers.**

1. General.

a. Landscaped buffers are areas provided to create a year-round visual screen and minimize adverse impacts or nuisances on a site from adjacent properties and streets. Buffering may consist of fencing, evergreens, shade trees, ornamental trees, shrubs, boulders, or combinations thereof, to achieve the stated objectives.

b. Where required, buffers shall be measured from property lines and street rights-of-way.

2. Transition Buffers. Transition buffers shall be required when any nonresidential use abuts a residential zone and when any multi-family use abuts a single-family zone. The buffer shall be placed within the nonresidential and multi-family lot along the property line. The location may be altered if approved by the Board having jurisdiction.

a. A continuous landscape open space strip of not less than twenty-five (25) feet in width shall be provided. The transition buffer shall be used for no purpose other than landscaping. A fence or wall is permitted within the transition buffer if located on the property line, but can not exceed a six (6) foot height in the side yard and rear yard areas and not exceed a four (4) foot height in the front yard area.

b. The transition buffer shall be planted with dense masses and groupings of shade trees, ornamental trees, evergreen trees and shrubs. No less than seventy-five percent (75%) of the buffer length shall be evergreen trees installed at a minimum height of six (6) feet. Based upon the intensity of the nonresidential use, the Board may require additional evergreens installed at an increased height.

c. Existing vegetation within the transition buffer shall be preserved and supplemented with shade tolerant naturalistic massed plantings where necessary to complete screening of adjoining land uses.

d. No buildings, structures, accessory structures, trash enclosures, parking, driveways, or storage of materials shall be permitted within the transition buffer. Buffer areas shall be maintained and kept free of all debris and rubbish.

F. **Reverse Frontage Buffers.** Reverse frontage buffers shall be required where any nonresidential or residential structure and/or lots back onto any street. The buffer shall be situated adjacent to the right-of-way line. The following landscape treatments shall be provided unless otherwise approved by the Board having jurisdiction.

1. A continuous landscape open space strip of not less than twenty (20) feet in width shall be provided. The reverse frontage buffer shall be used for no purpose other than landscaping and may include a wall or fence not to exceed four (4) feet in height.

2. The buffer shall be planted with masses and groupings of shade trees, ornamental trees, evergreen trees and shrubs in a free form manner to provide contrast and create a more natural effect. No less than fifty percent (50%) of the buffer length shall be evergreen with a minimum installed height of six (6) feet.

3. Existing vegetation within the landscape buffer shall be preserved and supplemented with shade tolerant naturalistic massed plantings where necessary to complete screening of residences. Meander any required sidewalks, as necessary, to preserve existing trees.

4. Street trees shall be planted as required.

5. No buildings, structures, storage of materials, or parking shall be permitted within the buffer area.

6. Buffer areas shall be maintained and kept free of all debris and rubbish.

G. **Parking Lot, Loading and Utility Area Landscaping.**

1. Except for detached single-family dwelling units and two-family dwelling units, a screen planting, fence, wall or combination thereof, no less than three (3) feet in height, shall be provided between the off-street parking areas (including drive-through lanes and interior drives running parallel to other roads) and any lot line or street line except where a building intervenes. Parking lot street frontage screening and perimeter screening shall be a minimum of five (5) feet wide.

2. All loading areas shall be landscaped and screened sufficiently to obscure the view of parked delivery vehicles, loading platforms and loading activities from any lot line or street line throughout the year. Such screening shall be an extension of the building, a fence, wall, planting or combination thereof, and shall not be less than six (6) feet in height.

3. In parking lots, at least five percent (5%) of the total square footage of interior parking area, including accessways, shall be landscaped with shrub plantings and trees. Such landscaped areas shall be distributed throughout the parking area in order to break the view of parked cars in a manner not impairing visibility. In parking lots containing more than one hundred (100) parking spaces, at least eight percent (8%) of the interior parking area shall be landscaped.

4. One (1) shade tree measuring a minimum of two and one-half to three (2-1/2 to 3) inch caliper shall be provided in the vicinity of the parking lot for every six (6) parking spaces. This provision excludes trees required for landscape buffers or street tree planting.

5. Nine (9) feet wide curbed planting islands shall be placed at the end of each parking bay.

6. Nine (9) feet wide curbed planting islands shall be required to separate any parking bay exceeding twenty (20) spaces in a row. At the Board's discretion, seven feet by seven (7 x 7) feet curbed planting diamonds containing shade trees may be considered if the overall effect exceeds that which would be created by standard planting islands.

7. Where practical, parking lots in excess of one hundred (100) parking spaces shall be subdivided into modules utilizing continuous curbed planting islands of a minimum ten (10) feet width located perpendicular to the parking stalls.

8. Landscaping within parking lots shall not obstruct the view of approaching vehicles. Shrubs within sight lines shall not exceed a mature height of thirty (30) inches.

9. Parking areas shall be partially screened from interior drives using evergreen, shade trees, flowering trees and shrubs to create a continuous landscape strip.

10. Interior parking layout and landscaping shall, insofar as possible, be used to delineate and guide major traffic movement within the parking area so as to prevent cross-space driving.

11. The view of utility areas, mechanical equipment, transformers and meters shall be screened from adjoining lots and street lines with landscaping. Open access to the equipment shall be maintained.

H. **Stormwater Detention Basins, Retention Basins and Drainage Improvements.**

1. Stormwater detention basins and retention basins shall be designed to blend into the surrounding landscape.

2. The perimeter of detention and retention basins, except for the perimeter areas under the jurisdiction of NJDEP Dam Safety, shall be landscaped with clusters of plants, including shade trees in a free form manner with open areas of lawn. Access for maintenance and emergency services shall be maintained.

3. Shade trees (two to two and one-half (2 to 2-1/2) inch caliper) shall be located within the upper portion of detention basins.

4. Drainage structures such as headwalls, outlet structures, culverts and biofilters shall be screened with wet-site tolerant plants.

5. Outlet structures and headwalls shall be provided with a stone or brick veneer when clearly visible from adjoining properties and streets.

6. The use of retaining walls within stormwater basins is encouraged when located on wooded property in order to increase volume and decrease disturbance to existing vegetation.

7. Landscaping located on detention and retention basin emergency overflow berms is prohibited.

8. Water aerators shall be provided within retention basins.

I. **Retaining Walls.**

1. No retaining wall exceeding four (4) feet in height from the lowest elevation of the finished grade to the top of the retaining wall shall be built unless a site plan has been submitted to and approved by the Borough Engineering Department. Safety fence along the top of retaining walls shall be provided in accordance with BOCA requirements.

2. No retaining wall shall be permitted within the right-of-way. No retaining wall over four (4) feet in height shall be located within ten (10) feet of a property line.

3. Design calculations for all retaining walls or combinations of retaining walls exceeding four (4) feet in height shall be submitted by the applicant and approved by the Borough Engineer.

J. **Site Furniture.**

1. Site furniture such as, but not limited to, benches, picnic tables, kiosks, clustered mail boxes, bike racks, decorative trash receptacles, bollards and recreation equipment shall be located and sized in accordance with their functional need, durability and maintenance.

2. Site furniture shall be compatible in form, material and finish. Design and materials shall be coordinated with that of existing or proposed architecture.

3. Decorative trash receptacles shall be provided for all convenience stores, supermarkets, delicatessens, fast food restaurants, gasoline service stations, car washes, shopping centers and other similar uses.

4. Decorative benches shall be provided as an integral component for all shopping centers and regional retail shopping complexes over 25,000 square feet Gross floor area (GFA) and all supermarkets over 20,000 square feet GFA.

K. **Street (Shade) Trees.**

1. Deciduous street trees shall be required for any subdivision, site plan or expansion of existing uses.

2. Location. Street trees (two and one-half to three (2-1/2 to 3) inch caliper) shall be installed on the property side of the right-of-way line on both sides of all streets. The spacing of street trees shall be no farther than forty (40) feet on center.

3. Street Tree Type. Tree type may vary depending on the overall effect desired. Depending upon the length of the road, more than one (1) type shall be provided to create biodiversity and reduce the problems associated with a monoculture planting.

4. Trees shall be planted in groupings of similar varieties. Trees of similar form, height, and character along a roadway shall be used to promote uniformity and allow for a smooth visual transition between species.

5. Tree selection shall be based upon on-site conditions and tree suitability to those conditions.

L. **Planting Specifications.**

1. Deciduous shade trees shall have at least a two and one-half or three (2-1/2 to 3) inch caliper measured four foot six (4' 6") inches above the ground surface and a straight central leader up to a seven (7) foot height at the time of installation. Size of evergreens and shrubs shall be allowed to vary depending on setting and type of shrub; however, no evergreen tree shall be less than five (5) feet high. Only plant materials following the standards established by the American Association of Nurserymen shall be accepted. Trees shall be nursery-grown, free of disease, substantially uniform in size and shape, and have straight trunks.

2. Trees shall be properly planted and firmly supported with two (2) or three (3) guy wires attached to stakes. Pieces of rubber hose shall be used under the wires where they are attached to the trees. Wires and stakes shall be removed by the applicant after one (1) year.

3. Provisions shall be made by the applicant for regular watering and maintenance until they are established. Dead or dying trees shall be replaced by the applicant during the planting season.

4. All plant material shall be guaranteed by the landscape contractor for a minimum period of two (2) years to replace dead or dying plants or trees.
(Ord. No. OR:-- § 28-609)

28-610. RECYCLING AND SOLID WASTE REQUIREMENTS FOR NEW DEVELOPMENTS OF MULTI-FAMILY RESIDENTIAL UNITS OR COMMERCIAL INSTITUTIONAL, GOVERNMENT OR INDUSTRIAL PROPERTIES

A. **Definitions.** As used in this section:

Multifamily Housing: A building containing three (3) or more dwelling units occupied or intended to be occupied by persons living independently of each other or a group of such buildings.

Recycling Area: Allocated for collection and storage of source-separated recyclable materials.

B. **Recycling Plan to be Included in Applications to Planning Board and/or Board of Adjustment.** There shall be included in any application to the Borough Planning Board and/or Board of Adjustment that requires subdivision or site plan approval for the construction of multifamily housing, single family developments of fifty (50) or more units or any commercial, institutional, government or industrial development for the utilization of one thousand (1,000) square feet or more of land, a recycling plan. The plan must contain, at a minimum, the following:

1. A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development; and,

2. Locations documented on the application's site plan that provide for an indoor or outdoor recycling area for the collection and storage of residentially-generated recycling materials.

a. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located; and,

b. The dimensions of the recycling area and the bins or containers shall be determined in consultation with the municipal Recycling Coordinator, and shall be consistent with the District Recycling Plan adopted pursuant to section

c. The location of the recycling area shall be convenient for the residential disposition of source-separated recycling materials, preferably near, but clearly separated from, a refuse dumpster; and,

d. The plan shall represent that:

(1) The recycling area shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles; and,

(2) Collection vehicles shall be able to access the recyclable area and the bins or containers placed therein, against theft of recyclable materials, bins or containers.

C. **Protection of Recycling Area.** Reasonable measures shall be taken to protect the recycling area and the bins or containers placed therein, against theft of recycling materials, bins or containers.

D. **Hauling Contract Required for Certificate of Occupancy.** Prior to the issuance of a Certificate of Occupancy by the Borough, the owner of any new multifamily housing or commercial, institutional or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials.

E. **Design of Containers.** The recycling area or the bins or containers placed therein shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recycling 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.** Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.

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

H. **Provision for Solid Waste Storage and Pickup Required.** Provision shall be made for the indoor, or enclosed outdoor, storage and pickup of solid waste, to be approved by the Borough Engineer.
(Ord. No. OR:07/23 § 3)

ARTICLE 28-700
ZONING BOARD OF ADJUSTMENT, PLANNING BOARD AND VILLAGE CENTER HISTORIC PRESERVATION COMMISSION

28-701. ESTABLISHMENT OF THE ZONING BOARD OF ADJUSTMENT

A. A Zoning Board of Adjustment is hereby created consisting of seven (7) regular members and two (2) alternate members in accordance with the requirements contained in N.J.S.A. 40:55D-69 et seq.

B. The Zoning Board of Adjustment may employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary.

C. The Zoning Board of Adjustment shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report of its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any. The Zoning Board of Adjustment shall send copies of the report and resolution to the Borough Council and Planning Board.
(Ord. No. OR:-- § 28-701)

28-702. POWERS AND JURISDICTION OF THE ZONING BOARD OF ADJUSTMENT

The Zoning Board of Adjustment shall have the powers granted by the MLUL (N.J.S.A. 40:55D-1 et seq.). The Zoning Board of Adjustment shall in all cases follow the provisions applicable to it in said statute.

A. **Expiration of Variance.** Any variance from the terms of this chapter hereafter granted by the Board of Adjustment, permitting the construction, alteration, conversion or enlargement of a building or structure, or use of land, shall expire by limitation unless such construction, alteration, conversion or enlargement or said building or structure, or use of land shall have been commenced within one (1) year from the date of approval. For the purposes of this section, the date of approval shall be the date on which a resolution is adopted by the Board of Adjustment memorializing its decision with respect to the variance application. The running of the time period herein shall be tolled from the date of filing an appeal from the decision of the Board of Adjustment to a court of competent jurisdiction until the termination in any manner of such appeal or proceeding.

B. **Extension of Variance.** For good cause shown, and after a hearing before the Zoning Board of Adjustment on notice in the manner required for original variance applications, the Zoning Board of Adjustment may extend a variance previously granted

by Zoning Board of Adjustment by resolution. An extension may not exceed one (1) year in duration and no more than four (4) such extensions shall be permitted. To receive consideration, an application for extension of a variance shall be made prior to the expiration of the time limit sought to be extended.
(Ord. No. OR:-- § 28-702)

28-703. ESTABLISHMENT OF THE PLANNING BOARD

A. A Planning Board is hereby created consisting of nine (9) regular and two (2) alternate members in accordance with the requirements contained in N.J.S.A. 40:55D-23 et seq.

B. The Planning Board may employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary.
(Ord. No. OR:-- § 28-703)

28-704. POWERS AND JURISDICTION OF THE PLANNING BOARD

The Planning Board shall have the powers granted to it by the MLUL (N.J.S.A. 40:55D-1 et seq.) in addition to other powers established by law. (Ord. No. OR:-- § 28-704)

28-705. PUBLIC HEARINGS AND NOTICING

A. **Public Hearings.** The Planning Board and Zoning Board of Adjustment shall hold public hearings in accordance with the requirements of the MLUL (N.J.S.A. 40:55D-1 et seq.)

1. Notice of a hearing requiring public notice shall be given by the applicant in accordance with the requirements of MLUL (N.J.S.A. 40:55D-1 et seq.)

2. Upon the written request of an applicant, the Borough Tax Assessor shall, within seven (7) days, make and certify a list from current tax duplicates of names and addresses of owners within the Borough to whom the applicant is required to give notice.

B. **Notice.** Noticing of hearings and decisions shall be in accordance with N.J.S.A. 40:55D-1 et seq. provided, however, that a hearing shall be held for all preliminary major site plans.

C. **Records and Decisions.** Records of Board meetings shall be kept and Board decisions shall be made in accordance with the N.J.S.A. 40:55D-1 et seq.
(Ord. No. OR:-- § 28-705)

28-706. ESTABLISHMENT OF THE VILLAGE CENTER HISTORIC PRESERVATION COMMISSION

A. **Purposes and Goals.**

1. The Borough Council finds that the historic heritage of the Borough is among the municipality's most valued and important educational, cultural and economic assets. Therefore, it is the purpose of the Borough Council to exercise the authority delegated to it by the MLUL in order to provide for the protection of the historic heritage within the Borough, provided that the provisions of this section shall not apply to one- or two- family residences.

2. In accordance with the statutory definitions of "historic district" and "historic site," and pursuant to the authority of N.J.S.A. 40:55D-107, the Borough Council seeks to accomplish the following goals:

a. To protect and improve the quality of the environment through the identification, recognition, conservation, maintenance and enhancement of historic districts, sites, buildings, structures and objects within the Borough and, particularly, to preserve and promote the Village Center Historical Overlay Zone as an essential element of municipal character and identity.

b. To foster the appropriate use and wider public knowledge and appreciation of the historic districts, sites, buildings, structures and objects within the Borough, with the intent of fostering civic pride.

c. To resist and restrain environmental influences and physical development which would have an adverse impact upon the preservation of the Village Center Historical Overlay Zone, thereby promoting the natural features of the area and the environment.

d. To encourage commercial and residential development which does not adversely affect the integrity of the Village Center Historical Overlay Zone, and to rejuvenate and sustain the businesses presently located within the Village Center Historical Overlay Zone.

e. To encourage private and public efforts in support of these stated purposes and goals in order to promote the public welfare, strengthen the

cultural, social, economic and educational life and architectural history of the Borough, thereby making the Borough a more attractive and desirable place in which to live and work.

f. To convey to present and future generations a broader understanding of, and a deeper appreciation for, human values, ideals and accomplishments and the rich heritage of the Borough.

g. To rekindle and maintain the physical and visual identity of the Borough within its region.

h. To promote good quality of design and an attractive appearance of the properties both within and outside of the Village Center Historical Overlay Zone, thereby increasing property values and ratables.

i. To encourage the most appropriate use and development of the properties within the Village Center Historical Overlay Zone and upon adjacent properties.

j. To control new exterior construction and restore and preserve certain traditionally significant structures in order to enhance the streetscape and maintain its character.

k. To provide for the efficient and safe movement of pedestrians and vehicular traffic within and through the Village Center Historical Overlay Zone.

l. To assist all public bodies in fostering the public understanding of the significance of the historic resources of the Borough and the available methods of preservation.

m. To cooperate with local, County, State and national historical societies, governmental bodies and organizations in order to maximize their contributions to the preservation of the historic resources within the Borough.

B. **Establishment and Membership.** A citizens advisory commission to be known as the Village Center Historic Preservation Commission (hereinafter referred to as the "Commission"), is established for the purpose of assisting the Planning Board in its duties hereunder, and other Boards and officials, but without power to take official action as otherwise required of the Planning Board or of the other Boards and officials, as applicable. The Commission shall consist of five (5) regular members and one (1) alternate member comprised of classes of members in accordance with N.J.S.A. 40:55D-107.

C. **Responsibilities.**

1. Recommend from time to time, as circumstances warrant and in consultation with the Watchung Historic Committee, appropriate historic districts and/or historic sites for designation based on the criteria set forth in Section 28-706.F of this chapter.

2. Report to the Mayor and Council, at least annually, regarding the state of historic preservation in the Borough and any recommendations to further the purposes and goals of these chapter provisions.

3. Advise and counsel the various municipal agencies and boards of the Borough regarding long-range goals and techniques of historic preservation and suggest long-range planning and the utilization of public funds.

4. Advise and assist the municipal officials of the Borough and its staff members and professional consultants, on matters which may have potential impact upon the designated historic buildings, places and structures, and do all things necessary and appropriate which will promote historic preservation in the Borough.

5. Make recommendations to the Planning Board regarding the Historic Preservation Plan Element of the Watchung Borough Master Plan and regarding the implications for historic preservation pertaining to any other Master Plan Element.

6. Advise the Planning Board on the inclusion of historic sites in the recommended capital improvement program.

7. Advise the Planning Board and the Board of Adjustment on applications for development pursuant to N.J.S.A. 40:55D-110. Specifically, an informal copy of every application submitted to either Board for development in the "Village Center Historical Overlay Zone" or on other properties designated as "Historic Districts" and/or "Historic Sites" in this chapter shall be referred to the Commission for its review and recommendation consistent with the purposes of these chapter provisions. The advice provided by the Commission may be either in written form or by testimony at the hearing or proceeding before the Board. However, the failure of the applicable Board to make such informational copy available to the Commission and/or for the Commission to provide advice regarding the application for development shall not invalidate any hearing or proceeding.

8. Review and make recommendations to the Planning Board pursuant to N.J.S.A. 40:55D-111 with respect to any application for a building permit for construction, modification or alteration of a structure within the "Village Center Historical Overlay Zone," as reflected on the Zoning Map of the Borough of

Watchung or to other properties designated as historic districts and/or historic sites in this chapter prior to the issuance of any building permit by the Construction Official and, in general, review all plans for construction, alteration, repair and moving of structures within the "Village Center Historical Overlay Zone" or with respect to other properties designated as historic districts and/or historic sites in this chapter, all in accordance with the procedures specified in this chapter.

D. **Appropriations and Staff.** The Commission may employ, contract for, and fix the compensation of experts and other staff and services as it shall deem necessary. It shall obtain its legal counsel from the Borough Attorney.

E. **The "Village Center Historical Overlay Zone."** The boundaries of the "Village Center Historical Overlay Zone" are as indicated on the Zoning Map.

F. **Additional "Historic Districts" and "Historic Sites."** In addition to the "Village Center Historical Overlay Zone," other historic districts and/or historic sites may be designated if quality of architecture, archeology, culture or significance in the history of the Borough is present, and if the district or site possesses integrity of location, design, setting, materials, workmanship, feeling or association. Among the specific criteria to be considered by the Commission in recommending designation of a district or site:

1. Association with events that have made a significant contribution to the broad patterns of local, State and/or national history.

2. Association with lives of persons significant in our past.

3. Embodiment of a distinctive characteristic of a type, period, or method of construction or representation of the work of a master, or possession of high artistic values, or representation of a significant and distinguishable entity whose components may lack individual distinction.

4. Districts, sites, buildings, structures and objects that have yielded, or may be likely to yield, information important in prehistory or history.

5. Properties that have achieved significance within the past fifty (50) years shall not be considered eligible for designation.

G. **Review Procedures for Permit Applications.**

1. All applications for issuance of permits pertaining to development within the "Village Center Historical Overlay Zone," or on other properties designated as historic districts and/or historic sites in this chapter, other than with respect to one- or two- family residences, shall be referred to the Commission for a written report on the application of the zoning ordinance provisions concerning historic

preservation to any of those aspects of the change proposed, provided such aspects were not determined by approval of an application for development by either the Planning Board or the Zoning Board of Adjustment under the MLUL. The Commission shall submit its report to the Planning Board, or to the Zoning Board of Adjustment if the application is within their jurisdiction.

2. The Board having jurisdiction shall report to the Construction Code Official within forty-five (45) days of the original referral to the Commission. If within the forty-five (45) day period the Board, upon recommendation of the Commission, recommends against the issuance of the requested permit, or that the permit be issued with conditions, then the Construction Code Official shall deny the permit or issue it with conditions, as the case may be. Failure to report within the forty-five (45) day period shall be deemed to constitute a report in favor of the issuance of the permit without conditions.

3. It is specifically intended that any commercial or nonresidential sign proposed for any property within the "Village Center Historical Overlay Zone," or on other properties designated as historic districts and/or historic sites in this chapter shall be subject to review and approval under this chapter section, whether or not a review is required pursuant to any other chapter provision of the Borough.

H. **Standards of Review.** In its review of any application for development or any application for a permit, the Commission shall consider the following:

1. The impact of the proposal upon the historical and architectural significance of the subject property;

2. The importance to the Borough and the extent to which the municipality's historic or architectural interest in the subject property would be adversely affected to the detriment of the public interest;

3. The extent to which there would be the involvement of textures and materials that could not be reproduced or could be reproduced only with great difficulty and expense; and

4. If within the "Village Center Historical Overlay Zone," the impact of any proposed structure upon the character or ambience of the "Village Center Historical Overlay Zone" and the structure's visual compatibility with the buildings, places or structures to which it would be visually related, such as architectural style, height, proportion of the building's front facade, proportion of openings such as windows and doors, rhythm of solids to voids on facades, rhythm of spacing of buildings on streets, rhythm of entrance and/or porch projections to the street, relationships of

material, textures and colors, roof shape, scale of building, directional expression of front elevation, and exterior features such as lighting, fences, signs, sidewalks and driveways.

I. **Demolitions.** In regard to an application to demolish or remove any structure or building or object either from within the "Village Center Historical Overlay Zone" or on other properties designated as historic districts and/or historic sites in this chapter, the following matters shall be considered:

1. Its historic, architectural, cultural or scenic significance in relation to the criteria established by these chapter provisions.

2. If within the "Village Center Historical Overlay Zone," its significance therein as a key contributing or noncontributing resource and the probable impact of its removal on the "Village Center Historical Overlay Zone."

3. Its potential for use for those purposes currently permitted by this chapter.

4. Its structural condition and the economic feasibility of the alternatives proposed.

5. The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty and expense.

6. If moving of the structure, building or object is involved, the historic loss to the site of original location and the Borough as a whole with consideration of the following:

a. The compelling reason(s) for not retaining the structure, building or object at its original site; and

b. The probability of significant damage to the building, structure or object by moving it.

(Ord. No. OR:-- § 28-706)

ARTICLE 28-800
DEVELOPMENT APPLICATION REVIEW PROCEDURES AND CHECKLISTS

28-801. JURISDICTION OF RESPONSIBILITY DURING DEVELOPMENT APPLICATION REVIEW

The Planning Board and the Zoning Board of Adjustment shall have the powers granted by N.J.S.A. 40:55D-1 et seq. The Planning Board and Zoning Board of Adjustment shall establish procedures in their bylaws for the orderly review of applications consistent with the MLUL and other applicable requirements of law. (Ord. No. OR:-- § 28-801)

28-802. APPLICABILITY OF REQUIREMENTS

A. **Subdivision Review.** All subdivisions as defined in this chapter are subject to the review procedures and time periods for decision specified in N.J.S.A. 40:55D-1 et seq.

B. **Site Plan Review.** All site plans as defined in this chapter are subject to the review procedures and time periods for decision specified in N.J.S.A. 40:55D-1 et seq. and the following provisions.

1. No construction permit shall be issued for any new structure or for an addition or alteration to an existing structure, and no certificate of occupancy shall be issued for any change of use of an existing structure until the site plan has been reviewed and approved by the municipality except that:

a. A construction permit for a single-family detached dwelling unit or a two-family dwelling unit and/or their accessory building(s) or accessory uses on a lot shall not require site plan approval.

b. Any change of use from one permitted category of nonresidential use to another permitted category of nonresidential use shall not require site plan approval if:

(1) Both the Construction Official and Zoning Officer certify to the Board in writing that the existing site development meets the requirements of this chapter for the new use category;

(2) The new use category does not require an increase in the number of required parking spaces; and

(3) The Planning Board concurs with the findings of the Construction Official and Zoning Officer.

c. Permitted accessory structures to residential and agricultural/horticultural uses shall not require site plan approval.

d. Building alterations shall not require site plan approval if the following conditions apply:

(1) There is no change in use;

(2) No additional parking is required;

(3) No additional building area is proposed;

(4) No variance is required;

(5) There is no major change in circulation proposed such as drive-through windows, ingress or egress drives, changes in internal circulation, loading or unloading, delivery or pickup of goods and services or trash collection; and

(6) There are no major changes in a significant site facility or improvement such as a drainage facility, buffer or landscaping features and the like.

e. Fences not included as part of a site plan application shall not require site plan approval, but shall require the issuance of a zoning permit.

f. Signs not included as part of a site plan application shall not require site plan approval, but shall require the issuance of a zoning permit except as exempted by this chapter

2. An applicant may elect to file for preliminary and final site plan approval simultaneously to expedite the review process. The site plan shall be prepared according to the requirements stipulated for final approval. Developers electing to by-pass the preliminary approval stage are doing so at the peril of added expense if changes in design are required.

C. **Variance Relief.** All applications for variance relief to the Zoning Board of Adjustment not involving any related site plan, subdivision or conditional use approval shall be filed with the Administrative Officer at least thirty (30) days prior to the regular meeting of the Zoning Board of Adjustment and shall include the information and materials listed on the checklist for variances attached to this chapter,* and the fees in accordance with this chapter. Review procedures and time periods for decision shall be as specified in N.J.S.A. 40:55D-1 et seq.

D. **Informal Review by the Planning Board.** At the request of any party, the Planning Board shall grant one (1) informal review, without a fee pursuant to Section 901 of this chapter, regarding a concept plan for a development for which a developer intends to prepare and submit an application for development. Additional meetings shall be scheduled at the discretion of the Planning Board. No professional review(s) will be undertaken unless the developer has agreed to pay for said review(s) and has established an escrow account also in accordance with this chapter.
(Ord. No. OR:-- § 28-802)

28-803. SUBMISSION OF MINOR SUBDIVISION PLATS AND MINOR SITE PLANS

A. **Procedure for Submitting Minor Subdivision Plats and Minor Site Plans.** The applicant shall submit to the Administrative Officer all information and materials listed on the checklist for such applications attached to this chapter,* and the fees in accordance with this chapter.

B. **Details Required for Minor Subdivision Plats and Minor Site Plans.** Each submission shall be in accordance with the applicable checklist for such application attached to this chapter.*
(Ord. No. OR:-- § 28-803)

*Editor's Note: The checklists referred to herein may be found in Appendix D at the end of this chapter.

28-804. SUBMISSION OF PRELIMINARY MAJOR SUBDIVISION PLATS AND PRELIMINARY MAJOR SITE PLANS

A. **Procedure for Submitting Preliminary Major Subdivision Plats and Preliminary Major Site Plans.** The applicant shall submit to the Administrative Officer all the information and materials listed on the checklist for such applications attached to this chapter,* and the fees in accordance with this chapter.

B. **Details Required for Preliminary Major Subdivision Plats and Preliminary Major Site Plans.** Each submission shall be in accordance with the applicable checklist for such application attached to this chapter.*

C. **Effect of Preliminary Approval of Major Subdivision Plats and Major Site Plans.** Preliminary approval shall confer rights upon the applicant and the Board may grant extensions of those rights in accordance with N.J.S.A. 40:55D-1 et seq.
(Ord. No. OR:-- § 28-804)

28-805. SUBMISSION OF FINAL MAJOR SUBDIVISION PLATS AND FINAL MAJOR SITE PLANS

A. **Procedure for Submitting Final Major Subdivision Plats and Final Major Site Plans.** The applicant shall submit to the Administrative Officer all information and materials listed on the checklist for such applications attached to this chapter,* and the fees in accordance with this chapter.

B. **Details Required for Final Major Subdivision Plats and Final Major Site Plans.** Each submission shall be in accordance with the applicable checklist for such application attached to this chapter.*

C. **Effect of Final Approval of Major Subdivision Plats and Major Site Plans.** Final approval shall confer rights upon the alteration and the Board may grant extensions of those rights in accordance with N.J.S.A. 40:55D-1 et seq.
(Ord. No. OR:-- § 28-805)

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*__Editor's Note:__ The checklists referred to herein may be found in Appendix D at the end of this chapter.

28-806. COMPLETE APPLICATION AND CHECKLISTS

A. **Checklist**. The purpose this chapter is advanced by adopting checklists* which state the requirements of submission of all applications for development to the Borough Planning Board or Board of Adjustment. Such requirements shall be necessary to allow the Administrative Officer or designee to rule on whether or not an application may be deemed complete and placed on the agenda of the Board with jurisdiction.

B. **Submission**. Every application for development submitted to the Borough for review by the Planning Board or Board of Adjustment shall first be submitted to the Administrative Officer or designee for a determination as to whether or not the application may be deemed complete. An application shall be deemed complete by the Administrative Officer or designee if such application furnishes all required information as described in the applicable checklist. In the event that an applicant does not wish to supply all information as required by the checklist, the applicant must request that the specific submission requirement be waived.

C. **Review**. The Administrative Officer or designee shall notify each applicant, in writing, within forty-five (45) days of submission of the application as to whether or not the application is deficient due to the applicant's failure to furnish information as required by the applicable checklist.

D. **Completeness**. A complete application shall include the appropriate land use application, including submitting all accompanying information and documents, along with the applicable checklist adopted by this chapter* and provided to the applicant.

E. **Specific Requirements**. In addition to the application and checklist, no subdivision or site plan application shall be deemed complete unless: the property which is the subject of the proposed subdivision or site plan application is serviced by septic system or sanitary sewer and well water or public water. Applicants shall be required, as a condition of completeness for all subdivision and site plan applications, to obtain approval from the Board of Health for a septic system and well water or obtain a public sanitary sewer and public water utility certifications allocating capacity to the property. A sanitary sewer capacity allocation and connection or collection system extension approval to serve the proposed development must be obtained from the Borough Governing Body. A Water Main Extension Agreement or Will Serve Letter must be obtained from the appropriate water utility. Prior to being deemed complete, the Health

*Editor's Note: The checklists referred to herein may be found in Appendix D at the end of this chapter.

Officer shall have approved each lot as capable of proper sewage disposal, either by being connected to the public sewage disposal system or by use of some other approved method pursuant to the Code of the Borough of Watchung and by the Board of Health Ordinances.

F. **Off-Tract Public Sanitary Sewer and Public Water**. Where there is a need for off-tract public sanitary sewer or public water service, the applicant shall, as a condition of completeness and at the applicant's sole cost and expense, obtain all property rights outside the boundaries of the development for the installation of sanitary sewer or water services. Such property rights, upon completion and acceptance of the off-tract utility improvements shall be dedicated to the Borough of Watchung and water utility.

G. **Forms.** The Borough hereby adopts the following Checklist forms (attached in Appendix D:)

1. Variance Application Checklist–Details Required for Variance Applications

2. Informal Application Checklist–Details Required for Informal Review Applications

3. Minor Application Checklist–Details Required for Minor Subdivision Plats and Minor Site Plans

4 Preliminary Major Application Checklist–Details Required for Preliminary Major Subdivision Plats and Preliminary Major Site Plans

5. Final Major Application Checklist–Details Required for Final Major Subdivision Plats and Final Major Site Plans
(Ord. No. OR:-- § 28-806)

28-807. COMPLIANCE REVIEW PROCEDURE.

The Borough hereby authorizes the adoption of a Compliance Review Procedure to be followed by all applicants whose applications for development have been approved by either the Planning Board or Board of Adjustment. The Compliance Review Procedure may be amended from time to time by resolution of the Mayor and Council.

A. **Purpose of the Compliance Review Procedure**. The purpose of the Compliance Review Procedure is to achieve uniformity in the requirements applicants are to follow once an applicant receives approval from the Planning Board or Board of

Adjustment for an application for development. The Compliance Review Package should address each of the conditions imposed by the Planning Board or Board of Adjustment.

B. **Compliance Review Package Application**. The Borough hereby authorizes the adoption of a Compliance Review Package Application to be followed by all applicants submitting a Compliance Review Package. The Compliance Review Package Application may be amended from time to time by resolution of the Mayor and Council.

C. **Administrative Officer for Compliance Review Procedure**. The Administrative Officer as defined in Section 28-203 is hereby granted the authority to designate a Deputy Administrative Officer solely for the purpose of determining whether an applicant has submitted a complete Compliance Review Package.

D. **Standard Forms**. The Borough hereby authorizes the Borough Attorney to prepare standard forms including but not limited to an Access Easement and Maintenance Agreement, Conservation Easement, Deed of Dedication, Developer's Agreement, Drainage Facilities Easement, Sanitary Sewer Easement, Sight Triangle Easement, Utility Easement and such other standard forms as in the Borough Attorney's opinion are necessary to fulfill the intent and purpose of this chapter. These forms may be amended from time to time by resolution of the Mayor and Council.

E. **Time Limits**. Applicants are to submit a completed Compliance Review Package to the Deputy Administrative Officer within ninety (90) days of the Planning Board or Board of Adjustment Resolution of Memorialization. In the event an applicant does not obtain approval for the Compliance Review Package within one (1) year of the Resolution of Memorialization, then the applicant shall be required to appear before the appropriate Board and seek an extension of time to obtain approval for the Compliance Review Package. Such Board may grant a one (1) year extension two (2) times.

F. **Applicability**. The Compliance Review Procedure applies to applications for development before both the Planning Board and Board of Adjustment.

G. **Developer's Agreement**. The Borough hereby adopts a Developer's Agreement in substantially the form attached in Appendix B of this chapter,* and a Performance Agreement in substantially the form attached in Appendix C of this chapter.*

***Editor's Note:** Appendices B and C, referred to herein, may be found at the end of this chapter.

H. **Map or Site Plan Signing**. No subdivision map nor site plan shall be signed by any representative of the Borough or the Planning Board or Board of Adjustment until the applicant complies with the Compliance Review Procedure.
(Ord. No. OR:-- § 28-807)

ARTICLE 28-900
APPLICATION FEES, GUARANTEES, INSPECTIONS AND OFF-TRACT IMPROVEMENTS

28-901. APPLICATION FEES

A. Every application for development shall be accompanied by a certified check or checks payable to the Borough of Watchung in accordance with the following schedule of "Administrative Charges" and "Escrow Account Deposits." Where one (1) application for development includes several approval requests, the sum of the individually required "Administrative Charges" and "Escrow Account Deposits" shall be paid, with separate checks for the total "Administrative Charges" and for the total "Escrow Account Deposits." Fees for copies of requested items, special meetings, and other items also are included in the fee schedule.

Type of Application or Request	Administrative Charges	Escrow Account Deposits*
1. Informal Reviews (a) One (1) informal fifteen (15) minute appearance.	None required	None required
(b) Any additional appearance.	$200	$1,000
2. Subdivisions (a) Minor Subdivision Plat	$150	1-3 lots $1,000 4-10 lots $2,000 11-25 lots $3,000 26-50 lots $5,000 51-100 lots $7,500 Over 100 lots $15,000
(b) Sketch Plat	$150 plus $10.00 per lot	
(c) Preliminary Major Subdivision Plat Plus per each lot (1-10 lots) 11-20 lots 21-50 lots Over 50 lots	$350 $25 $30 $35 $40	
(d) Final Major Subdivision Plat Plus per each lot	$200 $10	1-3 lots $500 4-10 lots $1,000 11-25 lots $1,500 26-50 lots $2,500 51-100 lots $3,750 Over 100 lots $7,500

Type of Application or Request	Administrative Charges	Escrow Account Deposits*
(e) Amended Minor, Preliminary Major Subdivision and/or Final Major Subdivision Plat	$300	The balance required to replenish the escrow account to the amount of the original deposit.
(f) Request for reapproval or extension of time	$300	$500
3. Site Plans (a) Minor Site Plan (Residential)	$150	1-3 units $1,000 4-10 units $2,000 11-25 units $3,000 26-50 units $5,000 51-100 units $7,500 Over 100 units $15,000
(b) Preliminary Major Site Plan (Residential)	$450 plus $25 per dwelling unit	
(c) Final Major Site Plan (Residential)	$250	1-3 units $500 4-10 units $1,000 11-25 units $1,500 26-50 units $2,500 51-100 units $3,750 Over 100 units $7,500
(d) Minor Site Plan (Nonresidential)	$350	$1,000
(e) Preliminary Major Site Plan (Nonresidential)		
Building area – 10,000 sq. ft. or less	$500	$3,000
Building area – 10,001 sq. ft. to 50,000 sq. ft.	$1,000	$10,000
Building area – 50,001 sq. ft. to 100,000 sq. ft.	$2,000	$20,000
Building area – More than 100,000 sq. ft.	$3,000	$25,000
(f) Final Major Site Plan (Nonresidential)		One-third the original escrow fee paid at the time of preliminary plan application
Building area – 10,000 sq. ft. or less	$250	

Type of Application or Request	Administrative Charges	Escrow Account Deposits*
Building area – 10,001 sq. ft. to 50,000 sq. ft. Building area – More than 50,000 sq. ft.	$500 $1,000	
(g) Amended Minor, Preliminary Major and/or Final Major Site Plan	$300	The balance required to replenish the escrow account to the amount of the original deposit.
(h) Request for reapproval or extension of time	$300	$500
4. Conditional Uses	$300	$500/acre or part thereof in addition to any fees required for site plan or subdivision review
5. Variances		
(a) Appeals (40:55D-70a)	$100	$400 each
(b) Interpretation (40:55D-70b)	$100	$400 each
(c) Bulk (40:55D-70c)	$200 per application	$400 first variance plus $50/ each additional variance
(d) Use and Other "d" Variances (40:55D-70d)	$200	$1,000
(e) Permit (40:55D-34 & 35)	$200	$500
6. Waivers	$100	$125/first waiver plus $25/each additional waiver
7. Requested Special Meeting of Planning or Zoning Board	$1,000	$1,000
8. Certified List of Property Owners or Certified List of Public Utilities	$0.25/name or $10.00, whichever is greater, subject to applicable law.	None required
9. Copy of Minutes, Resolutions Decisions	As provided for in the Open Public Records Act or applicable law.	None required
10. Transcription of Meeting Proceedings	As provided for in the Open Public Records Act or applicable law.	None required

Type of Application or Request	Administrative Charges	Escrow Account Deposits*
11. Copy of audio reproduction of Public Hearing	As provided for in the Open Public Records Act or applicable law.	None required
12. Subdivision Approval Certificate	$50/Certificate	None required
13. Certificate of Nonconformity (N.J.S.A. 40:55D-68)	$50/Certificate	None required
14. Zoning Permit	$35/Permit	None required

* Escrow fees shall not include lots or units restricted to affordable housing as defined in this chapter.**

B. The administrative charges are flat fees to cover administrative expenses and are nonrefundable.

C. The escrow account deposits noted in this section are required to pay for the costs of professional services including engineering, planning, legal and other expenses connected with the review of submitted materials, including any traffic engineering review or other special analysis related to the Borough's review of the submitted materials, or any necessary studies regarding off-tract improvements. The review escrow shall be deposited by the Chief Financial Officer of the Borough, or his/her designee and administered in accordance with Section 28-903 and the requirements of the MLUL.

D. An applicant is responsible to reimburse the Borough for all expenses of professional personnel incurred and paid by the Borough for the review process of an application for development before a municipal agency, such as, but not limited to:

1. Charges for reviews by professional personnel of applications, plans and accompanying documents currently pending before the municipal agency, or the review of an applicant's compliance with the conditions of any approval to an application for development by a municipal agency, or the review of any requests made by the applicant for modifications or amendments to the submitted material, provided that the professional shall not review items which are subject to approval by any State governmental agency and not under municipal jurisdiction, except to the extent consultation with the State agency is necessary due to the effect of State approvals on the proposed subdivision or site plan.

Editor's Note: See Section 28-1002.

2. Issuance of reports by professional personnel to the municipal agency setting forth recommendations resulting from the review of any documents submitted by the applicant.

3. Charges for any telephone conference or meeting requested or initiated by the applicant, his attorney or any of his experts or representatives.

4. Review of additional documents submitted by the applicant and issuance of reports relating thereto.

5. Review or preparation of easements, developer's agreements, deeds, approval resolutions, or the like.

6. Preparation for and attendance at all meetings by professionals serving the Board, such as the Attorney, Engineer and Planner, or other experts as required.

7. The cost of expert advice or testimony obtained by the municipal agency for the purpose of corroborating testimony of applicant's experts.

8. Actual out-of-pocket expenses incurred in the process of reviewing the applications, plans and accompanying documents.

E. Each applicant shall agree to pay all reasonable costs for professional review of the application. All such costs for review must be paid before any approved plat, plan or deed is signed and before any zoning permit, construction permit, certificate of occupancy, and/or other permit is issued.

F. Payment by the Borough of any bill rendered by a professional to the municipality with respect to any service for which the municipality is entitled to reimbursement under this chapter shall in no way be contingent upon receipt by the municipality of reimbursement from the applicant, nor shall any payment to a professional be delayed pending the reimbursement from an applicant.

G. If an applicant desires a court reporter, the cost for taking testimony and transcribing it and providing a copy of the transcript to the Borough shall be at the expense of the applicant who also shall arrange for the reporter's attendance.
(Ord. No. OR:-- § 28-901)

28-902. GUARANTEES, START OF CONSTRUCTION PURSUANT TO AN APPROVED PLAN, AND INSPECTIONS

For purposes of this section, the term "public improvements" shall include streets, grading, pavement, gutters, curbs, sidewalks, street lighting, street signs, shade trees, surveyor's monuments, fire prevention features, water mains, culverts, storm sewers,

sanitary sewers or other means of sewage disposal (excluding individual subsurface sewage disposal systems intended to serve individual lots), drainage structures, soil erosion control features and sedimentation control devices, landscaping, public improvements of open space, and, in the case of site plans only, other on-site improvements.

A. **Requirements Specific to Major Subdivisions.**

1. No final major subdivision plat (whether for an entire tract or a section thereof) shall be recorded unless:

a. The Borough Engineer has certified to the Board that all public improvements required by the resolution of preliminary approval have been satisfactorily completed; or

b. The developer has entered into a developer's agreement with the Borough, in a form satisfactory to the Borough Attorney and authorized by the Borough Council, requiring the installation and maintenance by the developer and its successors in interest of the public improvements, imposing such limitations, and/or staging of, the development of the subdivision as are necessary to ensure orderly construction of the public improvements, and assuring the installation of the public improvements on or before an agreed date by the filing of a performance guarantee in accordance with Section 28-902D.

2. No construction permit shall be issued for any building within the subdivision until the developer has completed the following public improvements in accordance with the approved subdivision plans and construction plans required by Section 28-902E4:

a. All required utility installations and their appurtenances, including water mains, drainage and detention facilities, culverts, storm sewers, sanitary sewers or dry sewers and public improvements of open space;

b. All required grading and the bituminous base course surfacing of all streets;

c. Construction of all required curbs; and/or

d. Filed with the Borough a performance guarantee in accordance with section 28-902D, sufficient in amount to cover the cost of all remaining required improvements, as estimated by the Borough Engineer, and assuring the installation of said improvements on or before an agreed date and as hereinafter provided.

3. No certificate of occupancy shall be issued for any dwelling within the subdivision except in compliance with the provisions for a certificate of occupancy as specified in this chapter.

4. Unless provided otherwise elsewhere in this chapter, the remaining required improvements shall be at least fifty percent (50%) completed as to each category set forth in the performance guarantee within one (1) year from the date of final approval or by such time as fifty percent (50%) of the lots in the section in question have been conveyed in any manner by the developer, whichever shall first occur. At least seventy-five percent (75%) of the improvements shall be completed as to each category as set forth in the performance guarantee within eighteen (18) months from the date of final approval, or at such time as seventy-five percent (75%) of the lots in the section in question have been conveyed in any manner by the developer; whichever shall first occur. Such improvements shall be one hundred percent (100%) completed and accepted by the Borough within two (2) years from the date of final approval or at such time as all of the lots in the section in question have been conveyed in any manner by the developer, whichever shall first occur.

5. It is the intention of the Borough Council that the foregoing requirements accomplish the following:

a. Provide to those living in each new section of a subdivision a lot that is as complete as possible with respect to tract and individual lot improvements; and

b. Protect the interests of the general public and residents of the development in the total completion of the development.

6. In the case of subdivision having final approval by stages or sections, the requirements of this section shall be applied by stage or section.

B. **Requirements Specific to Major Site Plans.** No final major site plan application (whether for an entire tract or a section thereof) shall be approved by the Board unless:

1. The Borough Engineer has certified to the Board that all public improvements required by the resolution of preliminary site plan approval have been satisfactorily completed or,

2. The developer, with the approval of the Planning Board or the Zoning Board of Adjustment, as the case may be, has entered into a developer's agreement with the Borough in a form satisfactory to the Borough Attorney and authorized by the Governing Body:

a. Requiring the installation and maintenance by the developer (and the developer's successors in interest) of the public improvements; and

b. Imposing such limitations upon, and/or staging of, the development of the site as are necessary to ensure orderly construction of the public improvements on or before an agreed upon date by the filing of a performance guarantee in accordance with Section 28-902D.

C. **Requirements Specific to Minor Subdivisions and Minor Site Plans.** In the case of a minor site plan and/or minor subdivision, in the event that the developer elects to complete all improvements without posting the performance guarantee specified in Section 28-902D, no construction shall be commenced until a finalized plan is submitted and signed, incorporating all conditions of approval.

1. The developer shall still post the inspection escrow and notify the Borough Engineer prior to commencement of work.

2. All site improvements must be completed prior to the issuance of a certificate of occupancy, or within one hundred twenty (120) days of a temporary certificate of occupancy in the instance where a performance guarantee covering the balance of the uncompleted improvements has been posted.

D. **Performance Guarantee.**

1. A performance guarantee estimate shall be prepared by the Borough Engineer for review and approval, setting forth all required improvements as determined by the Board and the estimated cost thereof, provided that no performance guarantee shall be required for the installation of utilities, when said utility improvements will be installed by the applicable utility company. Any adjustment in the amount of the performance guarantee shall be approved by resolution of the Borough Council.

2. The cost of the installation of the required improvements shall be estimated by the Borough Engineer based on documented construction costs for public improvements prevailing in the general area of the Borough. The developer may appeal the Borough Engineer's estimate to the Borough Council. The Borough Council shall decide the appeal within forty-five (45) days of receipt by the Borough Clerk of the appeal in writing. After the developer posts a guarantee with the Borough based on the cost of the installation of improvements as determined by the Borough Council, he/she may institute legal action within one (1) year of the posting in order to preserve the right to a judicial determination as to the fairness and reasonableness of the amount of the guarantee.

3. The developer shall present two (2) copies of the performance guarantee in an amount equal to one hundred twenty percent (120%) of the approved estimated construction cost as stipulated in the performance guarantee estimate for approval as to form and execution by the Borough Attorney; additional copies of

the performance guarantee shall be forwarded by the owner to the Planning Board Attorney or Zoning Board of Adjustment Attorney, as the case may be. The performance guarantee estimates, as prepared by the Borough Engineer and approved by the Borough Council, shall be appended to each performance guarantee posted by the obligor.

4. The performance guarantee shall be made payable and deposited to the Borough of Watchung and shall be in the form of cash, irrevocable letter of credit in accordance with N.J.S.A. 40:55D-53.5, a certified check, a performance bond provided by an acceptable surety company licensed to do business in the State of New Jersey and with the developer as principal, or in another form of guarantee acceptable the Borough.

a. The Borough shall issue its receipt for such deposits and shall cause the same to be deposited in the name of the Borough to be retained as security for completion of all requirements and to be returned to the party posting the said bond on completion of all required work or, in the event of default on part of the developer, to be used by the Borough to pay the cost and expense of obtaining completion of all requirements.

b. The developer shall provide a written agreement from his/her lending institution stating that the lending institution agrees to the time period(s) required for the completion of the improvements and to the release of the guarantee by the Borough Council in accordance with Section 28-902G.

5. Ten percent (10%) of the amount of the approved performance guarantee shall be deposited by the developer in cash with the Borough.

a. The remaining ninety percent (90%) may be in cash, an irrevocable letter of credit in accordance with N.J.S.A. 40:55D-53.5, a surety bond, or in another form of guarantee acceptable to the Borough.

b. In the event of default, the ten percent (10%) cash shall be first applied to the completion of the requirements and any bidding and legal costs associated therewith, and the remaining ninety percent (90%) cash, letter of credit, surety bond, or other form of guarantee shall thereafter be resorted to, if necessary, for the completion of the requirements and any additional bidding and legal costs associated therewith.

E. **Start of Construction.** Construction pursuant to a site plan or subdivision approval shall not commence until:

1. The developer has paid all fees and posted all escrows required by this chapter.

2. The developer has received all other governmental approvals required by the Board's resolution of memorialization granting subdivision and/or site plan approval.

3. The developer has satisfied all conditions of approval required by the Board's resolution of memorialization granting subdivision and/or site plan approval and all revisions to the submitted plat or plan required by the Board at the time of subdivision or site plan approval have been filed with and approved by the Borough Engineer and any other individual or group as may have been specified by the Board in the applicable resolution of memorialization granting subdivision and/or site plan approval.

4. The developer's construction plans have been filed with and approved by the Borough Engineer.

5. The developer has had a preconstruction meeting with the Borough Engineer in accordance with this chapter for the purpose of forecasting and resolving problems that may arise during the time of construction.

6. Regarding major subdivisions only, the developer has posted the "Sales Map" as required by this chapter in a prominent location in all offices from which sales of property in the subdivision development will be conducted.

F. **Inspections and Tests.**

1. All site improvements and utility installations for site plans, subdivisions, plot plans and other realty improvements shall be inspected during the time of their installation under the supervision of the Borough Engineer to ensure satisfactory completion. The cost of said inspection shall be the responsibility of the developer who shall deposit with the Chief Financial Officer of the Borough inspection fees in an amount not to exceed, except for extraordinary circumstances, the greater of five hundred ($500.00) dollars or five percent (5%) of the cost of the improvements as determined by the Borough Engineer in accordance with Section 28-902D2, provided that:

a. For those developments for which the reasonably anticipated inspection fees are less than ten thousand ($10,000.00) dollars, the fees may, at the option of the developer, be paid in two (2) installments. The initial amount deposited by the developer shall be fifty percent (50%) of the reasonably anticipated fees. When the balance of deposit drops to ten percent (10%) of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Borough for the inspection(s), the developer shall deposit the remaining fifty percent (50%) of the anticipated inspection fees.

b. For those developments for which the reasonably anticipated inspection fees are ten thousand ($10,000.00) dollars or greater, the fees may, at the option of the developer, be paid in four (4) installments. The initial amount deposited by the developer shall be twenty-five percent (25%) of the reasonably anticipated fees. When the balance of deposit drops to ten percent (10%) of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Borough Engineer for the inspection(s), the developer shall make additional deposits of twenty-five percent (25%) of the anticipated inspection fees.

2. The inspection escrow shall be deposited by the Chief Financial Officer of the Borough, or his/her designee, in an account for such purposes under the sole control of the Borough. Said inspection escrows may be commingled with similar escrows from other developers, but accurate accounts and records shall be kept so as to identify the particular escrows and charges made against the same. The inspection escrow funds shall be used solely for payment of related inspection fees, expenses and costs incurred on behalf of the Borough during the course of construction.

3. The Borough Engineer shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit. Failure of the developer to deposit the required inspection fees in accordance with this chapter will subject the developer to a "stop-work" order and/or suspension of construction permits.

4. In no case shall any paving work be done without permission from the Borough Engineer. At least two (2) working days notice shall be given to the Borough Engineer prior to any construction so that he or a qualified representative may be present at the time the work is to be done.

5. Streets shall not be paved with a top course until all heavy construction is completed and, if determined by the Borough Engineer to be necessary, the bituminous base course has first been restored. Shade trees shall not be planted until all grading and earth moving is completed.

6. The Borough Engineer's office shall be notified at least three (3) working days prior to the commencement of the following phases of work so that he or a qualified representative may inspect the work; the Borough Engineer shall, in turn, notify the landscape architect designated by the Board, if applicable, regarding any seeding and planting:

a. Road subgrade.

b. Curb and gutter forms.

c. Curbs and gutters.

d. Road paving.

e. Sidewalk forms.

f. Sidewalks.

g. Drainage pipes and other drainage construction.

h. Street name signs.

i. Monuments.

j. Sanitary sewers and pump stations.

k. Topsoil, seeding and planting.

l. Underground utilities.

m. Potable water facilities.

n. Detention and/or retention basins.

7. When designated by the Board, the landscape architect shall witness and approve landscaping in a designated area or on a typical lot within a development as deemed appropriate and necessary and/or as directed by the Borough Engineer. A follow-up inspection when the entire site or phase of development is completed shall be conducted in order to confirm compliance for either a phase of development or the entire project:

a. Plantings shall be checked for compliance with approved plans; i.e., satisfactory condition, correct quantity, size, species and location. Any change or modifications to the approved plans must be reviewed and approved by the landscape architect designated by the Board.

b. Lawns shall be inspected for adequate coverage of healthy, vigorously growing grass which is relatively free of weeds and void of bare spots larger than one (1) square foot in area. Bare spots greater than one (1) square foot in area shall be reseeded or resodded and reinspected until acceptable coverage is achieved.

c. Upon completion of the landscaping, the landscape architect shall check for compliance with the landscape plans approved by the Board. A punch list of outstanding or unsatisfactory items shall be compiled with copies given to the developer and the Borough Engineer, and a final sign-off shall be given after necessary remedial work.

d. Upon successful completion of all landscape work, a written recommendation shall be forwarded by the landscape architect to the Borough Engineer to be included in the inspection report to the Borough Council before the release of performance guarantees.

8. Any improvement installed contrary to the plan or plat approved by the Borough shall constitute just cause by the approving authority or designated official to void or deem voidable the municipal approval. Moreover, if a certificate of occupancy or construction permit is issued by a Borough official pursuant to this chapter, such certificate or permit does not indicate acceptance by the Borough of any deviation(s) from the plan or plat as approved by the Board.

9. Any improvement installed without notice for inspection pursuant to Section 28-902F shall constitute just cause for:

a. Removal of the uninspected improvement;

b. The payment by the developer of any costs for material testing;

c. The restoration by the developer of any improvements disturbed during any material testing; and/or

d. The issuance of a "stop-work" order by the Borough Engineer pending the resolution of any dispute.

10. Inspection by the Borough of the installation of improvements and utilities shall not operate to subject the Borough to liability for claims, suits or liability of any kind that may at any time arise because of defects or negligence during construction or at any time thereafter; it being recognized that the responsibility to maintain safe conditions at all times during construction and to provide proper utilities and improvements is upon the owner and his contractor, if any.

11. Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the Borough Council in writing, by certified mail in care of the Borough Clerk, that the Borough Engineer prepare in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee, a list of all uncompleted or unsatisfactory completed improvements.

a. If such a request is made, the obligor shall send a copy of the request to the Borough Engineer. The request shall indicate which improvements have been completed and which improvements remain uncompleted in the judgment of the obligor.

b. The Borough Engineer shall inspect all the improvements covered by the obligor's request and shall file a detailed list and report, in writing, with the Borough Council, and shall simultaneously send a copy thereof to the obligor not later than forty-five (45) days after receipt of the obligor's request.

c. If the Borough Engineer fails to send or provide the list and report, as requested by the obligor, within forty-five (45) days from the receipt of the request, the obligor may apply to a court of competent jurisdiction in a summary manner for an order compelling the Borough Engineer to provide the list and report within a stated time and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

12. The list prepared by the Borough Engineer pursuant to Section 28-902F11 shall state in detail with respect to each improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed improvement determined to be unsatisfactory. The report prepared by the Borough Engineer shall identify each improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory improvement, in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee pursuant to this chapter.

G. **Release.**

The Borough Council, by resolution, shall either approve the improvements determined to be complete and satisfactory by the Borough Engineer, or reject any or all of these improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee pursuant to this chapter. This resolution shall be adopted not later than forty-five (45) days after receipt of the list and report prepared by the Borough Engineer.

1. Upon adoption of the resolution by the Borough Council, the obligor shall be released from all liability pursuant to its performance guarantee, with respect to those approved improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that thirty percent (30%) of the amount of the performance guarantee posted may be retained to ensure completion and acceptability of all improvements.

2. In the event that the obligor has made a cash deposit with the Borough or approving authority as part of the performance guarantee, then any partial reduction granted in the performance guarantee shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee.

3. If any portion of the required improvements is rejected, the obligor shall complete or correct such improvements and, upon completion or correction, shall notify the Borough Council pursuant to Section 28-902F11 and the same procedures shall be followed as in the first instance.

4. Prior to the approval by the Borough Council of the final reduction and release of the performance guarantee, all easements and open space shall be conveyed to the Borough or such other guarantee as specified on the final plat by deed containing a metes-and-bounds legal description.

5. If the Borough Council fails to approve or reject the improvements determined by the Borough Engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within forty-five (45) days from the receipt of the Borough Engineer's list and report, the obligor may apply to a court of competent jurisdiction in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee pursuant to this chapter, and the cost of applying to a court of competent jurisdiction, including reasonable attorney's fees, may be awarded to the prevailing party.

H. **Conditions and Acceptance of Improvements.** The approval of any application for development by the Borough shall in no way be construed as acceptance of any street or drainage system or other improvement. No improvements shall be accepted by the Borough Council unless and until all of the following conditions have been met:

1. The final application for development shall have been approved by the Planning Board or Zoning Board of Adjustment, as the case may be, and the developer shall have submitted an affidavit, signed by a licensed New Jersey professional land surveyor, certifying that all required monuments have been set in accordance with the Map Filing Law and any approved subdivision plat.

2. The Borough Engineer shall have certified in writing that the improvements are completed and that they comply with the requirements of this chapter and the terms of the final application for development approved by the Board.

3. The owner shall have filed with the Borough Council a maintenance guarantee in an amount equal to and not more than fifteen percent (15%) of the cost of installing the improvements, the cost to be determined by the Borough Engineer in accordance with Section 28-902D2.

a. The maintenance guarantee shall run for a period of two (2) years, provided that the maintenance guarantee shall not terminate until the Borough Council has authorized its release pursuant to a recommendation by the Borough Engineer.

b. The procedures and requirements governing such maintenance guarantee shall be identical with the procedures and requirements for a performance guarantee set forth in this chapter.

c. The requirements for a maintenance guarantee may be waived by the Borough Council only if the Borough Engineer has certified that the improvements have been in continuous use for not less than two (2) years from the date the Borough Engineer certified completion of such improvements and that during this period the owner has maintained the improvements in a satisfactory manner.

4. An "as built" plan and profiles of all utilities and roads shall be provided with certification signed and sealed by a New Jersey licensed professional engineer as to the actual construction as approved by the Borough Engineer. The "as built" information shall be submitted in the form of: two (2) black and white prints to be sent to the Borough Engineer plus a mylar copy and two (2) black and white prints to be sent to the Administrative Officer; and in electronic format sent to the Borough Engineer in format as required by the Borough Engineer.

I. **Extension of Time.** The time allowed for the installation of the improvements for which the performance guarantee has been provided may be extended by the Borough Council by resolution, provided that the current cost of installation of such improvements shall first be redetermined by the Borough Engineer, and if such current cost is found to be greater than the cost as originally determined, the developer shall be required to increase the amount of the performance guarantee to an amount equal to one hundred twenty percent (120%) of the installation cost as redetermined. In the event that the redetermined cost shall be less than the cost as originally determined, and in the further event that the developer's performance guarantee exceeds one hundred twenty percent (120%) of such redetermined costs, the developer shall be entitled to a reduction of the performance guarantee to an amount equal to one hundred twenty percent (120%) of such redetermined costs.

J. **Default by Developer.** If the required improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, under the performance guarantee shall be liable thereon to the Borough for the cost of the improvements not completed or constructed, and the Borough, either prior to or after receipt of the proceeds thereof, may complete the improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the Local Public Contracts Law, P.L. 1971, c.198.

1. For purposes of this section, "default" shall mean failure to install the improvements in accordance with Borough standards of construction, including but not limited to failure to install the improvements prior to the expiration of the performance guarantee.

2. The Borough Engineer's certification that the developer has failed to comply with the required standards of construction and installation of improvements shall be the basis for Borough Council action which rejects the improvements, withholds approval, withholds construction permits or formally declares default and authorizes collection on the performance guarantee.

K. **Penalties.** In addition to the penalties specified for violation of this chapter, the Borough Engineer, or another Borough official designated by the Borough Council, is specifically authorized to require the replacement or restoration of any lands, buildings, structures and site improvements (including clearing, whether onsite or offsite) or of any other work commenced or continued on any site for which an approval is required pursuant to this chapter in violation of any stop-work order or the standards for construction as established by the Borough.
(Ord. No. OR:-- § 28-902)

28-903. ADDITIONAL PROVISIONS FOR ESCROW DEPOSITS

A. The Borough, or the Planning Board or the Zoning Board of Adjustment, as the case may be, shall not bill the applicant or charge any established escrow account for any municipal clerical or administrative functions, overhead expenses, meeting room charges, or for any other municipal costs and expenses except, and subject to, the following:

1. If the salary, staff support and overhead for a municipal professional are provided by the Borough, the charge shall not exceed two hundred percent (200%) of the sum of the product resulting from multiplying the hourly base salary of each of the professionals by the number of hours spent by the respective professional upon review of the application for development or for the inspection of the developer's improvements, as the case may be.

2. If the salary, staff support and overhead for a municipal professional are not provided by the Borough, the fees or charges shall be based upon a schedule established by resolution and shall be at the same rate as all other work of the same nature by the professional for the municipality when fees are not reimbursed or otherwise imposed on applicants or developers.

3. If the Borough retains a different professional or consultant in the place of the professional originally responsible for development within the municipality, for the review of an application for development or for the inspection of improvements, the Borough, or the Planning Board or the Zoning Board of Adjustment, as the case may be, shall be responsible for all time and expenses of the new professional to become familiar with the application or the project, and the municipality or municipal agency shall not bill the applicant or charge any established escrow account for any such service.

B. The Chief Financial Officer of the Borough, or his/her designee, shall make all of the payments to professionals for services rendered to the Borough, to the Planning Board or to the Zoning Board of Adjustment, as the case may be, for the review of applications for development and the inspection of improvements and shall administer the review and escrow deposits as follows:

1. Each payment charged to a deposit for the review of applications for development and for the inspection of improvements shall be pursuant to a voucher from the professional in accordance with the following:

a. Each voucher shall identify the personnel performing the service, the date each service is performed, the hours spent to one-quarter (1/4) hour increments, the hourly rate of the professional, and the expenses incurred.

b. Each voucher shall be submitted to the Chief Financial Officer of the Borough on a monthly basis in accordance with the schedules and procedures established by the Chief Financial Officer.

c. The professional shall send an informational copy of all vouchers or statements submitted to the Chief Financial Officer of the Borough simultaneously to the applicant.

2. The Chief Financial Officer of the Borough shall prepare and send to the applicant a statement which shall include an accounting of the funds listing all deposits, interest earnings, disbursements and the cumulative balance of the escrow account; this information shall be provided on a quarterly basis if the monthly charges are one thousand ($1,000.00) dollars or less, or on a monthly basis if the monthly charges exceed one thousand ($1,000.00) dollars.

3. If an escrow account or deposit contains insufficient funds to enable the Borough, the Planning Board or the Zoning Board of Adjustment, as the case may be, to perform the required application reviews or improvement inspections, the Chief Financial Officer of the Borough shall provide the applicant with a written notice of the insufficient escrow or deposit balance.

a. In order for work to continue on the development or the application, the applicant, within ten (10) days of the written notice, shall post a deposit to the account in an amount to be agreed upon between the Borough, the Planning Board or the Zoning Board of Adjustment, as the case may be, and the applicant.

b. With regard to review fees, if the applicant fails to make said deposit within the time prescribed herein, the Planning Board or Zoning Board of Adjustment, as the case may be, shall be authorized to dismiss the application without prejudice subject to the right of the applicant to seek reinstatement by notice to the Board that said deposits have been posted.

c. With regard to inspection fees, the Borough Engineer shall not perform any inspection if sufficient funds to pay for the inspections are not on deposit, provided that any required health and safety inspections shall be made and charged back against the replenishment of funds. Failure to post and maintain inspection fee deposits in accordance with these requirements will subject the developer to a "stop-work" order and/or suspension of construction permits.

C. The following close-out procedure shall apply to all deposits and escrow accounts and shall commence after the approving authority has granted final approval and signed the subdivision plat or site plan, in the case of application review escrows and deposits, or after the improvements have been approved as provided in N.J.S.A 40:55D-53, in the case of improvement inspection escrows and deposits. The applicant shall send written notice by certified mail to the Chief Financial Officer of the municipality and the approving authority, and to the relevant municipal professional, that the application or the improvements, as the case may be, are completed. After receipt of such notice, the professional shall render a final bill to the Chief Financial Officer of the municipality within thirty (30) days, and shall send a copy simultaneously to the applicant. The Chief Financial Officer of the municipality shall render a written final accounting to the applicant on the uses to which the deposit was put within forty-five (45) days of receipt of the final bill. Any balances remaining in the deposit or escrow account, including interest in accordance with Section 28-903D shall be refunded to the developer along with the final accounting.

D. Whenever an amount of money in excess of five thousand ($5,000.00) dollars is deposited by an applicant or developer with the Borough for professional services employed by the Borough for the review of submitted applications for development pursuant to Article 28-900, or for inspections pursuant to Section 28-902F, or to satisfy the guarantee requirements pursuant to Section 28-902D, the money, until repaid or applied to the purposes for which it is deposited, including the applicant's or developer's portion of the interest earned thereon, except as otherwise provided in this section, shall continue to be the property of the applicant or developer and shall be held in trust by the municipality in accordance with the following:

1. The money deposited shall be held in escrow.

2. The money shall be deposited by the Borough in a banking institution or savings and loan association in New Jersey insured by an agency of the Federal government, or in any other fund or depository approved for such deposits by the State.

3. The money shall be deposited in an account bearing interest at the minimum rate currently paid by the institution or depository on time or savings deposits.

4. The Borough shall notify the applicant in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit.

5. The Borough shall not be required to refund an amount of interest paid on a deposit which does not exceed one hundred ($100.00) dollars. However, if the amount exceeds one hundred ($100.00) dollars, that entire amount shall belong to the applicant or developer and shall be refunded to him/her by the Borough annually or at the time the deposit is repaid or applied to the purposes for which it was deposited, as the case may be; except that the Borough may retain for administrative expenses a sum equivalent to not more than thirty-three and one-third percent (33 1/3%) of that entire amount which shall be in lieu of all other administrative and custodial expenses.
(Ord. No. OR:-- § 28-903)

28-904. OFF-TRACT IMPROVEMENTS

A. **Required Improvements.** Applicants shall be required, as a condition for approval of a subdivision, site plan or conditional use, to pay their pro rata share of the cost providing reasonable and necessary street improvements and/or water, sewerage and drainage facility improvements, and any necessary easements therefor located

outside the property limits of the subject premises, but indicated in the Borough Master Plan and necessitated or required by construction or improvements within such subdivision or development. The following criteria shall be utilized in determining the developer's proportionate pro rata monetary share for the necessary off-tract improvements.

B. **Improvements to be Constructed at the Expense of the Developer.** In cases where the need for an off-tract improvement is reasonably created by the proposed subdivision or development and where no other property owners receive a special benefit thereby (as opposed to a mere incidental benefit), the applicant may be required, as a condition of approval and at the applicant's sole expense, to acquire and/or improve lands outside the tract and dedicate such lands to the Borough or Somerset County or, in lieu thereof, require the subdivider or developer to deposit with the Borough a sum of money sufficient to allow the Borough to acquire and/or improve such lands on conditions it may deem appropriate under the circumstances.

C. **General Standards for Other Improvements.** In cases where the need for any off-tract improvement to be implemented now or in the future is reasonably necessitated by the proposed development application, and where it is determined that properties outside the development also will be benefited by the improvement, the following criteria, together with the provisions or rules and regulations of the Borough or any department thereof, may be utilized in determining the developer's proportionate share of such improvements:

1. Sanitary Sewers. For distribution facilities, including the installation, relocation or replacement of collector, trunk and interceptor sewers and the installation, relocation or replacement of other appurtenances associated therewith, the applicant's proportionate share shall be computed as follows:

a. The capacity and the design of the sanitary sewer system shall be based on the Rules and Regulations for the Preparation and Submission of Plans for Sewerage Systems, New Jersey State Department Of Environmental Protection, and all Borough sewer design standards, including infiltration standards.

b. Developer's pro rata share:

(1) The capacity of the existing system to serve the entire improved drainage area shall be computed. If the system is able to carry the total development drainage basin, no improvement or enlargement cost will be assigned to the developer although some charges including, but not limited to, capacity charges may be imposed. If the existing system does not have adequate capacity for the total development drainage basin, the pro-rated enlargement or improvement share shall be computed as follows:

$$\frac{\text{Developer's Cost}}{\text{Total Enlargement or Improvement Cost}} = \frac{\text{Development gpd}}{\text{Total Tributary gpd}}$$

(2) If it is necessary to construct a new system in order to develop the subdivision or development, the pro-rated enlargement share to the developer shall be computed as follows:

$$\frac{\text{Developer's Cost}}{\text{Total Project Cost}} = \frac{\text{Development Tributary gpd}}{\text{Total Tributary gpd to New System}}$$

(3) The plans for the improved system or the extended system shall be prepared by the developer's engineer. All work shall be calculated by the developer and approved by the Borough Engineer.

2. Roadways. For street widening, alignment, channelization of intersections, construction of barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvement uncovered elsewhere, the construction or reconstruction of new or existing streets and other associated streets or traffic improvements, the applicant's proportionate cost shall be determined as follows:

a. The applicant's engineer shall provide the Borough Engineer with the existing and anticipated peak-hour volumes which impact the off-tract areas in question, which volumes shall analyze pedestrian, bicycle and motor vehicle traffic.

b. The applicant shall furnish a plan for the proposed off-tract improvements, which shall include the estimated peak-hour traffic generated by the proposed development. The ratio of the peak-hour traffic generated by the proposed development to the future peak-hour traffic shall form the basis of the proportionate share. The pro-rated share shall be computed as follows:

$$\frac{\text{Developer's Cost}}{\text{Total Cost of Roadway Improvement and/or Extension}} = \frac{\text{Additional Peak-Hour Traffic Generated by the Development}}{\text{Total Future Peak-Hour Traffic}}$$

3. Drainage Improvements. For the stormwater and drainage improvements, including the installation, relocation or replacement of storm drains, culverts, catch basins, manholes, riprap or improved drainage ditches and appurtenances thereto and the relocation or replacement of other storm drainage facilities or appurtenances associated therewith, the applicant's proportionate share shall be determined as follows:

a. The capacity and design of the drainage system to accommodate stormwater run off shall be based on a method described in Urban Hydrology for Small Watersheds, Technical Release 55, Soil Conservation Service USDA, January 1975, as amended, and shall be computed by the developer's engineer and approved by the Borough Engineer.

b. The capacity of the enlarged, extended or improved system required for the subdivision or development and areas outside of the subdivision or development shall be computed by the developer's engineer and be subject to the approval of the Borough Engineer. The plans for the improved system shall be prepared by the developer's engineer and the estimated cost of the enlarged system shall be calculated by the Borough Engineer.

c. The pro-rated share for the proposed improvement shall be computed as follows:

$$\frac{\text{Developer's Cost}}{\text{Total Enlargement or Improvement Cost of Drainage Facilities}} = \frac{\text{Development cfs}}{\text{Total Tributary cfs}}$$

4. Water.

a. Where no public water is accessible, the applicant shall deposit funds in escrow with the Borough in an amount equal to the cost of connecting the subdivision to an existing public water supply system calculated on the basis of two hundred (200) feet per unit.

b. The escrow amount shall be calculated by determining the costs of providing such water main extension as charged by the public water utility for such service, including, but not limited to, materials, installation, taxes, appurtenances, surcharges, if any, etc.

5. A recycling plan, if required pursuant to Section 28-610 hereinbelow.

D. **Escrow Accounts.** Where the proposed off-tract improvement is to be undertaken at a future date, funds required for the improvement shall be deposited to the credit of the Borough of Watchung in a separate account until such time as the improvement is constructed. In lieu of a cash escrow account, developers may present irrevocable letters of credit for the term required in a form acceptable to the Borough Attorney.

1. If the off-tract improvement is not begun within ten (10) years of the deposit, all monies and interest shall be returned to the applicant or the letter of credit, as the case may be, surrendered.

2. An off-tract improvement shall be considered "begun" if the Borough has taken legal steps to provide for the design and financing of such improvements.

E. **Referral to Borough Council.**

1. Where applications for development suggest the need for off-tract improvements, whether to be installed in conjunction with the development in question or otherwise, the Planning Board or the Zoning Board of Adjustment, as the case may be, shall forthwith forward to the Borough Council a list and description of all such improvements together with a request that the Borough Council determine and advise the Board of the procedure to be followed in construction or installation thereof, including timing. The Board shall defer final action upon the subdivision or site plan until receipt of the Borough Council determination or the expiration of ninety (90) days after the forwarding of such list and description to the Borough Council without determination having been made, whichever comes sooner.

2. The Borough Council, within ninety (90) days after receipt of said list and description, shall determine and advise the Planning Board or Zoning Board of Adjustment, as the case may be, concerning the procedure to be followed and advise the Board with regard to suggested conditions of approval, if any, to adequately protect the municipality.

3. In the event that the Planning Board or Zoning Board of Adjustment, as the case may be, is required by statute to act upon the application prior to receipt of the Borough Council's determination as to construction of off-tract improvements, it shall request the applicant to consent to an extension of time within which to act, of sufficient duration to enable the Borough Council to make the aforesaid determination. In the event that the applicant is unwilling to consent to the requested extension of time, the Planning Board or Zoning Board of Adjustment, as the case may be, shall, in its discretion, either itself determine the procedure to be followed in constructing the aforesaid improvements, or shall condition its approval upon the subsequent determination of the Borough Council.

F. **Implementation of Off-Tract Improvements.**

1. In all cases, developers shall be required to enter into an agreement or agreements with the Borough in regard to off-tract improvements, in accordance with this chapter and any other ordinances, policies, rules and regulations of the Borough, Somerset County and the State of New Jersey and any departments, authorities or agencies thereof.

2. Where properties outside the subject tract will be benefited by the improvements, the Borough Council may require the applicant to escrow sufficient funds, in accordance with Section 28-904D (Escrow Accounts), to secure the developer's pro rata share of the eventual cost of providing future structural improvements based upon the standards expressed herein.

3. Where properties outside the subject tract will benefit by the improvements, the Borough Council may determine that the improvement or improvements are to be installed by the municipality as a general improvement, the cost of which is to be borne as a general expense. If the Borough Council shall determine that the improvement or improvements shall be constructed or installed as a general improvement, the Borough Council may direct the Planning Board to estimate, with the aid of the Borough Engineer or such other persons who have pertinent information or expertise, the amount, if any, by which the total cost thereof will exceed the total amount by which all properties, including the subject tract, will be specifically benefited thereby, and the subdivider or developer shall be liable to the municipality for such expense.

4. If the Borough Council shall determine that the improvement or improvements shall be constructed or installed as a local improvement, all or a part of the cost of which is to be assessed against properties benefited thereby in proportion to the benefits conferred by the improvements in accordance with Chapter 56 of Title 40 of the Statutes of the State of New Jersey, the developer may be required to sign an agreement acknowledging and agreeing to this procedure and, in addition, the Borough Council may require that the developer shall be liable to the municipality, in addition to the amount of any special assessments against the subject property for benefits conferred by the improvement or improvements, the difference between the total cost actually incurred and the total amount by which all properties, including the subject tract, are specially benefited by the improvement as the same may be determined by the Board of Improvement Assessors.

5. If the Borough Council shall determine that the improvements are to be constructed or installed by the applicant, such agreement may contain provisions, consistent with the standards in this chapter and any other rules, regulations or policies of the Borough, County of Somerset and the State of New Jersey and any departments, authorities or agencies thereof with jurisdiction therein, whereby the applicant shall be reimbursed by the municipality or otherwise, as a result of any participation fees, connection charges, charges paid in regard to developer's agreements with other applicants and the like, all in accordance with an agreement between the Borough Council and the applicant.

6. In determining the procedures to be followed in the event of the submission of a list and request from the Planning Board, the Borough Council shall be guided by the following standards and considerations:

a. The local trends in regard to the probability of development within the drainage or circulation area in question and the intensity of such development;

b. The risk and exposure that neighboring areas are subject to in the event that the required improvements are delayed;

c. The extent to which temporary measures may sufficiently alleviate the condition or conditions requiring the off-tract improvement and the likelihood that larger, regional or subregional facilities will be required in the future to serve the tract and the general area of the municipality in which the same is located; and

d. The extent to which the health, safety and welfare of the residents, both current and future, depend upon the immediate implementation of the off-tract improvement.

(Ord. No. OR:-- § 28-904; Ord. No. OR:07/23 § 3)

ARTICLE 28-1000
AFFORDABLE HOUSING

28-1001. PURPOSE AND GENERAL REQUIREMENTS

A. **Purpose.** The purpose of these regulations is to guide the development and disposition, whether through sales or rentals, of all affordable housing undertaken in the Borough pursuant to the Borough's Affordable Housing Plan granted Substantive Certification on April 1, 1998 by the New Jersey Council on Affordable Housing consistent with N.J.A.C. 5:93-1.1 et seq. effective on June 6, 1994.

B. **General Requirements.** The developer of affordable housing located in an inclusionary development shall, as a condition of site plan approval, demonstrate that the affordable housing has been designed and will be marketed, sold and/or rented in compliance with the requirements of this Article.
(Ord. No. OR:-- § 28-1001)

28-1002. DEFINITIONS

The following terms shall have the meanings set forth in this section unless different meanings are clearly indicated by the context in which they are used. All terms defined in N.J.A.C. 5:93-1.3 are hereby incorporated by reference as if set forth herein in their entirety.

Affordable Housing: A residential dwelling that is sold or rented for an amount within the means of a low or moderate income household as defined by the New Jersey Council on Affordable Housing.

Low Income Housing: Housing affordable according to New Jersey Council on Affordable Housing regulations, to a household with a total gross annual income equal to fifty percent (50%) or less of the median gross household income for households of the same size within the housing region in which the housing is located as adopted by COAH, and which is subject to affordability controls consistent with COAH regulations.

Moderate Income Housing: Housing affordable according to New Jersey Council on Affordable Housing regulations, to a household with a total gross annual income in excess of fifty percent (50%) but less than eighty percent (80%) of the median gross household income for households of the same size within the housing region in which the housing is located as adopted by COAH, and which is subject to affordability controls consistent with COAH regulations.

Senior Citizen: A person who is sixty-two (62) years of age or older.
(Ord. No. OR:-- § 28-1002)

28-1003. DEVELOPMENT REQUIREMENTS

A. **Distribution of Low and Moderate Income Units.** With the exception of units governed by Federal tax credits and the Federal or State regulations pertaining thereto, at least fifty percent (50%) of all affordable housing units in any inclusionary housing development shall be affordable to low income households. The remainder shall be affordable to moderate income households in accordance with the requirements of this Article. With the exception of units governed by Federal tax credits and the Federal or State regulations pertaining thereto, at least one-third (1/3) of all units in each bedroom distribution shall be affordable to low income households. Developers are encouraged to design inclusionary developments that integrate low and moderate income units with market rate units.

B. **Bedroom Distribution.** Inclusionary developments shall be designed and constructed in accordance with the following bedroom distribution requirements:

1. The combination of efficiency and one (1) bedroom units shall be at least ten percent (10%) and no greater than twenty percent (20%) of the total number of low and moderate income units.

2. At least thirty percent (30%) of all low and moderate income units shall be two (2) bedroom units.

3. At least twenty percent (20%) of all low and moderate income units shall be three (3) bedroom units.

4. Units designed for and reserved for senior citizens may utilize a different bedroom distribution standard than the above provided that the total number of bedrooms shall equal the total number of affordable units reserved for occupancy by senior citizens, and subject to the approval of COAH.

C. **Construction Phasing.** Within inclusionary developments, low and moderate income units shall be built in accordance with the following schedule:

Min. % of Low/Moderate Income Units Completed:	*% of Market Rate Housing Units Completed:*
0	25
10	25 + 1 unit
50	50
75	75
100	90

(Ord. No. OR:-- § 28-1003)

28-1004. ADMINISTRATION OF AFFORDABLE HOUSING

A. **Administering Agency.** To provide assurances that all new low and moderate income housing in the Borough is occupied by qualified income-eligible households, the Borough shall contract with the Department of Community Affairs, Affordable Housing Management Service (AHMS) to administer all sales, rentals, resales or rerentals of affordable housing in accordance with COAH rules, and to provide appropriate counseling services to households as AHMS deems necessary. The developer of affordable housing and the landlord of affordable rental properties shall pay any required fees in connection with the services to be provided by AHMS. Prior to the issuance of a building permit for the first affordable unit, the developer shall provide evidence of such payment to the Borough Administrator. Developers of affordable housing within an inclusionary development shall provide AHMS with all necessary information concerning the sales prices or rents of available units and shall, if requested by AHMS, demonstrate compliance with the pricing and rental requirements of this Article or COAH rules. All occupancy and reoccupancy of affordable housing in the Borough shall be undertaken in conformance with the procedures of the Affordable Housing Management Service.

B. **Borough Contact Person.** The Borough Administrator shall be the contact person designated by the Borough Council to coordinate as necessary, any activities undertaken by AHMS, file any and all monitoring forms with COAH, and act as the municipal liaison with COAH, developers, landlords and the general public.

C. **Certificate of Occupancy or Reoccupancy Required.** No low or moderate income housing unit shall be occupied or reoccupied without a certificate of occupancy or reoccupancy in accordance with this section. No certificate of occupancy shall be issued unless and until there is a written determination that the unit is to be controlled by a deed restriction and such deed is recorded within five (5) days of title closing. No certificate for reoccupancy of any unit shall be issued unless and until there is a written determination that the unit is controlled by a deed restriction or continuing deed restriction regardless of whether the sellers had executed the deed restriction upon acquisition of the property.
(Ord. No. OR:-- § 28-1004)

28-1005. AFFIRMATIVE MARKETING

A. **General.** The sale, resale, rental and rerental of all affordable housing shall be undertaken in accordance with the requirements of this Article and COAH regulations. These regulations are intended to implement the requirements of N.J.A.C. 5:93-11. Marketing for the sale, resale, rental and rerental of all affordable housing shall be based

upon a regional marketing strategy, within the housing region designated below, designed to attract prospective homebuyers of all groups regardless of sex, age or number of children, who live or work within the housing region, to available affordable housing units in the Borough. The developer of affordable housing units shall have the primary role in developing the initial affirmative marketing plan and undertaking marketing consistent with these rules, for the sale or rental of units, and shall cooperate with and coordinate all marketing and sales or rental activities with the Affordable Housing Management Service.

B. **Household Certification.** All prospective applicants for the purchase or rental (including all resales or rerentals) of affordable housing in the Borough, including affordable accessory apartments, shall be certified as an income-eligible household by the Affordable Housing Management Service. No person shall purchase or rent an affordable housing unit that is governed by these rules without first being certified by the Affordable Housing Management Service.

C. **Housing Region.** The Borough is located in COAH Region 3 which includes Hunterdon, Somerset and Middlesex Counties.

D. **No Discrimination Permitted.** Discrimination in the sale, rental, financing or other services related to affordable housing on the basis of race, color, sex, religion, handicap, familial status/size, age or national origin is prohibited. The Borough shall comply with monitoring and reporting requirements in accordance with N.J.A.C. 5:93-11.6 and 12.1.

E. **Affirmative Marketing Requirements.** Developers of affordable housing shall market units in accordance with these rules and shall coordinate all marketing activities with the Affordable Housing Management Service.

1. All newspaper articles, announcements and requests for applications for affordable housing shall appear in the following daily regional newspapers: The Courier News and Home News.

2. Advertisements, announcements, and newspaper articles may also be placed in neighborhood newspapers, newsletters and other publications including but not limited to the Messenger Gazette, Hunterdon Democrat, Middlesex Chronicle and SCCOAH Newsletter.

3. The following regional radio and/or cable television station(s) will be used as necessary: WCTC Radio (Somerset), WDVR (Sergeantsville), TKR Cable (Piscataway).

4. Initial marketing shall take the form of at least one (1) press release sent to the above newspapers and a paid display advertisement in each. Additional advertising shall be on an as needed basis.

5. Each newspaper advertisement shall include a description of the following:

a. Street address of the unit(s)

b. Directions to the property

c. Size of unit(s) and number of bedrooms per unit

d. Range of sales prices or rents

e. Income requirements

f. Location of applications, including business hours and where/how applications or more information may be obtained.

6. Applications shall be mailed to prospective applicants upon request. In addition, the following are the locations where applications, brochures, signs or other forms of advertisement/marketing may be found.

a. Watchung Borough Municipal Building and Library

b. Developer's Sales/Rental Office

c. Somerset County Administration Building

d. County Libraries in Hunterdon, Somerset and Middlesex Counties

e. Major employers in the region.

7. The following is a listing of community contacts in the housing region that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are the least likely to apply for housing within the region:

a. Hunterdon, Somerset, and Middlesex County Departments of Planning

b. Hunterdon County Housing Agency

c. Hunterdon County Housing Coalition

d. Middlesex County Housing Coalition

e. Somerset County Coalition on Affordable Housing (SCCOAH)

f. United Way of Somerset County

g. Local and County Chambers of Commerce

h. Civic League of Greater New Brunswick.

8. Flyers and applications shall be sent on an as needed basis to each of the following agencies for publication in their journals and for circulation among their members: Board of Realtors in Hunterdon, Somerset, and Middlesex Counties.

9. Informational circulars and applications shall be sent on an as needed basis to the chief administrative employee of each of the following agencies in the Counties of Hunterdon, Somerset, and Middlesex:

a. United Way

b. Office on Aging

c. Library

d. Area Community Action Agencies, if any.

10. The marketing program for new units shall commence at least one hundred twenty (120) days before the first issuance of a certificate of occupancy, whether temporary or permanent. The program shall continue until all low and moderate income housing units are initially occupied and for as long as affordable housing units are provided or assured through deed restrictions and as occupancy or reoccupancy of units continues to be necessary in satisfaction of the Borough's Affordable Housing obligation.

F. **Selection of Occupants.** The method utilized for selecting occupants for available affordable housing units shall be organized and implemented by the Affordable Housing Management Service in accordance with its rules and procedures.

G. **No Residency Preference Permitted.** The Borough shall comply with N.J.A.C. 5:93-11.7. There shall be no local residency preference in marketing affordable housing. However, an occupancy preference shall be given to income-eligible households that live or work within the COAH-determined housing region within which Watchung Borough is situated. Applicants living outside the region shall have an equal opportunity for units after intraregional applicants have been processed.
(Ord. No. OR:-- § 28-1005)

28-1006. INCOME LIMITS

The occupancy of all affordable housing shall be limited to households of low or moderate income in accordance with the income limits for the size of the household approved and periodically updated by COAH. The Affordable Housing Management Service shall be responsible for verifying income and certifying households in placing households in low and moderate income units, in accordance with COAH rules. (Ord. No. OR:-- § 28-1006)

28-1007. AFFORDABILITY CONTROLS

All low and moderate income housing, and accessory apartments and rehabilitated units shall be governed by a deed restriction and/or mortgage lien and affordability controls consistent with COAH regulations.

A. **New Construction.** Newly constructed affordable housing shall be governed by deed restrictions and mortgage liens ensuring affordability for a period of not less than thirty (30) years from the date of the initial sale to a qualified purchaser.

B. **Accessory Apartments.** Accessory apartments shall be governed by deed restrictions, liens and deeds of easement ensuring affordability for a period of not less than ten (10) years.

C. **Rehabilitation.** Any rental housing that is rehabilitated in satisfaction of the Borough's affordable housing obligation shall be subject to affordability controls for a period of at least ten (10) years by documentation approved by the Borough Attorney. Owner-occupied rehabilitated housing shall be subject to a deferred loan requiring repayment only when title is transferred.

D. **Deed Restrictions.** Deed restrictions, liens, and deeds of easement shall be consistent with N.J.A.C. 5:93-9.3 through 9.16 concerning COAH's forms and municipal, state and seller options regarding units for sale, continued options to maintain low and moderate income housing, foreclosure terms and procedures for initial sales and resales.
(Ord. No. OR:-- § 28-1007)

28-1008. PRICING AND RENTAL REQUIREMENTS

A. In accordance with N.J.A.C. 5:93-7.4(a), the following criteria shall be used to calculate the maximum rents and sales prices of Affordable Housing in accordance with income limits for the household sizes and bedroom distribution as follows:

Bedroom Type:	*Income Limit for Household Size:*
Efficiency unit	1 person income
1 bedroom	1.5 person income
2 bedroom	3 person income
3 bedroom	4.5 person income

B. The initial rent for each bedroom type of low and moderate income units for rent shall be established so as not to exceed thirty percent (30%) of gross monthly income, including an allowance for tenant-paid utilities, for the appropriate household size in accordance with Section 28-1008A above. The tenant-paid utility allowance shall be consistent with the utility allowance approved by the US Department of Housing and Urban Development for use in New Jersey.

C. The initial price for each bedroom type of low or moderate income units for sale shall be established so that after a down payment of five percent (5%) , the monthly principal, interest, homeowner and private mortgage insurance, property taxes (based upon the restricted value of the unit) and condominium or homeowner association fee, do not exceed twenty-eight percent (28%) of gross monthly income for the appropriate household size in accordance with Section 28-1008A above.

D. Master Deeds of inclusionary developments shall regulate condominium or homeowner association fees or special assessments of low and moderate income purchasers at a specified percentage of those paid by market rate purchasers. The percentage that shall be paid by low and moderate income purchasers shall be one-half (1/2) of that paid by market-rate purchasers. Once established in the Master Deed, the percentage shall not be amended without prior approval from COAH.

E. The maximum average price and/or rent of all low and moderate income units within each inclusionary development shall be that which would be affordable to households with a total annual income equal to fifty-seven and one-half of one percent (57.5%) of median income.

F. Moderate income sales units shall be available for at least three (3) different prices and low income sales units shall be available for at least two (2) different prices.

G. Developers of affordable rental housing may establish one (1) rental rate for low income units and one (1) rental rate for moderate income units for each bedroom

type, provided that the average of all rents is that which would be affordable to households with a total annual income equal to fifty-seven and one-half of one percent (57.5%) of median income.

H. All affordable housing units whether for sale or for rent shall be designed and constructed to utilize the same heating system fuel source as market units within the development.

I. Low income units shall be reserved for households with a total gross annual income equal to fifty percent (50%) or less of the median income approved by COAH. Moderate income units shall be reserved for households with a total gross annual income greater than fifty percent (50%) but less than eighty percent (80%) of median income approved by COAH. Notwithstanding the method of establishing prices or rents stipulated above, a household's income eligibility shall be determined on the basis of the actual household size of the household proposed for occupancy. Compliance shall be required with the sales, resales, rental and rerental procedures of N.J.A.C. 5:93-9.16.

J. Annual increases in sales prices or rents shall be in accordance with COAH-determined and permitted increases.
(Ord. No. OR:-- § 28-1008)

28-1009. OCCUPANCY POLICIES AND GUIDELINES

A. Low income units shall be reserved for low income households and moderate income units shall be reserved for moderate income households, provided that a low income household may be placed in a moderate income unit. Low and moderate income units shall not be offered to households that are not income eligible except in conformance with COAH rules and if required the approval of COAH.

B. The occupancy policy for affordable housing shall be based upon the objective of effective utilization of space without overcrowding, or providing more space than is needed by the number of people in the household. Generally, households will be referred to available units using the following standards for occupancy:

1. A maximum of two (2) persons per bedroom.

2. In determining the number of bedrooms needed for the household, one (1) bedroom per child except that children of the same sex may share a bedroom.

3. In determining the number of bedrooms needed for the household, one (1) bedroom for each unrelated adult or person of the opposite sex, other than husband and wife.

4. A change in family size after occupancy shall not be considered a violation of this chapter, unless the same is a violation of any other applicable local or State law, and further provided that a household that has increased in size, contrary to these standards, may not be permitted to renew its lease on the same unit.

5. Households may be considered for occupancy based upon considerations other than as outlined above, but in no event shall a household be referred to a unit that provides for more than one (1) additional bedroom per household based upon the occupancy standards above.

6. In addition to the services provided by the Affordable Housing Management Service, nothing herein shall preclude the owner of affordable rental housing from undertaking appropriate credit checks and housing reference checks as part of the process of determining eligibility for occupancy of any affordable housing unit.
(Ord. No. OR:-- § 28-1009)

ARTICLE 28-1100
AFFORDABLE HOUSING DEVELOPMENT FEES

28-1101. FINDINGS AND PURPOSE

A. The New Jersey Supreme Court, in Holmdel Builders vs. Holmdel Township, 121 N.J. 550 (1990), determined that mandatory development fees are both statutorily and constitutionally permissible. The court further anticipated that COAH would promulgate appropriate development fee rules specifying, among other things, the standards for these development fees. The purpose of this section is to provide such rules pursuant to N.J.A.C. 5:92-18 et seq.

B. The Mayor and Borough Council find and declare that the creation and preservation of affordable housing in the Borough serves the public interest. Maintaining and improving a stock at sound affordable housing requires affirmative steps by local government working cooperatively with public bodies at all levels and with the private sector. The purpose of this section is to create in the Borough of Watchung trust fund from payment or development fees to assist in the marshalling of public and private monies dedicated to affordable housing projects and programs.
(Ord. No. OR:-- § 28-1101)

28-1102. DEFINITIONS

Affordable Housing: Any housing unit with an acquisition price or rent level not exceeding the maximum resale or rent level for low and moderate income housing as set forth in N.J.A.C. 5:92-1.2.

COAH: The New Jersey Council on Affordable Housing.

Development Fees: Money paid by an individual, person, partnership, association, company, or corporation to the improvement of property as permitted in N.J.A.C. 5:92-18 et seq.

Equalized Assessed Value: The value of a property determined by the Borough Tax Assessor through a process designed to ensure that all property in the Borough is assessed at the same assessment ratio or ratios required by law. Estimates at the time of building permit may be obtained by the Tax Assessor utilizing estimates for

construction cost. Final equalized assessed value will be determined at project completion by the Tax Assessor.
(Ord. No. OR:-- § 28-1102)

28-1103. DEVELOPMENT FEE SCHEDULE

A. Residential Development.

1. Residential development fees shall be a maximum of one percent (1%) of the equalized assessed value for residential development which is not exempt from the provisions of this chapter as set forth below, provided no increased density is permitted.

2. If a "d" variance is granted pursuant to N.J.S.A. 40:55D-70d(5), then the additional residential units realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of six percent (6%) rather than the development fee of one percent (1%). However, if the zoning on a site has changed during the two-year period preceding the filing of the "d" variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two (2) years preceding the filing of the "d" variance application.

3. The Borough may allow developers of sites zoned for inclusionary development to pay a fee in lieu of building low and moderate income units provided COAH determines the Borough's Housing Element and Fair Share Plan provides a realistic opportunity for addressing the Borough's fair share obligation. The fee may equal the cost of subsidizing the low and moderate income units that are replaced by the development fee. For example, an inclusionary development may include a twenty percent (20%) set-aside, no set-aside and a fee that is the equivalent of a twenty percent (20%) set-aside or a combination of a fee and set-aside that is the equivalent of a twenty percent (20%) set-aside.

4. The Borough may collect fees exceeding those permitted in this section provided the Borough enters into agreements with developers that offer a financial incentive for paying higher fees. The financial incentive may be in the form of a tax abatement. No agreement may provide for a voluntary development fee without also providing for a comparable off-setting incentive. All agreements are subject to COAH approval.

B. **Nonresidential Development.**

1. Nonresidential development fees shall be a maximum of two percent (2%) of the equalized assessed value for nonresidential development which is not exempt from the provisions of this chapter as set forth below.

2. If a "d" variance is granted pursuant to N.J.S.A. 40:55D-70d(4), then the additional floor area realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of six percent (6%) rather than the development fee of two percent (2%). However, if the zoning on a site has changed during the two (2) year period preceding the filing of the "d" variance application, the base floor area for the purposes of calculating the bonus development fee shall be the highest floor area permitted by right during the two (2) years preceding the filing of the "d" variance application.

3. The Borough may collect fees exceeding those permitted in this section provided they enter into agreements with developers that offer a financial incentive for paying higher fees. Such agreements may include, but are not limited to, a tax abatement, increased commercial/industrial square footage, increased commercial/industrial lot coverage and/or increased commercial or industrial impervious coverage, in return for an increased development fee. The development fee negotiated must bear a reasonable relationship to the additional commercial/industrial consideration to be received. All agreements are subject to approval by COAH.
(Ord. No. OR:-- § 28-1103)

28-1104. ELIGIBLE EXACTIONS, INELIGIBLE EXACTIONS, AND EXEMPTIONS

A. Except as provided in Section 28-1103 above, inclusionary developments shall be exempt from development fees.

B. Development fees may only be collected for any residential structure which requires the installation of a new foundation (excluding foundations required for an addition to or renovation of an existing residential structure or a foundation required for an accessory structure to an existing residential structure).

C. All forms of new nonresidential construction shall be subject to development fees provided, however, that development fees may only be collected for improvements that add usable or rentable footage to an existing nonresidential structure. In the event that a development fee is collected for a nonresidential structure and thereafter usable or

rentable footage is obtained through modification of the said structure, a development fee may be collected for the additional unable or rentable footage based upon the increase in the equalized assessed value of the improved structure.

D. The Borough shall not reduce densities from preexisting levels and then require developers to pay development fees in exchange for an increased density.

E. Developments that have received preliminary or final approval prior to the imposition of a development fee shall be exempt from development fees unless the developer seeks a substantial change in the approval.

F. The Borough exempts the following types of development from the imposition of development fees:

1. Development by the Borough or any of its instrumentalities.

2. Development by charitable or not-for-profit entities formed and legally established in accordance with the laws of the State of New Jersey.

(Ord. No. OR:-- § 28-1104)

28-1105. COLLECTION OF DEVELOPMENT FEES

The Borough shall collect fifty percent (50%) of the fee on any specific development prior to and as a condition of the issuance of the building permit therefor. The remaining portion shall be collected prior to and as a condition of the issuance of the certificate of occupancy. Once the final equalized assessed value of a particular development has been determined by the Tax Assessor, and such final equalized assessed value is greater than the estimated equalized assessed value, the developer shall, within ten (10) business days from receipt of notification from the Borough, pay to the Borough the difference between the development fees required to be paid by the developer once such final equalized assessed value has been determined and the estimated development fees actually paid by the developer. The failure of the developer to make timely payments of the aforesaid deficiency shall entitle the Borough to file, without notice to the developer, a lien against the subject development. In the event the Borough shall file such lien, the Borough may add to the aforesaid deficiency amount, reasonable attorney fees to file and discharge such lien, together with any and all costs incurred to file and discharge said lien. In the event that the estimated equalized

assessed value proves to have been too high, the Borough shall promptly refund the difference between the estimated development fees actually paid by the developer and the development fees required to be paid by the developer once such final equalized assessed value has been determined. (Ord. No. OR:-- § 28-1105)

28-1106. HOUSING TRUST FUND

All development fees shall be deposited with the Chief Financial Officer of the Borough in a separate designated interest-bearing housing trust fund. The development fees placed in the housing trust fund shall be deemed "dedicated revenues" as such term is defined in N.J.S.A. 40A:4-36. In establishing the housing trust fund, the Borough shall provide whatever express written authorization that may be required by the bank utilized by the Borough in order to permit COAH to direct the disbursement of development fees pursuant to this chapter. (Ord. No. OR:-- § 28-1106)

28-1107. USE OF MONEY

A. The Borough shall use revenues collected from development fees for any activity approved by COAH for addressing the Borough's fair share obligation. Such activities include, but are not limited to, rehabilitation, new construction, regional contribution agreements, the purchase of land for low and moderate income housing, the improvement of land to be used for low and moderate income housing, the extension and/or improvements of roads and infrastructure to low and moderate income housing sites, assistance designed to render units more affordable and the administration or implementation of the housing element.

B. Funds shall not be expended to reimburse the Borough for past housing activities.

C. At least thirty percent (30%) of the revenues collected from development fees shall be devoted to render units more affordable. Examples of such activities include, but are not limited to, down payment assistance, low interest loans, and rental assistance. This requirement may be waived in whole or in part when the Borough demonstrates to COAH the ability to address the requirement of affordability assistance from another source.

D. No more than twenty percent (20%) of the revenues collected from development fees shall be expended on administration, including but not limited to, salaries and benefits for Borough employees or consultant fees necessary to develop or

implement a rehabilitation program, a new construction program, a regional contribution agreement, a housing element, and an affirmative marketing program. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Development fees shall not be used to defray the costs of existing staff.
(Ord. No. OR:-- § 28-1107)

28-1108. MONITORING

The Borough shall complete and return to COAH all monitoring forms related to the collection of development fees, expenditures of revenues, and implementation of the spending plan certified by COAH. Quarterly financial reports and annual program implementation and auditing reports shall be completed by the Borough on forms designed by COAH. (Ord. No. OR:-- § 28-1108)

28-1109. SPENDING PLAN

A. The Borough shall submit to COAH a spending plan for the development fees collected by it prior to the expiration of its substantive certification period. Plans to spend development fees shall consist of the following information:

1. A projection at revenues anticipated from imposing fees on development based on historic activity.

2. A description of the administrative mechanism that the Borough will use to collect and distribute revenues.

3. A description of the anticipated use or all development fees.

4. A schedule for the creation or rehabilitation of housing units.

5. In the event the Borough envisions being responsible for public sector or nonprofit construction of housing, a pro-forma statement of the anticipated costs and revenues associated with the development.

6. The manner through which the Borough will address any shortfall if the anticipated revenues from development fees are not sufficient to implement the plan.

(Ord. No. OR:-- § 28-1109)

28-1110. PENALTIES

A. In the event that any of the conditions set forth below occur, COAH shall be authorized, on behalf of the Borough, to direct the manner in which all development fees collected pursuant to this chapter shall be expended. Should any such condition occur, such revenues shall immediately become available for expenditure at the direction of COAH upon the Borough Clerk's receipt of written notification from COAH that such a condition has occurred. In furtherance of the foregoing, the Borough shall, in establishing a bank account pursuant to this chapter, ensure that the Borough has provided whatever express written authorization which may be required by the bank to permit COAH to direct disbursement of such revenues from the account following the delivery to the bank of the aforementioned written notification provided by COAH to the Borough Clerk.

B. Occurrence of the following may result in COAH taking an action pursuant to paragraph A above:

1. Failure to submit a spending plan within the time limits imposed by COAH.

2. Failure to meet deadlines for information required by COAH in its review of this chapter, the Borough's housing element, or spending plan.

3. Failure to address COAH's conditions for approval of a plan to spend development fees within the deadlines imposed by COAH.

4. Failure to address COAH's conditions for substantive certification within the deadlines imposed by COAH.

5. Failure to submit accurate monitoring reports within the time limits imposed by COAH.

6. Failure to implement the spending plan for development fees within the time limits imposed by COAH or within reasonable extensions granted by COAH.

7. Expenditure of development fees on activities not permitted by COAH.

8. Revocation of the Borough's substantive certification.

9. Other good cause demonstrating that the revenues are not being used for the intended purpose.

(Ord. No. OR:-- § 28-1110)

28-1111. ONGOING COLLECTION OF DEVELOPMENT FEES

The Borough's ability to collect development fees shall expire with substantive certification unless the Borough has filed an adopted housing element with COAH, petitioned for substantive certification, and received COAH's approval of its development fee ordinance. (Ord. No. OR:-- § 28-1111)

ARTICLE 28-1200
ADMINISTRATION, PENALTIES, REPEALER, VALIDITY

28-1201. ADMINISTRATION

A. **Enforcement.** This chapter shall be enforced by the Zoning Officer of the Borough of Watchung, except where the Borough Engineer may be authorized to enforce any of the provisions of this chapter. The Zoning Officer may institute the appropriate action or proceedings to prevent unlawful construction, alteration, repair, conversion, maintenance, occupancy, or use of land, buildings, or structures in the Borough in order to correct or abate any violation of this chapter.

B. **Inspections.** All buildings, structures and land situated within the Borough shall be subject to inspection by the Zoning Officer where there is reasonable basis for believing that a violation of this chapter exists. At the time of such inspection, all rooms in a building or structure and all parts of the premises shall be made available to the Zoning Officer and the owner, operator or occupant shall be required to make the necessary arrangements to facilitate such inspections. The Zoning Officer may apply to the Municipal Judge of the Borough of Watchung or to a Judge of the Superior Court of the State of New Jersey for a search warrant and/or access warrant to permit the inspection of any premises, building or structure.

C. **Zoning Permits.** Zoning permits shall be secured from the Zoning Officer prior to the construction, erection or alteration of any building or part thereof, or any stationary sign, unless exempt from the provisions of this chapter. An application form may be obtained at the administrative offices of the Borough. All applications shall be accompanied by a statement indicating the existing or proposed use of the premises and plans or drawings for existing or proposed buildings or structures showing their location on the land and proximity to road right-of-way lines and property lines, or other information as determined by the Zoning Officer to be necessary in order to issue a permit.

D. **Certificate of Occupancy.** No building shall hereafter be occupied, erected or altered under a zoning permit shall be occupied or used in whole or in part for any use or purpose whatsoever and no change in use shall hereafter be made with respect to buildings, structures or land until a certificate of occupancy shall be issued by the Zoning Officer indicating that the use of the premises is in compliance with this chapter. With respect to any nonresidential use, any change in tenancy or nature of occupancy shall require the issuance of a certificate of occupancy, except that an affordable housing unit shall also require the issuance of a certificate of occupancy for any change in occupancy. Certificates of occupancy shall be issued within ten (10) days from the date of a written application for said certificate.
(Ord. No. OR:-- § 28-1201)

28-1202. PENALTIES

A. **Fines.**

1. Any violation of any provision of this chapter shall be liable to the penalty as stated in Chapter I, subsection 1-5.1. The following individuals shall be subject to potential punishment:

a. The owner, general agent, contractor or occupant of a building, premises or part thereof where such a violation has been committed or does exist.

b. Any agent, contractor, architect, engineer, builder, corporation or other person who commits, takes part or assists in the violation.

2. Each day that a violation continues shall constitute a separate offense.

3. The imposition of penalties herein shall not preclude the Borough or any other person from instituting an action to prevent an unlawful construction, reconstruction, alteration, repair, conversion, or use or to restrain, correct or abate a violation, or to prevent the illegal occupancy of a building, land or premises.

B. **Injunctive Relief.** In addition to the foregoing, the Borough may institute and maintain a civil action for injunctive relief.
(Ord. No. OR:-- § 28-1202)

28-1203. REPEALER

This chapter amends and replaces in their entirety the following chapters of the 1972 Code of the Borough of Watchung: "Chapter 75, Fences and Walls," "Chapter 119 Subdivision of Land and Site Plan Review," and "Chapter 138 Zoning," and "Chapter XIX, Land Use Procedures" of the 2003 Revised General Ordinances of the Borough of Watchung, all of which are hereby repealed in their entirety. Any and all remaining sections of the Code of the Borough of Watchung that contain provisions contrary to or inconsistent with the provisions of this chapter, are hereby repealed to the extent of such inconsistency only. (Ord. No. OR:-- § 28-1203)

28-1204. VALIDITY OF ORDINANCE

If any section, paragraph, subsection, clause or provision of this chapter shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and the remainder of this chapter shall be deemed valid and effective. (Ord. No. OR:-- § 28-1204)

APPENDICES

Chapter XXVIII
Land Development
Borough of Watchung

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APPENDIX A

FIGURE 1
Lot Depth and Lot Width (Section 28-203)

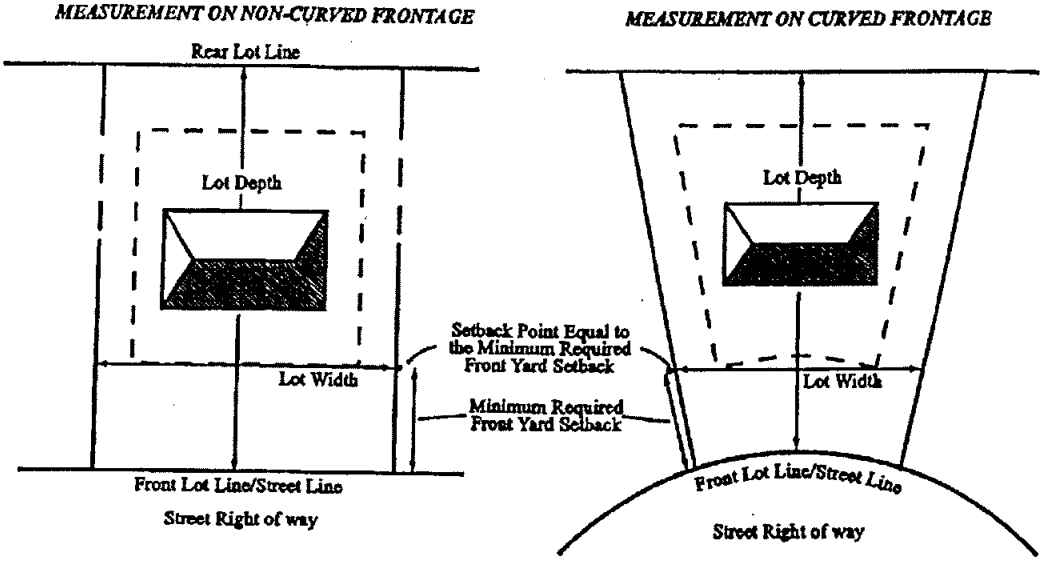
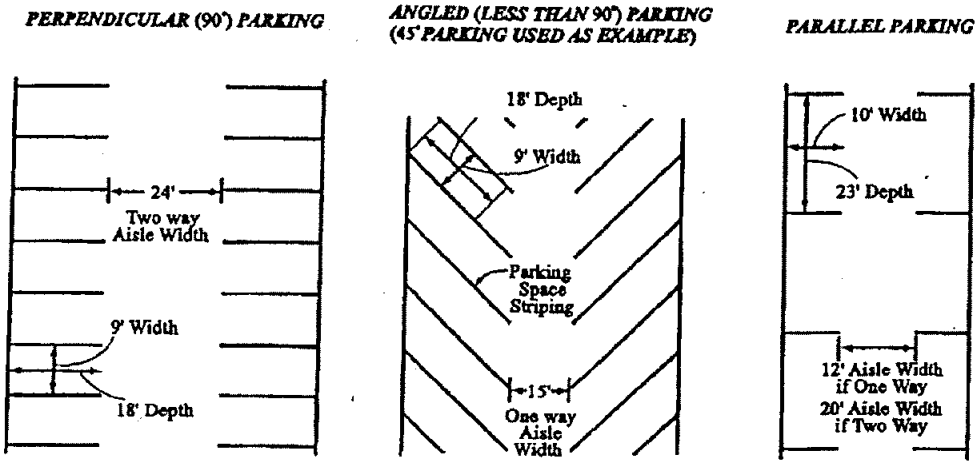
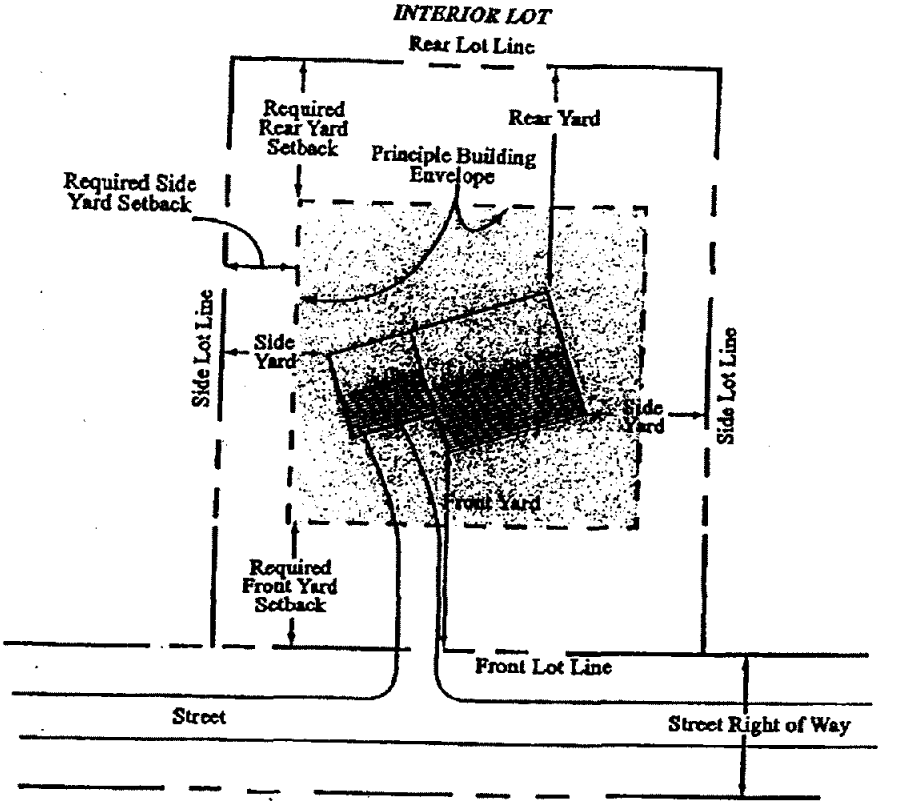


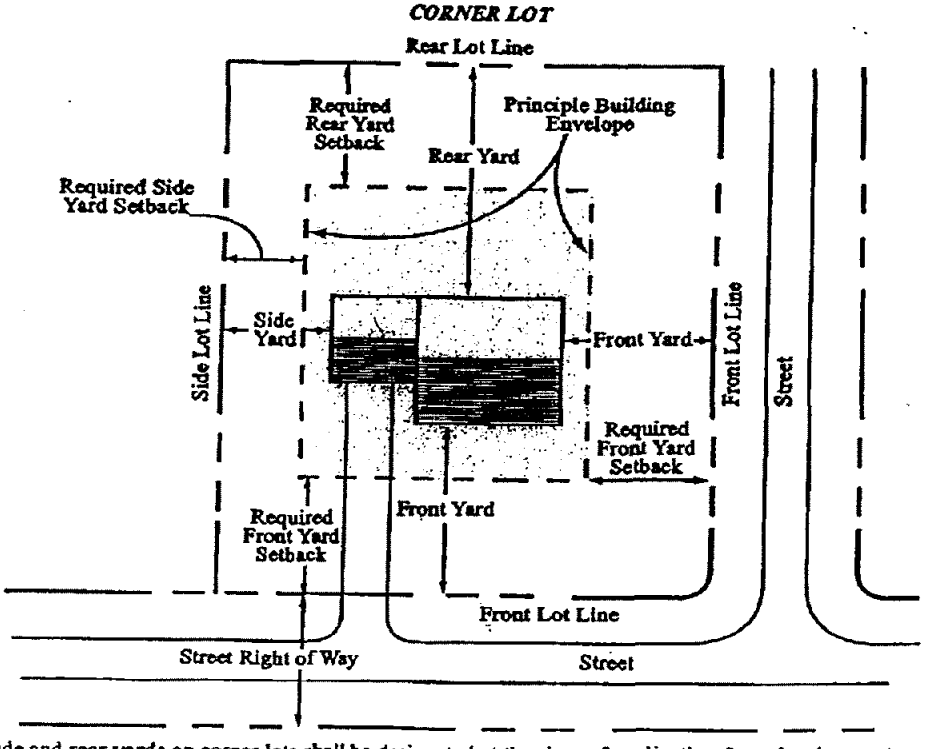
FIGURE 2
Parking Space Measurement
(Section 28-607B)



Not to Scale

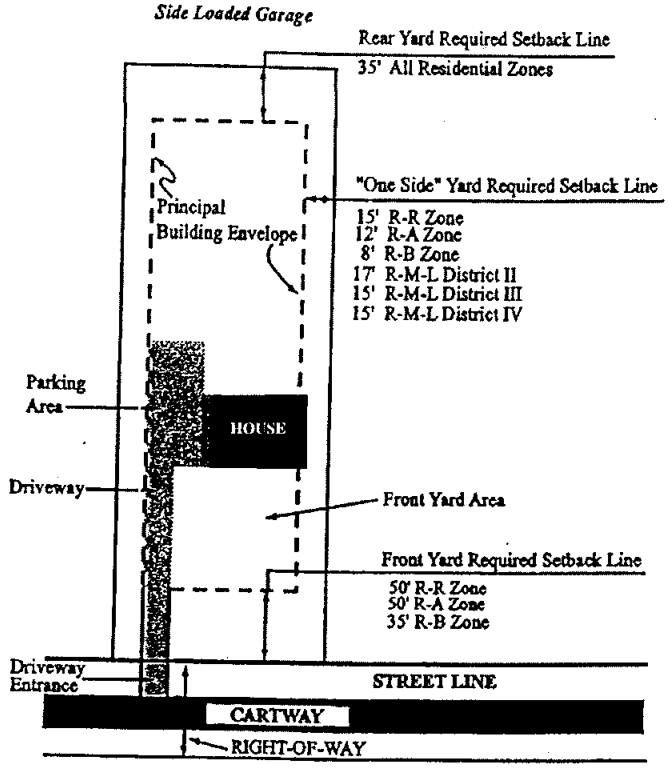
FIGURE 3
Required Setbacks, Yards, Principal Building Envelope
(Section 28-203)

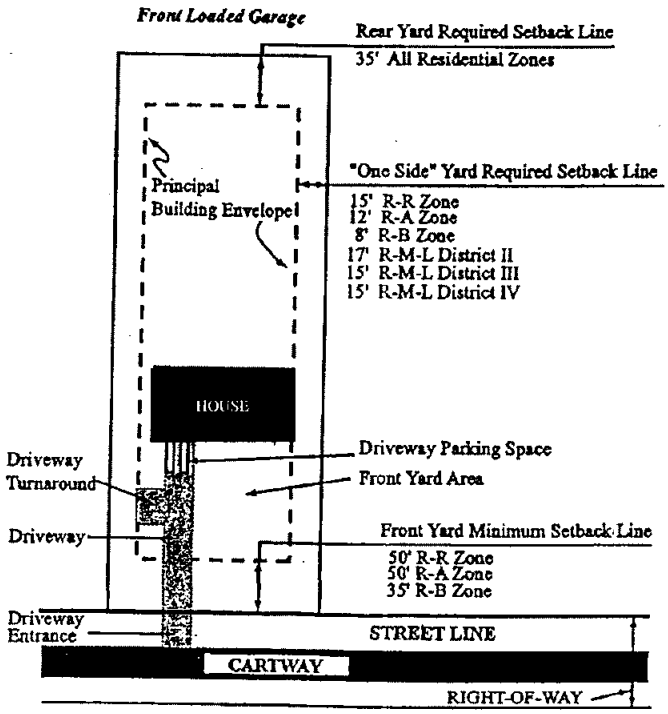




* Side and rear yards on corner lots shall be designated at the time of application for a development permit.

FIGURE 4
Residential Driveways and Parking Areas





APPENDIX B
(Section 28-807B)

Prepared by:
_____
, Esq.

DEVELOPER'S AGREEMENT

THIS AGREEMENT, made on _____, _____

between

THE BOROUGH OF WATCHUNG, a Municipal Corporation of the County of Somerset, State of New Jersey, having its principal offices at 15 Mountain Boulevard, Watchung, New Jersey 07060, hereinafter called the "Borough",

and

_____, residing or having its offices at _____, New Jersey _____, hereinafter called the "Developer".

WHEREAS, the Developer received Preliminary Major Subdivision Approval from the Watchung Borough Planning Board on _____, Application # _____ for Block _____, Lot _____, known as _____, located on _____; and

WHEREAS, the approved plans are designated as ___ sheets, prepared by _____ dated _____ with a latest revision date of _____; and

WHEREAS, the approval was granted subject to, among other things, the execution of this Agreement between the Borough and the Developer and the posting of certain guarantees as hereinafter set forth and other conditions as more fully set forth in the resolution of said Planning Board;

NOW, THEREFORE, in consideration of the foregoing and the sum of One ($1.00) Dollar lawful money of the United States of America, each to the other in hand paid, at or before the signing of this Agreement, the receipt whereof is hereby acknowledged by each party, and in consideration of the mutual covenants, agreements, conditions, understandings and undertakings hereinafter contained and set forth, the parties hereto hereby agree as follows:

1. That the Developer shall at the time of final approval and prior to the signing of the final map or plans, provide the following for all on-tract improvements:

(a) Performance Bond secured by appropriate surety in the sum of $_____ as a guaranty for the installation of the public improvements in said project. In the event the Developer has installed any of the required improvements prior to the application for

final approval, this amount shall be reduced in accordance with the Borough Engineer's cost estimate for work completed; and

(b) Cash escrow in the amount of ten (10%) percent of the performance bond amount as additional performance guarantee.

The Developer shall, prior to the commencement of any off-tract improvements or improvements within any existing public right-of-way, provide the following:

(a) Performance bond secured by appropriate surety in the sum of _____ as a guaranty for the completion of the installation of the off-tract improvements or improvements in the public right-of-way; and

(b) Cash escrow in the amount of ten (10%) percent of the performance bond amount as additional performance guarantee.

The Developer shall further post with the Borough inspection fees in the sum of $_____ (Initial Deposit of $_____). These fees may be paid in installments in accordance with N.J.S.A. 40:55D-53.

Any improvements undertaken by the Developer on the tract prior to the receipt of final approval are undertaken at the Developer's risk.

2. That the Developer shall cause to be installed at its own expense in any street or streets, sewer lines and house connections to the curb at each of its individual units, if required, and any trunk sewer line, if any, leading through and within said development and shall maintain the same until the said lines are accepted by the Borough.

3. That the improvements to be made in any streets shall consist of grading each street for its entire width, laying water mains, storm and drainage sewers, sanitary sewers and connections, if required, constructing Belgium block curbing and paving the roadway with a bituminous concrete pavement from curb to curb as may be specified in any Preliminary and Final Site Plan documents or Preliminary and Final Subdivision documents, all of which work shall be performed in accordance with any conditions contained in the resolution of the Planning Board and all ordinances, resolutions, rules and regulations of the Borough, the Board of Health, the Sewer Authority, and any State or County Department or Agency respecting the opening and improvement of streets and construction of utilities and further subject to issuance of a road opening permit by the Superintendent of Public Works. All of the said work shall be performed subject to the inspection and approval of the Borough Engineer. All catch basins shall be initially set at subgrade and shall be raised to finished height at time of installation of top course.

4. That after the completion of the public improvements, the Developer shall post with the Borough a maintenance bond appropriately secured in form and amount satisfactory to the Borough, conditioned on the Developer maintaining all of such streets, sewers and mains and other improvements within such completed section for a period of two (2) years therefrom. Upon posting and acceptance of said maintenance bond, the performance bond shall be released.

5. That the Developer further agrees to convey to the Borough for street and highway purposes all of the lands lying in the beds of all of the streets set forth on said map or plans. The Developer shall convey in writing by deed or easement as may be specified by the approval all drainage, storm and sanitary sewers, sidewalk easements, conservation or trail easements, sight easements and other public areas to the Borough or to the County of Somerset, when requested by the Borough, all as shown on said maps or plans.

6. That the Developer further covenants and agrees that all buildings erected by it on the said tract, to which this Agreement applies by reference, shall be constructed and equipped strictly in accordance with all conditions of approval by the Planning Board and the provisions of all ordinances, resolutions, rules and regulations of the Borough, the Planning Board, the Board of Health, and any State, Borough or County Department or agency, relating to the construction and equipment of buildings.

7. That the Developer agrees to keep any streets, whether Borough streets or streets under construction, used by trucks or equipment of the Developer or his agents, broom clean and also agrees to use every effort to lay approved material to prevent dust from blowing on other houses in the Borough during excavation and construction of the development. Should the Developer fail or neglect to do either as stated in this Paragraph, upon twenty-four (24) hours written notice from the Borough Engineer, informing it of failure to do so, and then further neglects, the Borough may perform such work and Developer agrees to reimburse the Borough for same. This Paragraph is not intended to relieve the Developer of duties or obligations under any existing municipal ordinance but is rather intended to provide an additional remedy to the Borough and to permit the Borough to recover the costs of such corrective work. This Paragraph shall also apply to the removal of snow and ice from any street or roadway constructed by the Developer which is open to the public but which has not been accepted by the Borough. Any Developer permitting dirt, dust, debris, mud, rock or similar material to accumulate or remain upon any Borough street shall remain subject to a citation returnable in municipal court for violation of appropriate municipal ordinances.

8. That the Planning Board and Borough Council agree to approve, when requested to do so, any necessary maps or deeds for the purpose of filing in the Somerset County Clerk's Office, provided that the Developer is then in compliance with all the requirements and provisions of this Agreement and applicable ordinances and statutes and the conditions of any approvals by the Planning Board then applicable.

9. That the Developer shall provide, for the use of all persons employed in the construction of all of the aforesaid improvements, easily accessible water closets and portable toilets. Such toilet facilities shall be installed within twenty-four (24) hours of the time work has been commenced, and their use shall be terminated upon approval of the Board of Health within twenty-four (24) hours of the time work has been completed.

10. That the Borough agrees to authorize and direct the Construction Official of the Borough of Watchung to issue building permits for the erection of dwelling units or other structures on lots or the site shown on the applicable portion of said maps or plans upon the compliance by the Developer with all the terms and conditions herein contained and contained

in the terms of preliminary and final subdivision approval or preliminary and final site plan approval, including applicable ordinances, rules and regulations. The Developer shall provide and file with the Borough Engineer two (2) complete sets of as-built improvement plans and profiles, one (1) set of translucent prints and one (1) set of black-on-white paper prints, showing actual construction, as approved, prior to release of performance guarantees.

11. That it is further agreed between the parties hereto that the final approval by the Borough of storm and sanitary sewers and connections and drainage easements, roadways and other public improvements shall constitute a dedication thereof to public use unless otherwise provided in the resolution of the Planning Board and that the ownership and title thereto is thereafter vested in the Borough, and shall be confirmed by deed or other recorded instrument to the Borough or to the County as appropriate.

12. That before commencing construction, the Developer shall deposit with the Borough Clerk the sum of $_____ (Initial deposit of $_____) for services to be rendered by the Borough Engineer or his authorized representatives or other approving authority in connection with inspection of the improvement of the Developer's tract, and a charge of 1.6 times the employee's hourly rate for the Borough Engineer or as established by ordinance for other individuals will be charged against said deposit. Upon completion of all improvements and release of any maintenance bonds or escrows, the Borough shall return to the Developer the unused portion of any previously deposited inspection costs and fees. In the event the inspection costs and fees exceed the amount deposited by the Developer, the Developer shall be required to submit payment to the Borough for said additional inspection costs and fees prior to the release of any maintenance bonds and escrows. Inspection services of the Borough whether by the Borough Engineer, and/or Board of Health shall comprise, but in no way be limited to:

a. Inspections of road and drainage construction and other inspections as may be required by the Borough in the enforcement of its standards.

b. As to sanitary sewer construction in said development:

(1) Review and approval of plans and specifications;

(2) Inspection services during said construction;

(3) Costs of laboratory, pipe, leakage, and infiltration tests, following construction to enforce compliance with the Borough sanitary sewer standards.

13. That the Developer is hereby given the right and privilege to transfer title to said tract to the name of any individual or corporation, and said new owner shall have the rights and obligation afforded by this Agreement, and the right to transfer title to all or part of the lands, subject to the rights and obligations imposed on the Developer by this Agreement and the terms of its preliminary and final subdivision or site plan approval. It is understood and agreed that, as part of the transfer of title, the grantee must agree to be bound by all of the terms and conditions of this Agreement. Upon request the Borough shall be provided with an assumption of

obligation as signed by such grantee. In the event that the Developer hereunder transfers, sells, or assigns title to less than the entire project, the grantee(s) of any portion thereof shall each be liable in full to complete the obligations of the Developer herein whether such obligations relate to the portion transferred, sold, or assigned or to any other portion of the project unless such grantee secures a release from the Borough for the obligations relating to the portion not transferred, sold or assigned to grantee prior to the transfer, sale, or assignment.

14. That it is further understood and agreed between the parties hereto as follows:

a. The Developer will comply with the Revised General Ordinances, Borough of Watchung and all other applicable ordinances;

b. Developer agrees to place all utilities underground.

c. Road excavation and grading operations shall be under the direct supervision of a licensed professional engineer so that rainfall run-off will not create serious problems of erosion, flooding or the deposition of mud and debris on abutting properties. Said engineer shall advise the Borough Engineer of the measures to be taken which will afford this protection.

d. Connections to existing sanitary sewers shall be plugged at the start of construction and shall not be opened until the line has passed a leakage test and has been inspected and approved by the Sewerage Authority Engineer or his authorized agent.

e. Where required by the Construction Official and Borough Engineer, a site development plan shall be submitted before issuance of a building permit in order to insure adequate means of ingress and egress to property with extreme topography.

f. The Developer shall, for a period of one (1) year after acceptance of the public improvements as hereinafter set forth, insure that all dead trees on any public right-of-way within said development shall be removed.

g. No building permits will be issued or impervious surface (excluding curbs) shall be constructed until all detention facilities and drainage improvements are fully constructed and operational.

h. No construction vehicle or equipment shall park on or utilize, except in coming to or going from the site, any existing Borough street unless required to do so by the approved plans or unless otherwise provided in the Resolution of Approval.

15. That the Borough Engineer shall direct the Developer when to install the final wearing surface of the final pavement and will determine the approximate date when the same shall be laid. Said work to be completed by the Developer within thirty (30) days of the date Borough Engineer directs the Developer to install said surface, weather permitting. Such direction shall not constitute acceptance of the improvements by the Borough.

16. That drainage and grading shall be as follows:

a. All springs or water emanating therefrom shall be piped to the nearest available storm sewer or as otherwise set forth in the approved plans in a manner approved in writing by the Borough Engineer.

b. Water from driveway sumps and basement sump pumps shall be piped to the nearest existing storm drains, and where such drains do not exist, new drains shall be constructed at such points and in such manner as may be directed by the Borough Engineer.

c. The Developer will insure that all lots and other areas in said development will be properly graded and properly drained and will in this regard obey all reasonable instructions of the Borough Engineer relating thereto.

d. The Developer shall also see to it that no stumps, dead trees or debris are deposited upon or be permitted to remain upon any portions of said development nor upon the undeveloped portion, nor shall any stumps, dead trees or debris be deposited below the surface of the earth.

e. In the event that any drainage problem shall be created on adjoining properties by development of this subdivision or site, corrective measures shall be provided within the area limits of the subdivision or site, at such places and in such manner as the Borough Engineer may approve.

f. The Developer will remove silt deposited in the Borough's storm sewers, brooks and catch basins or other drainage areas, resulting from the wash down of soil or debris in the course of the construction. Any reasonable instructions given by the Borough Engineer to prevent such wash down shall be promptly carried out.

17. That within two (2) years from the date of commencement of site work the Developer shall complete to the satisfaction of the Borough Engineer and the Borough Council all improvements as required by the Planning Board, the Borough Engineer and as imposed by this Agreement unless such time limit is extended by the Borough Council.

18. That the Developer shall appoint a job superintendent, whose name, home address and phone number shall be furnished to the Borough Engineer; and no work, other than sales, shall be performed in the subdivision or on the site by the Developer, his agents, employees, servants or sub-contractors between the hours of 6:00 p.m. and 7:00 a.m. Monday through Saturday and all day Sunday.

19. That this Agreement contains the entire agreement between the parties hereto and no statement, promise or endorsement made by any party hereto, or agent of any party hereto, which is not contained in this written contract or the instruments incorporated herein by reference, shall be valid or binding; and this Agreement may not be enlarged, modified or

altered except in writing, signed by the parties and endorsed thereon. Nothing herein shall be deemed a waiver of other existing municipal construction requirements or any conditions contained in the Resolution of Approval.

20. That this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the respective parties hereto.

21. It is understood and agreed that the obligations imposed upon the Developer under the within agreement shall not constitute an estoppel against the Borough of Watchung Planning Board or the Borough Council nor relieve the Developer from Complying with all other federal, state, county, and local requirements.

22. Prior to the commencement of site work, the Developer shall meet with the Borough Engineer for a pre-construction conference to discuss the anticipated construction schedule, procedures of construction, and any particular requirements of the Engineer.

23. The Borough, its consultants, employees and agents shall be given free access to observe construction of roads, sanitary sewers, water mains, storm sewers, landscaping for buffer areas and appurtenances associated with the approved plat. The purpose of such observations shall be limited to providing the Borough with an opportunity to determine that such improvements will be constructed in accordance with the Developer's approved submittals. The Borough or its representatives, consultants, employees or agents shall not supervise, direct or have control over the Developer's work during such observations or as a result thereof, nor shall they have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by the Developer, for safety precautions and programs incident to the work of the Developer or for any failure of the Developer to comply with applicable laws, rules, regulations, ordinances, codes or orders.

The Developer shall hold harmless, indemnify and defend the Borough, its representatives, consultants, employees and agents from any and all liabilities, claims, losses or damage arising or alleged to arise from the construction of the improvements included in the relevant approval but not including such liabilities, claims, losses or damage arising from the sole negligence of the Borough, its representatives, consultants, employees and agents.

The Developer shall purchase and maintain during construction of said improvements a Comprehensive General Liability Insurance Policy with minimum limits of One Million ($1,000,000.00) Dollars per occurrence and One Million ($1,000,000.00) Dollars aggregate. The coverage shall include endorsements for Broad Form Property Damage; explosion, collapse, and underground hazards; completed operations; and contractual liability. The contractual liability coverage shall specifically apply to the above indemnification clause. All liability coverages shall be on an occurrence basis.

Certificates of Insurance evidencing the above-referenced coverage shall be provided to the Borough before work on the improvements begins.

24. This Agreement is intended to govern approved development within the Borough whether such approval was in the form of preliminary and/or final major subdivision and/or preliminary and/or final site plan, and such terms are to be freely substituted for each other where the context and the nature of the approvals require.

IN WITNESS WHEREOF, the Borough and Developer have caused these presents to be signed and attested by their respective corporate officers and their respective corporate seals to be affixed hereto the day and year first above written.

ATTEST: BOROUGH OF WATCHUNG

_____ BY:_____

Borough Clerk Mayor

ATTEST:

_____ BY:_____

STATE OF NEW JERSEY)
) ss.:
COUNTY OF SOMERSET)

I certify that on _____, _____, _____ personally came before me and she acknowledged under oath to my satisfaction that:

(a) she is the Borough Clerk of the Borough of Watchung, a municipal corporation of the State of New Jersey and is the attesting witness to the signing of this Document by _____ who is the Mayor of the Borough;

(b) the signing of this Document was authorized by a proper resolution of the Borough;

(c) the seal of the Borough is affixed to this Document; and

(d) she signed this Acknowledgment to attest to the truth of these facts.

_____

Sworn and subscribed to before me on
this _____ day of _____, _____.

_____
Notary Public

STATE OF NEW JERSEY)
) ss:
COUNTY OF)

I CERTIFY that on _____, _____, personally came before me, and this person acknowledged under oath, to my satisfaction, that:

(a) this person is the Secretary of _____, the Corporation named in this document;

(b) this person is the attesting witness to the signing of this document by the proper corporate officer who is _____, the President of the corporation;

(c) this document was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Board of Directors;

(d) this person knows the proper seal of the corporation which was affixed to this document;

(e) this person signed this proof to attest to the truth of these facts; and

(f) the full and actual consideration paid or to be paid for the transfer of title to reality evidenced by the within deed, as such consideration is defined in P.L. 1968, c. 49, sec. a(c), is One Dollar ($1.00).

_____

Signed and sworn to before me on
this _____ day of _____, _____.

_____

APPENDIX C
(Section 28-807G)
PERFORMANCE AGREEMENT

KNOW ALL MEN BY THESE PRESENTS that _____ located at _____ is held and firmly bound unto the BOROUGH OF WATCHUNG IN THE COUNTY OF SOMERSET, A MUNICIPAL CORPORATION of the State of New Jersey, as Obligee, in the sum of $ _____ lawful money of the United States of America, to be paid to the said Obligee, its certain attorney, successors or assigns, for which payment, well and truly made, the said Obligor binds itself, its successors and assigns, firmly by these presents.

This Agreement is secured by: the Performance Bond of _____, Bond No. _____, dated _____, 20___ in the amount of $_____ and the cash deposit of $_____.

WHEREAS, the Obligor has received land development approval for Lot _____, Block _____ and pursuant thereto the Planning Board of the Borough of Watchung has required the installation of certain improvements, as more fully set forth in its land development resolution, the Borough of Watchung land development ordinances and certain Certification, dated _____, 20___, by Richard W. Moody, P.E. including soil erosion and sediment control, stormwater management, site work, lighting, sanitary sewer, landscaping and certain other requirements, a copy of said memorandum being attached hereto and made a part hereof.

WHEREAS, a condition of the said final approval and the issuance of a Certificate of Occupancy is that this Agreement be given to guarantee the completion of the above improvements in accordance with all applicable ordinances, rules, regulations, standards and specifications of the Borough of Watchung and to the satisfaction of the Borough Engineer on or before the date specified herein.

NOW, THEREFORE, the condition of this obligation is such that if the above-named Obligor shall well and truly commence, make and complete the aforesaid improvements on or before _____, _____ to the satisfaction of the Borough Engineer and in strict accordance with all applicable ordinances, rules, regulations, standards and specifications of the Borough of Watchung, then this Agreement shall be null and void, otherwise to remain in full force and effect.

In the event the aforesaid improvements are not fully completed within the time period indicated herein and to the satisfaction of the Borough Engineer, the Obligor hereby authorizes the Borough of Watchung to utilize so much of the security deposited herewith to complete all of the said improvements in accordance with applicable ordinances, rules, regulations, standards and specifications of the Borough of Watchung. In the event the cost of completing same is less than the amount deposited herewith, any such excess funds shall be returned to the Obligor. However, in the event the cost of completing said improvements exceeds the amount deposited herewith, the Obligor shall be liable to the Borough of Watchung for any such excess and his obligations under the within Agreement shall continue in full force and effect until full payment is made.

In the event that Obligor defaults under its obligations as set forth herein, Obligor authorizes the Obligee to deduct from the sums posted to secure performance hereunder the reasonable Court costs and attorneys' fees incurred by Obligee as a result of such default. In the event the said Court costs and attorneys' fees exceed the amount deposited herewith, the Obligor shall be liable to the Obligee for any such excess and Obligor's obligations under the within Agreement shall continue in full force and effect until full payment is made.

Signed, sealed and delivered this _____ day of _____, 20___.

Witness

_____ By:_____

STATE OF NEW JERSEY)
) ss:
COUNTY OF SOMERSET)

Be it Remembered, that on this _____ day of _____, 20___ before me the subscriber, personally appeared _____, who, being by me duly sworn on _____ oath, deposes and makes proof to my satisfaction, that ____ is the Secretary of the Corporation named in the within Instrument; that _____ is the President of said Corporation; that the execution, as well as the making of this Instrument has been duly authorized by a proper resolution of the Board of Directors of the said Corporation; that deponent well knows the corporate seal of said Corporation; and that the seal affixed to said Instrument is the proper corporate seal and was thereto affixed and said Instrument signed and delivered by said President as and for the voluntary act and deed of said Corporation, in the presence of deponent, who thereupon subscribed _____ name hereto as attesting witness.

Sworn to and subscribed
before me, the date
aforesaid.

_____ _____

APPENDIX D-2
CHECKLISTS
Borough of Watchung

A. Variance Application Checklist – Details Required for Variance Application

Note: See the Watchung Borough Land Development Ordinance for further details of submission requirements and procedures. (Section 28-802C)

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
1				Application form(s) and checklist(s) (20 copies)
2				Application and escrow fees
3				Sketch plats or plans (20 copies) or related material outlining the location, nature and extent of any variance(s) requested.
4				Key map at 1" equal not more than 400'
5				Title block.
6				Name, title, address and telephone number of applicant
7				Name, title, address, telephone number, license number, seal and signature of the professional or professionals who prepared the plat or plan, if applicable.
8				Name, title and address of the owner or owners of record.
9				Scale (written and graphic).
10				Date of original preparation and of each subsequent revision thereof and a list of specific revisions entered on each sheet.
11				North arrow.
12				Names and addresses of partners or stockholders required by Ordinance.
13				Affidavit of ownership.
14				Acreage figures (both with and without areas within public rights-of-way).
15				Approval signature lines.
16				Existing block and lot number(s) of the lot(s) as they appear on the Borough Tax Map.
17				Tract boundary line (heavy solid line).
18				The location of existing and proposed property lines, streets, structures (with their numerical dimensions and an indication as to whether existing structures will be retained or removed), parking spaces, loading areas, driveways, watercourses, railroads, bridges, culverts, drain pipes, any natural features such as treed areas, both within the tract and within fifty (50) feet of its boundary.
19				The location and width of all existing easements and rights-of-way.
20				Zoning district(s) affecting the tract, including district names and all area and bulk requirements, with a comparison to the proposed development.
21				Proposed buffer and landscaped areas.

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
22				Delineation of flood plains including both floodway and flood fringe areas, flood zone, flood elevation and elevation of lowest floor level.
23				Wetlands, marshes, ponds and land subject to flooding.
24				The names of all adjacent property owners and adjacent block and lot numbers as they appear on the most recent tax list prepared by the Borough Tax Assessor.
25				Certification from the Borough Tax Collector that all taxes and assessments are paid to date.
26				A sketch of the proposed addition or new construction for which a variance is sought, demonstrating how same is architecturally consistent with the existing structure or an improvement thereof.
27				A written statement delineating the exact proposed use requested, for use variance applications only.

Signature and title of person preparing the checklist Date

B. **Informal Application Checklist – Details Required for Informal Review Applications**

Note: See the Watchung Borough Land Development Ordinance for further details of submission requirements and procedures. (Section 28-802D)

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
1				Application form(s) and checklist(s) (15 copies)
2				Application and escrow fees
3				A letter from the applicant to the Borough Planning Board outlining the proposed development plans.
4				Certification that property tax payments are current.
5				Current property boundary survey.
6				Sketch Plat or Plan(s) (15 copies), clearly and legibly drawn at a scale appropriate for informal review on 24"x36" standard sheet sizes with a clear perimeter border at least 1/2" wide.
7				Title block with name of the project/development, Borough of Watchung, Somerset County, NJ, with each sheet specifically titled with appropriately descriptive words, with a notation reading, "Informal Plat (or Plan) for Review."
8				Scale (written and graphic).
9				Tax map sheet and existing block and lot number(s) of the lot(s) to be subdivided or developed as they appear on the Borough Tax Map.
10				Tract boundary line (heavy solid line).
11				All adjacent block and lot number(s).
12				Intent for water supply and sewage treatment.
13				Key map at scale of 1" equals not more than 400' showing location of the project site with reference to surrounding properties, streets, zoning districts and municipal boundaries within 500'.
14				Total acreage of project site with and without area to be dedicated as public rights-of-way.
15				Name, title, address, telephone number and signature of the owner(s) of record.
16				Name, title, address and telephone number of applicant(s).
17				North arrow with deed or filed map reference.
18				General location of all existing and proposed streets, structures, driveways, parking areas and sidewalks.
19				Existing property site contours based on United States Geological Survey datum where appropriate.
20				General location of all existing and proposed rights-of-way and easements within and adjoining the tract.
21				Delineation of any existing deed restrictions or covenants.
22				General location of all watercourses, ponds, lakes, rivers, streams, brooks, wetlands, wetland transition areas and buffers, flood hazard areas, steep slopes over 30%, wooded areas and other environmentally sensitive areas on and within 200' of the project site.

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
23				Location and acreage of all land, rights-of-way and/or easements reserved for or to be dedicated to public use and/or all open space areas.
24				Zoning districts and location of zoning boundaries; table of bulk requirements including lot area, width at street line and setback, front, rear and side yard setbacks, building and lot impervious surface coverage and variances and/or waivers required.

Signature and title of person preparing the checklist Date

C. **Minor Application Checklist – Details Required for Minor Subdivision Plats and Minor Site Plans** (Section 28-803)

Note: See the Watchung Borough Land Development Ordinance for further details of submission requirements and procedures.

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
1				Land Use Application form(s) and checklist(s) (18 copies).
2				Required Use or Bulk Variance Application form(s) and checklist(s) (18 copies).
3				Application and escrow fees.
4				Certification that the applicant is the owner of the land or his/her properly authorized agent, or that the owner has given his/her consent under an option agreement.
5				If the applicant is a partnership or a corporation, the names and addresses of all partners, or the names and addresses of all stockholders owning ten percent (10%) or more of any class of stock of the corporation as required by N.J.S.A. 40:55D-48.1 et seq.
6				Certification from the Borough Tax Collector that all taxes and assessments are paid to date.
7				Proof of Public Sanitary Sewer and Public Water utility capacity to the subdivision and/or site plan from the approving Authority. A sanitary sewer capacity allocation and connection or collection system extension approval Resolution to serve the proposed development must be obtained from the Borough of Watchung governing body. A Water Main Extension Agreement or Will Serve Letter must be obtained from the Water Utility Company. (Where the need for off-tract public sanitary sewer and/or water utility service improvements are created by the proposed subdivision or site plan, the Applicant shall, as a condition of Application completeness and at the Applicant's sole expense, obtain all lands and/or easements located outside the development property boundaries. Such lands and/or easements, upon completion and acceptance of the off-tract utility improvements shall be dedicated to the Borough of Watchung and/or Water Utility Company.)
8				Required Use or Bulk Variance Applications
9				Current Property Boundary Survey.
10				Copy of Property Deed and all protective covenants, easements and/or deed restriction (18 copies).
11				Soil Movement Application and fee submitted to Department of Engineering.
12				Tree Removal/Tree Replacement Application and fee submitted to the Department of Engineering.
13				Plats or plans (18 copies) signed and sealed by a N.J.P.L.S. or N.J.P.E., as required, and folded into eighths with the title block revealed.

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
14				Scale of 1" equals not more than 30' for minor subdivision plats or 1" equals not more than 20' for minor site plans on 24"x36" standard sheet sizes with a clear perimeter border at least 1/2" wide.
15				Key map at scale of 1" equals not more than 400' showing location of the project site with reference to surrounding properties, streets, zoning districts and municipal boundaries within 500'.
16				Title block in accordance with the rules governing "title blocks" for professional engineers (N.J.S.A. 45:8-36), including items 17-19 below.
17				Name of the project/development, Borough of Watchung, Somerset County, NJ, with each sheet specifically titled with appropriately descriptive words.
18				Name, license number, signature, seal, address, telephone number and fax number of the engineer, land surveyor, planner and/or landscape architect, as applicable, who prepared the subdivision or site plan.
19				Date of original preparation and date of each subsequent revision on each sheet.
20				Name, title, address telephone number and signature of the owner(s) of record.
21				Name, title, address and telephone number of applicant(s).
22				Scale (written and graphic).
23				An Index Sheet showing each sheet's location in relation to the overall project and a list of attached drawings.
24				North arrow with deed or filed map reference.
25				Approval Block: signature and date lines for the Chairman and Secretary of the Board and the Borough Engineer.
26				Acreage figures to the nearest tenth of an acre (both with and without areas within public rights-of-way).
27				The names(s) and block and lot number(s) of all property owners within two hundred feet (200') of the extreme limits of the tract as shown on the most recent tax list prepared by the Borough Tax Assessor.
28				Existing tax sheet number(s) and existing block and lot number(s) of the lot(s) to be subdivided or developed as they appear on the Borough Tax Map, and proposed block and lot number(s) as provided by the Borough Tax Assessor upon written request.
29				Tract boundary line (heavy solid line), any existing and proposed subdivision or property line(s) within the tract, and the existing and proposed number of lots.
30				Zoning districts(s), including district names and location of zoning boundaries within 200' of the tract; table of bulk requirements including existing and proposed lot area, width at street line and setback, front, rear and side yard setbacks, building and lot impervious surface coverage and variances and/or waivers requested.

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
31				Location of all watercourses, ponds, lakes, rivers, streams, brooks, wetlands, wetland transition areas and buffers, flood hazard areas, steep slopes over 30%, wooded areas and other environmentally sensitive areas on and within 200' of the project site. A Letter of Interpretation (LOI) from the New Jersey State Department of Environmental Protection shall be submitted for all delineated wetlands. If there are no delineated wetlands, the applicant shall provide a wetlands site evaluation prepared by a qualified individual or firm.
32				Proposed buffer and landscaped areas and the location and identification of existing vegetation with an indication as to whether it is to remain or be removed. The location and species of all existing individual trees or groups of trees having a caliper of four inches (4") or more measured four and one-half feet (4'-6") above the ground level shall be shown within the portion(s) of the tract to be disturbed as a result of the proposed development, indicating which trees are to remain and which are to be removed.
33				Where a septic system is proposed, the date of approval by the Borough Board of Health of site evaluation tests, certified by a licensed professional engineer, indicating that the proposed lot(s) can adequately accommodate a septic system. The location(s) of the test hole(s) and borings, soil logs, proposed location of the septic disposal areas, test results, soil types and percolation rates and compliance with the "Individual Sewage Disposal Code of New Jersey" or applicable Borough Board of Health Ordinances, whichever may be more restrictive, shall be shown on the plat and certified by a licensed professional engineer.
34				When a stream is proposed for alteration, improvement or relocation or where a drainage structure or fill is proposed over, under, in or along a running stream, a report on the status of review by the State Department of Environmental Protection, Division of Water Resources, shall accompany the submission.
35				Cross-sections every 50' of water courses and/or drainage swales at an approximate scale showing the extent of the flood plain, top of bank, normal water levels and bottom elevations.
36				The location and extent of drainage and conservation easements and stream encroachment lines.
37				The location, size, direction of flow and type of adequate drainage provisions to reasonably reduce and minimize exposure to flood damage.
38				Existing and proposed contours at two-foot intervals.
39				Soil Erosion and Sediment Control Plan as required by N.J.S.A. 4:24-39 et seq.; in accordance with the Somerset County Soil Conservation District.

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
40				Location of all existing/proposed principal and accessory structures and their uses, both within the tract and within one hundred feet (100') of its boundary, showing existing and proposed front, rear and side yard setback distances and an indication of whether the existing structures and uses will be retained or removed.
41				The location of existing and proposed property lines (with bearings and distances), streets, structures (with their numerical dimensions and an indication as to whether existing structures will be retained or removed), parking spaces, loading areas, driveways, watercourses, bridges, culverts, drain pipes, any natural features such as treed areas, both within the tract and within one hundred feet (100') of its boundary.
42				Concerning minor site plans only, lighting details, sign details, circulation and parking details and drainage calculations and proposed drainage improvements and details.
43				All dimensions necessary to confirm conformity to the Land Development Ordinance such as the size of the tract and any proposed lot(s), the number of lots being created, structure setbacks, structure heights, yards and building and lot coverages. All tract and lot sizes shall be expressed in acres and square feet and shall include bearings and distances.
44				No minor subdivision or minor site plan involving any street(s) additional right-of-way width as specified in the Master Plan or Official Map and the street requirements of this Ordinance shall be approved unless such additional right-of-way, either along one (1) or both sides of said street(s), as applicable, shall be granted to the Borough of Watchung or other appropriate governmental agency.
45				Stormwater Management Plan containing the existing system of drainage and the delineation of any larger tract or basin of which it is a part. The location, type, size of all existing and proposed stormwater inlets, stormwater facilities, stormwater lines and any additional information as may be required by Section 28-604. Include drainage area map, calculations and written narrative.
46				The location and size of existing structures such as water and sewer mains, valves, hydrants, utility structures, gas transmission lines and high tension power lines on the tract and within two hundred feet (200') of its boundaries.
47				No minor subdivision or minor site plan involving any corner lot shall be approved unless a sight triangle easement shall be granted.
48				The names, location and width of all existing and proposed easements and rights-of-way, the use(s) for which they are intended to be limited, the manner in which the easements will be controlled, and to whom they are granted on and within 200' of the tract.

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
49				Proposed permanent monuments shall be shown in accordance with the Map Filing Law, N.J.S.A. 46:23-9.9. (Minor Subdivision only)
50				Steep Slope Analysis; Steep slope categories on site shall be delineated through the use of diagonal and cross hatched lines with a key provided on the appropriate sheet and a calculation of the permitted total impervious surface coverage.
51				List of municipal, County, State or Federal approvals or permits required.
52				Spot and finish elevations at all property corners and corners of all structures, existing or proposed.

Note: The Board reserves the right to require additional information before granting preliminary approval when unique circumstances affect the tract and/or when the application for development poses special problems for the tract and surrounding area, provided, however, that no application shall be declared incomplete for the lack of such additional information.

_____

Signature and title of person preparing the checklist Date

D. **Preliminary Major Application Checklist – Details Required for Preliminary Major Subdivision Plats and Preliminary Major Site Plans** (Section 28-804)

Note: See the Watchung Borough Land Development Ordinance for further details of submission requirements and procedures.

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
1				Land Use Application form(s) and checklist(s) (18 copies).
2				Required Use or Bulk Variance Application form(s) and checklist(s) (18 copies).
3				Application and escrow fees.
4				Certification that the applicant is the owner of the land or his/her properly authorized agent, or that the owner has given his/her consent under an option agreement.
5				If the applicant is a partnership or a corporation, the names and addresses of all partners, or the names and addresses of all stockholders owning ten percent (10%) or more of any class of stock of the corporation as required by N.J.S.A. 40:55D-48.1 et seq.
6				Certification from the Borough Tax Collector that all taxes and assessments are paid to date.
7				Proof of Public Sanitary Sewer and Public Water utility capacity to the subdivision and/or site plan from the approving Authority. A sanitary sewer capacity allocation and connection or collection system extension approval Resolution to serve the proposed development must be obtained from the Borough of Watchung governing body. A Water Main Extension Agreement or Will Serve Letter must be obtained form the Water Utility Company. (Where the need for off-tract public sanitary sewer and/or water utility service improvements are created by the proposed subdivision or site plan, the Applicant shall, as a condition of Application completeness and at the Applicant's sole expense, obtain all lands and/or easements located outside the development property boundaries. Such lands and/or easements, upon completion and acceptance of the off-tract utility improvements shall be dedicated to the Borough of Watchung and/or Water Utility Company.)
8				Required Use or Bulk Variance Applications.
9				Current Property Boundary Survey.
10				Copy of Property Deed and all protective covenants, easements and/or deed restrictions (18 copies).
11				Soil Movement Application and fee submitted to Department of Engineering.
12				Tree Removal/Tree Replacement Application and fee submitted to the Department of Engineering.
13				Plats or plans (18 copies) signed and sealed by a N.J.P.L.S. or N.J.P.E., as required, and folded into eighths with the title block revealed.

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
14				Scale of 1" equals not more than 100' for minor subdivision plats or 1" equals not more than 50' for minor site plans on 24"x36" standard sheet sizes with a clear perimeter border at least 1/2" wide.
15				Key map at scale of 1" equals not more than 400' showing location of the project site with reference to surrounding properties, streets, zoning districts and municipal boundaries within 500'.
16				Title block in accordance with the rules governing "title blocks" for professional engineers (N.J.S.A. 45:8-36), including items 17-19 below.
17				Name of the project/development, Borough of Watchung, Somerset County, NJ, with each sheet specifically titled with appropriately descriptive words.
18				Name, license number, signature, seal, address, telephone number and fax number of the engineer, land surveyor, planner and/or landscape architect, as applicable, who prepared the subdivision or site plan.
19				Date of original preparation and date of each subsequent revision on each sheet.
20				Name, title, address, telephone number and signature of the owner(s) of record.
21				Name, title, address and telephone number of applicant(s).
22				Scale (written and graphic).
23				An Index Sheet showing each sheet's location in relation to the overall project and a list of attached drawings.
24				North arrow with deed or filed map reference.
25				Approval Block; signature and date lines for the Chairman and Secretary of the Board and the Borough Engineer.
26				Acreage figures to the nearest tenth of an acre (both with and without areas within public rights-of-way) and a computation of the area of the tract to be disturbed.
27				The names(s) and block and lot number(s) of all property owners within two hundred feet (200') of the extreme limits of the tract as shown on the most recent tax list prepared by the Borough Tax Assessor.
28				Existing tax sheet number(s) and existing block and lot number(s) of the lot(s) to be subdivided or developed as they appear on the Borough Tax Map, and proposed block and lot number(s) as provided by the Borough Tax Assessor upon written request.
29				Tract boundary line (heavy solid line), any existing and proposed subdivision or property line(s) within the tract, and the existing and proposed number of lots.
30				Zoning districts(s), including district names and location of zoning boundaries within 200' of the tract; table of bulk requirements including existing and proposed lot area, width at street line and setback, front, rear and side yard setbacks, building and lot impervious surface coverage and variances and/or waivers requested.

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
31				Location of all watercourses, ponds, lakes, rivers, streams, brooks, wetlands, wetland transition areas and buffers, flood hazard areas, steep slopes over 30%, wooded areas and other environmentally sensitive areas on and within 200' of the project site. A Letter of Interpretation (LOI) from the New Jersey State Department of Environmental Protection shall be submitted for all delineated wetlands. If there are no delineated wetlands, the Applicant shall provide a wetlands site evaluation prepared by a qualified individual or firm.
32				The location and species of all existing individual trees or groups of trees having a caliper of four inches (4") or more measured four and one-half feet (4'-6") above the ground level shall be shown within the portions(s) of the tract to be disturbed as a result of the proposed development, indicating which trees are to remain and which are to be removed.
33				Landscape plan at a scale no less than one inch equals one hundred feet (1"=100') for major subdivision and no less than one inch equals thirty feet (1 "=30') for major site plans. Important detail landscape areas within major subdivision may be requested at a scale of no less than one inch equals thirty feet (1"=30'). The scale shall be in both written and graphic form. The landscape plan shall show: Location, species and sizes of all proposed shade trees, ornamental trees, evergreen trees, shrubs and areas for lawns or any other ground cover; different graphic symbols shall be used to show the location and spacing of shade trees, ornamental trees, evergreen trees, shrubs and ground cover; a plant schedule indicating botanical name, common name, size at time of planting (caliper, height and spread), quantity, root condition and any special remarks (spacing, substitutions, fall planting hazards, etc.) for all plant material proposed with plants within the plant schedule be keyed to the landscape plan utilizing the first letter of the genus and species of the botanical plant name; planting details and specifications; additional information required by Section 28-609B.
34				Where a septic system is proposed, the date of approval by the Borough Board of Health of site evaluation tests, certified by a licensed professional engineer, indicating that the proposed lot(s) can adequately accommodate a septic system. The location(s) of the test hole(s) and borings, soil logs, proposed location of the septic disposal areas, test results, soil types and percolation rates and compliance with the "Individual Sewage Disposal Code of New Jersey" or applicable Borough Board of Health Ordinances, whichever may be more restrictive, shall be shown on the plat and certified by a licensed professional engineer.

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
35				When a stream is proposed for alteration, improvement or relocation or where a drainage structure or fill is proposed over, under, in or along a running stream, a report on the status of review by the State Department of Environmental Protection, Division of Water Resources, shall accompany the submission.
36				Cross-sections every 50' of watercourses and/or drainage swales at an approximate scale showing the extent of the flood plain, top of bank, normal water levels and bottom elevations.
37				The location and extent of drainage and conservation easements and stream encroachment lines.
38				The location, size, direction of flow and type of adequate drainage provisions to reasonably reduce and minimize exposure to flood damage.
39				Existing and proposed contours at two foot intervals.
40				Soil Erosion and Sediment Control Plan as required by N.J.S.A. 4:24-39 et seq.; in accordance with the Somerset County Soil Conservation District.
41				Location of all existing/proposed principal and accessory structures and their uses, both within the tract and within one hundred feet (100') of its boundary, showing existing and proposed front, rear and side yard setback distances and an indication of whether the existing structures and uses will be retained or removed.
42				The location, type and size of all existing/proposed buildings, structures, signs, fences, outdoor storage areas, trash receptacle and recycling areas including details.
43				Sign details, showing existing and proposed signs, location on site, size, type of construction, lettering detail, proposed illumination, if any, and proposed colors. Provide calculations and design specifications to demonstrate compliance.
44				All dimensions necessary to confirm conformity to the Land Development Ordinance such as the size of the tract and any proposed lot(s), the number of lots being created, structure setbacks, structure heights, yards and building and lot coverages. All tract and lot sizes shall be expressed in acres and square feet and shall include bearings and distances.
45				Lighting Plan showing the existing and proposed location, height, direction of illumination, power and type of proposed outdoor lighting, including wall mounted lighting fixtures. Provide separate building security lighting plan. Cut Sheet details of lighting poles, luminaries and the hours and time of lighting shall be provided on all lighting plans. Show the proposed light intensity at ground level, measured in footcandles. Dimensioned manufacturers lighting details and specifications including footcandle distributions shall be provided.

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
46				Existing and proposed street and lot layout, with dimensions correct to scale, showing that portion proposed for development in relation to the entire tract, and existing lot lines to be eliminated.
47				The location and design of any off-street parking or loading area, showing size and location of bays, aisles and barriers, curbing and paving specifications, including schedules and parking and loading calculations.
48				All means of vehicular ingress and egress to and from the site onto public streets, showing the size and the location of driveways, sidewalks, fire lanes and curb cuts, including the possible utilization of traffic signals, channelization, acceleration and deceleration lanes, sight triangle easements, additional width and other proposed devices necessary to prevent a difficult traffic situation.
49				Proposed on-site vehicular and pedestrian circulation patterns.
50				Stormwater Management Plan containing the existing system of drainage and the delineation of any larger tract or basin of which it is a part. The location, type, size of all existing and proposed stormwater inlets, stormwater facilities, stormwater lines, and any additional information as may be required by Section 28-604. Include drainage area map, calculations and written narrative.
51				The location and size of existing structures such as water and sewer mains, valves, hydrants, utility structures, gas transmission lines and high tension power lines on the tract and within two hundred feet (200') of its boundaries.
52				Plans, typical cross sections and construction details, horizontal and vertical alignments of the centerline of all proposed streets and of all existing streets abutting the tract including street names as required by Ordinance. Road plans and profiles shall be submitted. The horizontal scale for plan and profile shall be 1"=20'. The vertical scale of the profile shall be 1"=5'. The profile shall be shown directly under the plan and if the space on the sheet permits it, two sections of plan and profile may be shown on the same sheet. Drawings are to be on 24" x 36" or 30" x 42" sheets. The plans of the road shall show the center line, right-of-way lines, stations of beginnings and ends of curves, curve data, 50 feet station points, equations of stationing, streams, culverts, roads and driveways on or near the right-of-way, utility poles, trees, buildings and other obstructions within the right-of-way, houses, and buildings within 50 feet of the right-of-way, property division lines and names of adjoining property owners. All construction under streets such as water lines, gas, electric and cable lines, sanitary sewers and storm sewers, shall be shown on both plan and profile.

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
53				The names, location and width of all existing and proposed easements and rights-of-way, the use(s) for which they are intended to be limited, the manner in which the easements will be controlled, and to whom they are granted on and within 200' of the tract.
54				The proposed permanent monuments shall be shown in accordance with the Map Filing Law, N.J.S.A. 46:23-9.9.
55				Environmental Impact Statement (when required by Board).
56				Traffic Impact Statement (when required by Board).
58				Steep Slope Analysis; Steep slope categories on site shall be delineated through the use of diagonal and cross hatched lines with a key provided on the appropriate sheet and a calculation of the permitted total impervious surface coverage.
59				List of municipal, County, State or Federal approvals or permits required.
60				Spot and finish elevations at all property corners and corners of all structures, existing or proposed.
61				Location and acreage of all land reserved for or dedicated to public use.
62				Concerning site plans only, the proposed use and operations of the buildings, the proposed number of shifts to be worked, the maximum number of employees on each shift, and the hours of operation open to public use.
63				Concerning major site plans only, provide building floor plans and scaled architectural elevations defining the exterior materials, colors and textures; signed and sealed by a licensed NJ Registered Architect.

Note: The Board reserves the right to require additional information before granting preliminary approval when unique circumstances affect the tract and/or when the application for development poses special problems for the tract and surrounding area, provided, however, that no application shall be declared incomplete for the lack of such additional information.

_____

Signature and title of person preparing the checklist Date

E. **Final Major Application Checklist – Details Required for Final Major Subdivision Plats and Final Major Site Plan Applications** (Section 28-805)

Note: See Watchung Borough Land Development Ordinance for further details of submission requirements and procedures.

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
1				Application form(s) and checklist(s) (18 copies).
2				Application and escrow fees.
3				Certification that the applicant is the owner of the land or his/her properly authorized agent, or that the owner has given his/her consent under an option agreement.
4				If the applicant is a partnership or a corporation, the names and addresses of all partners, or the names and addresses of all stockholders owning ten percent (10%) or more of any class of stock of the corporation as required by N.J.S.A. 40:55D-48.1 et seq.
5				Certification from the Borough Tax Collector that all taxes and assessments are paid up-to-date.
6				Subdivision Plat and Subdivision Site Improvement Design Drawings or Final Major Site Plan Site Improvement Design Drawings (18 copies) signed and sealed by a N.J.P.L.S. or N.J.P.E., as required, and folded into eighths with the title block revealed. Site Improvement Design Drawings shall include information required for preliminary approval, revised as necessary to incorporate the resolution of the conditions of the Preliminary Resolution of Approval.
7				Scale of 1" equals not more than 100' for major subdivision plats or 1" equals not more than 50' for major site plans on 24"x36" standard sheet sizes each with a clear perimeter border at least 1/2" wide.
8				A section or staging plan, if proposed.
9				Detailed architectural and/or engineering calculation/data as required by Ordinance including:
9a				An architect's design drawing of each building and sign;
9b				Cross sections, plans, profiles and established grades of all streets, aisles, lanes and driveways, including centerline geometry and horizontal alignments with bearings, radii and tangents.
9c				Plans and profiles of all storm and sanitary sewers and water mains.
9d				For retaining walls in excess of four feet in height.
9e				All dimensions of the exterior boundaries of any subdivision shall be balanced and closed.
10				Record "As-built" drawings for all constructed site improvements built under Preliminary approval, including as-built Plans and profiles of all storm and sanitary sewers and water mains and as-built cross sections, plans, profiles and established grades of all streets, aisles, lanes and driveways, including centerline geometry and horizontal alignments with bearings, radii and tangents.

Item #	Provided	Not Relevant	Waiver Request	Item of Information Required
11				Certification in writing from the applicant to the Board that the applicant has: (a) Installed all improvements with the requirements of the Ordinance and the preliminary approval; and/or (b) Posted a performance guarantee in accordance with the requirements of this Ordinance based upon provision of site improvement quantity and cost estimate from applicant for all site improvements not installed.
12				Metes and Bounds descriptions for all proposed deed(s) of dedication and deed(s) of easement.
13				A statement from the Borough Engineer that: (a) All installed improvements have been inspected and as built drawings have been submitted; and (b) Those installed improvements that do not meet or exceed Borough standards shall be factored into the required performance guarantee.
13				Evidence that a duplicate copy (copies) of the application for development has/have been filed with any other agency having jurisdiction over any aspect of the proposed development.
14				Letters directed to the Chairman of the Board and signed by a responsible official of all utility companies, etc., providing utility service to the tract as required by Ordinance.
15				Stormwater Management Agreement approved by the Governing Body.
16				Borough of Watchung Tax Assessor determination of new Lot and Block and house number designations.
17				Certification that all tract outbound monuments have been set.
18				Concerning major subdivisions only a "Sales Map" in accordance with the Ordinance.

Signature and title of person preparing the checklist Date

APPENDIX D-1
APPLICATION FOR DEVELOPMENT

_____PLANNING BOARD APPLICATION NO._____

_____BOARD OF ADJUSTMENT

This application, together with supporting documentation (including all copies as may be required), must be filed with the Office of the Borough Clerk at least thirty (30) days prior to the meeting at which the application is to be considered.

*****BOROUGH USE ONLY*****

Date Filed:_____ Date referred to Engineer:_____

Submitted to Site Plan/Subdivision Committee for Review: _____Yes _____No

Action Taken:

Date Accepted as Complete:

Board Action required by: First hearing date:

Adjourned hearing dates:_____, _____, _____, _____, _____, _____

Board Action Taken: Approved: _____

Date: _____ Denied: _____

Fees:
Application Fee $_____ Date Paid: _____ Ck. No:_____

Escrow Deposit $_____ Date Paid: _____ Ck. No._____

Amount Returned $_____ Date Sent: _____

1. **SUBJECT PROPERTY**:

PROJECT NAME: (Phase) : _____

LOCATION:_____

TAX MAP:
Page_____ Block_____ Lot(s)_____ Zone_____
Page_____ Block_____ Lot(s)_____ Zone_____

DIMENSIONS:
Frontage: _____ Depth: _____ Total Area: _____

Description of Project:_____

_____

2. **APPLICANT**

Name:_____

Address:_____

_____

Telephone Number:_____ Fax_____

Applicant is a: Corporation:_____ Partnership_____ Individual_____

3. **OWNER** (*If other than the Applicant, state the following*):

Name:_____

Address:_____

Telephone Number:_____ Fax_____

4. **DISCLOSURE STATEMENT:**

Pursuant to N. J. S. 40:55D-48.1, the names and address of all persons owning 10% of the stock in a corporate applicant or 10% interest in any partnership applicant must be disclosed. Also, in accordance with N.J.S. 40:55D-48.2 that disclosure requirement applies to any corporation or partnership which owns more than 10% interest in the applicant followed up the chain of ownership until the names and addresses of the non-corporate stockholders and partners exceeding 10% ownership standard have been disclosed.

Name:_____ Interest:_____

Address:_____

Name:_____ Interest:_____

Address:_____

Name:_____ Interest:_____

Address:_____

Name:_____ Interest:_____

Address:_____

NOTE: Attach additional pages if needed to complete.

5. **PROPERTY INFORMATION:**

List all deed restrictions, covenants, easements, association by-laws affecting the property, whether existing or proposed. (Including any developers agreements).

Copies Attached: Proposed_____ Existing_____

(Note: Copies must be submitted for review and must be written in easily understandable English to be considered).

Present use of the premises:_____

Proposed use of the premises:_____

Prior site approval (if applicable). If this site has previously received approval of an application for development, state:

Date	Application #	Type of Request	Disposition

6. **APPLICANT'S PROFESSIONALS:**

Applicant's Attorney:_____

Address:_____

Telephone Number:_____ Fax Number:_____

Applicant's Planning Consultant:_____

Address:_____

Telephone Number:_____ Fax Number:_____

Applicant's Traffic Engineer:_____

Address:_____ Fax Number:_____

Telephone Number:_____ Fax Number:_____

Any other Expert who will submit a report or testify:

Name:_____

Field of Expertise:_____

Address:_____

Telephone Number:_____ Fax Number:_____

(Note: Attach additional sheets as necessary to complete).

7. **PLANS PREPARED BY:**

_____ Engineer _____ Land Surveyor _____Architect

Name:_____

Address:_____

Telephone Number: _____Fax Number:_____

N.J. License / Registration Number:_____

8. **BOROUGH ORDINANCE REFERENCE:**

   a. State section (s) of Borough Ordinance from which a variance is requested and reasons:

   _____

   _____

   b. Specify waivers requested of Development Standards and / or Submission Requirements and affected sections of Borough Ordinances:

   _____

   _____

MISCELLANEOUS

9. Set forth the following with regard to water and sewer at the site:

   Proposed water source: Public_____ Well_____

   Proposed sewage disposal: Public_____ Septic_____

10. Have any proposed new lots been reviewed with the Tax Assessor to determine appropriate Lot and Block numbers? If so, set forth full information.

_____
_____
_____

11. Detail any off-tract improvements required or proposed:

_____
_____
_____

12. What form of security does the applicant propose to provide as performance and maintenance guarantees?

_____
_____
_____

13. Other approvals which may be required and date plans submitted:

	YES	NO	DATE PLANS SUBMITTED
NJ Department of Environmental Protection	____	____	_____
NJ Department of Transportation	____	____	_____
NJ Council of Affordable Housing	____	____	_____
Somerset County Planning Board	____	____	_____
Somerset/Union County Soil Conservation	____	____	_____
Other	____	____	_____
Sanitary Sewer Connection Permit	____	____	_____
Middle-Brook Regional Health Commission	____	____	_____
Village Center Historical	____	____	_____
Preservation Committee	____	____	_____
Road Opening Permit	____	____	_____
Land Disturbance Permit	____	____	_____
Tree Removal Permit	____	____	_____

	YES	NO	DATE PLANS SUBMITTED
Driveway Permit	____	____	_____
Soil Removal Permit	____	____	_____
Other	____	____	_____

14. APPLICATION REPRESENTS A REQUEST FOR THE FOLLOWING:

SUBDIVISION

_____ Minor Subdivision Approval

_____ Major Subdivision Approval (Preliminary)

_____ Major Subdivision Approval (Final)

Development Plans: Sell Lots: YES_____ NO_____

Construct houses for sale: YES_____ NO_____

Other:_____

Gross Acreage of Tract:_____

Number of Lots to be created:_____(including remainder lot)

Number of Proposed Dwelling Units_____(if applicable)

To be filed by Deed or Plat: YES_____ NO_____

SITE PLAN

_____ Minor Site Plan Approval

_____ Preliminary Site Plan Approval (Phases if applicable)_____)

_____ Final Site Plan Approval (Phases (if applicable)_____)

_____ Amendment or Revision to an approved Site Plan

_____ Request for Waiver from Site Plan Review and Approval;

Reason for request:_____

Development Plans: New Structure_____ Expansion_____

Change of Use_____ Alteration_____

LAND DEVELOPMENT APPENDIX D-1

NON-RESIDENTIAL

Gross Acreage of Site _____

Gross New Floor Area_____

No. of New Parking Units _____

RESIDENTIAL

Gross Acreage of Site _____

No. of Dwelling Units_____

VARIANCE

_____ Variance Relief (Hardship) [N.J.S. 40:55D-70c(1)]

_____ Variance Relief (Substantial Benefit)[N.J.S. 40:55D-70c(2)]

_____ Variance Relief (Subdivision or Site Plan Approval incident to a Variance Application [N.J.S. 40:55D-76(b)]

_____ Variance Relief (Use Variance) [N.J.S. 40:55D-70d]

PERMITS

_____ Direct the issuance of a development permit for a structure in the bed of a mapped street, public drainage way, flood control basin or reserved public area [N.J.S. 40:55D-34]

_____ Direct the issuance of a development permit for a lot lacking street frontage [N.J.S. 40:55D-35]

_____ Other Relief (specify):_____

_____

OTHER RELIEF REQUESTED

_____ Informal Review

_____ Conditional Use Approval [N.J.S.40:55D-67]

_____ Appeal decision of Administrative Officer [N.J.S. 40:55D-70a]

_____ Interpretation of Zoning Map or Ordinance or for Decision upon other special questions (N.J.S. 40:55D-70b)

ATTACHMENTS

15. Attach a certification from the Borough Tax Collector that all taxes or assessments for local improvements due on the subject property have been paid.

16. Attach a copy of the Notice to be mailed to the owners of all real property, as shown on the current tax duplicate, located within the state and within 200 feet in all directions of the property which is the subject of this application. The Notice must specify the sections of the Ordinance from which relief is sought, if applicable. An affidavit of Service on all property owners must be filed with the Board Clerk at least two (2) days before the scheduled hearing or the application will be deemed incomplete and the applicant, unable to proceed to hearing.

NOTICES

17. The Board Clerk will publish Notice of Hearing at least ten (10) days in advance of the proposed hearing provided the application has been deemed complete.

Service of the notice on all effective property owners pursuant to NJSA 40:55D-12A et seq. must be made by the applicant at least ten (10) days prior to the date scheduled for the hearing.

18. List of Maps, Reports and other materials accompanying the application (attach additional pages as required for complete listing).

Quantity	**Description of Item**
_____	_____
_____	_____
_____	_____

FOR BOROUGH USE ONLY

The following reports have been sent to the applicant, the applicant's attorney and/or the Engineer on the date(s) noted:

Date	**Professional**	**Date**	**Report(s) sent**
_____	**Applicant**	_____	**Site Plan/Subdivision**
		_____	**Borough Engineer**
_____	**Attorney**	_____	**Board Attorney**
		_____	**Borough Planner**
_____	**Engineer**	_____	**Police Department**
		_____	**Fire Department**
		_____	**Environmental Committee**
		_____	**Board of Health**

CERTIFICATION

If the declarant is a Corporation, the following Certifications must be signed by an **authorized Corporate Officer.** If the declarant is a Partnership, it must be signed by a **General Partner.**

APPLICANT CERTIFICATION

I certify that the foregoing statements and the materials submitted are true. I further certify that I am the individual applicant or that I am an Officer of the Corporate applicant and that I am authorized to sign the application for the Corporation or that I am a General Partner of the Partnership applicant.

I certify that the foregoing statements are true; I am aware that if any statement is willfully false I am subject to punishment.

Dated:_____ Name:_____

Title:_____

OWNER CERTIFICATION

I CERTIFY THAT I AM THE owner of the Property which is the subject of this application, that I have authorized the applicant to make this application and that I agree to be bound by the application, the representations made and the decision in the same manner as if I were the applicant. I certify that the foregoing statements are true; I am aware that if any statement is willfully false I am subject to punishment.

Dated:_____ Owner:_____

ESCROW ACKNOWLEDGEMENT

I understand that the sum of $_____has been deposited in an escrow account (Builder's Trust Account), in accordance with the Land Use/Development Ordinances of the Borough of Watchung. I further understand that the escrow account is established to cover the cost of professional services including engineering, planning, legal and other expenses associated with the review of submitted materials and the publication of the decision of the Board. Sums not utilized in the review process shall be returned. If additional sums are deemed necessary, I understand that I will be notified of the required additional amount and shall add that sum to the escrow account within fifteen (15) days of notification.

Dated:_____ Applicant:_____

Revised General Ordinances

of the

Borough of Watchung

Land Development Index

Chapter XXVIII Land Development

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LAND DEVELOPMENT INDEX

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