

**BOROUGH OF SPOTSWOOD  
COUNTY OF MIDDLESEX  
LAND USE AND DEVELOPMENT ORDINANCE**

**Chapter 120  
of the  
Spotswood Township Municipal Code**



Adopted by Borough Council Ordinance No. 008-2013 on March 3, 2014  
Resolution 2014-64 Memorialized on March 17, 2014  
Received by Middlesex County Planning Board and Effective as of April 1, 2014

**RESOLUTION 2014-64:  
ADOPTING ORDINANCE NO. 008-2013**

**AN ORDINANCE AMENDING THE LAND USE AND DEVELOPMENT ORDINANCE OF THE BOROUGH OF SPOTSWOOD PURSUANT TO NEW JERSEY STATUTES ANNOTATED 40:55D.**

**WHEREAS**, the current Land Use and Development Ordinance of the Borough of Spotswood was adopted in 1996 and has been revised through the years to the present date; and

**WHEREAS**, the Borough of Spotswood adopted a new Master Plan on November 1, 2011, which contains a Land Use Plan Element and makes numerous recommendations to the Borough of Spotswood's Land Use and Development Ordinance and the Official Zoning Map; and

**WHEREAS**, the Borough has been in the process of implementing Master Plan recommendations since January 2012 with numerous amendments to the Official Zoning Map; and

**WHEREAS**, the Borough desires to continue to implement recommendations of the Master Plan through the adoption of a new Land Use and Development Ordinance; and

**WHEREAS**, a public hearing was held by the Spotswood Borough Council on March 3, 2014 and was adopted and published according to law.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Spotswood, that the Borough Council hereby repeals the existing Land Use Ordinance and replaces it, in its entirety, with the newly codified Land Use and Development Ordinance of the Borough of Spotswood, County of Middlesex, State of New Jersey:

This ordinance shall take effect immediately upon final passage on March 3, 2014 and publication thereof according to law.

DATED:        March 17, 2014

EDWARD T. SEELY  
Council President

I hereby certify that the above is a true and exact copy of the ordinance adopted by the Municipal Council of the Borough of Spotswood at their Regular Council Meeting held on March 17, 2014.

PATRICIA DESTEFANO, RMC  
Municipal Clerk

# TABLE OF CONTENTS

## Borough of Spotswood

### Chapter 120: Land Use and Development Ordinance

#### ARTICLE 100 – TITLE AND PURPOSE

§ 120-101.	Title .....	120: 7
§ 120-102.	Intent and purpose .....	120: 7
§ 120-103.	Methods of development control .....	120: 8
§ 120-104.	Interpretation of standards .....	120: 8
§ 120-105.	Interpretation of zoning district boundaries.....	120: 9
§ 120-106.	Compliance .....	120: 9
§ 120-107.	Government exemption .....	120: 9
§ 120-108.	Capital review & Master Plan consistency .....	120: 10
§ 120-109.	Severability.....	120: 10

#### ARTICLE 200 – DEFINITIONS

§ 120-201.	Definitions and word usage.....	120: 11
§ 120-202.	Compliance with other definitions.....	120: 11
§ 120-203.	Definitions.....	120: 11

#### ARTICLE 300 – GENERAL PROVISIONS

§ 120-301.	General Regulations .....	120: 42
§ 120-302.	Exemptions to district regulations .....	120: 53
§ 120-303.	Grandfathered vacant lots and detached dwelling units.....	120: 55
§ 120-304.	Nonconforming lots, structures and uses .....	120: 56
§ 120-305.	Number of principal uses, buildings and dwellings per lot .	120: 59
§ 120-306.	Prohibited uses in all zones .....	120: 59
§ 120-307.	Lot configuration for all lots .....	120: 60
§ 120-308.	Performance standards for all uses in all zones.....	120: 60

#### ARTICLE 400 – ZONING DISTRICTS

§ 120-401.	Zoning Districts .....	120: 62
§ 120-402.	Zoning Map .....	120: 62

§ 120-403.	Reserved .....	120: 62
§ 120-404.	C Conservation District .....	120: 63
§ 120-405.	PE Public Parks and Educational Facilities District .....	120: 64
§ 120-406.	R-10 Single Family Residential District .....	120: 65
§ 120-407.	R-7.5 Single Family Residential District .....	120: 67
§ 120-408.	R-5 Single Family Residential District .....	120: 69
§ 120-409.	AR-MHP Age-Restricted Manufactured Home Park Dist..	120: 71
§ 120-410.	TH Townhouse Residential District .....	120: 75
§ 120-410.	APT Apartment Residential District .....	120: 75
§ 120-411.	SC Senior Citizen Residential Apartment District .....	120: 80
§ 120-412.	Reserved .....	120: 85
§ 120-413.	MSR Main Street Rehabilitation District.....	120: 86
§ 120-414.	NC Neighborhood Commercial District.....	120: 96
§ 120-415.	GC General Commercial District .....	120: 99
§ 120-416.	LI Light Industrial District .....	120: 102

**ARTICLE 500 – STORMWATER CONTROL, RIPARIAN ZONES & STEEP SLOPES**

§ 120-500.	Reserved .....	120: 107
§ 120-501.	Reserved .....	120: 107
§ 120-502.	Stormwater control standards .....	120: 107
§ 120-502.1	Purpose and scope .....	120: 107
§ 120-502.2	Stormwater control definitions .....	120: 108
§ 120-502.3.	Stormwater management general standards .....	120: 111
§ 120-502.4	Stormwater Management. req. for major development ....	120: 112
§ 120-502.5	Stormwater calculation of runoff and groundwater recharge	120: 121
§ 120-502.6	Standards for structural stormwater management measures.	120: 123
§ 120-502.7.	Stormwater management sources of technical guidance ...	120: 125
§ 120-502.8.	Safety standards for stormwater basins .....	120: 126
§ 120-502.9.	Requirements for a site development stormwater plan .....	120: 128
§ 120-502.10.	Stormwater management maintenance and repair .....	120: 131
§ 120-502.11.	Violations and penalties .....	120: 133
§ 120-502.12.	Effective date .....	120: 133
§ 120-502.13.	Severability .....	120: 133
§ 120-502.14.	Minimum acceptable riparian zone .....	120: 134
§ 120-502.15.	Steep slope terrain .....	120: 139

**ARTICLE 600 – LAND DEVELOPMENT REGULATIONS**

§ 120-601.	Off-street parking, loading and driveways .....	120: 142
§ 120-602.	Lighting Requirements .....	120: 151
§ 120-603.	Landscaping Requirements .....	120: 152
§ 120-604.	Sign Regulations .....	120: 159
§ 120-605.	Design standards for right-of-way improvements.....	120: 167

§ 120-606.	Recycling facilities and design standards .....	120: 177
§ 120-607.	Public utilities .....	120: 179
§ 120-608.	Sanitary sewers .....	120: 180
§ 120-609.	Water distribution system .....	120: 188
§ 120-610.	Easements .....	120: 194
§ 120-611.	Refuse container and dumpster maintenance .....	120: 194
§ 120-612.	Private storm drain inlet retrofitting .....	120: 196
§ 120-613.	Floodplain areas .....	120: 198
§ 120-614.	Reserved .....	120: 213

**ARTICLE 700 – CONDITIONAL USES**

§ 120-701.	Conditional uses: general .....	120: 214
§ 120-702.	Conditional use criteria .....	120: 214
§ 120-703.	Wireless communications facilities .....	120: 223
§ 120-704.	Reserved .....	120: 231

**ARTICLE 800 –BOARD REGULATIONS AND APPLICATION PROCEDURES**

§ 120-801.	Establishment of Planning Board .....	120: 231
§ 120-802.	Powers and jurisdiction of Planning Board .....	120: 233
§ 120-803.	Planning Board exercise Powers of Zoning Board .....	120: 234
§ 120-804.	Appeals and interpretation .....	120: 238
§ 120-805.	Planning Board rules and procedures .....	120: 239
§ 120-806.	Appeal of Planning Board “D” variance approval .....	120: 244
§ 120-807.	Notice of decisions .....	120: 246

**ARTICLE 900 – SUBDIVISION AND SITE PLAN REQUIREMENTS**

§ 120-901.	General application requirements .....	120: 247
§ 120-902.	Submission of Minor Subd. Plats / Site Plans .....	120: 250
§ 120-903.	Submission of Preliminary Major Subdivision Plats and Preliminary Major Site Plans .....	120: 258
§ 120-904.	Subdivision of Final Major Subdivision Plats and Final Major Site Plans .....	120: 275

**ARTICLE 1000 – FEES**

§ 120-1001.	Application and Escrow Fee schedule .....	120: 283
§ 120-1002.	Subdivisions and Site Plan requirements; guarantees, inspections and acceptance of improvements .....	120: 287
§ 120-1003.	Additional provisions for escrow deposits .....	120: 297

§ 120-1004. Fees for off-tract improvements ..... 120: 300

**ARTICLE 1100 – ADMINISTRATION AND ENFORCEMENT**

§ 120-1101. Administration ..... 120: 305  
§ 120-1102. Enforcement ..... 120: 305  
§ 120-1103. Subdivision approval certificates ..... 120: 312  
§ 120-1104. Violations and penalties ..... 120: 313  
§ 120-1105. Selling land before final subdivision approval ..... 120: 313  
§ 120-1106. Variances and waivers ..... 120: 314  
§ 120-1107. Repealer ..... 120: 314  
§ 120-1108. Validity of ordinance ..... 120: 315  
§ 120-1109. Ordinance amendments..... 120: 315

## ARTICLE 100: TITLE AND PURPOSE

### **§ 120-101. Title**

The short title of this chapter shall be the "Land Use and Development Ordinance of the Borough of Spotswood."

### **§ 120-102. Intent and purpose**

This chapter is adopted pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) with the following intent and purpose:

- A. To encourage municipal action to guide the appropriate use or development of the lands in the Borough of Spotswood, in a manner which will promote the public health, safety, morals, and general welfare;
- B. To secure safety from fire, flood, panic, and other natural and man-made disasters;
- C. To provide adequate light, air and open space;
- D. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the state as a whole;
- E. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;
- F. To encourage an appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;
- G. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;
- H. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;
- I. To promote a desirable visual environment through creative development techniques and good civic design and arrangements;
- J. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in New Jersey and to prevent urban sprawl and degradation of the environment through improper use of land;
- K. To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development of the particular site;
- L. To encourage senior citizen community housing construction;
- M. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;
- N. To promote utilization of renewable energy sources;

- O. To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to compliment municipal recycling programs; and
- P. To further the goals and policies of the Master Plan of the Borough of Spotswood, The County of Middlesex and the State of New Jersey.

**§ 120-103. Methods of development control**

This Land Use and Development Ordinance, Chapter 120 of the Code of the Borough of Spotswood, is intended to comprehensively plan, direct, guide and control the development of the Borough of Spotswood by:

- A. Regulating and limiting the uses of land and the uses and the locations of buildings and structures;
- B. Regulating and restricting the height and bulk of buildings and structures and determining the area of yards and other open spaces;
- C. Regulating and restricting the density of population;
- D. Dividing the Borough of Spotswood into zoning districts and enumerating development standards for each district;
- E. Adopting a Zoning Map of the Borough of Spotswood showing the boundaries and the names of the zoning districts;
- F. Establishing the rules, regulations and standards governing the subdivision and site development of the lands within the Borough;
- G. Establishing a Planning Board which shall pursuant to N.J.S.A. 40:55D-25c(1&2), have nine members and shall exercise, to the same extent and subject to the same restrictions, all the powers of a board of adjustment, but the Class I and Class III shall not participate in any matter involving relief pursuant to subsection 40:55D-70.d.
- H. Prescribing the penalties for the violation of and the methods for enforcement of the provisions of this Land Use and Development Ordinance.

**§ 120-104. Interpretation of standards**

- A. The provisions of this chapter shall be held to be minimum requirements enumerated in the text unless otherwise specified. The term “shall” indicates a mandatory requirement.
- 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 Borough of Spotswood's interests and concerns 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.



### **§ 120-105. Interpretation of zoning district boundaries**

- A. Zoning district boundary lines are intended to follow street center lines, the center line of railroad rights-of-way, the center line of 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 center line 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 Planning Board pursuant to N.J.S.A. 40:55D-25c(1).
- 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.

### **§ 120-106. 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 bulk and use requirements of this chapter. Should any non-conforming use desire to expand or intensify in any way, relief should be sought pursuant to 40:55D-70.d. Should any building or structure not in conformance with the applicable bulk requirements of this chapter desire to be erected, enlarged, altered, added to, reduced, moved or changed, bulk relief shall be required pursuant to 40:55D-70.c.
- 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. No structure or land area in the Borough of Spotswood 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 (combined) Planning Board, including any conditions of approval which the Board may require.

### **§ 120-107. Government Exemption**

- A. The Borough of Spotswood and all municipal divisions, departments and agencies, including the Department of Public Works or Engineering, Spotswood Housing or Parking Authorities, Division of Libraries, Division of Public Safety, Spotswood Board of Education, and/or any other entity of the Borough or of The County of Middlesex or of The State of New Jersey or the federal Government of The United States shall retain the presumption of acting in the public interest in all matters of development, and shall therefore be exempt from all Zoning, Site Plan and Subdivision requirements of this Ordinance. This exemption shall not apply to public utility providers or telecommunications operators which may or may not be acting under municipal franchise license or similar authority.

**§ 120-108. Capital review and Master Plan consistency review**

Pursuant to N.J.S.A. §40:55D-31, the Governing Body of the Borough of Spotswood or any other public agency having jurisdiction, before taking action necessitating the expenditure of public funds, shall refer the details incidental to the location, character or extent of a specific project to the Planning Board for review and recommendation in conjunction with the Master Plan. The Governing Body shall not act thereon without such recommendation or until 45 days have elapsed after such reference without receiving such recommendation.

**§ 120-109. Severability**

If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

## ARTICLE 200: DEFINITIONS

### **§ 120-201. Definitions and word usage**

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

- A. Words used in the present tense include the future tense.
- B. Words used in the singular number include the plural number and vice versa.
- C. Words used to include the male gender include the female gender and vice versa.
- D. The word "used" shall include arranged, designed, constructed, altered, occupied converted, rented, leased or intended to be used.
- E. The word "lot" includes the words "plot" and "premises."
- F. The word "building" includes the word "structure."
- G. The word "shall" is mandatory and not discretionary.
- H. The word "may" is discretionary and not mandatory.

### **§ 120-202. Compliance with other definitions**

- A. 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 (N.J.S.A. 40:55D-1 et seq.), the word or term is intended to be consistent with the meaning as defined in the Municipal Land Use Law and with the permissible standards pertaining to the word or term.
- B. Any word or term used in this chapter which is not defined in this chapter or in the Municipal Land Use Law 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.

### **§ 120-203. Definitions**

Abandonment - The relinquishment of property, or a cessation of the use of property, without the intention to resume by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

Abut - To physically touch, boarder on, adjoin or be directly across from; or being separated from such a common border by a right-of-way, alley, or easement.

Accessory Building, Structure or use - A building, structure or use which is customarily associated with and is subordinate and incidental to the principal building, structure or use and which is located on the same lot therewith, including but not limited to, residential 1 or 2 car

garages, residential carports, barns on agricultural uses, decks, patios, sunrooms, kennels, sheds, permanent swimming pools, all roofed structures. Any accessory building or structure attached to the building shall be considered part of the principal building.

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

Administrative Officer - For the purposes of this ordinance, the administrative officer shall be The Secretary of the Planning / Zoning Board of Adjustment, unless a different municipal official is designated by ordinance.

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 allowances for access to the interior portion of adjoining lots or for other facilities required by this ordinance, and danger from fire, flooding, erosion or other menace.

Adult Bookstore – An establishment having more than 40% of its stock-in-trade, floor area, or display area used for the sale or rental of books, magazines, publications, tapes, or films that are distinguished or characterized by the emphasis on sexually oriented material depicting, describing, or relating to sexual activities or anatomical genital areas.

Affordable - To be within financial means of low- or moderate-income households as provided for by N.J.A.C. 5:94-7.

Alteration - Any change or rearrangement in the structural parts or in the existing facilities which alter the use of the building or an enlargement, whether by extension of a side or by increasing in height or by moves from one location or position to another. The addition or expansion of dormers is to be considered an alteration. Alteration shall also mean to significantly change the appearance of exterior elements of a structure, or to change the materials used.

Applicant – The developer submitting an application for development.

Application for development – The application form and all accompanying documents required by this chapter for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction for issuance of a permit pursuant to N.J.S.A. 40:44D-34 or N.J.S.A. 40:44D-36 of the Municipal Land Use Law

Arcade - A business establishment utilized, wholly or in part, for the accommodation of six or more coin-operated amusement devices.

Approving Authority – The Planning Board or the Zoning Board of Adjustment, as the case may be, unless a different agency is designated in this chapter pursuant to the Municipal Land Use Law.

Area of Special Flood Hazard - The land in the floodplain within an area of the Borough subject to a one-percent or greater chance of flooding in any given year.

Assisted Living Residence/Facility - A facility licensed by the NJ Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor. Apartment units offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance

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 7 1/3 feet above the attic floor is more than 1/3 the area of the floor next below shall be considered a story for the purposes of this chapter.

Automotive Sales - Any establishment selling, renting or leasing new or used automobiles, light trucks, vans, trailers, or recreational vehicles and where no repair or body work whatsoever is performed. Automotive Sales uses shall be defined to exclude automotive repair garages and/or service station uses.

Automotive Sales and Services - Any establishment selling, renting or leasing new or used automobiles, light trucks, vans, trailers, or recreational vehicles and where repair or body work or vehicle washing facilities are incidental to the operation of the new or used vehicle sales.

Automotive Service Station - Any establishment offering minor motor vehicle maintenance services which do not require extensive or prolonged mechanical work. These services encompass oil changes, lubrication, minor tune-ups, installation of batteries, tires, wiper blades and similar equipment, wheel balancing and steering alignment and the replacement of minor mechanical parts. Any establishment offering major motor vehicle repair services which require extensive or prolonged mechanical work including body or frame work, painting or the dismantling of engines or major components of the vehicle. These establishments may also provide the vehicle maintenance services performed by an automotive service station.

Bank – A freestanding building, with or without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds; main or branch offices of a state or federally chartered banking institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.

Bank, drive-through - Buildings, or portion thereof, which encourages or permits customers to conduct personal financial transactions while remaining in their motor vehicles.

Basement – That portion of a building partly below and partly above grade, where the ceiling averages four feet or more than four feet above the finished grade where such grade meets the outside walls of the building. A basement shall be considered a story above grade when the

distance from grade to the finished surface of the floor above the basement is more than six feet for more than 50% of the total perimeter, or is more than 12 feet at any point.

Bedroom – A room planned or used primarily for sleeping. A den or similar room that can easily be converted into sleeping quarters, with or without a built-in closet, shall be considered a bedroom for purposes of this ordinance and calculating parking demand.

Board - The Planning/Zoning Board of the Borough of Spotswood.

Billboard Sign – See Sign, Billboard.

Boarding House - Any building, together with any related structure, accessory building, any land appurtenant thereto, and any part thereof, which contains two or more units of dwelling space arranged or intended for single room occupancy, exclusive of any such unit occupied by an owner or operator, and wherein personal or financial services are provided to the residents, including any residential hotel or congregate living arrangement. (NJSA 55:13B-3)

Borough – The Borough of Spotswood, Middlesex County, New Jersey.

Breakaway Wall - A wall that is part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

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

Buffer Screening - An open, unoccupied area of land in which no building, parking area or other improvement is located, consisting of trees, shrubs, solid fencing, earth berms, or a combination of all, so installed as to provide both a visual and an acoustical barrier between properties and to create an aesthetically pleasing and attractive view to mask or obscure the use, function or structure located upon the site.

Building Coverage Calculation - Determined by dividing that area of a lot which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings, by the gross area of that lot.

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

Building Coverage – The aggregate square footage by which all buildings occupy a lot as measured in a horizontal plane around the periphery of the foundation and including the area under any roof.

Building Height - The vertical distance measured from the mean elevation of the finished grade along all sides of the foundation to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the highest point of the roof for gable, hip, and gambrel roofs. In all cases

where this ordinance provides for height limitations by reference to a specified height and a specified number of stories, the intent is to limit height to the specified maximum footage and the specified number of stories within said footage. Chimneys, spires, water towers, rooftop equipment, elevator penthouses, tanks and similar projections, other than signs, shall not be included in calculating building height. (See height exemptions under general ordinances)

**Building Line (front)** - The line, parallel to the street line, that passes through the point of the principal building nearest the front lot line.

**Bulkhead** - A retaining wall behind which fill is placed, created along a body of water, constructed to separate land and water and establish a permanent shoreline.

**Cable Television Company** - A cable television company as defined pursuant to N.J.S.A. 48:5A-3

**Car Wash** - A commercial building or structure, or portion thereof, where vehicles are washed or cleaned with a combination of mechanical devices, automatic or semiautomatic application of cleaner, brushes, rinse water, wax and heat for drying. Car washes may also contain vacuum machines used to clean the interior of vehicles.

**Carport**- A freestanding temporary or permanent shelter, often made of fabric or other weatherproof material and erected with poles and detached from a principal building and used for storage of vehicles or other materials. For purposes of this ordinance, Carports shall be defined as having a height to the highest point of the roof of seven (7') feet or less.

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

**Cellar** - The portion of a building partly below and partly above grade where the ceiling averages less than four feet (4') above the finished grade where such grade meets the outside walls of the building and with a floor-to-ceiling height of less than 6.5 feet.

**Cellular Antennas** – Antennas which are used for the transmission and reception of wave frequencies for the purposes of telephone, internet, radio, and/or digital communication. This definition shall include all shapes and technologies of wireless antennas and shall be synonymous with wireless telecommunications antennas and similar terms. See Def. of cellular antennas: Repealed Ord. #2002-834

**Certificate of Occupancy** – The certificate issued by the Construction Official pursuant to N.J.A.C. 5:23-2.33 and in accordance with 120-1002E of this chapter permitting the use of a structure.

**Check Cashing Establishment** - An office or other establishment used for the operation of a check cashing business licensed pursuant to C. 383 P.L. 1993. The term check shall include a check, draft, money order, negotiable order of withdrawal or any other similar type of negotiable

instrument. Not included within this definition are automatic teller machines and main or branch offices of a state or federally chartered banking institution.

Child Care Center - A private establishment enrolling six (6) or more children and where tuition, fees, or other forms of compensation for the care of children is charged for providing for the care, supervision, and protection of children, whether or not licensed or approved to operate as a child care center by the N.J. Division of Youth and Family Services.

Child Care Residence – Any private residence in which child care services are regularly provided to no less than three and no more than five children at any one time for no less than 15 hours per week. A child being cared for under the following circumstances is not included in the total number of children receiving child care services:

- a. The child being cared for is legally related to the provider; or
- b. The child is being cared for as part of a cooperative agreement between parents for the care of their children by one or more of the parents, where no payment for the care is being provided.

Clubs and Fraternal Lodges - A non-profit corporation, organization or association of persons who are members thereof which owns or leases a building, or part thereof, the use of members or guests. Said ‘clubs’ or lodges shall have been principally established for the operation of a non-profit fraternal organization formed and operating for the primary purpose of social, educational and charitable group activities. Such uses shall be distinctly not considered as a semi-public use under the provisions of this chapter. Food, meals and alcoholic beverages may be served as an incidental function of this use, provided that adequate facilities are present, and further that all federal, state and municipal laws are complied with.

Commercial Vehicle – Any vehicle designed and/or used for commercial or institutional purposes including busses, work trucks associated with any trade, commercial transportation vehicles, construction vehicles of any kind, tractors, tractor-trailer cabs, or fleet vehicles of any kind. Any vehicle containing advertising matter intending to promote the interest of any business, whether or not said vehicle is registered as “commercial” vehicle with the State shall also be considered a commercial vehicle.

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

Community Residence (For the Developmentally Disabled or Persons with Head Injuries) – See definition in MLUL;; adopted herewith by definition.

Community Shelter for Victims of Domestic Violence – See definition in MLUL;; adopted herewith by definition.



**Complete Application** - An application for development providing all checklist items as specified by ordinance and all accompanying documents or fees required for consideration of the application. An application shall be certified as complete by the Administrative Officer upon meeting of all requirements specified in the ordinance and in the rules and regulations of the reviewing board, and shall be deemed complete as of the day it is so certified for purpose of the commencement of the time period for action by the Board.

**Concept Plan** - A preliminary presentation and attendant documentation of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification, and prepared for informal review to alert applicants to problems and requirements before the submission of a formal development application.

**Conditional Use** - A use permitted in a particular zoning district only upon showing that such a use in a specified location will comply with the conditions and standards of the location of operation of such use as contained in this chapter and upon the approval of the appropriate Board.

**Condominium** - Ownership of real property, combining ownership in fee simple of a dwelling unit and undivided ownership in common with other purchasers of the common elements in the structure and including the land and its appurtenances, formed under the Condominium Act.

**Congregate Care Facility/Living Arrangement** - Residential housing that consists of private dwelling units with an individual bathroom and an optional individual food preparation area, in addition to central dining facilities, and within which congregate housing supportive services such as meals, housekeeping, laundering, and personal care are provided.

**Convenience Store** - A retail establishment generally up to 5,000 sf. selling primarily food products, household items, newspapers and magazines, candy, and beverages and a limited amount of freshly prepared foods such as sandwiches and salads for off-premises consumption, and which does not include automotive service stations.

**Conservation Area** – An area of land set aside by easement or deed restriction for the purpose of preserving open space, critical areas, aquatic buffers and/or the natural, scenic, aesthetic or historic value of land and precluding any building on the premises.

**Construction** - Any act or progress that requires a building permit and that adds an addition into an existing building or erects a new principal or accessory structure on a lot which is subject to the design standards for the district in which the property is located, and including the construction, erection, reconstruction, alteration, conversion, demolition, removal, repair or equipping of buildings or structures.

**Construction Official** – An individual designated by the Borough Council of the Borough of Spotswood and duly licensed by the New Jersey State Department of Community Affairs to serve as the Construction Official.

**Conventional Development** – Any development other than planned development.

County Planning Board - The Middlesex County Planning Board, as stipulated in Section 1 of P.L. 1968, c.285 (N.J.S.A. 40:27-6.1)

Courtyard or Court- An open unoccupied space bounded on at least two opposing sides by a building wall, but not a front, side or rear yard. ‘Courtyard’ shall apply to multifamily or high-rise buildings only.

Coverage, Building – The aggregate square footage by which all buildings occupy a lot as measured in a horizontal plane around the periphery of the foundation and including the area under any roof.

Coverage, Lot – The aggregate square footage by which all sidewalks, driveways, patios and parking areas, whether paved, graveled, or un-surfaced, and all buildings and other structures covering a lot as measured in a horizontal plane to the limits of the structure. This term shall include all areas covered by any material that will create an impervious surface as determined the Zoning Officer and shall be synonymous with “Impervious Coverage.” Residential swimming pools shall not be included in this term.

Critical Areas - Wetlands, 100-year floodplain areas, and lands with a topographic slope of fifteen percent (15%) or greater within Spotswood Borough.

Curb Level - The grade of the curb in front of the midpoint of the lot as established by the Municipal Engineer.

Day Care Center - Any facility operated for the purpose of providing care, protection and guidance to 10 or more individuals during only part of a 24-hour day. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses but excludes public and private educational facilities or any facility offering care to adults for a full 24-hour period.

Dedication – An appropriation or giving up of property to public use, which precludes the owner or others under him/her from asserting any right of ownership inconsistent with the use for which the property is dedicated.

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

Development – The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or any mining, excavation or landfill, and any use or change in use of any building or other structure or land or extension of use of land, for which permission may be required.

Density – The permitted number of dwelling units per gross area of land to be developed.

Developmentally disabled person – See definition in MLUL; adopted herewith by definition.

District – Any portion of the territory of the Borough within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this chapter. The term “zone” shall have the same meaning as “district” or “zoning district” for the purposes of this chapter.

Dormitory - A building used as group living quarters for a student body or religious order as an accessory use to a college, university, boarding school, convent, monastery, or similar institutional use; an accessory use to an institutional use; not usually including individual kitchen facilities or private bathroom facilities.

Drainage – The removal of surface water or groundwater from land by drains, grading or other means and including control of runoff during and after construction or development in order to accomplish the following:

- a. Minimize erosion and sedimentation;
- b. Assure the adequacy of existing and proposed culverts and bridges;
- c. Induce water recharge into the ground where practical;
- d. Lessen nonpoint pollution;
- e. Maintain the integrity of stream channels for their biological functions as well as for drainage; and
- f. Provide the means necessary for water supply preservation and prevention or alleviation of flooding.

Drainage and Utility Right-of-Way – the lands required for the installation and maintenance of stormwater drains and pipes, sanitary sewers, water supply pipes, drainage ditches and other utility infrastructure, or the lands required along a natural stream or watercourse in order to preserve the channel and provide for the overland flow of water to safeguard the public against flood damage.

Drive-through Use - An establishment that by design, physical features, service or packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their vehicles.

Driveway - A private paved or unpaved space providing vehicular ingress and egress to the property and parking spaces and which is accessory to the use served.

Dwelling - Any building, or portion of a building containing one or more dwelling units which is designed to be and is substantially separate from any other dwelling walls, whether attached or semi-attached, or from isolation or detachment of structures, all as defined herein.

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. This definition shall not

including hotels or other buildings for transient quarters; synonymous with the term ‘family’ when used to describe the number of dwelling units within a dwelling as in single-family.

Dwelling, attached - A dwelling having two or more party walls in common with another dwelling but which otherwise is designed to be and is substantially separate from any other structures, except accessory structures.

Dwelling, detached - A dwelling having no walls in common with another dwelling and which is designed to be and is substantially separate from any other structure or structures, except accessory structures.

Dwelling, efficiency - A dwelling unit consisting of a single room or common space, inclusive of bathroom and kitchen facilities.

Dwelling, semidetached - A dwelling having a party wall in common with another dwelling but which otherwise is designed to be and is substantially separate from any other structure or structures, except accessory buildings.

Dwelling, Detached Single Family – keep same definition

Dwelling, townhouse - A building containing at least four (4), but no more than eight (8), connected dwelling units, where each dwelling unit: has its own front and rear access to the outside; is not located over any portion of another unit; is separated from any other dwelling unit by one or more common fire resistant walls; and 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.

Dwelling, multifamily – A building which is used or designed as a residence for three or more families or households living independent of each other except that rooming houses, boarding houses, hostels, lodging houses, hotels, motels, and dormitories are specifically excluded by this definition as multi-family structures.

Dwelling, apartment - use existing

Dwelling, residential flat - use existing

Easement – A right, created by deed or other legal means, to use the real property of another for one (1) or more specific purposes (eg., access, drainage, conservation, utility services, etc.) for the benefit of private persons or for the benefit of the public.

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.

Environmentally sensitive area - Areas which include, but are not limited to stream corridors and floodplains, streams, bodies of water, wetlands (as defined by NJDEP), slopes greater than ten

(10) percent, shallow depth to bedrock (less than two (2) feet), high acid or erodible soils (as defined by the SCS), mature stands of trees, aquifer recharge area, aquifer discharge areas, unique natural features and wildlife habitats or such areas as may be so designated by federal, state or county agencies of jurisdiction.

Erect - To build, construct, attach, alter, relocate or affix and includes the painting of signs or displays on the exterior surface of a building. Excavations, fill, drainage and the like shall be considered a part of erection.

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

Extended Care Facility - A long-term facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged, or a governmental medical institution.

Façade - The total wall surface, including door and window areas of a building's face extending from grade to top of the parapet, wall, or eaves and the entire width of the building. Each wall surface shall be considered a separate 'façade.'

Family - A single, nonprofit housekeeping unit, as distinguished from a group occupying a boarding- or rooming house, lodging house, club, fraternity or hotel or any other nonfamily institutional uses, provided that unless all members are related by blood or marriage, no such family shall contain over five persons.

Family Day Care Home - **See** definition in MLUL;; adopted herewith by definition.

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 use.

Fence - An artificially constructed barrier of wood, masonry, stone, wire, metal, or any other manufactured material or combination of materials.

Final Approval - The official action of the municipal agency taken on a preliminary approved major subdivision or site plan after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guaranties properly posted for their completion, or approval conditioned upon the posting of such guaranties.

Fire Official – An individual designated by the Borough of Spotswood and certified by the commissioner of the New Jersey State Department of Community Affairs to serve as the “Fire Official”.

Fire Sub code Official – A qualified individual appointed by the Borough of Spotswood to enforce the fire protection rules of the New Jersey Uniform Construction Code (N.J.A.C. 5:23-1 et seq.) which are within the jurisdiction of the Borough.

Flood - A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters; and/or (2) the unusual and rapid accumulation of runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) - The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the Borough

Flood Insurance Study (FIS) - The official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

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

- a. Flood Hazard Area Design Flood: The 100-year storm in non-delineated areas and the 100-year storm plus twenty-five percent (25%) in delineated areas.
- b. Floodway: The channel of a natural stream and portions of the flood hazard area adjoining the channel which are reasonably required to carry and discharge the flood water or flood flow of any natural stream without accumulatively increasing the water surface elevation more than two-tenths (0.2) feet.
- c. Flood Fringe Area: The portion of the flood hazard area not designated as the floodway.
- d. Flood Hazard Area: The floodway and the flood fringe area of a delineated stream.

Floor Area, Gross - The floor area within the perimeter of the outside walls of the building or structure under consideration, including areas used for human occupancy in basements and attics, without deduction for hallways, stairs, closets, thickness of walls, columns or other features, but excluding rooftop penthouses containing mechanical equipment. It does not include cellars, unenclosed porches, or attics not used for human occupancy.

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 Ordinance for non-residential uses, any “Net Habitable Floor Area” having a headroom of six and one-half feet (6.5’) or more shall be utilized in the calculation.

Floor Area Ratio - See definition in MLUL;; adopted herewith by definition.

Fraternal Organization - A group of people formally organized for a common interest, usually cultural, religious, or entertainment, with regular meetings, rituals, and formal written membership requirements.

Front Façade 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.

Front lot line - The line separating the lot from a street and/or street right-of-way. (Special definitions may apply if there is no access to a public street.)

Frontage - The side of a lot abutting the street. For corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage.

Garage, Private Non-Residential - An accessory building to a principal non-residential building and use, which is used primarily for the parking and storage of vehicles operated by the customers, visitors and employees of such non-residential building and use, and which is not available to the general public.

Garage, Private residential - An accessory building or part of a principal building used only for the storage of motor vehicles as an accessory use. In a residential zone, a garage is intended for and used for storing privately owned for motor vehicles, boats and trailers and personal belongings of the family or families resident in the principal residential use on the lot.

Garage, Public – A building or portion thereof, other than a private non-residential garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

Gasoline Station - Any establishment, including any area of land or structures thereon, offering motor vehicle refueling services.

Gasoline station mini-mart - A facility located on the same lot and as an accessory to a gasoline station, that also offers for sale prepackaged food items and tangible consumer goods, primarily for self-service by the consumer. Hot beverages, fountain-type beverages, and pastries may be included in the food items offered for sale, but food items that are prepared or individually portioned on the premises shall be prohibited.

General Terms and Conditions - The conditions under which preliminary approval is granted, including zoning plat details, improvements, offsite improvements and design standards

Go-Go Bar - Any building or place of business which offers alcoholic beverages, beer or wine for sale, and allows consumption of alcoholic beverages, beer or wine on the premises, and

which also provides entertainment wherein a male or female dances on a stage, bar or platform, while clad in a minimal amount of clothing, for the entertainment of patrons.

Governing Body – The Borough Council of the Borough of Spotswood.

Grade, finished - - See definition in MLUL.; adopted herewith by definition.

Historic Resource – Any site, building area, structure or object important in American history or pre-history, architecture, archaeology and culture at the national, state, county, local or regional level.

Home Occupation – A business conducted in or from a single-family detached dwelling unit and/or its permitted accessory buildings or structures, which business is clearly subordinate and ancillary to the principal single-family residential use of the property and which business meets the requirements specified for “Home Occupations” in Subsection the conditional use chapter of this Ordinance. For purposes of this Ordinance, the term “Home Occupation” also shall include “Family Day Care Homes” and “Child Care Residences”.

Home Office – the use of a portion of a dwelling as an office area for use only by members of the household residing on the premises. Should a use shall not violate any of the following items to be defined as a home office, or it shall be defined as an office use:

- a. The office area shall not occupy more than five hundred (500) square feet nor more than twelve and one-half percent (12.5 %) of the gross floor area (G.F.A.) of the dwelling, whichever is less, excluding the area of garages, basements and attics in the calculation of gross floor area;
- b. The office area shall not be a segregated portion of the house, but shall be an existing room or area within the dwelling unit which is integrated within the overall floor plan of the dwelling;
- c. The office area shall not contain any kitchen or bathroom facilities which are separate from the remainder of the dwelling unit;
- d. The office area shall have only typical office equipment limited to computers, fax machines, telephones, copying machines and other similar office equipment;
- e. No supplies or furnishings shall be permitted other than typical office supplies and furnishings;
- f. No evidence of the office area shall be shown to the outside of the dwelling unit;
- g. No persons shall be permitted on the property regarding the office area other than people making deliveries or service calls as otherwise might occur on the property regarding the dwelling unit.

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.



Hospital - An institution which maintains and operates organized facilities and services for the diagnosis, treatment or care of persons suffering from illness, injury or deformity and/or obstetrics and in which all diagnosis, treatment, surgery and care are performed under the direction of persons licensed to practice medicine or osteopathy in the State of New Jersey, and which conform to the revised standards for hospital facilities as adopted by the State of New Jersey.

Hotel/Motel, Limited Service - A building containing furnished rooms without kitchen facilities rented out to be occupied for sleeping purposes by transient guests who have their residence elsewhere. A general kitchen, dining room or meeting room may be provided within the building or as an accessory building, Customary hotel/motel services must be provided, such as but not limited to maid services, laundering of linen, telephone and secretarial or desk service and the use and upkeep of furniture. A limited service hotel does not provide any restaurant or food service or recreational facilities.

Hotel/Motel, Full-service - A building containing furnished rooms with kitchen facilities rented out to be occupied for sleeping purposes by transient guests who have their residence elsewhere. A general kitchen, dining room or meeting room may be provided within the building or as an accessory building, Customary hotel/motel services must be provided, such as but not limited to maid services, laundering of linen, telephone and secretarial or desk service and the use and upkeep of furniture. Full Service hotels always contain restaurants and possibly a bar or lounge with entertainment, personal services, health club and retail stores.

House of Worship - A structure owned and/or used by a religious organization for worship, religious training, or education... may include, in addition to the principal structure, accessory structures and/or dwelling units for religious organization personnel located within an accessory structure that is use primarily for religious training or educational purposes. This definition includes the terms church, synagogue, temple, mosque, or other facility that is used for prayer by persons of similar beliefs.

Housekeeping Unit – One (1) or more persons living together in one (1) dwelling unit on a non-seasonal basis and sharing living, sleeping, cooking, and sanitary facilities on a non-profit basis.

Impervious Surface or Coverage– As applied to all surfaces, that portion of the premises covered by buildings, principal and accessory, and improvements, such as driveways, parking lots, tennis courts, patios, porches and walkways. For the purposes of this ordinance, all paved parking areas and driveways, all parking areas which are permitted to remain un-surfaced, all gravel driveways and gravel parking lots, and all paver block areas shall be considered an “impervious surface.” The area under wood decks and the surface area of water in swimming pools shall not be considered impervious.

Improvable - Land which is not prevented from having buildings, pavement or decking constructed on it due to development restrictions intended to protect environmental features such as wetlands, floodplains or water bodies.

Industrial Park - A planned, coordinated development of a tract of land developed according to a comprehensive plan to provide two (2) or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, and open space.

Interested Party - In a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey or, in the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the municipality, whose right to use, acquire, or enjoy property is or may be affected by any action taken under the provisions of this Ordinance, or whose rights to use, acquire, or enjoy property under the provisions of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) or under the provisions of this Ordinance or under any other law of this State or of the United States have been denied, violated or infringed upon by an action or a failure to act under the provisions of the Municipal Land Use Law and/or this Ordinance.

Interior Lot - A lot bounded by a street on one side, usually its front side, any lot other than a corner lot.

Juice Bar - Any building or place of business which does not offer alcoholic beverages, beer or wine for sale, and which also provides entertainment.

Junk Yard - An area, lot, structure, or part thereof, used primarily for the collecting, storage, sale, buying, trading, or abandonment of any refuse and/or discarded materials, or the collecting, auctioning, dismantling, demolition, salvaging, cannibalizing, abandonment or processing of structures, automobiles, or other vehicle equipment and machinery, or parts thereof, with the deposit of domestic, commercial, industrial or sanitary waste water or garbage excluded. For purpose of this chapter, the use of more than 400 square feet of the area of any lot for storage, keeping or abandonment of junk, scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles not in operating conditions or other vehicles or machinery or parts thereof, which is not accessory to a permitted use, shall be classified as a junk yard.

Laboratory - A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Land – Includes improvements and fixtures on, above or below the surface.

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.

Landscaping - Changing, rearranging, or adding to the original vegetation or scenery of a piece of land to produce an aesthetic effect appropriate for the use to which the land is put. It may include reshaping the land by moving the earth, as well as preserving the original vegetation or adding vegetation. The term includes lawns, trees, plants, and other natural materials, such as

rock and wood chips, and decorative features, including sculpture, patterned walks, fountains, and pools.

Landscaped Area - Areas containing trees, shrubs and ground covers, unpaved pedestrian and recreation areas, ponds, streams or any other areas or features which can be reasonably included, but shall not include areas occupied by buildings or structures, paving for parking, loading or access thereto, required buffers or areas utilized for outside storage.

Limited Manufacturing – Any activity involving the fabrication, reshaping, reworking, and assembly or combining of products, parts and/or materials which:

- a. Does not involve the union of chemicals, compounds or elements to produce a new compound or substance on-site for direct industrial sale;
- b. Does not involve the union of chemicals, compounds or elements on-site for use during fabrication, reshaping, reworking, assembly, or combining of the products, parts and/or materials, except that the incidental application of chemicals or chemical products brought to the site is permitted pursuant to paragraph “c.” of this definition herein below.
- c. May involve the incidental application of chemicals, compounds or elements of chemical products during the fabrication, reshaping, reworking, assembly or combining of the products, parts and/or materials including, but not limited to, painting, gluing and cleaning;
- d. Stores and contains any and all products, parts and/or materials utilized during the fabrication, reshaping, reworking, assembly or combining of the products, parts and/or materials within completely enclosed buildings; and
- e. May involve the ancillary storage and warehousing of the items fabricated, reshaped, reworked, assembled or combined during the “Limited Manufacturing” activity.

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

Local Utility - Any sewerage authority created pursuant to the Sewerage Authorities Law (N.J.S.A. 40:14A-1 et seq.); and utilities authority created pursuant to the Municipal and County Utilities Authorities Law (N.J.S.A. 40:14B-1 et seq.); or any utility authority, commission, special district or other corporate entity not regulated by the Board of Regulatory Commissioners under Title 48 of the New Jersey Revised Statutes that provides gas, electricity heat, power, water or sewer services to municipal residents thereof.

**See definition in MLUL; adopted herewith by definition**

Lot – A designated parcel, tract or area of land established by a plot or otherwise as permitted by law and to be used, developed or built upon as a unit. The word “lot” includes the words “plot” and “premises”.

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

Lot Coverage – The aggregate square footage by which all sidewalks, driveways, patios and parking areas, whether paved, graveled, or un-surfaced, and all buildings and other structures covering a lot as measured in a horizontal plane to the limits of the structure. This term shall include all areas covered by any material that will create an impervious surface as determined the Zoning Officer and shall be synonymous with “Impervious Coverage.” Residential swimming pools shall not be included in this term.

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 degrees (135°). A corner lot shall have two (2) front yards, one (1) side yard and one (1) rear yard. The rear yard shall be the yard generally opposite from the frontage where lot width is measured. The side yard shall be the yard generally opposite the frontage where lot depth is measured.

Lot Depth – The perpendicular distance between the street line or front lot line and a line drawn parallel thereto through the midpoint of the rear lot line. On a corner lot the shorter distance shall be the lot width and the greater distance shall be the lot depth.

Lot Frontage – the continuous horizontal distance between the side lot lines measured along the street line. The minimum required lot frontage shall be the same as the minimum required lot width, except where frontage is specified as a requirement. Where the lot frontage is a curve, the minimum required frontage shall not be less than seventy-five percent (75%) of the required minimum lot width, unless a lesser frontage is specified by this Ordinance. In the case of a corner lot, the lot shall have two (2) (or more) frontages as all lot lines that coincide with a street line shall be considered a front lot line.

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

Lot line, front – Any line sharing commonality and coexistent with a street right-of-way line. All lot lines coincident with street right-of-way lines shall be considered front lot lines.

Lot line, side – Any lot line other than a front or rear lot line.

Lot line, rear - Any lot line, other than a street line, which is parallel to the front line or within forty-five (45) degrees of being parallel to the front lot line. A rear lot line shall also include any lot lines on an offset to a through lot which constitutes the rear lot line of an adjacent zoning lot. Lot lines for unusual lot configurations may be determined by the Director or Planning.

Lot, through - A lot running through from one street to another along two more or less parallel public streets or streets that do not intersect at the boundaries of the lot.

Lot Width – The straight line horizontal distance between side lot lines at setback points on each side lot line measured from the street line at the minimum required building setback line. On a corner lot the shorter distance shall be the lot width and the greater distance shall be the lot depth.

Lowest Floor - The lowest floor of the lowest enclosed area (including basement) of a structure

Maintenance Guarantee – In accordance with the requirements of this Ordinance, any security which may be accepted by the Borough or Spotswood for the maintenance of any improvements required by this Ordinance including, but not limited to, surety bonds, letters of credit under the circumstances specified in N.J.S.A 40:55D-53.5, and cash.

Manufactured Home or Mobile Home – See definition in MLUL;; adopted herewith by definition.

Massage parlor - An establishment or place of business primarily engaged in providing body massage by persons who are not licensed by the State of New Jersey as physical therapists or other similar professions.

Master Plan - A composite of one or more written or graphic proposals for the development of the municipality as set forth and adopted pursuant to Article III of the Municipal Land Use Law.

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

Municipal Agency – The Spotswood Borough Planning Board, the Spotswood Borough Zoning Board of Adjustment or the Spotswood Borough Council when acting pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.).

Nightclub - A commercial establishment serving alcoholic beverages for consumption on the premises and in which dancing is permitted and includes the term ‘cabaret.’

Nonconforming Building or Structure – A building or structure, the size, dimension or location of which was lawful prior to the adoption, revision or amendment of this Ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

Nonconforming Lot – A lot, the area, dimension or location of which was lawful prior to the adoption, revision or amendment of this Ordinance, but which fails to conform o the requirements of the zoning district in which it is located 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 Ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

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

Nursing Home - A facility licensed by the state for five or more convalescent or aged people, which may include kitchen facilities, recreation areas and similar uses necessary adjunct uses for patient care

Office, Medical or Dental – any place used for the administering of medical or dental treatment free, or any place used as and inpatient or outpatient medical or dental treatment center wherein certain medical or dental conditions and disorders are treated primarily through surgical intervention that is commonly performed in normal, private medical or dental practice.

Official Map - A map adopted by ordinance pursuant to N.J.S.A 40:55D-32.

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

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

Onsite – Located on the lot in question.

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

Open Porch – A porch which 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 – Any parcel or land area or water, essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, streets, off-street parking and other improvements that are designed to be incidental to the natural openness of the land.

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

Parking Space – Any area for the parking of motor vehicles, exclusive of driveways, access drives, fire lanes and public rights-of-way, either within a structure or in the open, in accordance with the following:

- a. Each non-handicapped space shall not be less than nine feet wide by eighteen feet in length (9' X 18');
- b. Each handicapped space shall not be less than eight feet wide by eighteen feet in length (8' X 18') and shall have an adjacent pedestrian access aisle at least five feet (5') wide, provided that if a different requirement for a handicapped space has been adopted by the State, then the most current requirement shall be met; and

- c. 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.

Performance Guarantee – In accordance with the requirements of this Ordinance, any security which may be accepted by the Borough of Spotswood in lieu of a requirement that certain improvements be completed prior to final approval of a development application including, but not limited to, surety bonds, letters or credit under the circumstances specified in the Municipal Land Use Law at N.J.S.A. 40:55D-53.5, and cash.

Performance Standards – See definition in MLUL; adopted herewith by definition.

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

Personal Services Business - An establishment or businesses which provides services of a personal nature, such as hair care, nail and skin care, tanning salons, and other similar types of services. The term personal services business specifically excludes tattoo parlors, massage parlors and check cashing establishments.

Philanthropic use - Those active services or functions exclusively devoted to the active effort to promote human welfare, maintained or supported by act or gift or organized distribution of funds.

Planned Development - Planned unit development, planned unit residential development, residential cluster, planned commercial development or planned industrial development.

Plot or Plat - A map or maps of a subdivision or site plan.

Preliminary Approval - The conferral of certain rights pursuant to this chapter prior to final approval, after specific elements of a development application have been agreed upon by the municipal agency and the applicant.

Preliminary Plat - The preliminary map, with supporting documentation, indicating the proposed layout of the subdivision or site plan which is submitted to the municipal agency.

Principal Building, Structure or Use – A building, structure or use which 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.

Projection - An extension of a building which protrudes or juts out from the vertical plane of the building not more than two feet.

Professional Office - The office of a member of a recognized profession maintained for the conduct of that profession.

Property Line - A lot or parcel line that defines the limits of ownership for a piece of property; a line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

Public Parks and Playgrounds - A noncommercial, not-for-profit facility, designed to serve the recreation, either active or passive, needs of the residents of the community, and made available to the public. This definition may include public school and public institution ball fields, if they meet the above definition.

Public Building - Any building or structure or part thereof, owned, leased, or managed by any branch of government or any of its departments, divisions, bureaus, boards, councils, authorities or other agencies.

Public Open Space - An open space area conveyed or otherwise dedicated to the municipality, municipal agency, Board of Education, state or county agency or other public body for recreational or conservational uses.

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

Public Utility - Any public utility regulated by the Board of Regulatory Commissioners and defined pursuant to N.J.S.A. 48:2-13.

Recreation, commercial – Recreation facilities operated as a business and open to the general public for a fee.

Recreation, private – Non-commercial clubs or recreation facilities operated by non-profit organizations, and or public universities and open only to bona fide members of such non-profit organizations.

Recreation, public – Recreation facilities operated as a non-profit enterprise by Spotswood Borough, other governmental entity or any non-profit organization and open to the general public.

Recreational Vehicle - Any building, structure, or vehicle designed and/or used for living or sleeping and/or used for recreational purposes and equipped with wheels to facilitate movement from place to place, and automobiles when used for living or sleeping purposes and including pick-up coaches (campers), motorized homes, boats, travel trailers, and camping trailers not meeting the specifications required for a manufactured home or a mobile home.

Rehabilitation - The repair, renovation, alteration or reconstruction of any building or structure; or the renovation of a previously deficient housing unit, which is occupied by a low or moderate income household, to meet municipal or other applicable housing code standards as further described in N.J.A.C. 5:94-4.2(b)3.



Residential Cluster - An area to be developed as a single entity according to a plan containing the residential housing units which have a common or public open space area as an appurtenance.

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

Restaurant - An establishment regularly and primarily used for the purpose of providing meals to the public, having an adequate kitchen and dining room equipped for the preparing, cooking and serving of foods for its customers and in which no other business except such as is incidental to such establishment is conducted, wherein the food and drink are consumed within the principal building. Such uses shall not be interpreted to include and are hereby defined to exclude drive-in, drive-through, take-out, and fast food restaurants or other similar uses.

Restaurant, drive-in - An establishment where patrons are served food, soft drink, ice cream, and similar confections inclusive of refreshment stands, commonly called snack bars, dairy bars, hamburger stands or similar uses where customers and patrons are served food, soft drinks, or ice cream primarily for their immediate consumption outside the confines of the building or structure in which the business is conducted thereto, seats or other accommodations as provided for their patrons.

Restaurant, take-out An establishment where food and/or beverages are sold in a form ready for consumption, where all or a significant part of the consumption takes place outside the confines of the restaurant, and where ordering and pickup of food may take place from an automobile.

Restaurant, drive-through - An establishment that by design, physical facilities, service, and/or packaging procedures encourages and permits customers, being located in a designated drive-through lane, to receive quick food service using a window or series of windows while remaining in their motor vehicles.

This is accomplished through a limited menu of items prepared and held for service or prepared quickly, and generally served in disposable wrapping or containers. (M/L)

Restaurant, Fast-food - A restaurant, which may or may not have tables but which is essentially designed to dispense quick, ready made food of a limited variety. The patron obtains food directly from the dispensing counter for consumption on or off such premises. The term fast food restaurant shall include drive-in restaurant.

Re-subdivision – The further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law, or, the alteration of streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but not including conveyances so as to combine existing lots by deed or other instrument.

Right-of-way, public - (1) A publicly owned strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, crosswalk, railroad, for

utilities, or for another special use. (2) Generally, the right of one to pass over the property of another.

Rooming House – a boarding house wherein no personal or financial services are provided to the residents. (N.J.S.A. 55:13B-3)

School, Private - A non-profit organization providing regular instruction in academic and/or religious subjects from kindergarten through Grade 12 during a normal school year; Offering a diploma, degree or certificate subject to regulations prescribed by the State of New Jersey, Department of Education, supported in whole or part by private funds and/or non-profit quasi-public agencies, administered supervised and directly affiliated with an exempted nonprofit religious and/or cultural organization. This shall not include a commercial or adult school or college giving special or limited instruction such as but not limited to business, art, music, dancing or a nursery school.

School, public - Any school operated under the administrative authority of a duly constituted state, county, regional or municipal Board of Education providing regular instruction of subjects from kindergarten through Grade 12 of a normal school year; Offering a diploma, degree or certificate subject to regulations prescribed by the State of New Jersey, Department of Education, supported in whole or part by public funds.

Screening - A visual barrier made up of planted or architectural materials for the purpose of preventing the view of an object area by the general public.

Self-service Storage Facility - A building or group of buildings that have controlled access and security within a compound containing various sizes of structures which are compartmentalized, and/or controlled access stalls, and/or locker areas for lease to or rent to individuals for storage of goods within a building or buildings.

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 use shall be permitted.

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

Setback- The minimum horizontal distance between the street, rear or side lot lines and the closest part of any building. The term ‘setback’ is synonymous with ‘required setback’ and means a line beyond which a building is not permitted to extend. When two or more lots under one ownership are used the exterior property lines so grouped shall be used in determining ‘setbacks.’ The front setback shall be measured from any future right of way line as adopted in the Master Plan.

Setback, front - A setback extending across the full width of the lot between a front lot line and the foremost point of any structure, excluding steps.

Setback Line – A line drawn parallel with a street line or proposed street line or lot line and drawn through the point of a building nearest to the street line or proposed street

Setback, rear - Extends across the full required width of a site, the depth of which is the minimum horizontal distance between the rear property line and the building line, except that on a corner lot the rear yard shall extend only to the required front setback line offset dimension to the street line.

Setback, side - The minimum required horizontal distance between the required front setback to the required rear setback.

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 12 inches above the street center line except for street signs, fire hydrants and light standards.

Sign – An object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, 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.

Sign Area - The maximum projected area of the shape which encloses the sign, device or representation. In the case of lettering attached to building facades, the 'sign area' shall be the product of the maximum vertical dimension multiplied by the maximum horizontal dimension of all lettering and symbols which form the sign, including the empty space between the letters and symbols.

Sign, Billboard - Any notice or advertisement, pictorial or otherwise, used as an outdoor display not related to a use on the lot, regardless of its size or dimension.

Sign, direction - Signs limited to directional messages such as 'one way,' 'entrance,' and 'exit,' and upon which no logo, advertisement or other identification is placed.

Sign, directory - A sign, other than an identification sign, listing the names, uses, tenants, occupants, or locations of the various businesses or activities conducted within a building or group of buildings, that is centrally located and intended to provide on-site directions.

Sign, free-standing - A sign supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structure.

Sign, projecting or overhanging - A sign attached to and perpendicular to an exterior wall of a building which overhangs the street right-of-way.

Sign, real estate - (1) A temporary sign that relates to the sale, lease, or rental of property or buildings, or to construction activities on site.

(2) A sign indicating that a property or any portion thereof is available for inspection, sale, lease, rent, but not including temporary subdivision signs.

Sign, Roof - A sign attached on a roof that projects higher than the highest part of the building; also includes signs inscribed or painted on a roof.

Sign, temporary - A sign, poster, handbill, circular or paper which is in any way attached to any pole, tree, sign or other stationary object or structure, or which is freestanding, which is intended to advertise a specific community or civil event such as, but not limited to, fairs, carnivals, converts, charitable functions, garage sales or auctions or any political campaign, candidate or event.

Sign, wall - A sign mounted flat against and projecting less than 4 inches from, or painted on the wall of, a building or structure with the exposed face of the sign in a plane parallel to the face of the wall. This does not include window signs.

Single, Nonprofit Housekeeping Unit - One or more persons living together in one dwelling unit sharing, living, sleeping, cooking and sanitary facilities on a non-seasonal and nonprofit basis. Such living arrangements must comply with the space-related occupancy limitations set forth in the Property Maintenance Code of the Borough of Spotswood, including but not limited to sleeping and bathroom facilities and minimum amount of habitable floor area per occupant.

Site Plan – A development plan of one or more lots which shows the existing and proposed conditions of the lot including, but not necessarily limited to, topography, vegetation, drainage, floodplains, marshes and waterways. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting and screening devices. And any other information that may be reasonably required in order to make an informed determination concerning the adequacy of the plan in accordance with the requirements of this chapter.

Site Plan, Major – Any site plan which is not classified as a minor site plan.

Site Plan, Minor – Any development plan which is limited to the proposed construction of any permitted accessory use which is not exempted from site plan review in 120-900 of this chapter. It consists of an expansion of, or addition to, an existing conforming structure and/or use which is not exempted from site plan review in 120-900 of this chapter and which does not account for more than 10% additional building coverage nor 10% additional lot coverage. It does not exceed more than 4,000 cubic feet of enclosed and roofed area, it does not involve a planned

development, and it does not entail the installation of any road improvements or the expansion of public facilities or the installation of utilities other than normal service connections.

Sketch Plat - The sketch map of a subdivision of sufficient accuracy to be used for the purpose of discussion and classification and meeting the sketch plat detail requirements of this chapter.

Special district - A district established to accommodate a narrow or special set of uses or for special purposes. The term can signify any district beyond the conventional residential, commercial, industrial, and agricultural districts

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, the interior of a roof shall not be considered a ceiling, and cellars and basements ordinarily shall not be considered stories when considering the height of a building except, however, that a finished basement and/or cellar in 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. Attic space which has a stairway for access and egress and in which the ceiling area at a height 7 & 1/3' above the attic floor is more than one third (1/3) the area of the floor next below shall be considered a full story.

Story, half - That portion of a building under a gable, hip, or gambrel roof, the wall plates of which at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story. A cellar shall also be included as a half-story.

Street – Any street, avenue, boulevard, road, parkway, viaduct, drive or other way which is an existing state, country or Spotswood Borough roadway, or is shown on a plat heretofore approved pursuant to law, or is approved by Spotswood Borough in accordance with the provisions of this chapter, or is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a Planning Board and the grant to such Board of the power to review plats, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas and other areas within the street line. Moreover, for the purposes of the street design and paving requirements of this chapter, all private roads shall be considered streets.

Street Line – The edge of the existing or future street right-of-way, whichever may result in the widest right-of-way in accordance with the currently adopted Traffic Circulation Element portion of the Spotswood Borough Master Plan and the applicable design requirements of this chapter. The street line is the dividing line between the street and a lot.

Street, Residential - A street, or portion thereof, which is located in a residential zone.

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, including such things as buildings, fences, poles, signs, towers, tanks, decks, paved or concrete driveways,

parking lots and patios, swimming pools and tennis courts, but specifically excluding on-site wastewater treatment and disposal systems.

Subdivision - See definition in MLUL; adopted herewith by definition.

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

Subdivision, Minor – Any division of land for the creation of not more than two lots (one new lot and the remaining parcel), 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 there from 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 portion of the Spotswood Borough Master Plan and/or the street requirements of this chapter, unless such additional right-of-way width, either along one or both sides of said street(s), as applicable, is deeded to the Borough or to the appropriate governmental authority prior to classification as a minor subdivision;
- c. Does not involve any required off-tract improvements;
- d. Does not involve a planned development;
- e. Does not require a use, density, height or Floor Area Ratio variance
- f. Does not adversely affect the future development of the remainder of the parcel of land being subdivided or any adjoining property. If the proposed subdivision is deemed by the Planning Board or Zoning Board of Adjustment to potentially adversely affect the future development of the remainder of the parcel or any adjoining property, the Board may determine that the proposed subdivision should more appropriately be classified as a major subdivision because of the potential adverse affects;
- g. Is not deficient in those details and specifications required of minor subdivisions as specified in this chapter, and
- h. Is not a further division of an original tract of land for which previous minor subdivision approval had been granted by the Borough during the prior five-year period from the date of the current application and where the combination of the proposed and previously approved minor subdivisions constitute a major subdivision.

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

Swimming Pool – A water-filled enclosure, above and/or below the ground, having a depth of more than 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; and
- c. Any portable pool that is not permanently installed and meets all of the following criteria is not considered a swimming pool and is not subject to the provisions of this chapter:
  - i. Does not require water filtration, circulation and purification;
  - ii. Does not exceed 24 inches in depth;
  - iii. Does not exceed a water surface of 250 square feet; and
  - iv. Does not require braces or supports.

Swimming pool, private - A swimming pool located as an accessory use on the same residential lot as the principal use it serves, is utilized only by the owner(s) or his nonpaying guests and is not operated for profit

Service station - eliminate

Swimming pool, public - A swimming pool open to the general public or open to members only of a club or organization, whether operated for profit or not.

Tavern or Bar - A place where the principal use or function is the selling and consumption of alcoholic beverages and incident thereto may be the retail sale or consumption of food as a permitted use, consistent with N.J.S.A. 33:12 et. seq.

Temporary use - A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

Temporary structure - A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

Tract – An area of land composed of one or more lots adjacent to one another, having sufficient dimensions and area to make one 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.”

Use, Accessory - A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

Use, nonconforming - A use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

Use, permitted - A use of a building or land that conforms to the provisions of this chapter.

Use, principal - A use which is the major use of the lot. In any residential zone, a dwelling on a lot shall be deemed the principal use of that lot.

Use, public - Any use of land or structure or structures thereon which is owned and used by the federal, state, county or municipal governments. Public use shall also include property not owned by a government entity but which is leased or used for that purpose.

Use, quasi-public - Any use which is public in nature but which is owned and used by a private interest group. Quasi-public uses include churches, parish houses, parochial schools, historical sites and similar uses, but do not include clubs, lodges or similar private uses.

Use, residential - The use of a building or part as a dwelling unit.

Variance - Permission granted to an applicant for development by the Planning Board or the Zoning Board of Adjustment, as the case may be, to depart from the literal requirements of the zoning provisions of this chapter.

Visual Screening - Any fence, wall, tree, hedge, or shrub, or a combination of them which limits visibility or provides screening from adjacent use.

Warehouse - Facilities characterized by extensive storage of goods, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and odors, but not involved in manufacturing or production.

Wireless Communications - Any personal wireless service as defined in the Federal Telecommunications Act of 1996 ("FTA"); i.e., commercial wireless telecommunication services licensed by the Federal Communications Commission (FCC), including cellular, PCS, SMR, ESMR, paging, and similar services that currently exist or that may in the future be developed. "Wireless communications" does not include any amateur radio facility that is under 70 feet in height and is owned and operated only by a federally licensed amateur radio station operator or is used exclusively to receive transmissions, nor does it include any parabolic satellite antennas, nor does it include non-wireless telephone service.

Wireless Communications Antenna - Any device which is used for the transmission and reception of wave frequencies for the purpose of any wireless communication as defined hereinabove. For the purposes of this subsection, wireless communication antennas shall not be considered to be public utilities.

Wireless Communications Tower - A freestanding monopole structure on which one or more antennas are attached, but shall not mean existing structures such as steeples, cupolas, industrial building towers, support towers or water standpipes.



Yard – An open space that lies between the principal or accessory building or buildings 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 line or the tangent lines of curved lot lines.

Zoning Map – The map referred to in 120-303 of this chapter which shows the boundaries of the zoning districts and the areas designated for the optional development alternatives.

Zoning Officer – The person or persons designated by the Spotswood Borough Council to administer and enforce the zoning provisions of this chapter and issue zoning permits.

Zoning Permit – A document signed by the Zoning Officer which:

- a. May be required by this chapter as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building; and
- b. Acknowledges that the use, structure or building complies with the provisions of this chapter or with the provisions of a variance as may have been granted by Planning Board or Zoning Board of Adjustment.

## ARTICLE 300: GENERAL PROVISIONS

### **§ 120-301. General regulations**

#### A. Regulations applicable to all zoning districts:

- (1) 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.
- (2) No open space provided around any principal building for the purpose of complying with the front, side or rear yard requirements of this chapter shall be considered as providing the yard requirements for any other principal building. Moreover, no yard or other open space on a lot shall be considered as providing a yard or other open space on another lot or for any other building.
- (3) Any accessory building having a common wall, roof or foundation with a principal building or any accessory building or structure which is connected to the principal building by means of a heated porch or other heated structure shall be considered a part of the principal building and shall comply with the front, side and rear yard requirements of this chapter for the principal building. Any accessory building or structure which is connected to the principal building by an unheated porch, deck, breezeway or other such unheated structure shall be considered detached for the purposes of this chapter. All accessory decks off a principal building shall comply with the principal building yard requirements.

#### B. Required Yards.

- (1) No yard or any other open space required about or in connection with any building or buildings for the purpose of complying with this chapter shall be included as part of a yard or open space similarly required for any other building.
- (2) No existing yard or existing lot shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet or exceed the minimum requirements established herein.
- (3) Except as hereinafter specified in this subsection, every part of a required yard shall be open to the sky, unobstructed except for the following man-made structures:
  - (a) Accessory buildings in a required rear or side yard in accordance with other requirements of the zone/use.
  - (b) The ordinary projection of parapets, cornices, eaves, leaders and other ornamental features not to exceed 12 inches.
  - (c) Over 20 feet above the average grade level, nothing in this chapter shall prevent the projection of a cornice, roof/gutter overhang over the front yard and rear yard to an extent not exceeding two (2) feet nor over a required side yard.
  - (d) An open fire balcony, lattice-enclosed fireproof fire escape or stairway projecting into a yard not more than four (4) feet.
  - (e) Bay windows or balconies projecting not more than three (3) feet into a required yard.

- (f) An above ground oil tank, air conditioner equipment, or similar device providing a side/rear setback of at least five (5) feet to the nearest property line.
- (g) Fences, in accordance with this Subsection.
- (h) Private residential driveways, in accordance with Subsection.
- (i) Patios and Decks in accordance with this Subsection.
- (j) Swimming Pools in accordance with Subsection.
- (k) Vision clearance on corner lots. In any district on any corner lot, within the triangular area determined as provided in this subsection, no wall, fence, sign or other structure shall be erected to a height in excess of three feet above curb level and no vehicle, object or any other obstruction of a height in excess of three feet shall be parked or placed, and no hedge, shrub or other growth shall be maintained at a height in excess of three feet, except that trees whose branches are trimmed away to a height of at least 10 feet above curb level shall be permitted. Such triangular area shall be formed by the two intersecting street center lines and by a diagonal line connecting points on these street center lines which are 90 feet from the intersection of the street center lines for local roads and 200 feet for all other roads.

B. Principal buildings.

- (1) In all residential zones, in no case shall there be permitted more than one (1) principal residential building on each subdivision lot of record, except multifamily housing developments. For purposes of this chapter, abutting undersized lots which have been merged or joined by law shall be considered one (1) lot.
- (2) In all non-residential zones there may be permitted more than one (1) principal building on each lot of record.
- (3) All principal buildings shall be built upon a lot with frontage on a public street or on a private street approved by the Planning Board.

C. Accessory Buildings.

(1) General Regulations

- (a) No accessory structure or building may be built upon any lot on which there is no principal building or principal structure.
- (b) No construction permit shall be issued for the construction of an accessory building or structure, prior to the issuance of a construction permit for the construction of the main building upon the same premises.
- (c) In all zones, no accessory building or structure may be erected in any front yard, or required front yard, and shall be set back from side and rear lot lines as prescribed in the regulations of the zone in which it is located.
- (d) Distance from street line. On through lots (any lot running from one street to another), no accessory building erected in the rear yard shall be nearer the street line than the minimum distance specified for a front yard setback on the street to which the yard abuts.
- (e) There shall be no utilities other than electric service connected to any detached accessory building.

- (f) No usable second floor area shall be provided in any accessory garage or building, and said unusable second floor areas shall include but not be limited to the use of attics, dormers, basements, etc.
- (g) No subfloor or rough floor shall be permitted on top of the joists of any accessory garage or building.
- (h) No accessory garage or building, erected in any lot within any zone shall be used for any form of residential dwelling.
- (i) A maximum of two (2) total accessory buildings shall be permitted per residential lot.

(2) Sheds and exterior storage closets

- (a) In any residential district, a maximum of two (2) garden/utility sheds, and/or exterior storage closets may be erected per dwelling unit and shall be for the purpose of storing materials and equipment customarily associated with a residential dwelling.
- (b) A garden/utility shed may be erected within any required side yard or rear yard of any residential zone; provided, however, that no such shed shall be erected closer than five (5) feet from any property line.
- (c) All garden/utility sheds shall be permitted to have a maximum height of eight (8) feet.
- (d) All sheds shall be permitted to have a maximum building area no greater than one-hundred (100 SF) square feet.

(3) Detached residential garages.

- (a) In any residential district, an accessory detached residential garage may be erected for the purpose of storing vehicles, materials and equipment customarily associated with a residential dwelling.
- (b) A detached residential garage may be erected within a required side yard or rear yard of any residential zone; provided, however, that no part of the garage shall be erected closer than five (5') feet from the property line.
- (c) Detached residential garages shall be permitted to have a maximum height of fifteen (15) feet.
- (d) Detached residential garages shall be permitted to have a maximum building area no greater than 400 square feet and shall be designed to provide for one-car or two-car storage. Detached residential garages greater than 400 SF or designed, intended or used for the storage of more than two standard automobiles shall require relief from the Planning Board.

D. Lot frontage for all lots.

- (1) In the case of lots fronting on the turnaround of a cul-de-sac street or fronting upon any other curved street, lot frontage (as distinguished from lot width) may equal, but shall be no less than 2/3 of the required lot width as set forth in the bulk table and as defined herein.
- (2) All front yards must face on a dedicated public street or on a private street approved by the Planning Board.

- (3) Where a building lot has frontage upon a street which on the Master Plan or Official Map of the Borough is contemplated for right-of-way widening, the required front yard area shall be measured from such proposed future right-of-way line.

#### E. Corner Lots.

- (1) A lot at the junction of and fronting on the corner of two or more intersecting streets shall be classified as a corner lot and shall provide a front yard setback on all street frontages.
- (2) On a corner lot, all lot lines generally perpendicular to a streetline shall be side lot lines. A generally rectangular corner lot shall have no rear lot lines, only front and side lines.
- (3) When a corner lot is irregularly shaped so as to have a lot line that is not a front lot line, nor a side lot line, all other lot lines shall be classified as rear lot lines.
- (4) The greater frontage on a corner lot shall be its depth and the lesser frontage shall be its width.
- (5) On any corner lot, within the triangular area determined as provided in this subsection, no wall, fence, sign or other structure shall be erected to a height in excess of three feet above curb level and no vehicle, object or any other obstruction of a height in excess of three feet shall be parked or placed, and no hedge, shrub or other growth shall be maintained at a height in excess of three feet, except that trees whose branches are trimmed away to a height of at least 10 feet above curb level shall be permitted. Such triangular area shall be formed by the two intersecting street center lines and by a diagonal line connecting points on these street center lines which are 90 feet from the intersection of the street center lines for local roads and 200 feet for all other roads.

#### F. Residential Driveway Requirements.

- (1) Nothing contained herein shall prevent a residential dwelling from creating and maintaining a residential driveway on a residential lot, which is intended to serve as an accessory parking space for the principal single family or two-family residential dwelling located on the same lot. Such driveways shall be designed so as to provide off-street parking so as to comply with the Residential Site Improvement Standards for parking requirements.
- (2) All residential driveways for residential lots shall be paved within the road right—way or easement with a six inch (6") thick reinforced concrete apron where curbs are provided or, bituminous material to the same specification of the abutting road where curbs are not provided.
- (3) Driveways may be located in the required front yard, side or rear yard of the site and shall be set back a minimum of five (5') feet of all property lines.
- (4) All driveways shall be constructed of macadam, blacktop, concrete, stone pavers, or similar material as determined by the Construction Official/Zoning Officer. No gravel, dirt, sand or grass driveways shall be permitted. Driveway grades shall not exceed 10%.
- (5) The perimeter of all newly constructed residential driveways shall be surrounded by concrete curbing, granite block, wood ties, natural stone, or similar material as approved by the Construction Official/Zoning Officer arranged so as to contain the parking of vehicles within the limits of the driveway.

- (6) The maximum driveway width at any point shall be no greater than twenty (20) feet, exclusive of any curb returns or aprons at the point of connection of the street. All side entry garages on single-family residential lots may be provided with a paved or stoned area in front of the garage door(s) in order to allow for adequate ingress and egress to the garage.
- (7) For purposes of determining impervious surface coverage, all areas of a surface driveway shall be considered impervious, regardless of the materials of construction. Pervious and semi-pervious paving blocks constructed on top of a bed of compacted material shall be considered fully impervious.
- (8) Residential driveways connecting to a County road shall provide a hammerhead or similar turn-around to prevent backing movements onto the County right-of-way.
- (9) A one-car garage and one driveway combination shall count as two (2) off-street parking spaces, provided that the driveway measures a minimum of 18 feet in length between the face of the garage door and the right-of-way, and nine (9) feet in width. A two-car garage and two-car driveway combination shall count as 4 off-street parking spaces, provided that a minimum parking area width of 18 feet is provided for a minimum length of 18 feet between the face of the garage door and the right-of-way.

#### G. Carport Structures.

Carport structures or similar shelters of a temporary or semi-permanent nature shall be permitted as accessory uses in all residential zones for outdoor storage of up to two (2) motor vehicles. Such a use may be located in any side or rear yard only and no part of any carport structure shall be located in any front yard or required front yard area. Such structures shall have a height no greater than seven feet (7') measured from the ground to the highest point of the structure. Any carport structure taller than (7') or proposed in any front yard area, or any structure greater than 400 SF in area shall not be permitted.

#### H. Fences and retaining walls

##### (1) Fence application procedure:

- A. A zoning permit and/or construction permit shall be required for all fences. The application for the required permits shall be accompanied by a plan showing the height, type, design, and location of the proposed fence or wall in relation to all other structures or buildings and in relation to all streets, property lines and required yards.
- B. Fences proposed at any new development site shall be included as part of the site plan proposal presented for consideration before the Planning Board.
- C. Fences not proposed as part of any development application and needing relief shall be heard by the Planning Board as an individual application.
- D. Screening and fences in off-street parking, loading and driveway access areas shall meet the requirements specified in parking and landscaping subsections of this ordinance.

##### (2) General fence regulations

- A. All fences and walls shall be erected within the property lines and shall not encroach off lot or into the street right-of-way.
- B. No fences shall be erected closer than three inches (3') to any property line. However, fences may be erected on a property line with the approval of the adjoining property owner submitted in writing with the application for a fence permit.
- C. All permitted fences and walls shall be situated on a lot in such a manner that the finished side of the fence or wall shall face adjacent properties.
- D. No fence or wall shall be erected of barbed and/or electrified wire, topped with metal spikes, nor constructed of any similar material or in any manner that may be dangerous to persons or animals. Temporary fences, such as snow fences, expandable fences and collapsible fences shall not be permitted except to protect any hazardous condition or excavation.
- E. For the purposes of this chapter, a split rail, chain link or equivalent fence shall not be considered solid fences, while stockade, board-on-board, solid vinyl, chain link with woven slats or the equivalent shall be considered to be solid fences.
- F. Fences at residential, office, retail or commercial properties shall not exceed six (6') feet in height.
- G. Fences at industrial properties or located in the LI Light Industrial Zone shall not exceed eight (8') feet in height.
- H. Along the boundary of a residential district abutting a non-residential district, a fence or wall may be erected in rear and/or side yard areas to screen the nonresidential activities from the abutting residential district, provided that said fence or wall shall be a maximum of eight (8') feet in height.
- I. The height of all fences shall be measured from grade to the highest point of the fence above grade at that same location.
- J. No fence shall be erected in a front yard of any lot in a residential zone unless the fence is less than 50% solid and is no greater than four (4') feet in height. However, a four-foot fence may be 50% solid or greater if it is set back twenty-five (25') feet from the front property line.
- K. Fences erected on corner lots, within the triangular area determined as provided in this subsection, shall not be erected to a height in excess of three (3') feet above curb level. Fences proposed in the front yard areas outside this sight triangle shall be subject to the front yard fence requirements listed above.
- L. Fences which are painted shall be painted in only one color, harmonious with the surrounding area. Multicolored fences are prohibited.
- M. Living fences shall be maintained in a neatly trimmed condition and shall not extend into adjacent properties. Nothing herein shall be construed to prohibit the use of hedges, trees or other plantings anywhere on a lot except where specifically prohibited by any other applicable ordinance or regulation of the Borough of Spotswood.
- N. All fences shall be maintained in a safe, sound and upright condition, in accordance with any approved plan and shall be erected in a manner so as to permit the flow of natural drainage.

(3) Special fence structures and retaining walls

- A. A dog run, livestock coop or similar structure shall not have fencing exceeding six feet (6') in height, and shall not be erected except when located in rear yard areas only and said structure shall be set back a minimum distance of fifty feet (50') from any lot line.
- B. Fenced tennis courts or similar structures may be located in rear yard areas only, and may be surrounded by a chain link fence a maximum of ten (10') feet in height. Said fence shall be set back from any lot line by five (5') feet.
- C. See the swimming pool section of this ordinance for fence standards applicable to swimming pools.
- D. Farm and public utility installation fences shall be exempt from these provisions and shall not require any permits, so long as the fence is 8' high or less and contains no barbed or similar injurious wire.
- E. Retaining walls less than 36" high, measured from average grade to the highest point of the wall, and constructed for the purpose of retaining earth on a single or two-family residential lot shall not require a zoning permit and shall be exempt from these requirements. All other retaining walls shall require a zoning and/or construction permit.
- F. A fence shall be required on any retaining wall over 36" in height.

I. Patios and wood decks.

- (1) In all residential zones and for all residential uses, a patio, wood deck or any combination of the two shall only be permitted as accessory to a principal residential dwelling.
- (2) When a patio or deck is proposed on a residential lot, the applicant shall submit to the Construction Official a plot plan of the site showing all property lines, buildings, the location of the patio/deck and any surrounding walkways or other improvements. Such plot plan shall show the dimensions and the distance to all property lines for all existing and proposed improvements.
- (3) Patios may be constructed of concrete, concrete or stone pavers, stone, brick, slate, tiles, or other similar materials as determined by the Zoning Official.
- (4) Decks may be constructed of natural or synthetic wood or a combination of the two materials or other similar materials as determined by the Zoning Official.
- (5) Patios and decks may be erected within a required side yard or required rear yard of any residential zone; provided, however, that no such structure shall be erected closer than five feet (5') to the nearest lot line.
- (6) No part of any patio or deck shall be located in any front yard.
- (7) For purposes of determining impervious surface coverage, patios, decks, and pervious and semi-pervious paving blocks shall be considered fully impervious.

J. Swimming pools in all zones.

- (1) No private residential swimming pool shall be constructed or installed or located on any lot unless the lot contains a principal residential building.
- (2) When a private swimming pool is proposed on a residential lot, the applicant shall submit to the Construction/Zoning Official a plot plan of the site showing all property lines, buildings, the location of the pool and any surrounding walkway or other improvements.



Such plot plan shall show the dimensions and the distance to all property lines for all existing and proposed improvements.

- (3) No part of any private swimming pool shall, including water surface, coping, walkways or pool equipment shall be located in a required front yard.
- (4) In all residential zones and for all residential uses, the minimum setback from all property lines with respect to the installation of any type of swimming pools shall be a minimum of ten (10) feet measured from the edge of the water to the property line. Such pools may have a concrete or similar walkway or coping around the perimeter of the pool so as to provide safe movement, however, no part of any concrete walkway shall be closer than five (5') feet to any property line.
- (5) Pool maintenance equipment, filters, pumps and other equipment essential to the operation of any residential pool shall be set back a minimum of five (5') feet from any property line. When a pool house, shed or other accessory building is proposed to contain this equipment, this building shall be subject to the accessory building requirements of Subsection E of this chapter.
- (6) For purposes of determining impervious surface coverage, the surface area of open water shall be considered fully pervious and shall not count towards an impervious coverage calculation. All concrete walkway and coping areas around an in-ground pool shall be considered fully impervious and shall count towards an impervious coverage calculation.
- (7) Any lighting in connection with a private residential swimming pool shall be directed downward and shielded from adjacent properties.
- (8) A private residential swimming pool shall be enclosed by permanent fence, sufficient to make the pool inaccessible to small children. The fence, including the gate therein, shall not be less than four feet in height, nor more than six feet in height. (a) All gates shall be self-closing and self-latching with latches placed four feet above the underlying ground and otherwise made inaccessible from the outside to small children. In lieu of the required fence above, a latter enclosure kit can satisfy this requirement, subject to the approval of the construction official. (b) In the case of hot tubs and whirlpools only, a natural barrier, hedge, pool cover or other protective device approved by the Construction Official shall be an acceptable enclosure so long as the degree of protection afforded by the substituted device or structure is not less than the protection afforded by the fence with self-closing and self-latching gates described above.
- (9) No commercial or public swimming pool shall be constructed or installed unless approved by the Planning Board as part of a site plan approval for a principal permitted use as specified in this chapter. Commercial or public swimming pools shall be classified into types in accordance with their particular use and shall meet the appropriate design standards as set forth by the National Swimming Pool Institute or the Swimming Pool Code of New Jersey, latest edition, whichever is more stringent, and all other State and building code regulations.

K. Christmas Tree sales and similar occasional sales.

The annual sale of Christmas Trees is permitted in outdoor locations in the NC Neighborhood Commercial, the GC General Commercial and the LI Light Industrial zoning districts between December 1 and December 25, inclusive, provided that all trees shall be removed and the premises cleared no later than January 1, and provided that all proper

mercantile licenses are issued by the Borough. This regulation shall apply to similar one-time sales of Valentines Day or Mothers Day flowers and/or similar activities of all faiths or non-religious holidays as determined by the Zoning Officer. This regulation shall not apply to traveling furniture truck sales, mobile food truck/cart sales, tent sales, clearance sales or any similar reoccurring activity.

L. Keeping of wild or farm animals, poultry and livestock.

- (1) Structures or buildings for the keeping of non-domesticated animals, such as chickens, pigeons, goats, sheep, pigs, large reptiles, wolves, bears, large or wild cat species, and other types fowl, or any animal generally considered a farm, zoo or exotic animal, or any animal which is usually quartered in separate structures (from a dwelling) shall not be permitted in any zone, unless as part of an approved farm or livestock use. The Zoning Officer shall determine which animals meet these criteria. This shall not apply to structures for domesticated dogs, cats and similar household or pet store pets capable of being and usually quartered in a residence and generally regulated in accordance other pet ordinances of the Borough.
- (2) No above animal, poultry, or livestock shelter structure, whether temporary or permanent, shall be located closer than 50 feet to any property line or to any dwelling unit on the same lot.

M. Community residences.

- (1) Community Residences, as identified by N.J.S.A. §40:55D-66.1 & 2, for the mentally and physically handicapped, shelters for victims of domestic violence, community residences for the terminally ill, disabled persons, homeless veterans, adult family care homes and all other group homes specified by the Municipal Land Use Law and their resident staff shall be permitted uses in all residential zones in the Borough. Such community residences shall be subject to the minimum area, yard and building requirements set forth for single-family units in the zone in which located, in accordance with N.J.S.A. §40:55D-66.1. Such uses shall contain not more than 15 persons, exclusive of resident staff. This provision shall only apply to such uses when they are located in a residential zone. No such use shall be permitted in a non-residential zone, and;
- (2) If more than fifteen (15) persons, exclusive of resident staff, are placed in the residence, then the use becomes a Conditional Use which may be permitted, provided that all of the terms and conditions specified for this particular use in the Conditional Use subsection of this chapter are complied with. This provision shall only apply to such uses when they are located in a residential zone. No such use shall be permitted when proposed in a non-residential zone.

N. Recycling facilities for single-family and two-family dwellings.

- (1) Single-family and two-family dwellings. Each single-family and two-family dwelling unit shall be designed to provide a location containing at least 18 cubic feet of space per unit for the storage of designated recyclable material. The location shall be clearly

marked as such on floor plans of the dwelling unit. Recycling facility requirements for multi-family units may be found in the respective zoning district regulation associated with that use.

O. Home offices and home occupations including family day-care homes and child care residences

A. Purpose and findings.

- (1) Home occupations and offices, including family day-care homes and child-care residences as defined in this chapter, shall be permitted accessory uses to a detached single-family dwelling in all R-Zones with the following additional requirements;
- (2) The following provisions are intended to permit the limited use of residential properties in Spotswood Borough as the location for recognized professional home offices or service businesses which are clearly subordinate and ancillary to the principal residential use of the property. The permitted recognized professions include the offices of ministers, architects, professional engineers, land surveyors, landscape architects, professional planners, lawyers, accountants, medical doctors and dentists, consultants and other such professionals with an advanced degree(s) or seamstresses, tailors, artists, musicians, dancers, fitness professionals and other such service professionals.
- (3) The requirements and other provisions contained in this section are specifically intended to limit the extent of such home occupations and the potential associated nuisances such as traffic, noise, fumes, dust, glare and odors in order to ensure that the residential character of the residential neighborhood within which the subject property is located is preserved, and that no adverse impact to adjacent and/or nearby residential properties occurs.

B. A zoning permit shall be required before any construction permit or certificate of occupancy shall be issued for any home office or home occupation wherein the following restrictions shall apply:

- (1) An owner(s) of the home occupation shall be the owner and resident(s) of the subject property and the dwelling situated thereon.
- (2) Not more than one non-resident employee shall be permitted.
- (3) Visitation.
  - (a) Clients, patrons or customers shall be permitted on the property in regards to the home occupation, provided that:

[1] Such visitation shall occur during daylight hours only;

- [2] Such visitation shall not create the need to park more than two vehicles at any time in addition to those ordinarily used by the residents of the dwelling unit;
- [3] Such visitation shall not create the need to park anything other than passenger automobiles, and such passenger automobiles shall be parked off street on the subject property in parking spaces provided; and
- [4] No more than one patient, client, pupil and/or customer shall be permitted on the subject premises at one time, and all visits to the home occupation shall be by advanced appointment only.
- (b) None of the above shall be interpreted to prohibit any person from coming onto the property who might otherwise come to the property on similar occasions and for similar reasons in association with the residential dwelling unit.
- (4) The home occupation may utilize a portion of the principal dwelling unit and/or one or more secondary buildings or structures which are accessory to the principal dwelling unit, provided that the use of the property for the home occupation shall be clearly subordinate and ancillary to its use for residential purposes by its occupants.
- (a) Not more than 25% of the habitable floor area of the principal dwelling unit or 1,000 square feet, whichever is less, may be utilized for the home occupation within the dwelling; or
- (b) Not more than 1,000 square feet may be utilized for the home occupation within an accessory building.
- (5) All area, yard, coverage and other applicable requirements specified for single-family dwellings and their accessory buildings and structures in the applicable zoning district shall apply.
- (6) Any parking area associated with the home occupation, including the parking area for any clients, patrons or customers, shall be appropriately screened from the view of adjacent residential properties and the traveling public along any abutting street. Additionally, any accessory building or structure utilized for the home occupation also may be required to be similarly screened, dependent upon the location and appearance of the particular accessory building or structure.
- (7) The residential character of the lot and building(s) shall not be changed, no sounds related to the home occupation shall be audible outside the building, and no equipment shall be used which will cause interference with neighboring residences. This provision shall include a prohibition on the transference of equipment, supplies, or similar materials on a routine basis between a storage building or area and vehicles, resulting in exterior evidence, either visual and/or audible, of the home occupation.

- (8) No merchandise, products, waste, equipment or similar material or objects shall be displayed, stored or otherwise located outdoors, except that the presence of children or customary residential recreational facilities shall be permitted in conjunction with a family day-care home or child-care residence in accordance with the applicable requirements of this chapter.
- (9) Additional requirements.
  - (a) The residential character of the lot and building(s) shall be maintained at all times and all structures shall be maintained in good repair.
  - (b) A home occupation shall operate only between the hours of 7:00 a.m. and 7:00 p.m. and, in any case, visitation by clients, patrons or customers shall be in accordance with the provisions specified hereinabove.
  - (c) There shall be no other exterior evidence of the home occupation except as permitted herein. No sign other than an unlighted nameplate identifying the home occupation no more than 10 inches by 20 inches in size shall be permitted. No changes to doors or windows shall be permitted.
  - (d) No exterior lighting shall be permitted specific to the home occupation.

### **§ 120-302. Exemptions to general regulations**

#### **A. Height Exemptions.**

- (1) Chimneys on a residential dwelling unit are not bound by the height restrictions of this chapter.
- (2) Silos and barns on farms are not bound by the height restrictions of this chapter.
- (3) Noncommercial radio and television antennas are not bound by the height restrictions of this chapter, provided that the height is not increased by more than 15% higher than the maximum height otherwise permitted, and provided further that no antenna shall exceed 50 feet in height.
- (4) On a principal building, the following may be erected above the maximum height specified in this chapter for the subject building, provided that the height is not increased by more than 15% higher than the maximum height otherwise permitted, and provided further that no said appurtenance shall exceed 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; and

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

#### B. Public utilities.

(1) For purposes of this chapter, the term "public utility uses" shall include such uses such as telephone, television and internet equipment, power, light, gas, water, and energy substations and other utilities serving the public, such as sewage treatment plants, but shall exclude dumps, sanitary landfills and telecommunications towers.

(2) Public utility lines shall be exempt. Public utility lines for the transportation, distribution or control of water, electricity, gas, oil, cable television and telephone or internet communications are permitted throughout the Borough of Spotswood and need not necessarily be located on a lot. This exemption shall apply strictly to transmission lines, and not apply to any type of utility stations, substation, equipment compounds, wireless towers or control buildings.

(3) Public utility transformer and junction boxes and structures shall be exempt. Public utility transformer and junction boxes and structures are permitted throughout the Borough of Spotswood and need not necessarily be located on a lot, provided that they are adequately screened with landscaping, fencing or a combination of the two and do not exceed three (3) feet in height. This exemption shall not apply to any such structure that exceeds three (3) feet in height or is unscreened.

(4) The proposed installation of a public utility use, station, building, structure or equipment not exempted above shall be a conditional use in all zones, as specified in §120-700 Conditional Use criteria.

#### C. Satellite dish antennas.

(1) The purposes of this subsection of the chapter are to promote communication within the Borough in a manner which will properly safeguard the public health, safety and welfare, by regulating the use of satellite dish antennas in all zones.

(2) Any satellite dish antenna 20 inches or smaller in diameter, mounted to a building and used by a residential dwelling unit or business for the purpose of private television/telecommunications use shall be permitted in all zones and no zoning application shall be required.

(3) All antennas shall be installed in an unobtrusive manner and location so as not to interfere with the intent and purpose of the zone plan.

(4) Nothing herein shall preclude public utility uses from maintaining satellite dish antennas on existing towers which previously have been approved by the appropriate local, county, state or federal agency(ies) having authority thereof.

(5) Applications for the installation of a satellite dishes larger than 20 inches in diameter, or for microwave communications, or for commercial or institutional satellite dishes, or any

similar ground mounted antennas shall be subject to (Minor) Site Plan review and the following provisions:

- (a) Such satellite dish antennas shall be ground mounted in the rear yard area of a lot and located in conformity with the rear yard and side yard setbacks required for a permitted accessory structure in the subject zoning district. No satellite dish antenna may be located in the front yard area.
- (b) In any case, the installation of a satellite dish antenna larger than 20 inches in diameter shall require the issuance of a Construction Permit in accordance with the provisions set forth in of this chapter.
- (c) A satellite dish antenna may not be placed on any lot which does not contain a permitted principal structure.
- (d) If a satellite dish antenna is to be roof-mounted, the bottom of the satellite dish antenna shall not extend more than one foot above the roof line where mounted, the antenna shall not be larger than three feet in diameter, and the antenna shall be located toward the rear of the structure away from the street line.
- (e) No satellite dish antenna shall exceed 12 feet in diameter and no ground mounted satellite dish antenna shall extend higher than 15 feet above ground level.
- (f) A ground-mounted satellite dish antenna shall be screened from adjacent properties to the extent possible. To the greatest extent possible, all satellite dish antennas shall blend with the immediate surrounding area, including the color of the roof if roof-mounted.
- (g) No lot, dwelling, building or use shall have more than one (1) satellite dish antenna. Wires and cables running between the ground-mounted antenna and any structure shall be properly installed underground in accordance with the Uniform Construction Code. Additionally, the installation of the satellite dish antenna shall meet all local, state and federal requirements, including those contained in the Uniform Construction Code.
- (h) Portable mounted satellite dish antennas are prohibited.

**§ 120-303. Grandfathered vacant lots and detached dwelling units**

A. Vacant lots.

(1) Any approved vacant lot in the R-10 District existing prior to January 1, 1996 between 7,500 square feet and 10,000 square feet in area, which is not contiguous to lands under the same ownership or other vacant lands and which meets the area and yard requirements governing the construction of single-family dwellings within R-7.5 District, shall be permitted to be developed with a single-family dwelling and its accessory structures in accordance with the R-7.5 District requirements, provided that all other necessary permits and approvals for the construction of a single-family detached dwelling on the lot are secured in the usual manner.

(2) Any approved vacant lot in the R-10 District existing prior to January 1, 1996, between 5,000 square feet and 7,500 square feet in area, which is not contiguous to lands under the same ownership or other vacant lands and which meets the area and yard requirements

governing the construction of single-family dwellings within R-5 District, shall be permitted to be developed with a single-family dwelling and its accessory structures in accordance with the R-5 District requirements, provided that all other necessary permits and approvals for the construction of a single-family detached dwelling on the lot are secured in the usual manner.

B. Detached dwelling units.

(1) Any detached single-family dwelling unit in the R-10 District existing prior to January 1, 1996, on lots between 7,500 square feet and 10,000 square feet in area shall meet the area and yard requirements governing the construction of single-family dwellings and their accessory structures in the R-7.5 District, except that this provision shall not be applicable to properties which abut vacant land or other contiguous land under the same ownership.

(2) Any detached single-family dwelling unit in the R-10 District existing prior to January 1, 1996, on lots between 5,000 square feet and 7,500 square feet in area shall meet the area and yard requirements governing the construction of single-family dwellings and their accessory structures in the R-5 District, except that this provision shall not be applicable to properties which abut vacant land or other contiguous land under the same ownership.

(3) Any detached single-family dwelling unit in the RC, GC, or LI District existing prior to January 1, 1996, shall be permitted to construct additions to the detached dwelling unit and/or construct accessory buildings or structures 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-10 District; and

(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 detached dwelling units in the R-10 District.

**§ 120-304. Nonconforming lots, structures and uses.**

A. Non-conforming lots (in terms of area or bulk requirements).

(1) Abutting lots under common ownership

Whenever title to two or more contiguous lots is held by the same owner, regardless of whether or not each of the lots have been approved as part of a subdivision or acquired by separate conveyance or by other operation of law, and one or more of the individual lots should, by reason of exceptional shallowness, topographic conditions, substandard area or yard space or similar measurements, not conform with the minimum lot area and dimensional requirements for the zoning district in which it is located, the contiguous lots shall be considered to be a single lot.



(2) Street dedication exemption

Whenever the owner of an existing lot has dedicated or conveyed land to the Borough of Spotswood in order to meet the minimum street width requirements of this chapter, the Construction Official shall issue construction permits and certificates of occupancy for the lot whose depth and/or area is rendered substandard only because of such dedication and where the owner has no other adjacent lands to provide the minimum requirements.

(3) Conforming expansion (use or bulk) on a non-conforming lot.

Any existing permitted use, or existing building or structure located on an existing lot which does not meet the applicable minimum lot area, width or depth requirements of this chapter, shall be permitted to construct additions to the principal building and/or accessory building without an appeal for variance relief, provided that no new bulk or use or parking violations are created.

(4) Development of vacant undersized lots.

Unless specifically permitted by this chapter, any vacant lot existing at the time of the adoption of this chapter, as shown on the official map of the Borough or as indicated on other public records, which does not meet the minimum lot area, size or width for the district in which it is located, may be used for a permitted use in that district only upon the granting of variance(s) relief by the Planning Board.

B. Non-conforming structures and uses.

(1) Permitted to continue

Any existing building, use or structure made non-conforming with this ordinance may be continued upon the lot or in the structure so occupied, and any such structure may be repaired in the event of partial destruction thereof. Partial destruction shall be determined by the Zoning Officer.

(2) Repairs permitted

Repairs and maintenance work required to keep a building or structure in sound condition may be made to a nonconforming structure or to a structure whether conforming or nonconforming containing a nonconforming use. However, no repairs or maintenance work shall increase, enlarge or intensify the nonconformity in any manner.

(3) Alterations Permitted

A non-conforming building, structure or use may have its façade and/or interior spaces altered, but not enlarged or extended unless said building is changed to a building conforming to the requirements of this chapter.

(4) Conforming bulk expansion of a non-conforming (bulk) 1 or 2 family residential building

A structure which is nonconforming in terms of bulk requirements, and which contains a permitted, detached single-family or two-family dwelling unit shall be permitted to construct additions to the principal building and/or accessory building without an appeal for variance relief for the existing non-conformities, provided that:

- (a) The addition to the building does not violate any other requirements of this chapter such as, but not limited to, height, yard setbacks, bulk, coverage and parking.
- (b) The total permitted building and lot coverage and floor/area ratio stipulated in this chapter for the permitted use(s) are not exceeded; and
- (c) The existing use(s) on the lot are conforming to the permitted use(s)

(5) Conforming bulk expansion of a non-conforming (bulk) non-residential or multi-family residential building

A building which is nonconforming in terms of bulk requirements, and which contains a permitted non-residential use, mixed-use or multi-family dwelling unit shall not be permitted to construct and such additions or expansions, even if fully conforming in terms of bulk requirements to the principal building and/or accessory building without an appeal for variance relief.

(6) Expansion of a non-conforming use

No non-conforming use shall be enlarged, extended, constructed, intensified, reconstructed or structurally altered in any manner without an appeal for variance relief. Any such addition of floor area or activity, or 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.

(7) Abandonment

Each and every nonconforming building structure and use shall terminate upon abandonment. When a nonconforming use of/or a structure, or the nonconforming use of a structure and lot in combination, is discontinued for a period of 12 consecutive months, the nonconforming use shall be presumed to be abandoned, and the structure or structure and lot in combination, as the case may be, shall not thereafter be used except in conformance with the regulations of the zoning district in which it is located, unless the owner can establish that abandonment has not occurred. Any structure, or structure and lot in combination, in or on which a nonconforming use is superseded by a permitted use must thereafter conform to the regulations of the zoning district in which said structure is located, and the nonconforming structure or use shall not thereafter be reinstated. The Zoning Officer shall determine abandonment and shall be informed by any action, or lack thereof,

to further signify that a use has been terminated. Such as indicators may include removal of essential equipment, removal of signage, removal of inventory, removal or semi-permanent disconnection of utilities, de-facto cessation of operations, a record of chronic failure to maintain property in accordance with property maintenance codes, declaration of unsafe building, condemnation, evidence of chronic dumping, vandalism or other vice. The Planning Board shall hear appeals of this decision

**§ 120-305. Number of principal uses, buildings and dwellings per lot**

- A. Unless otherwise specifically permitted by this chapter, no more than one principal use shall be permitted on any one lot.
- B. Unless otherwise specifically permitted by this chapter, no more than one (1) principal building shall be permitted on any one lot in any residential zone. Multiple principal buildings shall be permitted in a non-residential zone.
- C. Unless otherwise specifically permitted by this chapter, no more than one (1) residential dwelling unit shall be permitted on any one (1) lot. For purposes of this chapter, two or more undersized, abutting and/or adjacent lots merged by law shall be considered a single lot. Any application for development proposing two (2) or more dwelling units on any such lot shall not be considered a permitted use and shall be subject to the requirements of 40:55D-70.d.

**§ 120-306. Prohibited uses in all zones**

Any use not expressly permitted by this chapter is hereby specifically prohibited throughout the Borough of Spotswood, and the following uses and activities are specifically prohibited in all zoning districts throughout the Borough of Spotswood:

- A. Billboards and any signboards, advertising signs or devices not expressly related to the business being conducted on the premises or otherwise specifically permitted by this chapter;
- B. Boardinghouses, rooming houses, trailer coaches or mobile houses except where specifically permitted by this chapter;
- C. All adult uses as defined by this ordinance.
- D. Quarries or the removal of soil or mineral deposits in any form;
- E. Construction office trailers or similar modular or manufactured, temporary non-residential buildings shall not be permitted in any zone in the Borough. Applicability for such buildings shall be determined by the Zoning Officer. This ordinance shall not prohibit the use of a construction office trailer located on a site upon which the municipal construction official has issued, and the property owner has maintained, a valid construction permit. Such trailers shall be permitted at such a location for a period coinciding with construction, and shall be removed immediately upon all final inspections by the construction official.

- F. Shipping containers, tractor-trailer cargo trailers or similar containers used for storage, office or any other type of use as a building or structure, whether temporary or permanent. Such a use shall require approval under 40:55D-70.d. This ordinance shall not apply to the use of commercial, portable, on-demand storage or moving containers less than 26' long which are used for one-time residential or business moving or storage purposes. Such exemption shall only apply to such containers used on a temporary basis and located on a specific property for 90 days or less.
- G. Nothing contained herein shall prohibit the Zoning Officer/Construction Official from permitting a temporary, individual mobile housing unit, located on a lot that has had its principal dwelling unit substantially damaged by fire, flood, tornado, hurricane, earthquake or similar natural disaster. This provision shall remain in effect as long as repair/recovery/reconstruction is being accomplished at the site, but not for a period longer than two (2) years from the date of damage.

**§ 120-307. Lot configuration for all lots**

- A. Insofar as is practical, side lot lines shall be either at right angles or radial to street lines.
- B. Each lot must front upon an approved street, except that in instances where private streets and/or other access-ways are provided and approved as part of a site plan and/or subdivision submission, each lot need not front upon an approved street.
- C. All lots shall be suitable for the purpose(s) of their intended use. Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as, but not limited to, rock formations, poor drainage conditions or flood conditions, or percolation tests or test borings indicating that ground conditions are inadequate for proper sewage disposal for on lot sewage treatment, the Board, after adequate investigation and, where applicable, receipt of a written report by the Borough Board of Health, may withhold approval of such lot(s.) If approval is withheld, the Board shall orally indicate the reasons for withholding the approval, shall enter the same in the minutes, and shall notify the applicant of its decision.
- D. Concrete monuments shall be installed in accordance with the requirements of the New Jersey Map Filing Act (N.J.S.A. 46:23-9.9 et seq.) and shall be indicated on the final plat.
- E. All lots and/or buildings on lots shall be oriented for solar energy access where possible and desirable.
- F. All lots shall meet the area and yard requirements specified in § 120-400 and/or § 120-600 of this chapter, as applicable, and shall meet these requirements on land situated entirely within the Borough of Spotswood.

**§ 120-308. Performance standards for all uses and all zones**

All uses and all development applications and/or application for a construction permit shall provide documentation that the intended use will comply with the performance standards

enumerated below. In the case of a structure being built where the future use is not known, a construction permit may be issued with the condition that no certificate of occupancy will be issued until such time as this documentation is submitted with respect to the particular occupant. These provisions shall not apply to any sewage treatment plant which has received approval by the New Jersey Department of Environmental Protection.

- A. 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.
- B. Glare. No use shall produce a strong, dazzling light or reflection of a strong, dazzling light or glare beyond its lot lines. Exterior lighting shall be shielded, buffered and directed so that glare, direct light or reflection will not become a nuisance to adjoining properties, adjoining units, adjoining zoning districts or streets. Unless required by law, no lighting shall be rotating, pulsating or with other intermittent frequency.
- C. Heat. No use shall produce heat perceptible beyond its lot lines. Further, no use shall be permitted which could cause the temperature to rise or fall in any body of water, except that this provision shall not apply to any sewerage treatment plant which has received approval by the New Jersey Department of Environmental Protection.
- D. Noise. Noise levels shall not exceed the standards set forth in the Code of the Borough of Spotswood Editor's Note: See Ch. 137, Noise. nor those standards established by the New Jersey Department of Environmental Protection as they may be adopted and amended.
- E. Odor. Odors due to nonagricultural and nonresidential uses shall not be discernible at the lot line or beyond.
- F. 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.

## ARTICLE 400: ZONING DISTRICTS

### **§ 120-401. Zoning districts**

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

<i>C</i>	<i>Conservation District</i>
<i>PE</i>	<i>Public Parks and Education Facilities District</i>
<i>R-10</i>	<i>Single-Family Residential District</i>
<i>R-7.5</i>	<i>Single-Family Residential District</i>
<i>R-5</i>	<i>Single-Family Residential District</i>
<i>AR-MHP</i>	<i>Age-Restricted Manufactured Home District</i>
<i>TH</i>	<i>Townhouse Residential District</i>
<i>APT</i>	<i>Apartment Residential District</i>
<i>SC</i>	<i>Senior Citizen Residential Apartment District</i>
<i>MSR</i>	<i>Main Street Rehabilitation District</i>
<i>NC</i>	<i>Neighborhood Commercial District</i>
<i>GC</i>	<i>General Commercial District</i>
<i>LI</i>	<i>Light Industrial District</i>

### **§ 120-402. Zoning Map**

The boundaries of the zoning districts are established on the Zoning Map of the Borough of Spotswood, dated June 1995 and revised through 2013, which accompanies and is part of this chapter. *Editor's Note: The Zoning Map is included at the end of this chapter.*

### **§ 120-403. Reserved**

**§ 120-404. C Conservation District**

A. Principal permitted uses:

- (1) Conservation areas, preserved open space, environmentally sensitive areas, public parks, and private stormwater management facilities, basins and drainage structures.

B. Accessory uses permitted:

- (1) All uses customary and incidental to the above permitted uses including barns, and maintenance buildings for the sole purpose of operation of any permitted use.

C. Conditional Uses:

None.

D. Prohibited Uses:

- (1) All uses not expressly permitted are prohibited, including residential, commercial and industrial uses.

E. Bulk requirements for the C Conservation District:

- (1) It is not intended that any physical development be permitted on lands within the C Conservation District, however, when development is proposed, the development shall be subject to the bulk standards of the PE Public Parks and Educational Facilities District.

E. Off-street parking shall be subject to the Parking regulations of this chapter.

F. Signs shall be subject to the Sign regulations of this chapter.

**§ 120-405. PE Public Parks and Educational Facilities District**

A. Principal permitted uses on the land and in buildings:

- (1) Conservation areas, open space, public parks and recreation facilities and public purposes
- (2) Educational activities and institutions, including the operation of public and private day schools of elementary, intermediate and/or high school grades licensed by the State of New Jersey.
- (3) Municipal utilities and facilities

B. Accessory uses permitted:

- (1) All buildings and uses customary and incidental to the above permitted uses including maintenance buildings for the sole purpose of operation of any permitted use.
- (2) Customary recreational facilities, fields, sports courts, and other accessory uses customarily associated with schools and public parks including maintenance buildings, public restroom stations, picnic pavilions, recreation seating, lighting and parking lots.

C. Conditional Uses:

None.

D. Bulk Requirements:

Minimum Lot Area:	2 acres
Minimum Lot Width:	200'
Minimum Lot Depth:	200'
Minimum Front Yard:	50'
Minimum Side Yard:	25'
Minimum Rear Yard:	50'
Maximum Building Height:	2.5-Story and 35', whichever is the lesser.
Maximum Building Coverage:	35%
Maximum Impervious Coverage:	55%
Minimum Accessory Side/Rear Yard:	10'

E. Off-street parking shall be subject to the Parking requirements of this chapter.

F. Signs shall be subject to the Sign regulations of this chapter.



**§ 120-406. R-10 Single-Family Residential District**

A. Principal permitted uses on the land and in buildings:

- (1) Detached single-family dwelling units.
- (2) All use permitted in the C Conservation District.
- (3) Community residences for persons with head injuries and for the developmentally disabled and/or community shelters for victims of domestic violence, as required by N.J.S.A. 40:55D-66.1, subject to the standards and requirements for single-family dwelling units located within this District; however, where such residence or shelter houses more than six (6) persons, excluding resident staff, such use shall be deemed a conditional use under N.J.S.A. 40:55D-67 and shall be subject to the standards specified in Conditional Use section of this Ordinance.

B. Accessory uses permitted:

- (1) All uses customarily associated with and incidental to the occupancy of a permitted residential use, including but not limited to, residential swimming pools and fences subject to the requirements of Article 300 General Provisions.
- (2) Private recreational equipment and landscaping features, such as trellises and arbors, customarily associated with residential dwelling units.
- (3) Off-street parking and private garages, either attached or detached, and/or storage sheds subject to the requirements of Article 300 General Provisions.
- (4) Home offices. (See § 120-203 for definition and §120-301(O) for requirements.)
- (5) Home occupations, including family day-care homes and child-care residences. (See §120-203 for definition and §120-301(O) for requirements.)
- (6) Signs shall be subject to the Sign Regulations subsection of this chapter.

C. Conditional Uses:

- (1) Public and private day schools of elementary and/or high school grades licensed by the State of New Jersey and which shall be subject to the bulk requirements listed below for principal uses which shall be considered Conditional Use criteria.
- (2) Houses of Worship, subject to the bulk requirements listed below for principal uses which shall be considered Conditional Use criteria.
- (3) Fire and First Aid Companies, which shall be subject to the bulk requirements listed below for principal uses which shall be considered Conditional Use criteria.

(4) Clubs and lodges of fraternal, charitable or other such nonprofit groups which shall be subject to the bulk requirements listed below for principal uses which shall be considered Conditional Use criteria.

D. Bulk Requirements for single family detached residential dwellings:

Minimum Lot Area <sup>1</sup> :	10,000 square feet
Minimum Lot Width:	100'
Minimum Lot Depth:	100'
Minimum Front Yard:	25'
Minimum Side/Both Yard:	10'/20'
Minimum Rear Yard:	25'
Maximum Building Coverage:	20%
Maximum Impervious Coverage:	35%
Maximum Building Height:	2.5 Story and 35', whichever is the lesser
Minimum Accessory Side Yard:	5'
Minimum Accessory Rear Yard:	5'
Minimum Gross Floor Area:	1,000 square feet

<sup>1</sup> For lots in the R-10 District existing prior to January 1, 1996, which do not conform to the minimum lot area required for the R-10 District, the grandfathering provisions of this chapter may apply.

E. Bulk Requirements for all other uses:

Minimum Lot Area:	2 Acres
Minimum Lot Width:	200'
Minimum Lot Depth:	200'
Minimum Front Yard:	50'
Minimum Side/Both Yard:	25'/50'
Minimum Rear Yard:	50'
Maximum Building Coverage:	20%
Maximum Impervious Coverage:	35%
Maximum Building Height:	2.5 Story and 35', whichever is the lesser
Minimum Accessory Side Yard:	10'
Minimum Accessory Rear Yard:	25'
Minimum Gross Floor Area:	N/A

F. Off-street parking shall be subject to Article 300 General Provisions.

G. Signs shall be subject to the Sign regulations of this chapter.

**§ 120-407. R-7.5 Single-Family Residential District**

A. Principal permitted uses on the land and in buildings:

- (1) Detached single-family dwelling units.
- (2) All use permitted in the C Conservation District.
- (3) Community residences for persons with head injuries and for the developmentally disabled and/or community shelters for victims of domestic violence, as required by N.J.S.A. 40:55D-66.1, subject to the standards and requirements for single-family dwelling units located within the same district; however, where such residence or shelter houses more than six persons, excluding resident staff, such use shall be deemed a conditional use under N.J.S.A. 40:55D-67 and shall be subject to the standards specified in conditional use section of this chapter.

B. Accessory uses permitted:

- (1) All uses customarily associated with and incidental to the occupancy of a permitted residential use, including but not limited to, residential swimming pools and fences subject to the requirements of Article 300 General Provisions.
- (2) Private recreational equipment and landscaping features, such as trellises and arbors, customarily associated with residential dwelling units.
- (3) Off-street parking and private garages, either attached or detached, and/or storage sheds subject to the requirements of Article 300 General Provisions.
- (4) Home offices. (See § 120-203 for definition and §120-301(O) for requirements.)
- (5) Home occupations, including family day-care homes and child-care residences. (See §120-203 for definition and §120-301(O) for requirements.)
- (6) Signs shall be subject to the Sign Regulations subsection of this chapter.

C. Conditional Uses:

None.

D. Bulk Requirements:

Minimum Lot Area <sup>1</sup> :	7,500 square feet
Minimum Lot Width:	75'
Minimum Lot Depth:	100'
Minimum Front Yard:	25'
Minimum Side/Both Yard:	10'/20'

Minimum Rear Yard:	25'
Maximum Building Coverage:	25%
Maximum Impervious Coverage:	40%
Maximum Building Height:	2.5 Story, 30'
Minimum Accessory Side Yard:	5'
Minimum Accessory Rear Yard:	5'
Minimum Gross Floor Area:	1,000 square feet

- E Off-street parking shall be subject to Article 300 General Provisions.
- F Signs shall be subject to the Sign regulations of this chapter.

**§ 120-408. R-5 Single-Family Residential District**

A. Principal permitted uses on the land and in buildings:

- (1) Detached single-family dwelling units.
- (2) All use permitted in the C Conservation District.
- (3) Community residences for persons with head injuries and for the developmentally disabled and/or community shelters for victims of domestic violence, as required by N.J.S.A. 40:55D-66.1, subject to the standards and requirements for single-family dwelling units located within the same district; however, where such residence or shelter houses more than six persons, excluding resident staff, such use shall be deemed a conditional use under N.J.S.A. 40:55D-67 and shall be subject to the standards specified in conditional use section of this chapter.

B. Accessory uses permitted:

- (1) All uses customarily associated with and incidental to the occupancy of a permitted residential use, including but not limited to, residential swimming pools and fences subject to the requirements of Article 300 General Provisions.
- (2) Private recreational equipment and landscaping features, such as trellises and arbors, customarily associated with residential dwelling units.
- (3) Off-street parking and private garages, either attached or detached, and/or storage sheds subject to the requirements of Article 300 General Provisions.
- (4) Home offices. (See § 120-203 for definition and §120-301(O) for requirements.)
- (5) Home occupations, including family day-care homes and child-care residences. (See §120-203 for definition and §120-301(O) for requirements.)
- (6) Signs shall be subject to the Sign Regulations subsection of this chapter.

C. Conditional Uses:

None.

D. Bulk Requirements:

Minimum Lot Area <sup>1</sup> :	5,000 square feet
Minimum Lot Width:	50'
Minimum Lot Depth:	100'
Minimum Front Yard:	25'
Minimum Side/Both Yard:	8'/20'

Minimum Rear Yard:	25'
Maximum Building Coverage:	30%
Maximum Impervious Coverage:	45%
Maximum Building Height:	2.5 Story, 30'
Minimum Accessory Side Yard:	5'
Minimum Accessory Rear Yard:	5'
Minimum Gross Floor Area:	1,000 square feet

- E Off-street parking shall be subject to Article 300 General Provisions.
- F Signs shall be subject to the Sign regulations of this chapter.

**§ 120-409. AR-MHP Age-Restricted Manufactured Home Park District.**

A. Principal permitted uses on the land and in buildings.

(1) Manufactured, detached, single-family dwelling housing as part of an age-restricted, mobile home park on tracts of land at least fifty (50) acres in area. Such a use shall be a permitted use as long as it maintains documentation of registration with the Borough of Spotswood as an age-restricted residential use.

B. Accessory uses and structures permitted.

(1) Community recreational facilities customary and incidental to a residential community.

(2) One (1) residential shed on each residential parcel for the storage of the objects owned by the residents of the property.

(3) Offices and maintenance facilities directly connected to the operation of a manufactured home park

C. Conditional Uses.

None.

D. Maximum building height.

(1) Principal buildings. No principal building shall exceed 20 feet in height and 1.5 stories.

(2) Accessory buildings. No accessory building shall exceed 10 feet in height and one story.

E. Maximum number of dwelling units permitted. The maximum number of dwelling units permitted in the MHP District shall be computed on the basis of seven (7) dwelling units per gross acre of land area within the mobile home park tract.

F. Area and yard requirements for the MHP District.

(1) Minimum distance between dwelling units shall be measured horizontally in feet and shall be measured away from the front, side and rear of each building. The minimum separation between the buildings shall be the following:

(a) The minimum distances shall be 15 feet for any portion of a mobile home to the edge of pavement on a private street; 20 feet between the side or rear of a mobile home and any other mobile home (provided, however, mobile home stairs and landings will be allowed in a setback area. This is not intended to allow decks in the setback area.). On a corner lot located in the interior of the mobile home park, the setback from the private street will be at least 15 feet but a 10-foot setback will be permitted on one side of the mobile home (even if the front door is located there), provided, further, a ten-foot setback

will not be permitted in an area where there is sidewalk paralleling the curblin, or in such a way that the Borough Sight Triangle Ordinance *Editor's Note: See § 120-513, Streets, curbs and gutters, sidewalks, sight triangles and street trees.* will be violated.

(b) In addition, no structure or shed shall be located closer than 50 feet to the right-of-way line of any existing public street, and no more than one shed or any other type of structure (gazebos, satellite dishes, barbeque pits and the like) shall be permitted on a mobile home site, which structure shall not be located closer than five feet to any mobile, except sheds can be located back to back or side to side immediately adjacent to each other. No sheds shall be permitted in the front yard on any mobile home lot. Shed size in this zone shall be specifically limited to 10 feet wide by 10 feet long by eight feet high (notwithstanding any other provisions of this chapter or any other ordinance). No building or structure (including mobile homes or sheds) shall be located closer than 25 feet to any property line.

(2) The maximum aggregate building coverage for the tract shall be 30%.

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

(4) The Borough Engineer shall maintain a planimetric drawing which identifies the current occupied status of the mobile home lots in the Clearwater Village Community. Any zoning setback violations that exist at the time of the passage of this amendment are deemed grandfathered.

(5) When an application is made for a building permit for a replacement manufactured home, the applicant will be required to submit:

(a) A drawing depicting plans for the installation of a subsurface drainage/infiltration system consistent with approved plans on file with the construction code office approved by the Borough Engineer to improve stormwater infiltration to accommodate each expansion from a "single-wide" home to a "double-wide" home;

(b) A plot plan prepared by a New Jersey licensed land surveyor or a New Jersey licensed engineer which depicts the proposed unit and its dimensions, the proposed setbacks, the proposed or existing sheds, the drainage infiltration system and the proposed parking with dimensions.

(c) When a homeowner intends to install a shed, the homeowner shall submit a letter of approval from the owner of the mobile home park.

G. Off-street parking and private garages shall be subject to the parking regulations of this chapter.



## H. Signs

Each MH development may have one sign along each arterial or collector road which the tract in question abuts, provided there exists at least 250 feet of unbroken frontage. No such sign shall be permitted on a local street. Such signs shall not exceed 5 feet in height, shall be set back from the street rights-of-way and driveways at least 30 feet, and shall be set back from any other property line a minimum of 50 feet, and shall not exceed an area of 25 square feet and shall be used to display the development's name.

## I. Special recycling provisions.

(1) There shall be included in all developments an indoor or outdoor recycling area for the collection and storage of residentially generated recyclable materials. The dimension of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located. The dimensions of the recycling area and the bins or containers shall be consistent with the district recycling plan adopted pursuant to Section 3 of P.L. 1987, c. 102 (N.J.S.A. 13:1E-99.13), as amended.

(2) The recycling area shall be conveniently located for the residential disposition of source separated recyclable materials preferably near, but clearly separated from, a refuse dumpster.

(3) The recycling area shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling area, and the bins or containers placed therein, against theft of recyclable materials, bins or containers.

(4) The recycling area, and the bins or containers placed therein, shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered so as to keep the paper or cardboard dry.

(5) 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.

(6) Landscaping and/or fencing, at least six feet in height, shall be provided around any outdoor recycling area and shall be provided in an aesthetically pleasing manner, obscured from view from parking areas, streets and adjacent residential uses by a fence, wall, planting or combination of the three. Such stations shall be located a minimum of 40 feet from residential structures.

## J. Buffer requirement

A 50' deep buffer shall be provided on the side and rear property lines of all AR-MHP developments. The buffer area shall contain a 5'-8' high undulating berm, solid 6'-8' high fencing, and a dense mix of shade trees, evergreen trees and all-season plantings so as to provide a heavy screen and separation from abutting uses. The required buffer should provide plantings of a sufficient size and height at the time of planting to provide an effective screen. The density of plantings of this buffer shall be maintained in perpetuity and shall be inspected and supplemented with replacement plantings on an annual basis. The Planning Board may reduce this buffer where natural features are present to serve as an effective substitute and where access driveways are proposed.

**§ 120-410. TH Townhouse Residential District & APT Apartment Residential Districts**

A. Principal permitted uses on the land and in buildings.

- (1) Multi-family apartments in the APT Apartment Residential District
- (2) Townhouses/Condominiums in the TH Townhouse Residential District.
- (3) Conservation areas, open space and parks.

B. Accessory uses permitted.

- (1) Recreational facilities, clubhouses, such as tennis courts, swimming pools and play equipment, and landscaping features, such as trellises and gazebos, customarily associated with multiple-family residential dwelling units, subject to all the setback and other applicable regulations for such structures contained in this chapter.
- (2) Off-street parking and private garages, either attached or detached.
- (3) Interior way-finding and directional signs, subject to Board approval.
- (4) Temporary construction trailers and one sign not exceeding 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 year, whichever is less, provided that 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 30 feet from all street and lot lines.

C. Maximum building height.

- (1) Principal buildings. No principal building shall exceed 30 feet in height and 2.5 stories.
- (2) Accessory buildings. No accessory building shall exceed 15 feet in height.

D. Density.

- (1) TH District. The maximum number of dwelling units permitted in the TH District shall be computed on the basis of six (6) dwelling units per gross acre of land area within the tract.
- (2) APT District. The maximum number of dwelling units permitted in the APT District shall be computed on the basis of twelve (12) dwelling units per gross acre of land area within the tract.

E. Area, yard and general requirements for the TH and APT Districts.

(1) The minimum lot area in the TH District shall be two (2) acres and in the APT District shall be three (3) acres.

(2) Minimum lot width in both zones shall be 250'. Minimum lot depth shall be 250'.

(a) TH District: The minimum setback shall be 50 feet for the front of a building on a public street and 30 feet for the front of a building on a private street; 40 feet for each side of a building; and 40 feet for the rear of a building.

(b) APT District: The minimum setback shall be 50 feet for the front of a building on a public street and 30 feet for the front of a building on a private street; 50 feet for each side of a building; and 50 feet for the rear of a building.

(c) In addition, All buildings or structures shall be located a minimum of 15 feet from any internal road, driveway or parking area.

(d) No portion of any building shall be closer than 30 feet to any other building.

(e) The configuration of structures may be any alignment that meets the yard requirements and does not exceed the overall or component building length of 150 feet. No townhouse dwelling unit shall be less than 30 feet wide.

(f) No accessory buildings or structure shall be located closer than 25 feet from any property line.

(3) The minimum gross floor area per dwelling unit shall be 600 square feet for a studio apartment, 700 square feet for a one-bedroom apartment, 800 square feet for a two-bedroom apartment and 1,100 square feet for a townhouse unit. The maximum average aggregate floor area of all townhouse units shall be 1,200 square feet.

(4) The maximum aggregate building coverage for the tract is 30%.

(5) The maximum aggregate impervious coverage for the tract is 60%.

(6) The minimum aggregate landscape coverage for the tract is 40%.

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

F. Off-street parking and private garages shall be subject to the parking regulations of this chapter and the following additional requirements:

- (1) No on-street parking shall be permitted on a public or private street. All parking shall occur in a marked parking space.
- (2) Off-street parking may be permitted under or inside a building structure provided that the building shall not exceed the maximum building height requirements of this chapter.
- (3) All other uses shall provide adequate on-site parking to accommodate the permitted activities and shall be subject to approval by the Board during site plan review.
- (4) No parking area or driveway shall be located within 25 feet of any tract boundary.
- (5) All parking facilities shall be on the same site as the building and at least 75% of the number of required parking spaces shall be located within 150 feet of the nearest entrance of the building they are intended to serve. Parking spaces shall be provided in areas designed specifically for parking and there shall be no parallel or diagonal designated parking spaces along interior streets.

#### G. Loading Areas

All apartment buildings with 24 dwelling units or more shall have a dedicated loading space for the loading and unloading of trash, deliveries and for the use of residents moving into and out of the building.

#### H. Signs.

Each TH or APT development of 50 units or more may have one (1) monument sign along an arterial or collector road which the tract in question abuts, provided that there exists at least 250 feet of unbroken frontage on that road. No such sign shall be permitted on a local street. Such signs shall not exceed 5 feet in height, shall be set back from the street rights-of-way and driveways at least 30 feet, and shall be set back from any property line a minimum of 50 feet, and shall not exceed an area of 25 square feet and shall be used to display the development's name.

#### I. Additional requirements

- (1) No townhouse or apartment dwelling unit or accessory deck, patio or fence shall be constructed unless the minimum standards of this section of the chapter are met, in addition to other applicable requirements of this chapter, and unless the dwelling and/or accessory deck, patio or fence is part of an approved original or amended site plan application, which application shall include homeowners' association bylaws and/or resolutions governing the provisions for accessory decks, patios and fences and a typical drawing of the envisioned appearance of such accessory decks, patios and fences.
- (2) Each building and complex of buildings shall have an architectural theme with appropriate variations in design to provide attractiveness to the development. Such variations in design shall result from the use of landscaping and the orientation of

buildings to the natural features of the site and to other buildings, as well as from varying unit widths, staggering unit setbacks, using different exterior materials, changing roof lines and roof designs, varying building heights and changing window types, shutters, doors, porches and exterior colors. Architectural building elevations and floor plans for each typical building shall be submitted to the Board for review and approval as part of the site plan application.

- (3) All dwelling units shall be connected to approved and functioning central water and sanitary sewer systems prior to the issuance of a certificate of occupancy.
- (4) No outside area or equipment shall be provided for the hanging of laundry or the outside airing of laundry in any manner. Sufficient area and equipment shall be made available within each building for the laundering and artificial drying of the laundry of the occupants of each building.
- (5) Dwelling units shall have access to a master television system and individual townhouse units may not erect individual external television antennas or dishes
- (6) For each dwelling unit, in addition to any usual storage area or clothes closets contained inside individual dwelling units, there shall be provided for each dwelling unit 250 cubic feet of storage area, either within the individual dwelling unit or in a convenient, centrally located area in the cellar, basement or ground floor of the building, where personal belongings and effects may be stored without constituting a fire hazard and where said belongings and effects may be kept locked and separated from the belongings of other occupants.
- (7) The location of proposed recreational facilities within the development shall consider the proximity of the proposed residential units within the subject tract, the existing residential units in proximity to the subject tract, the specific type of proposed recreational facilities, associated noise levels and any evening illumination which may create potential nuisances, and the existing and proposed pedestrian and bicycle circulation plan.
- (8) Townhouse and apartment development buildings shall be designed around a central green space, public space, recreation space, or other design element to create a safe, walkable, attractive environment. Development should not be designed around parking lots, roads, cul-de-sacs and other utilitarian uses. Service alleys and driveways are encouraged to separate pedestrian and vehicle movement.
- (9) For a fee simple townhouse unit, no construction permit shall be issued for any townhouse dwelling unit or accessory structure or addition thereto unless the proposed construction is in accordance with the approved site plan, and this condition shall be recited as a notice in the homeowners' association bylaws. After the initial approval of the site plan, no application for a construction permit will be accepted for processing unless accompanied by a statement from the homeowners' association that the proposed construction has been approved by the homeowners' association.

#### J. Special recycling provisions.

- (1) There shall be included in all apartment or townhouse development an indoor or outdoor recycling area for the collection and storage of residentially generated recyclable materials. The dimension of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated

usage and with current methods of collection in the area in which the project is located. The dimensions of the recycling area and the bins or containers shall be consistent with the district recycling plan adopted pursuant to Section 3 of P.L. 1987, c. 102 (N.J.S.A. 13:1E-99.13), as amended.

(2) The recycling area shall be conveniently located for the residential disposition of source separated recyclable materials preferably near, but clearly separated from, a refuse dumpster.

(3) The recycling area shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling area, and the bins or containers placed therein, against theft of recyclable materials, bins or containers.

(4) The recycling area, and the bins or containers placed therein, shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered so as to keep the paper or cardboard dry.

(5) 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.

(6) Landscaping and/or fencing, at least six feet in height, shall be provided around any outdoor recycling area and shall be provided in an aesthetically pleasing manner, obscured from view from parking areas, streets and adjacent residential uses by a fence, wall, planting or combination of the three. Such stations shall be located a minimum of 40 feet from residential structures.

#### K. Buffer requirement

A 50' deep buffer shall be provided on the side and rear property lines of any multi-family development. The buffer area shall contain a 5'-8' high undulating berm, solid 6'-8' high fencing, and a dense mix of shade trees, evergreen trees and all-season plantings so as to provide a heavy screen and separation from abutting uses. The required buffer should provide plantings of a sufficient size and height at the time of planting to provide an effective screen. The density of plantings of this buffer shall be maintained in perpetuity and shall be inspected and supplemented with replacement plantings on an annual basis. The Planning Board may reduce this buffer where natural features are present to serve as an effective substitute and where access driveways are proposed.

**§ 120-411. SC Senior Citizen Residential Apartment District**

A. Principal permitted uses on the land and in buildings.

- (1) Age-restricted multi-family developments in townhouse or apartment buildings
- (2) Conservation areas, open space and parks.

B. Accessory uses permitted.

- (1) Recreational facilities, clubhouses, such as tennis courts, swimming pools and play equipment, and landscaping features, such as trellises and gazebos, customarily associated with multiple-family residential dwelling units, subject to all the setback and other applicable regulations for such structures contained in this chapter.
- (2) Off-street parking and private garages, either attached or detached.
- (3) Interior way-finding and directional signs, subject to Board approval.
- (4) Temporary construction trailers and one sign not exceeding 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 year, whichever is less, provided that 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 30 feet from all street and lot lines.

C. Maximum building height.

- (1) Principal buildings. No principal building shall exceed 30 feet in height and 2.5 stories.
- (2) Accessory buildings. No accessory building shall exceed 15 feet in height.

D. Maximum number of dwelling units permitted. The maximum number of dwelling units permitted in the SC District shall be computed on the basis of 20 dwelling units per gross acre of land area within the tract.

E. Area, yard and general requirements for the SC District.

- (1) The minimum tract size in the SC District shall be two (2) acres.
- (2) Minimum lot width shall be 250'. Minimum lot depth shall be 250'.



(3) Minimum distance between apartment buildings shall be measured horizontally in feet and shall be measured away from the front, side and rear of each building. The total minimum separation between the buildings shall be the sum of the two abutting distances.

(a) The minimum setback distances shall be 50 feet for the front of a building on an existing public street and 10 feet for the front of a building on a private street; 25 feet for the side of a building; and 25 feet for the rear of a building.

(b) No accessory buildings or structure shall be located closer than 25 feet from any property line.

(3) The minimum gross floor area per dwelling unit shall be 400 square feet for an efficiency apartment, 500 square feet for a one-bedroom apartment, or 600 square feet for a two-bedroom apartment.

(4) The maximum aggregate building coverage for the tract is 30%.

(5) The maximum aggregate impervious coverage for the tract is 60%.

(6) The minimum aggregate landscape coverage for the tract is 40%.

(7) 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.

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

(9) All units shall be restricted to households, the single member of which, or either the husband or wife of which, or both, or any of a number of siblings or unrelated individuals of which is/are 55 years of age or older.

#### F. Off-street parking and private garages.

(1) No on-street parking shall be permitted on a public or private street. All parking shall occur in a marked parking space.

(2) Off-street parking may be permitted under or inside a building structure provided that the building shall not exceed the maximum building height requirements of this chapter.

(3) All other uses shall provide adequate on-site parking to accommodate the permitted activities and shall be subject to approval by the Board during site plan review.

(4) No parking area or driveway shall be located within 25 feet of any tract boundary.

(5) All parking facilities shall be on the same site as the building and at least 75% of the number of required parking spaces shall be located within 150 feet of the nearest entrance of the building they are intended to serve. Parking spaces shall be provided in areas designed specifically for parking and there shall be no parallel or diagonal designated parking spaces along interior streets.

#### G. Off-street loading.

All apartment buildings with 20 dwelling units or more shall have a dedicated loading space for the loading and unloading of trash, deliveries and for the use of residents moving into and out of the building.

#### H. Signs.

Each development of 50 units or more may have one (1) monument sign along an arterial or collector road which the tract in question abuts, provided that there exists at least 250 feet of unbroken frontage on that road. No such sign shall be permitted on a local street. Such signs shall not exceed 5 feet in height, shall be set back from the street rights-of-way and driveways at least 30 feet, and shall be set back from any property line a minimum of 50 feet, and shall not exceed an area of 25 square feet and shall be used to display the development's name.

#### I. Additional requirements

- (1) No townhouse or apartment dwelling unit or accessory building, deck, patio or fence shall be constructed unless the minimum standards of this section of the chapter are met, in addition to other applicable requirements of this chapter, and unless the structure is part of an approved original or amended site plan application, which application shall include homeowners' association bylaws and/or resolutions governing the provisions for accessory decks, patios and fences and a typical drawing of the envisioned appearance of such accessory decks, patios and fences.
- (2) Each building and complex of buildings shall have an architectural theme with appropriate variations in design to provide attractiveness to the development. Such variations in design shall result from the use of landscaping and the orientation of buildings to the natural features of the site and to other buildings, as well as from varying unit widths, staggering unit setbacks, using different exterior materials, changing roof lines and roof designs, varying building heights and changing window types, shutters, doors, porches and exterior colors. Architectural building elevations and floor plans for each typical building shall be submitted to the Board for review and approval as part of the site plan application.
- (3) All dwelling units shall be connected to an approved and functioning central water and sanitary sewer systems prior to the issuance of a certificate of occupancy.
- (4) No outside area or equipment shall be provided for the hanging of laundry or the outside airing of laundry in any manner. Sufficient area and equipment shall be made available within each building for the laundering and artificial drying of the laundry of the occupants of each building.

- (5) Dwelling units shall have access to a master television system and individual townhouse units may not erect individual external television antennas or dishes
- (6) For each dwelling unit, in addition to any usual storage area or clothes closets contained inside individual dwelling units, there shall be provided for each dwelling unit 250 cubic feet of storage area, either within the individual dwelling unit or in a convenient, centrally located area in the cellar, basement or ground floor of the building, where personal belongings and effects may be stored without constituting a fire hazard and where said belongings and effects may be kept locked and separated from the belongings of other occupants.
- (7) The location of proposed recreational facilities within the development shall consider the proximity of the proposed residential units within the subject tract, the existing residential units in proximity to the subject tract, the specific type of proposed recreational facilities, associated noise levels and any evening illumination which may create potential nuisances, and the existing and proposed pedestrian and bicycle circulation plan.
- (8) Townhouse and apartment development buildings shall be designed around a central green space, public space, recreation space, or other design element to create a safe, walkable, attractive environment. Development should not be designed around parking lots, roads, cul-de-sacs and other utilitarian uses. Service alleys and driveways are encouraged to separate pedestrian and vehicle movement.
- (9) For a fee simple townhouse or similar unit, no construction permit shall be issued for any townhouse dwelling unit or accessory structure or addition thereto unless the proposed construction is in accordance with the approved site plan, and this condition shall be recited as a notice in the homeowners' association bylaws. After the initial approval of the site plan, no application for a construction permit will be accepted for processing unless accompanied by a statement from the homeowners' association that the proposed construction has been approved by the homeowners' association.

#### J. Special recycling provisions.

- (1) There shall be included in all developments an indoor or outdoor recycling area for the collection and storage of residentially generated recyclable materials. The dimension of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located. The dimensions of the recycling area and the bins or containers shall be consistent with the district recycling plan adopted pursuant to Section 3 of P.L. 1987, c. 102 (N.J.S.A. 13:1E-99.13), as amended.
- (2) The recycling area shall be conveniently located for the residential disposition of source separated recyclable materials preferably near, but clearly separated from, a refuse dumpster.
- (3) The recycling area shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall

be taken to protect the recycling area, and the bins or containers placed therein, against theft of recyclable materials, bins or containers.

(4) The recycling area, and the bins or containers placed therein, shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered so as to keep the paper or cardboard dry.

(5) 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.

(6) Landscaping and/or fencing, at least six feet in height, shall be provided around any outdoor recycling area and shall be provided in an aesthetically pleasing manner, obscured from view from parking areas, streets and adjacent residential uses by a fence, wall, planting or combination of the three. Such stations shall be located a minimum of 40 feet from residential structures.

#### K. Buffer requirement

A 50' deep buffer shall be provided on the side and rear property lines of any multi-family development. The buffer area shall contain a 5'-8' high undulating berm, solid 6'-8' high fencing, and a dense mix of shade trees, evergreen trees and all-season plantings so as to provide a heavy screen and separation from abutting uses. The required buffer should provide plantings of a sufficient size and height at the time of planting to provide an effective screen. The density of plantings of this buffer shall be maintained in perpetuity and shall be inspected and supplemented with replacement plantings on an annual basis. The Planning Board may reduce this buffer where natural features are present to serve as an effective substitute and where access driveways are proposed.

**§ 120-412. Reserved**

## **§ 120-413. Main Street Rehabilitation District**

### A. Intent and Purpose.

The intent of the Main Street Rehabilitation District shall be to encourage economic development and revitalization and inject into all properties in the district opportunities for growth and prosperity in conjunction with aesthetic improvements. This ordinance intends to encourage building rehabilitation, re-development and promote pedestrian traffic to create a vibrant mixed-use neighborhood.

### B. Rehabilitation District Goals.

- (1) To create an attractive mixed-use district along the Main Street corridor, generally between and near Adirondack Avenue and Eisenhower Avenue with an appropriate tempo and scale of buildings for a downtown neighborhood setting.
- (2) To improve the aesthetics of the Main Street Rehabilitation District with streetscape improvements including street trees, sidewalk improvements and street lighting to create a sense of place.
- (3) To recognize the role this area plays and its importance to the character of the community.
- (4) To create opportunities to create a landmark public space for the Borough.
- (5) Creation of a visual terminus point at key locations through the use of building locations and visual design elements.
- (6) Provision of new retail or other non-residential space along Main Street wrapping around corners of other collector streets.
- (7) Provision for a partial “floor area bonus” for property owners/developers in the zone to encourage redevelopment of dilapidated property.
- (8) To provide a coordinated parking program intended to meet residential need and to encourage non-residential uses.
- (9) To eliminate buildings in poor repair and inappropriate land uses and to encourage development appropriate for a neighborhood commercial district.

### C. District Location. The location of the Main Street Rehabilitation Zone shall be indicated on the Zoning Map of the Borough of Spotswood, based on the recommendations found in the Proposed Zoning Map found in the 2011 Master Plan. The Zone shall have two sub-areas:

- (1) The Main Street Core area shall be generally situated on Main Street between Summerhill Avenue and Devoe Avenues, as shown on the Zoning Map of the Borough.
- (2) The Main Street Transition area(s) shall buffer the Main Street Core area and shall be situated on Main Street generally between Devoe Avenue and Adirondack Avenue, and also on Main Street between Summerhill Avenue and Eisenhower Avenue, as shown on the Zoning Map of the Borough.

### D. Permitted Principal Uses in the Main Street Core area:

- (1) All retail uses permitted in the NC Neighborhood Commercial Zone, except that drive through uses and gasoline stations shall not be permitted uses in this sub-area. (See Conditional Uses below.)

- (2) Supermarkets not exceeding 10,000 SF of floor area shall be permitted uses. Any supermarket with a gross floor area greater than 10,000 SF shall be considered a prohibited use.
- (3) Residential flats, apartments, condominiums or lofts on upper floors only. Wherein a minimum of 75% of all residential units in any single proposed building shall be some combination of one-bedroom units, studio-apartments or one-bedroom + den units. No greater than 25% of the number of units shall be two-bedroom units. No three-bedroom or four-bedroom units shall be permitted.
- (4) All professional office, finance, insurance, real estate, banks, and personal service uses.
- (5) Art/artisan galleries, museums, art/dance/photo studios, health and fitness centers, day spas, licensed physical therapists and licensed massage and acupuncturists.
- (6) Restaurants, cafes, excluding drive-in and drive-through restaurants.
  - (a) Restaurants and eating establishments shall be permitted to provide entertainment in the form of various acts including musicians, or comedians, subject to all other noise ordinances and performance standards of this ordinance.
  - (b) Restaurants in this zone are permitted and encouraged to provide outdoor eating areas with tables and chairs, provided that all eating areas on the front façade of a building shall be of temporary nature and shall not block pedestrian circulation on any Borough sidewalk.
- (7) In no fashion should any use permitted in this code be intended to permit any type of entertainment or adult use in this zone or permit any use that would violate Alcoholic Beverage Control requirements, health regulations, or police/fire regulations.

E. Permitted Principal Uses in the Main Street Transition area:

- (1) All permitted uses in the Main Street Core Area
- (2) All permitted uses in the NC Neighborhood Commercial Zone.

F. Accessory uses.

Uses and buildings incidental to the above uses, including any use on the same lot with and customarily incidental to any permitted use in this district.

G. Conditional uses

- (1) Recreational facilities, video arcades, entertainment facilities including bowling alleys, staking rinks, indoor theatres, taverns, nightclubs shall all be conditional uses and shall be subject to Site Plan review and approval from the Planning Board.
- (2) Houses of worship, shall be located on lots of 3 acres or more, and shall be subject to site plan review and approval from the Planning Board.
- (3) Mixed-use buildings not providing the required arrangement of residential flats, apartments, condominiums or lofts on upper floors only, or buildings not providing the minimum requirement of 75% of all residential units in any single building to be one-bedroom units, studio-apartments or one-bedroom + den units, or wherein greater than 25% of the number of units shall be proposed to be two-bedroom units. Uses in this subsection shall be subject to all parking, loading, lighting, landscaping and design criteria listed in this Chapter, which shall be conditional use criteria. All such buildings shall also be subject to the additional, special recycling and buffer requirements of the Apartment Residential and/or Townhouse Residential Zone, and said regulations shall not

be considered conditional use criteria, but rather standard design controls subject to bulk/design relief from the Planning Board. Site Plan review and approval shall be required. Any building proposing three (3) or more bedrooms in any unit shall not be considered part of this category of uses and shall be considered a non-permitted use.

- (4) Gasoline stations in the Main Street Transition area. Such uses shall be subject to the Conditional Use Criteria of this Chapter and shall also be located on a lot with a minimum of 250' of aggregate street frontage and shall also be subject to Site Plan review and approval.
- (5) Drive-through windows for restaurants, banks and drugstores provided that they are located on a lot providing a minimum of 250' of street frontage and located in the Main Street Transition area only. Such uses shall be subject to Site Plan review and approval.

#### H. Prohibited buildings and uses.

- (1) Adult uses of any kind including strip clubs, juice bars, go-go bars, pole dancing, nude clubs, adult book/novelty sales, and unlicensed massage parlors.
- (2) Boarding or rooming houses.
- (3) Strip malls
- (4) Freestanding single-family/two-family residential uses.
- (5) All other drive-through uses not specifically permitted or permitted as a conditional use
- (6) Automobile sales, service and repair garages, car wash, oil change, auto insurance adjustment facilities
- (7) All uses not specifically permitted are prohibited.
- (8) One story buildings with a building height less than fifteen feet (15')

#### I. Bulk requirements.

- (1) Minimum lot area shall be 5,000 square feet.
- (2) Minimum lot width shall be fifty feet (50').
- (3) Minimum lot depth shall be one-hundred feet (100').
- (4) All buildings having a frontage on Main Street shall be located so as to provide a fifteen feet (15') setback to the front property line.
- (5) All buildings fronting on all streets other than Main Street, including corner lots, shall provide a front setback of ten feet (10') to those streets. In the case of in-fill development, new buildings may be aligned with the average front alignment of the surrounding buildings.
- (6) The side yard setback shall be five feet (5') provided that the lot line does not abut a residential district or use in which case the minimum requirement will be fifteen feet (15').
- (7) The minimum rear yard setback shall be sixty feet (60').
- (8) In the Main Street Transition Area: All buildings shall be two-story or two-and-a-half (2½) story buildings with a maximum building height of thirty feet (30'). When a two and a half (2½) story building is proposed, the uppermost half-story shall be uninhabitable attic space under a sloped roof and shall not be habitable space.
- (9) In the Main Street Core Area: All buildings shall be two-story or two-and-a-half (2½) story buildings with a maximum building height of thirty-five feet (35'). When a two and a half (2½) story building is proposed the half-story, or third level above grade, shall have a habitable floor area not to exceed fifty percent (50%) of the floor area of the 2<sup>nd</sup> floor of



the building. Such 3<sup>rd</sup> level or half story shall provide a 5' step back, or an architectural treatment to create the impression of a 5' step back. Buildings located on in the Main Street Core Area fronting on Main Street and having frontage on another street, so as to be located on a corner lot, shall be permitted a building height increase to 40' so as to create visual interest along the streetscape with architectural design elements. The building shall present the appearance of a 2½-story building, not a 3-story building.

- (10) The maximum percent of building coverage shall be fifty percent (50%). The maximum percent of impervious coverage shall be eighty (80%) percent.
- (11) A 5' side or rear setback is required for all accessory buildings.

#### J. Mixed-Use Requirements.

- (1) All retail/commercial uses shall be located in all ground floor locations in all buildings in this zone. Retail uses may be extended to the 2<sup>nd</sup> floor and then the 3<sup>rd</sup> floor space above an existing ground floor retail space when interior stairways or elevators are provided to connect the spaces.
- (2) All office and personal service uses shall be located on the ground floor, 2<sup>nd</sup> floor or 3<sup>rd</sup> level, provided that no office or personal service use shall be located over a residential use.
- (3) All buildings may provide residential uses on any floor except the ground floor or the basement floor.

#### K. Requirements for Buildings.

- (1) Maximum building footprint shall be 10,000 square feet.
- (2) No building shall exceed a building width of 200' along a single street frontage unless broken up by a plaza or courtyard.
- (3) Buildings should be placed to frame street corners.
- (4) To be compatible with a pedestrian scale, each ground level individual space shall provide a functioning, direct primary street entry. A shared entry is permitted for access to upper level units and shall provide a glazed commercial doorway and an entrance lobby area.
- (5) All building shall have a base, middle and top with the base differentiated with different materials than the upper floors. The top portions of all flat roof buildings should provide parapets or deep cornices on front facades.
- (6) Buildings shall present a complete and discrete vertical façade composition at an average street frontage of every 50 feet.
- (7) Allowable projections on any 2<sup>nd</sup> or 3<sup>rd</sup> floor façade include bow windows, and flat canopies and may project two feet (2') forward of the front building line. French balconies shall project not more than one foot (1').
- (8) Corner and tower elements are encouraged to create an architectural focus for the area. Such an approved element may exceed the building height without violating this ordinance so long as the element does not exceed the building height by five feet (5') for a total height of no greater than forty five feet (45').

#### L. Parking requirements.

- (1) Unless hereinafter specified, all parking design, loading and lighting requirements of the Parking Chapter of this ordinance shall apply.

- (2) Where a permitted use of land includes different specific activities with different specific parking requirements, the total number of required parking spaces shall be obtained by individually computing the parking requirements for each different activity and adding the resulting numbers together.
- (3) When the Planning Board determines that off-street parking for individual properties and street parking spaces along Main Street are sufficient, all retail, personal service, restaurant and commercial uses that are permitted within the geographic limit of this Zone shall have their parking requirement reduced by fifty percent (50%).
- (4) All residential uses that are permitted or approved by variance within the geographic area of the Zone shall have parking requirements based on the Residential Site Improvement Standards. Residential parking shall be provided off-street.
- (5) All on-site parking facilities shall be located in the side or rear yards of each property, subject to all other requirements of the Parking Chapter of this ordinance. All parking shall be prohibited in front yards.
- (6) Buildings on individual parcels in the Zone are permitted to have contiguous on-site parking areas with free flowing traffic between said parking areas and all buffer and landscaping requirements shall be waived in the locations where parking lots are connected to other parking lots or access-ways.
- (7) Parking lots shall be located behind buildings and shall be designed to encourage cross access among uses. A 70' rear yard is contemplated to provide a 24' wide, two-way access alley and two (2) 18' parking rows in the rear yard area. Parking lots should be designed to rely on shared points of access and egress on side streets, and to limit driveway openings and curb cuts on Main Street. Rear yard cross access easements shall be required with site plan or subdivision applications as needed in order to eventually create a system of screened access ways to the rear of buildings.
- (8) No parking lots shall be no closer than five (5) feet to any property line of the parcel on which they are located, except for points of cross-access. There shall be available as necessary, access to the rear of such properties for accessing parking areas, refuse collection, loading/unloading, entry of public safety vehicles and other necessary functions which require such entry.
- (9) Where rear or side yard parking, loading or other utilitarian activities are proposed, a minimum ten (10) foot wide buffer area shall be required adjacent to all residential uses, all rights-of-way, and all residential zones. Said buffer screen shall be comprised of a five (5) foot to six (6) foot high living evergreen wall and six (6) foot high solid fencing to provide screening for the abutting incompatible uses.
- (10) When due to building orientation, lot configuration or other conditions that preclude entry into the rear of the property for parking area access, loading, refuse collection, emergency access, or similar purpose, a paved alleyway no greater than twelve feet (12') shall be permitted alongside or within the frontage of the building. Where a building shall contain more than one (1) story, additional stories may be constructed above said alleyway pursuant to all applicable building codes with the aforementioned side yard requirements.

#### M. Loading Requirements.

- (1) Loading shall be subject to the loading chapter of this subsection.

- (2) On street loading/unloading and dumpster tipping in the Main Street Zone shall be prohibited between the hours of 10:00 p.m. and 6:00 a.m.
- (3) All loading/unloading shall be permitted in the rear yard area only.
- (4) There shall be at least one trash and recyclable materials pickup location including provision for each building which shall be located in a manner to be obscured from view by a fence, wall, planting or combination of all three. If located within the building, the doorway may serve both the loading and trash/garbage functions and if located outside the building, it may be located adjacent to or within the general loading area(s) provided the container in no way interferes with or restricts loading and unloading functions.
- (5) Where rear or side yard parking, loading or other utilitarian activities are proposed, a minimum ten (10) foot wide buffer area shall be required adjacent to all residential uses, all rights-of-way, and all residential zones. Said buffer screen shall be comprised of a five (5) foot to six (6) foot high living evergreen wall and six (8) foot high solid fencing to provide screening for the abutting incompatible uses.

#### N. Landscaping Requirements.

Landscaping in this zone shall be subject to the landscaping chapter of this subsection.

#### O. Signs.

- (1) All signs are subject to the Sign regulations chapter of this ordinance unless as noted herein.
- (2) No ground signs shall be permitted. Only façade signs are permitted in this district.
- (3) The maximum permitted sign area shall be ten (10%) percent of the front façade. On corner lots, signs may increase to account for both façade areas. There shall be a limit of one sign per use or tenant.
- (4) When a ground sign is proposed such signs shall be monument style signs with a height no greater than four (4') feet, a sign area no greater than 25 SF and a setback distance of minimum ten (10) feet. A planter base shall be provided around the base of the sign. Such signs shall require relief from the appropriate Board.
- (5) Surface mounted signs are not permitted above first floor.
- (6) Shingle and awning signs are permitted on the first and second floors. The maximum area should not exceed 4 square feet, the materials should be either painted wood or painted metal, and they should include ornamental metal brackets of some kind. They should only be externally illuminated and the message should only give the symbol or the name of the business. Awning signs shall be limited by the size of the fringe or the main area of the awning, depending on the location of the sign.
- (7) Surface mounted signs on the first floor cornice/sign band shall contain individually mounted letters or symbols and not be a large board sign that obscures the cornice and its details. They should be externally illuminated and the message should only contain the name or the symbol of the business.
- (8) Houses of worship located in this zone shall be permitted one (1) freestanding sign not exceeding 25 square feet in area, 10 feet in height and set back at least 25 feet from all property lines, plus one (1) attached sign not exceeding eight square feet in area.
- (9) Wall murals and other public art signs shall be subject to Planning Board review and approval.
- (10) All billboard signs are prohibited.

P. Awnings.

- (1) Cloth and canvas awnings are encouraged over building entrances and shall provide a minimum of eight foot (8') clearance and shall not extend more than four feet (4) from the building façade.
- (2) If an awning is so steeply sloped that it serves as a sign rather than as shelter, the sign must meet all the criteria (size, message, lighting, etc.) for wall signs that could be above the first floor.
- (3) All types of colors and patterns are acceptable if they meet the criteria for colors and signs: plain, striped, patterned, decorative, and so on. They must however, be compatible with the overall building.
- (4) If a single building contains more than one shop front and more than one shop, the two awnings can either be identical to complement the building, or they can differ, to add variety and to express the identity of the individual shops. 2) If a single shop occupies the ground floor of two adjacent buildings, the awnings in each building can be identical, since the objective of maintaining the identity of the two buildings is met by the building designs.

Q. Architectural Design Standards.

- (1) The following activities regarding any of the buildings in the Zone shall render the building(s) subject to the "Architectural Appearance requirements: listed below:
  - (a) The new construction of a primary use building on a parcel of land.
  - (b) The addition to an existing primary use building that is ten (10%) percent or more of the gross floor area of the existing building.
  - (c) The renovation or alteration in any manner of any outer wall of a building that faces street frontage or is considered the front of the building including addition of windows, doors or similar elements.
  - (d) The renovation or alteration in any manner of any outer wall or combination of outer walls of a building.
  - (e) The major internal renovation or alteration of a building which constitutes forty-nine (49%) percent or more of the gross floor area.
- (2) Architectural Appearance Requirements
  - (a) Since all of the existing buildings within the limits of this Zone vary considerably in age and architecture in their present state, it is difficult to impose on them a rigid architectural design standard. Although beauty and character are subjective, there shall be an underlying design theme to the buildings and specifically to the facades so that a sense of conformity to a time period is achieved. Variation, creativity, uniqueness and distinction are encouraged provided that there is a visual flow from building to building with no evidence of abrupt change or disruption in design or theme. Each building, although having its own identity should compliment the others in style and taste without the look of an exact copy.
  - (b) The prominent veneers to be used for facades and sides of buildings facing the street shall be real brick, (mortar or painted), limestone, unpolished granite.

- (c) The unpainted brick colors shall be in the brown, beige or red tones. Stone coloring shall be more flexible but maintain a subdued color scheme in keeping with the brick tones.
- (d) Other veneers such as wood shingles, hardi-plank, cement fiber shingles, cast iron, terra cotta, fiberglass, glazed tile, painted wood or metal or other manmade siding products and wood veneer products shall be considered secondary veneers to compliment the brick or stone. The colors of such veneers shall be in subdued tones to blend in a compatible and aesthetic fashion. The use of fluorescent colors is prohibited as are abrupt color changes, even in the subdued tones, that clash visually.
- (e) Aluminum siding, vinyl siding, faux brick face, metal panels, stucco/EIFS treatments are strongly discouraged except in utilitarian areas not visible from the street.
- (f) No blank walls. All facades or sides of buildings facing the street shall have a décor that prohibits for a maximum distance of fifteen (15) feet horizontally, bare unadorned walls along each floor. These walls shall have appurtenances either decorative or functional to satisfy the condition. Such appurtenances shall consist of windows, doors, columns, lintels, cornices, balconies, overhangs, awnings, arches, railings or any other architectural items that fit the herein recommended design theme.
- (g) Roofs should create visual interest. Roofs shall be of the "A" frame peak type wherever possible and include turrets, dormers, cupolas, towers and gables to reflect "turn of the century" attributes. Where it is necessary to install other than a peaked roof due to structural or height restrictions, parapets, cornices, eaves, turrets and other architectural devices that also reflect the above stated attributes shall be utilized.
- (h) Windows for upper floors shall provide exterior muntins, casings, aprons, trims, shutters, etc to provide an attractive and visually interesting façade.
- (i) Window glass shall be clear or lightly tinted. Dark tinted or mirrored windows are prohibited.
- (j) Windows should occupy 70% of the linear expanse of a retail façade. Night security gates, grills or other security coverings of windows are prohibited.
- (k) No meter banks, piping, or other utilitarian equipment shall be located on a façade facing or visible from a public street.
- (l) Exterior façade sconce or gooseneck style lighting is encouraged.
- (m) Rooftop mechanical equipment shall be fully screened from the street.
- (n) Buildings shall be richly detailed to create a visually interesting façade.
- (o) Preservation of historical character is a Master Plan goal and should be encouraged through building design.
- (p) All façade designs shall be subject to review of these requirements by the Planning Board.

#### R. Public and Quasi-Public Improvements.

- (1) Public Plaza. A public plaza at a highly-visible location in the Main Street District would establish a landmark public space in the zone. To accomplish this, any developer, in cooperation with the Borough and as a part of a development application, may propose, dedicate, construct, or contribute to the creation of this plaza as a public or quasi-public space. Such a plaza may contain civic buildings, civic monuments, pedestrian areas,

transportation links, and public art. Such spaces should be barrier free, extensively landscaped and situated to attract pedestrians into abutting private retail or office spaces.

- (2) Off-site improvements. Within all lots in the district, the developer/property owner shall construct and maintain all streetscape improvements located on the street frontage of each property. This shall include installing sidewalks, access alleys, utility easements, curbs, gutters, undergrounding utilities, street furniture: benches, trash receptacles, bicycle racks, street trees and planters, and street lights.
- (3) Front setback area. The required 10' front setback area shall be reserved for quasi-public activity, outdoor dining or sidewalk sale space. If no such activity is planned for this area, the area shall be attractively landscaped with decorative or ornamental specimens, flower boxes, or other attractive landscaping elements. If a building is contemplated for on-street dining or retail sales activity, a hardscape or decorative delineation should be provided on the ground in front of the building to differentiate between semi-public space and the public right-of-way.
- (4) Outdoor Dining.
  - (a) Tables, chairs, umbrellas, small private trash containers and planters are all permitted elements of the street furnishings.
  - (b) All furniture should be made of painted metal, painted wood, stained wood, or of some combination of these materials. The character of all furniture should complement the design of the building and the business that they adjoin.
  - (c) The size of the table and chair groupings is limited to that which will maintain a clear walking path on the sidewalk of sufficient width to permit pedestrians to pass but also to create the slightly crowded feeling of a truly vibrant place.
  - (d) Overhead elements, such as umbrellas, should allow for clearance for passing pedestrians. A 7'-0" clearance height is required which is adequate for most pedestrians, and yet preserves the sense of intimacy and shelter that an umbrella gives to a seated group.
  - (e) When proposed in the front yard of any building, the ground surface of the outdoor dining space shall be designed and constructed of materials and patterns distinct from the public sidewalk or right-of-way, and such demarcation shall be intended to serve as a permanent delineation of the space.
  - (f) Outdoor dining uses shall comply with all other dining chapters in this ordinance.
- (5) Street Planters.
  - (a) Planters that sit on the sidewalk should be made of durable materials. Plain ceramic pots and ornamental ceramic pots are the most common style, but stone, some ornamental concrete designs and certain large fiberglass pots can also be appropriately attractive.
  - (b) The size of these pots should allow a walking clearance on the sidewalk of at least 4' 0".
  - (c) Containers can be located either along the storefront or at the curb; if at the curb they cannot be in the way of swinging car doors – 1'-6" clear of the inside face of the street curb.
  - (d) Wooden window boxes under the storefronts are permitted.
  - (e) Plants should be selected which can stand the downtown climatic conditions and which need a minimum of maintenance. Merchants and/or building owners shall maintain all planters they use on their property.

(5) Bicycle Parking.

- (a) Any development plan proposed on a lot containing 10,000 SF or greater shall provide adequate means of bicycle parking for the proposed use.

(6) Main Street Boulevard Concept

The Borough may consider, with consultation with Middlesex County, the creation of a boulevard landscaping island down the center of Main Street between generally between Summerhill Road and Devoe Avenues. The purpose of such divider would be to signify entrance into a important civic place and to slow the speed of traffic through this corridor to reconcile with pedestrian activity and uses. Such right-of-way redesign may involve right-of-way widening and provision of on-street parking, or addition of additional traffic calming measures.

**§ 120-414. NC Neighborhood Commercial District**

A. Principal permitted uses on the land and in buildings:

- (1) Retail sales, drugstores, restaurants, cafes, and taverns
- (2) General offices of all recognized professions, medical offices
- (3) Banks, including drive-through windows
- (4) Personal services such as dry cleaners, beauty, nail or tanning salons, barber shops, licensed therapeutic massage, and minor appliance or office machinery repair, excluding any type of service which requires truck, van or trailer pickup or delivery of the equipment or item to be serviced.
- (5) Supermarkets and shopping centers comprised of any of the above uses.
- (6) Drive through windows and uses for any of the above permitted uses when such use is located in the NC Neighborhood Commercial District.

B. Accessory uses permitted:

- (1) Uses and buildings incidental to the above uses, including any use on the same lot with and customarily incidental to any permitted use in this district.

C. Conditional uses:

- (1) Home offices. See § 120-203 for definition and §120-301(O) for requirements, which shall be Conditional Use criteria.
- (2) Home occupations, including family day-care homes and child-care residences. See §120-203 for definition and §120-301(O) for requirements, which shall be Conditional Use criteria.
- (3) Mixed use buildings, where the ground floor consists of commercial use and the upper floor(s) contain residential dwelling units, subject to all bulk requirements of this zone, which are listed below and shall be as Conditional Use criteria.

D. Area and yard requirements:

Minimum Lot Area:	10,000 square feet
Minimum Lot Width:	100'
Minimum Lot Depth:	100'
Minimum Front Yard:	25'
Minimum Side/Both Yard:	10'/20'
Minimum Rear Yard:	25'



Maximum Building Coverage:	25%
Maximum Impervious Coverage:	60%
Maximum Building Height:	2.5 Story, 35'
Minimum Accessory Side Yard:	10'
Minimum Accessory Rear Yard:	25'
Minimum Gross Floor Area:	2,000 square feet

E. Additional requirements:

- (1) One building may contain more than one use provided that the total building 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 500 square feet.
- (2) Unless otherwise specifically approved by the Planning 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 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 10 feet in width along any common property line with a residential district or use. Where topography, tree growth or other natural or man-made 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 10 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. Parking shall be as specified in the Parking subsection of this ordinance.

G. Off-street loading. Loading shall be as specified in the Loading subsection of this ordinance.

H. Signs. Signs shall be as specified in the Signs subsection of this ordinance.

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**§ 120-415. GC General Commercial District.**

A. Principal permitted uses on the land and in buildings:

- (1) Retail sales, drugstores, restaurants, cafes, and taverns, including drive-through uses
- (2) General offices of all recognized professions, medical offices
- (3) Banks, including drive-through facilities.
- (4) Personal services such as dry cleaners, beauty, nail or tanning salons, barber shops, licensed therapeutic massage, and minor appliance or office machinery repair, excluding any type of service which requires truck, van or trailer pickup or delivery of the equipment or item to be serviced.
- (5) Supermarkets and shopping centers comprised of any of the above uses.
- (6) Wholesale sales facilities of any kind
- (7) New or used automobile sales on lots greater than five (5) acres
- (8) Car wash businesses
- (9) Personal/self storage facilities
- (10) Bowling alleys and similar indoor recreational facilities
- (11) Houses of worship and fraternal/civic organizations

B. Accessory uses permitted:

Uses and buildings incidental to the above uses, including any use on the same lot with and customarily incidental to any permitted use in this district.

C. Conditional uses:

- (1) Gasoline stations, automotive body shops, repair garages, engine, transmission, auto glass, or similar specialty automotive repair shops in accordance with the conditional use standards specified in this chapter.
- (2) Commercial dry-cleaning plants, subject to the performance standards of this ordinance.

D. Area and yard requirements:

Minimum Lot Area:	40,000
Minimum Lot Width:	200'

Minimum Lot Depth:	200'
Minimum Front Yard:	30'
Minimum Side/Both Yard:	25'/50'
Minimum Rear Yard:	30'
Maximum Building Coverage:	20%
Maximum Impervious Coverage:	55%
Maximum Building Height:	2.5 Story, 35'
Minimum Accessory Side Yard:	10'
Minimum Accessory Rear Yard:	25'
Maximum Accessory Height:	15'
Minimum Gross Floor Area:	5,000 square feet

E. Additional requirements:

- (1) One building may contain more than one use provided that the total building 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 500 square feet.
- (2) More than one principal building shall be permitted in this district. All buildings shall be separated by a minimum of 20 feet when such separation is to be used solely for pedestrian circulation. All buildings shall be separated by a minimum of 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.
- (3) 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.
- (4) All areas not utilized for buildings, parking, loading, access aisles and driveways or pedestrian walkways shall be suitably landscaped with shrubs, ground cover, seeding or plantings and maintained in good condition.
- (5) 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 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).
- (6) The minimum setback area shall include a landscaped buffer strip of 10 feet in width along any common property line with a residential district or use. Where topography, tree growth or other natural or man-made features exist to provide adequate year-round

separation of residential and business uses, the Board may waive the buffer screening requirement.

(7) At least the first 10 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.

(8) Where a lot within the GC District lies adjacent to a lot in the C District which is held in common ownership, the lot in the C District may be utilized to satisfy yard setback requirements for said lot in the GC District, provided that a minimum ten-foot setback is maintained from any required freshwater wetland transition area or one-hundred-year floodplain.

F. Off-street parking. Parking shall be as specified in the Parking subsection of this ordinance.

G. Off-street loading. Loading shall be as specified in the Loading subsection of this ordinance.

H. Signs. Signs shall be as specified in the Signs subsection of this ordinance.

**§ 120-416. LI Light Industrial District**

A. Permitted principal uses on the land and in buildings:

- (1) Fully enclosed warehouse, wholesale, distribution or self-storage facilities
- (2) Contractors shops and businesses such as heating and cooling plumbing supply houses, sheet metal fabrication businesses, electrical contractor shops, cabinet and countertop fabrication, electronics and appliance repair and clearance warehouses.
- (3) Offices and office buildings.
- (4) New and used automotive sales or sales of similar specialty vehicles, or sales of general equipment or machinery, or machine repair or service businesses.
- (5) Automotive body shops, repair garages, engine, transmission, auto glass, or similar specialty automotive repair shops, excluding junkyards, salvage or recycling uses
- (6) Private recreational academies for gymnastics, dance, karate or similar sports training facilities, or private recreational uses such as membership gyms, skating rinks, bowling alleys, sports clubs, rock-climbing gyms or paintball facilities.
- (7) Scientific or research laboratories and limited manufacturing, provided that all operations and activities, except parking, shall be carried on within enclosed buildings and provided further that at no time will said uses cause or result in:
  - (a) Violation of the performance standards of this ordinance including, dissemination of smoke, gas, dust, odor, noise, glare, vibration, heat, electromagnetic interference, discharge of any waste material whatsoever onto the ground or into any watercourse, or any other matter which pollutes the atmosphere outside the building in which the use is conducted, or anywhere on the site.
  - (b) The manufacture of explosives or any similar physical hazard by means of fire, explosion, radiation or any similar cause to property in the same or in adjacent districts.
  - (c) Mining or and, clay or gravel or other extractive processes, and commercial stripping of topsoil.

B. Accessory uses permitted:

- (1) Off-street loading and off-street parking and private garages to house delivery trucks or other commercial vehicles
- (2) General storage buildings for the storage of materials owned by the owners or tenants of the property.

- (3) Employee cafeterias in service to the employees of the principal use designated on the site plan as approved by the Planning Board.
- (4) All storage tanks including by not limited to water, chemicals, propane and automobile and heating fuel storage tanks, provided that such tanks are no higher than 15 feet above the ground and all tanks comply with any applicable federal, state and/or local ordinances, statutes, codes and regulations. Any proposed tank over 15' high shall not be a permitted or accessory use.
- (5) Security guard houses, gate houses and bus shelters not exceeding 12 feet in height, located in the front yard along the entrance driveway(s) to the property and set back at least 25 feet from all street and property lines.
- (6) Temporary construction trailers and one sign not exceeding 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 year, whichever is less, provided that 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 30 feet from all street and lot lines.

C. Conditional Uses:

- (1) Public utility facilities and uses subject to the Conditional Use standards specified in the Conditional Use standards specified in this chapter.

D. Prohibited Uses:

- (1) Nothing contained herein shall prohibit a permitted use from conducting occasional warehouse sales or from establishing warehouse showrooms smaller than 2,500 SF, or prohibit a permitted use from conducting incidental retail sales at its facility in a sales area no greater than 2,500 SF.
- (2) Junkyards, auto body salvage, waste transfer uses and/or similar materials recycling facilities
- (3) Storage of explosives or any toxic materials
- (4) Blast furnaces
- (5) Slaughterhouses
- (6) All adult uses, including bookstores, strip clubs, nude clubs or go-go bars of any type.
- (7) Landfills and dumps.
- (8) Residential uses of any kind.
- (9) Any heavy-industry as determined by the Zoning Officer.

E. Area and yard requirements:

Minimum Lot Area <sup>1</sup> :	60,000 sf
Minimum Lot Width:	200'

Minimum Lot Depth:	300'
Minimum Front Yard:	100'
Minimum Side/Both Yard:	25'/50'
Minimum Rear Yard:	50'
Maximum Building Coverage:	20%
Maximum Impervious Coverage:	50%
Maximum Building Height:	2.5 Story, 35'
Minimum Accessory Side Yard:	25'
Minimum Accessory Rear Yard:	25'
Maximum Accessory Height:	15'
Minimum Gross Floor Area:	10,000 square feet

F. Additional requirements:

- (1) Any principal building may contain more than one use, but only one principal building is permitted on a lot.
- (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 properties not located within the LI District 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 shall be suitably finished for aesthetic purposes which shall not include unpainted or painted cinder block or concrete block walls.
- (5) The minimum required setback area shall include a landscaped buffer screening of 25 feet in width along any common property line with a residential district or use and 10 feet in width along any other property line. To the greatest extent possible, existing woodlands, windbreaks and watersheds shall be preserved and the existing native forested nature of the ground shall be maintained. Where topography, tree growth or other natural or man-made features exist to provide adequate year-round separation of residential and industrial uses, the Planning Board may waive the buffer screening requirement.
- (6) Within the required front yard area and at least 10 feet adjacent to any nonresidential lot line and 25 feet adjacent to any residential lot line, there shall be no parking or loading and, except for access driveways, the area shall be planted and maintained in lawn area or ground cover and landscaped with evergreen shrubbery, except that a total of no



more than 20 visitor parking spaces may be provided in the front yard area directly in front of the principal building, provided that they are adequately screened from view.

- (7) A detailed description of any proposed industrial process as well as its resulting products and by-products shall be included in any development application.
- (8) Liquid waste and sewage shall be discharged into an approved existing public sewage treatment plant or shall be treated in a treatment plant or process which is in compliance with state statutes and the requirements of the New Jersey Department of Environmental Protection. A certificate or statement of adequacy from the Board of Health and the New Jersey Department of Environmental Protection shall be required prior to the issuance of a zoning or building permit.
- (9) Any private water system shall meet all requirements of the Borough and state. Additionally, a statement from the state geologist indicating the adequacy of an underground water supply for the intended use shall be required prior to the issuance of a zoning or building permit.
- (10) Precautions against fire hazards, air pollution, radiation and explosion; provisions for the handling and storing of materials; structural building design; and provisions for safeguarding the health of workers shall be set forth and shall comply with applicable state statutes and the requirements of the New Jersey Department of Environmental Protection and Department of Labor and Industry.
- (11) No vibration or glare shall be evident at any point more than 150 feet from the source of said vibration or light.
- (12) No more than two access driveways shall be permitted for each 300 feet of street frontage. Access shall be provided to the lot from a collector road. No entrance or exit upon a public road shall be located within 200 feet of any street intersection and within 25 feet of any property line.
- (13) All interior driveway(s) and/or road(s) shall be maintained at all times so as to be kept free of dust, and no debris, gravel or dirt shall be tracked onto any public streets from the site.
- (14) Where a lot within the LI Light Industrial District lies adjacent to a lot in the C Conservation District which is held in common ownership, the lot in the C District may be utilized to satisfy yard setback requirements for said lot in the LI District, provided that a minimum ten-foot setback is maintained from any required freshwater wetland transition area or one-hundred-year floodplain.

G Off-street parking. As specified in the Parking chapter of this ordinance.

H Off-street loading. As specified in the Loading chapter of this ordinance.

I Signs. As specified in the Signs chapter of this ordinance.

## ARTICLE 500: STORMWATER CONTROL, RIPARIAN ZONES & STEEP SLOPES

§ 120-500. Reserved.

§ 120-501. Reserved.

### § 120-502. Stormwater control standards.

[Amended 6-18-2007 by Ord. No. 2007-06 *Editor's Note: Former § 120-502, Storm drainage facilities, was replaced by §§ 120-502 and 120-502.1 through 120-502.13 6-18-2007 by Ord. No. 2007-06. ]*

This ordinance *Editor's Note: "This ordinance," as used in §§ 120-502 through 120-502.13, means Ord. No. 2007-06, which added those sections to this chapter.* is consistent with all relevant sections of NJDEP's Stormwater Management Rules at N.J.A.C. 7:8.

#### § 120-502.1. Purpose and scope.

[Added 6-18-2007 by Ord. No. 2007-06]

A. Policy statement. Flood control, groundwater recharge, and pollutant reduction through nonstructural or low-impact techniques shall be explored before relying on structural BMPs. Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

B. Purpose. It is the purpose of this ordinance to establish minimum stormwater management requirements and controls for major development, as defined in § 120-502.2.

C. Applicability.

(1) This ordinance shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:

(a) Nonresidential major developments; and

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

(2) This ordinance shall also be applicable to all major developments undertaken by the Borough of Spotswood, and shall include provisions for safely and satisfactorily controlling stormwater runoff, drainage and stream flows in a manner that will not adversely affect existing and proposed properties both upstream and downstream of the site.

D. Compatibility with other permit and ordinance requirements. Development approvals issued for subdivisions and site plans pursuant to this ordinance are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

### **§ 120-502.2. Stormwater control definitions.**

[Added 6-18-2007 by Ord. No. 2007-06]

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

#### **CAFRA CENTERS, CORES OR NODES**

Areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.

#### **CAFRA PLANNING MAP**

The geographic depiction of the boundaries for Coastal Planning Areas, CAFRA Centers, CAFRA Cores and CAFRA Nodes pursuant to N.J.A.C. 7:7E-5B.3.

#### **COMPACTION**

The increase in soil bulk density.

#### **CORE**

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

#### **COUNTY REVIEW AGENCY**

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

A. A county planning agency; or

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

**DEPARTMENT**

The New Jersey Department of Environmental Protection.

**DESIGNATED CENTER**

A state development and redevelopment plan center as designated by the State Planning Commission, such as urban, regional, town, village, or hamlet.

**DESIGN ENGINEER**

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

**DEVELOPMENT**

The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, development means: any activity that requires a state permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq.

**DRAINAGE AREA**

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

**ENVIRONMENTALLY CRITICAL AREAS**

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

**EMPOWERMENT NEIGHBORHOOD**

A neighborhood designated by the Urban Coordinating Council "in consultation and conjunction with" the New Jersey Redevelopment Authority pursuant to N.J.S.A. 55:19-69.

**EROSION**

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

**IMPERVIOUS SURFACE**

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

**INFILTRATION**

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

**MAJOR DEVELOPMENT**

Any "development" that provides for ultimately disturbing one or more acres of land or increasing the impervious area by more than a 1/4 acre. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

**MUNICIPALITY**

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

**NODE**

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

**NUTRIENT**

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

**PERSON**

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

**POLLUTANT**

Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance [except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)], thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, groundwaters or surface waters of the state, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

**RECHARGE**

The amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

**SEDIMENT**

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

**SITE**

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

**SOIL**

All unconsolidated mineral and organic material of any origin.

**STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA (PA1)**

An area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state's future redevelopment and revitalization efforts.

**STATE PLAN POLICY MAP**

The geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.

**STORMWATER**

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

**STORMWATER MANAGEMENT BASIN**

An excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or

infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

**STORMWATER MANAGEMENT MEASURE**

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

**STORMWATER RUNOFF**

Water flow on the surface of the ground or in storm sewers, resulting from precipitation.

**TIDAL FLOOD HAZARD AREA**

A flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.

**URBAN COORDINATING COUNCIL EMPOWERMENT NEIGHBORHOOD**

A neighborhood given priority access to state resources through the New Jersey Redevelopment Authority.

**URBAN ENTERPRISE ZONES**

A zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et. seq.

**URBAN REDEVELOPMENT AREA**

Previously developed portions of areas:

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

B. Designated as CAFRA Centers, Cores or Nodes;

C. Designated as Urban Enterprise Zones; and

D. Designated as Urban Coordinating Council Empowerment Neighborhoods.

**WATERS OF THE STATE**

The ocean and its estuaries, all springs, streams, wetlands, and bodies of surfacewater or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

**WETLANDS OR WETLAND**

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

**§ 120-502.3. Stormwater management general standards.**

[Added 6-18-2007 by Ord. No. 2007-06]

A. Design and performance standards for stormwater management measures.

(1) Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in § 120-502.4. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design. Strategies used to minimize the impact of stormwater runoff must not divert natural drainage water as to overload existing drainage systems or creating flooding or the need for additional drainage structures on other lands without proper and approved provision being made for taking care of these conditions, including off-tract improvements.

(2) The standards in this ordinance apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water quality management plan adopted in accordance with Department rules.

**§ 120-502.4. Stormwater management requirements for major development.**

**[Added 6-18-2007 by Ord. No. 2007-06]**

A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with § 120-502.10.

B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergi* (bog turtle).

C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of § 120-502.4F and § 120-502.4G:

(1) The construction of an underground utility line, provided that the disturbed areas are revegetated upon completion;

(2) The construction of an aboveground utility line, provided that the existing conditions are maintained to the maximum extent practicable; and

(3) The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.

D. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of § 120-502.4F and § 120-502.4G may



be obtained for the enlargement of an existing public roadway or railroad, or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:

- (1) The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
- (2) The applicant demonstrates through an alternatives analysis that, through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of § 120-502.4F and § 120-502.4G to the maximum extent practicable;
- (3) The applicant demonstrates that, in order to meet the requirements of § 120-502.4F and § 120-502.4G, existing structures currently in use, such as homes and buildings, would need to be condemned; and
- (4) The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under § 120-502.4D(3) above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of § 120-502.4F and § 120-502.4G that were not achievable on site.

E. Nonstructural stormwater management strategies.

(1) To the maximum extent practicable, the standards in § 120-502.4F and § 120-502.4G shall be met by incorporating nonstructural stormwater management strategies set forth at § 120-502.4E into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in § 120-502.4E(2) below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

(2) Nonstructural stormwater management strategies incorporated into site design shall:

- (a) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
- (b) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
- (c) Maximize the protection of natural drainage features and vegetation;
- (d) Minimize the decrease in the time of concentration from preconstruction to postconstruction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;

(e) Minimize land disturbance including clearing and grading;

(f) Minimize soil compaction;

(g) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;

(h) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;

(i) Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:

[1] Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy § 120-502.4E(3) below;

[2] Site design features that help to prevent discharge of trash and debris from drainage systems;

[3] Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and

[4] When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.

(3) Site design features identified under § 120-502.4E(2)(i)[2] above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see § 120-502.4E(3)(c) below.

(a) Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

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

[2] A different grate, if each individual clear space in that grate has an area of no more than 7.0 square inches, or is no greater than 0.5 inches across the smallest dimension.

[3] Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer

manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

(b) Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than 7.0 square inches, or be no greater than 2.0 inches across the smallest dimension.

(c) This standard does not apply:

[1] Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

[2] Where flows from the water quality design storm as specified in § 120-502.4G(1) are conveyed through any device (e.g., end-of-pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

[a] A rectangular space 4 5/8 inches long and 1 1/2 inches wide (this option does not apply for outfall netting facilities); or

[b] A bar screen having a bar spacing of 0.5 inches.

[3] Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars, to the elevation of the water quality design storm as specified in § 120-502.4G(1); or

[4] Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

(d) Any land area used as a nonstructural stormwater management measure to meet the performance standards in § 120-502.4F and § 120-502.4G shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

(e) Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be

obtained from the address identified in § 120-502.7, or found on the Department's Web site at [www.njstormwater.org](http://www.njstormwater.org).

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

(1) This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.

(a) The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.

(b) The minimum design and performance standards for groundwater recharge are as follows:

[1] The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at § 120-502.5, either:

[a] Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100% of the average annual preconstruction groundwater recharge volume for the site; or

[b] Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from preconstruction to post-construction for the two-year storm is infiltrated.

[2] This groundwater recharge requirement does not apply to projects within the urban redevelopment area, or to projects subject § 120-502.4.F(1)(b)(3) below.

[3] The following types of stormwater shall not be recharged:

[a] Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied; areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department-approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

[b] Industrial stormwater exposed to source material. "Source material" means any material(s) or machinery, located at an industrial facility that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source

materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

[4] The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause superficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or downgradient of the groundwater recharge area.

(c) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § 120-502.5, complete one of the following:

[1] Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, postconstruction runoff hydrographs for the two-, ten-, and one-hundred-year storm events do not exceed, at any point in time, the preconstruction runoff hydrographs for the same storm events;

[2] Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the preconstruction condition, in the peak runoff rates of stormwater leaving the site for the two-, ten-, and one-hundred-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

[3] Design stormwater management measures so that the postconstruction peak runoff rates for the two-, ten-, and one-hundred-year storm events are 50%, 75%, and 80%, respectively, of the preconstruction peak runoff rates. The percentages apply only to the postconstruction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to postconstruction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or

[4] In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with § 120-502.4F(1)(c)[1], § 120-502.4F(1)(c)[2], and § 120-502.4F(1)(c)[3], above, shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.

(2) Any application for a new agricultural development that meets the definition of major development at § 120-502.2 shall be submitted to the appropriate soil conservation district for review and consideration in accordance with the requirements of this section and any

applicable soil conservation district guidelines for stormwater runoff rate and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

**G. Stormwater runoff quality standards.**

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

**Table 1: Water Quality Design Storm Distribution**

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

(2) For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in § 120-502.7, or found on the Department's Web site at [www.njstormwater.org](http://www.njstormwater.org).

The BMP Manual and other sources of technical guidance are listed in § 120-502.7. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, PO Box 418, Trenton, New Jersey, 08625-0418.

(3) If more than one BMP in series is necessary to achieve the required 8% TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (AXB)/100$$

Where

R = total TSS percent load removal from application of both BMPs, and

A = the TSS percent removal rate applicable to the first BMP

B = the TSS percent removal rate applicable to the second BMP

**Table 2: TSS Removal Rates for BMPs**

<b>Best Management Practice</b>	<b>TSS Percent Removal Rate</b>
Bioretention systems	90
Constructed stormwater wetland	90
Extended detention basin	40 to 60
Infiltration structure	80
Manufactured treatment device	See § <u>120-502.6C</u>
Sand filter	80
Vegetative filter strip	60 to 80
Wet pond	50 to 90

(4) If there is more than one on-site drainage area, the 80% TSS removal rate shall apply to each drainage area, unless the runoff from the sub areas converge on site, in which case the removal rate can be demonstrated through a calculation using a weighted average.

(5) Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the postconstruction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize removal while still achieving the performance standards in § 120-502.4F and § 120-502.4G.

(6) Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in § 120-502.7.

(7) In accordance with the definition of FWI at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.

(8) Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:

(a) The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:

[1] A three-hundred-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the center line of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.

[2] Encroachment within the designated special water resource protection area under § 120-502.4G(8)(a)[1] above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top-of-bank of the waterway or center line of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.

(b) All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the standard for off-site stability in the Standards for Soil Erosion and Sediment Control in New Jersey, established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.

(c) If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the standard for off-site stability in the Standards for Soil Erosion and Sediment Control in New Jersey, established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:



[1] Stabilization measures shall not be placed within 150 feet of the Category One waterway;

[2] Stormwater associated with discharges allowed by this section shall achieve a 95% TSS postconstruction removal rate;

[3] Temperature shall be addressed to ensure no impact on the receiving waterway;

[4] The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;

[5] A conceptual project design meeting shall be held with the appropriate Department staff and soil conservation district staff to identify necessary stabilization measures; and

[6] All encroachments proposed under this section shall be subject to review and approval by the Department.

(d) A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to § 120-502.4G(8) has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to § 120-502.4G(8) maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in § 120-502.4G(8)(a)[1] above. In no case shall a stream corridor protection plan allow the reduction of the special water resource protection area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.

(e) Section 120-502.4G(8) does not apply to the construction of one individual single-family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

**§ 120-502.5. Stormwater calculation of stormwater runoff and groundwater recharge.**

**[Added 6-18-2007 by Ord. No. 2007-06]**

A. Stormwater runoff shall be calculated in accordance with the following:

(1) The design engineer shall calculate runoff using one of the following methods:

(a) The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4, Hydrology and Technical Release 55, Urban Hydrology for Small Watersheds; or

(b) The Rational Method for peak flow and the Modified Rational Method for hydrograph computations. Rainfall intensity (1) shall be determined utilizing the Sandy Hook, New Jersey, intensity/duration curves.

(2) For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the preconstruction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at § 120-502.5A(1)(a) and the Rational and Modified Rational Methods § 120-502.5A(1)(b). A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

(3) In computing preconstruction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts that may reduce preconstruction stormwater runoff rates and volumes.

(4) In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55, Urban Hydrology for Small Watersheds, and other methods may be employed.

(5) If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

B. Groundwater recharge may be calculated in accordance with the following:

(1) The New Jersey Geological Survey Report GSR-32, A Method for Evaluating Ground Water Recharge Areas in New Jersey, incorporated herein by reference, as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at <http://www.state.nj.us/dep/njgs/>; or at

**§ 120-502.6. Standards for structural stormwater management measures.**

**[Added 6-18-2007 by Ord. No. 2007-06]**

A. Standards for structural stormwater management measures are as follows:

(1) Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).

(2) Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than 1/3 the width of the diameter of the orifice or 1/3 the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of § 120-502.8D.

(3) Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.

(4) At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of 2 1/2 inches in diameter.

(5) Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at § 120-502.8.

B. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized, provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by § 120-502.4.

C. Manufactured treatment devices may be used to meet the requirements of § 120-502.4, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

D. All drainage channels and detention ponds shall be designed to accommodate one foot of freeboard.

E. Pipe sizing shall be determined by the Manning Formula with 'n' equals 0.013 for concrete pipes and 'n' equals 0.022 for corrugated metal pipe. The pipe size determined to be adequate for the runoff computed shall be increased by at least one standard pipe size for the type of pipe being used in order to provide adequate allowance for the normal accumulation of sediment and debris in the storm drainage system. The minimum pipe size in a surface water drainage system shall not be less than 15 inches in diameter.

F. Catch basins shall be located at all intersections and located in streets with inlets on both sides of the street at intervals of not more than 400 feet or shorter distances as required to prevent the flow of surface water from exceeding six cubic feet per second at the catch basin inlet. Access manholes shall be placed at maximum five-hundred-foot intervals throughout the system and at pipe junctions where there are no catch basins.

G. All drainage pipes shall be laid in straight lines between drainage structures except where otherwise specifically approved by the Borough Engineer. When deviation from a straight line is permitted, the deflection of each joint shall not exceed the manufacturer's recommended maximum for pipe, joint, and size of the pipe being installed.

H. Stormwater drainage pipes running longitudinally along streets shall not be located under curbing.

I. No defective or leaking pipes, joints, connections, manholes, inlets or other parts of the work shall be acceptable. All visible leakage of any description, no matter where located, shall be corrected by the contractor in a satisfactory manner.

J. Dished gutters on Borough streets shall be permitted only at intersections involving minor streets. Dished gutters shall not be permitted on arterial or collector roads.

K. Storm drain pipes running longitudinally along streets shall not be located under curbing.

L. Storm drain pipes shall be reinforced concrete pipe, except where aluminum culvert pipe is permitted as hereinafter specified, and shall be the size specified and laid to the exact lines and grades approved by the Borough Engineer. Reinforced concrete pipe shall conform to ASTM specifications C76-61 Class IV. In locations other than within the right-of-way of public roads where, because of severe topographic conditions or the desire to minimize the destruction of trees and vegetation, corrugated aluminum pipe, pipe arch, or helical corrugated pipe may be used upon approval of the Borough Engineer. The material used shall comply with the standard specification for Corrugated Aluminum Alloy Culvert Pipe and Pipe Arch AASHTO designation M-196-62 or the Standard Specification for Aluminum Alloy Helical Pipe AASHTO designation M-211-65. The minimum thickness of the aluminum pipe to be used shall be less than twenty-four-inch diameter or equivalent, 0.075 inches (14 gauge); twenty-four-inch diameter and less than forty-eight-inch diameter or equivalent, 0.105 inches (12

gauge); forty-nine-inch but less than seventy-two-inch diameter or equivalent and larger, 0.164 inches (eight gauge).

M. Catch basins shall be designed in accordance with the standard details of the Borough.

N. Manholes shall be precast concrete and shall be constructed in accordance with the Borough's standard details.

O. Poured concrete headwalls or precast flared end pipe sections shall be constructed in accordance with the latest New Jersey State Department of Transportation standard plans and specifications. They shall include precast, cast-in-place or grouted riprap energy dissipaters at the discharge point.

P. For both major and minor developments and site plans, blocks and lots shall be graded and swaled to secure proper drainage away from all buildings and to prevent the collection of stormwater in pools on any lot and to avoid concentration of stormwater from each lot to adjacent lots.

Q. Lots shall be graded to secure proper drainage away from the buildings. The minimum lawn grade shall be 2% and the maximum allowable slope shall be three-feet vertical to one-foot horizontal. Minimum pavement slope must be 0.50%. Additionally, drainage shall be provided in a manner which will prevent the collection of stormwater in pools or other unauthorized concentrations of flow and, to the greatest extent possible, water shall not flow across adjacent property lines.

R. Easements or rights-of-way shall be required in accordance with § 120-517 of this chapter, entitled "Easements," where stormwater management measures are installed outside streets.

S. Where a minor or major development is traversed by a watercourse, surface or underground drainageway or drainage system, channel or stream, or detention/retention pond, there shall be provided and dedicated a drainage right-of-way easement to the Borough conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate to accommodate expected stormwater runoff in the future based upon reasonable growth potential in the Borough and, in addition thereto, a minimum of 15 feet beyond the bank top on at least one side for access to the drainage right-of-way and, in any event, on any adopted Official Map or Master Plan or as required under § 120-517 of this chapter, entitled "Easements."

**§ 120-502.7. Stormwater management sources of technical guidance.**

**[Added 6-18-2007 by Ord. No. 2007-06]**

A. Technical guidance for stormwater management measures can be found in the documents listed at § 120-502.7A(1) and § 120-502.7A(2) below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone: (609) 777-1038.

(1) Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.

(2) The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.

**B.** Additional technical guidance for stormwater management measures can be obtained from the following:

(1) The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the soil conservation districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each soil conservation district may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540;

(2) The Rutgers Cooperative Extension Service, (732) 932-9306; and

(3) The soil conservation districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each soil conservation district may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625, (609) 292-5540.

**§ 120-502.8. Safety standards for stormwater management basins.**

**[Added 6-18-2007 by Ord. No. 2007-06]**

**A.** This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.

**B.** Requirements for trash racks, overflow grates and escape provisions.

(1) A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:

(a) The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars.

(b) The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.

(c) The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.

(d) The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.

(2) An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:

(a) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.

(b) The overflow grate spacing shall be no less than two inches across the smallest dimension.

(c) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.

(3) For purposes of this subchapter § 120-502.8B(3), escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:

(a) If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in § 120-502.8C, a freestanding outlet structure may be exempted from this requirement.

(b) Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than 2 1/2 feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately 2 1/2 feet below the permanent water surface, and the second step shall be located one to 1 1/2 feet above the permanent water surface. See § 120-502.8D for an illustration of safety ledges in a stormwater management basin.

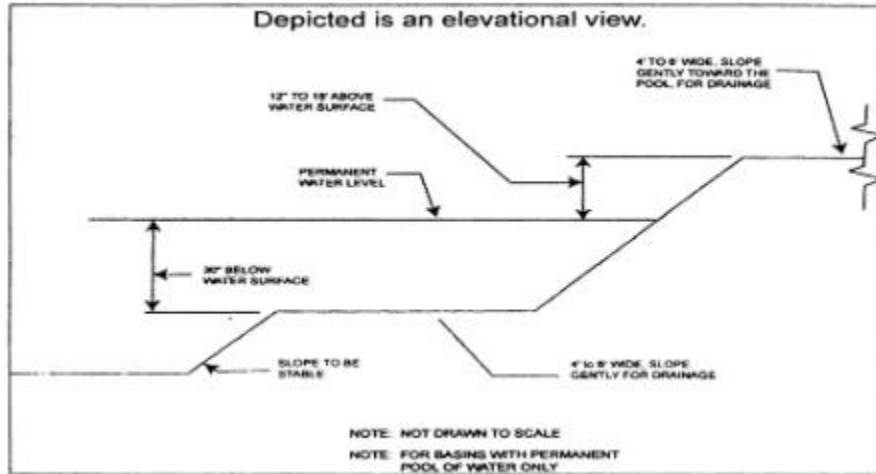
(c) In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.

#### C. Variance or exemption from safety standards.

(1) A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency

(municipality, county or Department) that the variance or exemption will not constitute a threat to public safety.

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



**§ 120-502.9. Requirements for a site development stormwater plan.**

[Added 6-18-2007 by Ord. No. 2007-06]

A. Submission of site development stormwater plan.

(1) Whenever an applicant seeks municipal approval of a development subject to this chapter, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at § 120-502.9C below as part of the submission of the applicant's application for subdivision or site plan approval.

(2) The applicant shall demonstrate that the project meets the standards set forth in this ordinance.

(3) The applicant shall submit 14 copies of the materials listed in the checklist for site development stormwater plans in accordance with § 120-502.9C.

B. Site development stormwater plan approval. The applicant's site development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the engineer retained by the Planning and/or Zoning Board (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

C. Checklist requirements. The following information shall be required:



(1) Topographic base map. The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of one inch equals 200 feet or greater, showing two-foot contour intervals. The map, as appropriate, may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and floodplains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and man-made features not otherwise shown.

(2) Environmental site analysis. A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

(3) Project description and site plan(s). A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

(4) Land use planning and source control plan. This plan shall provide a demonstration of how the goals and standards of §§ 120-502.3 through 120-502.6 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

(5) Stormwater management facilities map. The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

(a) Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.

(b) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

(6) Calculations.

(a) Comprehensive hydrologic and hydraulic design calculations for the predevelopment and postdevelopment conditions for the design storms specified in § 120-502.4.

(b) When the proposed stormwater management control measures (e.g., infiltration basins) depends on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

(7) Maintenance and repair plan. The design and planning of the stormwater management facility shall meet the maintenance requirements of § 120-502.10.

(8) Waiver from submission requirements. The municipal official or board reviewing an application under this ordinance may, in consultation with the Municipal Engineer, waive submission of any of the requirements in § 120-502.9C(1) through § 120-502.9C(6) when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

D. Within 30 days after construction and before final acceptance by the Borough, the applicant is to furnish the Borough one Mylar tracing of as-built drawings of the drainage and grading of the site, acceptable to the Borough Engineer, and six sets of prints (black on white) of each drawing showing the stormwater management facilities and principal grading elevations of the site as constructed.

E. The as-built plans shall accurately show the complete storm drainage system and grading of the site in sufficient detail to permit the future location and determination of all components of the system including: storm sewer lines, manholes, inlets, culverts, special drainage structures, elevations of principal features of the site to indicate compliance with approved plans and other pertinent features. The size, type, slopes and elevations of all pipelines shall be indicated and the elevation of all rims and grades shall be provided. The system and major components shall be dimensioned and tied to existing physical features as may be deemed appropriate by the Borough Engineer.

F. Approval for drainage structures shall be obtained from the appropriate municipal, county, state and federal agencies and offices. Each application shall make appropriate application to the Department, the Middlesex County Engineering Department and the Borough Engineer. Final approval shall not be effective until letters of approval from the proper governmental authorities shall be furnished to the Administrative Officer, with a copy of each such letter forwarded to the Borough Engineer.

G. Building drain overflow connection to storm drainage system. All proposed dwellings and buildings with a basement may provide an overflow connection to the storm drainage system for the purposes of utilizing this connection as a means for possible discharge of sump pump and/or gravity basement drains. If a building drain overflow connection to storm drainage

system is approved based upon the discretion of the Borough Engineer, the connection to the storm sewer shall meet the following:

(1) Each dwelling unit or other building with a basement shall be provided a four-inch-diameter (minimum) connection to be located between curb and sidewalk and five feet towards the center of the lot from the edge of the interior side of the driveway's depressed curb.

(2) Lots fronting roads with existing or proposed storm sewers will be permitted to provide an overflow connection in accordance with the Borough's Standard Basement Drainage Connection Details, based upon the discretion of the Borough's Engineer.

(3) Lots fronting roads with no existing or proposed storm sewer shall also be required to provide connection for basement drainage by providing a separate drainage system which shall discharge to an approved seepage pit for groundwater recharge purposes or to an approved storm sewer, drainage ditch, or by other methods as approved by the Borough Engineer. Construction of a separate drainage system shall be designed by a licensed professional engineer and submitted for to the Borough for approval of same.

H. Storm sewers located within 50 feet of a subsurface sewage disposal system shall be designed and constructed in a manner that will prevent infiltration of groundwater into the pipe; all piping and the manner installed shall be subject to approval by the Borough Engineer.

I. Regional stormwater management measures utilized by several property owners within the same HUC14 watershed are encouraged, and the feasibility of such joint facilities must be examined by the applicant and reported upon to the Borough Engineer and, where applicable, the Middlesex County Engineering Department.

**§ 120-502.10. Stormwater management maintenance and repair.**

[Added 6-18-2007 by Ord. No. 2007-06]

A. Applicability.

(1) Projects subject to review as in § 120-502.1C of this ordinance shall comply with the requirements of § 120-502.10B and C.

B. General maintenance.

(1) The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.

(2) The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines

for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.

(3) Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.

(a) Unless otherwise specifically approved by the reviewing agency, detention and retention basins for single-family dwellings in nonclustered subdivision shall be constructed on a separate lot specifically reserved for such purpose, which lot shall be dedicated to the Borough or owned and maintained in accordance with § 120-502.10B(2) above by a homeowners' association.

(b) Detention and retention basins for single-family dwellings in clustered subdivisions and for all multifamily residential developments shall be located in the common space to be maintained in accordance with § 120-502.10B(2) above by the homeowners' association.

(c) Detention and retention basins in nonresidential developments shall be owned and maintained in accordance with § 120-502.10B(2) above by the property owner(s).

(4) If the person responsible for maintenance identified under § 120-502.10B(2) above is not a public agency, the maintenance plan and any future revisions based on § 120-502.10B(7) below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.

(5) Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.

(6) The person responsible for maintenance identified under § 120-502.10B(2) above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.

(7) The person responsible for maintenance identified under § 120-502.10B(2) above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed. Such person shall report his findings to the Municipal Clerk annually by February 1 of the following year.

(8) The person responsible for maintenance identified under § 120-502.10B(2) above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by § 120-502.10B(6) and § 120-502.10B(7) above.

(9) The requirements of § 120-502.10B(3) and § 120-502.10B(4) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.

(10) In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have 14 days to effect maintenance and repair of the facility in a manner that is approved by the Municipal Engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or county may immediately proceed to do so and shall bill the cost thereof to the responsible person.

C. Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

#### **§ 120-502.11. Violations and penalties.**

**[Added 6-18-2007 by Ord. No. 2007-06]**

Any person, entity or association who erects, constructs, alters, repairs, converts, maintains, fails to maintain as required in this ordinance hereof, or otherwise uses any building, structure or land in violation of this ordinance, shall be subject to a fine of not more than \$2,000 and/or a term of imprisonment of no more than 30 days, or both. Each day that a violation persists shall be a separate violation hereof.

#### **§ 120-502.12. Effective date.**

**[Added 6-18-2007 by Ord. No. 2007-06]**

This ordinance *Editor's Note: "This ordinance," as used in §§ 120-502.1 through 120-502.13, means Ord. No. 2007-06, which added those sections to this chapter.* shall take effect after publication in accordance with law, which publication shall be made immediately upon the approval by the appropriate Middlesex County review agency, or 60 days from the receipt of the ordinance by the appropriate Middlesex County review agency if that review agency should fail to act.

#### **§ 120-502.13. Severability.**

**[Added 6-18-2007 by Ord. No. 2007-06]**

If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

**§ 120-502.14. Minimum acceptable riparian zone.**

**[Added 8-8-2011 by Ord. No. 2011-04]**

A. This section is consistent with all relevant sections of Middlesex County's Wastewater Management Plan bringing the municipality into compliance with New Jersey Department of Environmental Protection regulations.

B. Purpose and authority. The purpose of this section is to designate riparian zones, and to provide for land use regulation therein in order to protect the streams, lakes, and other surface water bodies of the Borough of Spotswood and to comply with N.J.A.C. 7:15-5.25(g)3, which requires municipalities to adopt an ordinance that prevents new disturbance for projects or activities in riparian zones as described herein. Compliance with the riparian zone requirements of this section does not constitute compliance with the riparian zone or buffer requirements imposed under any other federal, state or local statute, regulation or ordinance.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

**ACID-PRODUCING SOILS**

Soils that contain geologic deposits of iron sulfide minerals (pyrite and marcasite) which, when exposed to oxygen from the air or from surface waters, oxidize to produce sulfuric acid. Acid-producing soils, upon excavation, generally have a pH of 3.0 or lower. Information regarding the location of acid-producing soils in New Jersey can be obtained from local Soil Conservation District offices.

**APPLICANT**

A person, corporation, government body or other legal entity applying to the Planning Board, Board of Adjustment or the Construction Office proposing to engage in an activity that is regulated by the provisions of this section, and that would be located in whole or in part within a regulated riparian zone.

**CATEGORY ONE WATERS or C1 WATERS**

The meaning ascribed to this term by the Surface Water Quality Standards, N.J.A.C. 7:9B, for purposes of implementing the antidegradation policies set forth in those standards, for protection from measurable changes in water quality characteristics because of their clarity, color, scenic setting, and other characteristics of aesthetic value, exceptional ecological significance, or exceptional fisheries resources.

**DISTURBANCE**

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

**INTERMITTENT STREAM**

A surface water body with definite bed and banks in which there is not a permanent flow of water and shown on the New Jersey Department of Environmental Protection

Geographic Information (GIS) hydrography coverages or, in the case of a Special Water Resource Protection Area (SWRPA) pursuant to the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the United States Geological Survey quadrangle map or in the county soil surveys.

**LAKE, POND, or RESERVOIR**

Any surface water body shown on the New Jersey Department of Environmental Protection Geographic Information System (GIS) hydrography coverages or, in the case of a Special Water Resource Protection Area (SWRPA) pursuant to the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the United States Geological Survey quadrangle map or in the county soil surveys; that is an impoundment, whether naturally occurring or created in whole or in part by the building of structures for the retention of surface water. This excludes sedimentation control and stormwater retention/detention basins and ponds designed for treatment of wastewater.

**PERENNIAL STREAM**

A surface water body that flows continuously throughout the year in most years and shown on the New Jersey Department of Environmental Protection Geographic Information System (GIS) hydrography coverages or, in the case of a Special Water Resource Protection Area (SWRPA) pursuant to the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the United States Geological Survey quadrangle map or in the county soil surveys.

**RIPARIAN ZONE**

The land and vegetation within and directly adjacent to all surface water bodies including, but not limited to lakes, ponds, reservoirs, perennial and intermittent streams, up to and including their point of origin, such as seeps and springs, as shown on the New Jersey Department of Environmental Protection's GIS hydrography coverages or, in the case of a Special Water Resource Protection Area (SWRPA) pursuant to the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the United States Geological Survey quadrangle map or in the county soil surveys. There is no riparian zone along the Atlantic Ocean nor along any man-made lagoon or oceanfront barrier island, spit or peninsula.

**SPECIAL WATER RESOURCE PROTECTION AREA or SWRPA**

A three-hundred-foot area provided on each side of a surface water body designated as a C1 water or tributary to a C1 water that is a perennial stream, intermittent stream, lake, pond, or reservoir, as defined herein and shown on the United States Geological Survey quadrangle map or in the county soil surveys within the associated HUC 14 drainage, pursuant to the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h).

**SURFACE WATER BODY(IES)**

Any perennial stream, intermittent stream, lake, pond, or reservoir, as defined herein. In addition, any regulated water under the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-2.2, or state open waters identified in a letter of interpretation issued under the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A-3 by the New Jersey Department of Environmental Protection Division of Land Use Regulations shall also be considered surface water bodies.

**THREATENED OR ENDANGERED SPECIES**

A species identified pursuant to the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-1 et seq., the Endangered Species Act of 1973, 16 U.S.C. § 1531 et seq.,

or the Endangered Plant Species List, N.J.A.C. 7:5C-5.1, and any subsequent amendments thereto.

**TROUT MAINTENANCE WATER**

A section of water designated as trout maintenance in the New Jersey Department of Environmental Protection's Surface Water Quality Standards at N.J.A.C. 7:9B.

**TROUT PRODUCTION WATER**

A section of water identified as trout production in the New Jersey Department of Environmental Protection's Surface Water Quality Standards at N.J.A.C. 7:9B.

D. Establishment and protection of riparian zones.

(1) Except as provided in Subsections D and E, below, riparian zones adjacent to all surface water bodies shall be protected from avoidable disturbance and shall be delineated as follows:

(a) The riparian zone shall be 300 feet wide along both sides of any Category One water (C1 water), and all upstream tributaries situated within the same HUC 14 watershed.

(b) The riparian zone shall be 150 feet wide along both sides of the following waters not designated as C1 waters:

[1] Any trout production water and all upstream waters (including tributaries);

[2] Any trout production water and all upstream waters (including tributaries) within one linear mile as measured along the length of the regulated water;

[3] Any segment of a water flowing through an area that contains a documented habitat for a threatened or endangered species of plant or animal, which is critically dependent on the surface water body for survival, and all upstream waters (including tributaries) within one linear mile as measured along the length of the regulated water; and

[4] Any segment of a water flowing through an area that contains acid-producing soils.

(c) For all other surface water bodies, a riparian zone of 50 feet wide shall be maintained along both sides of the water.

(2) If a discernible bank is not present along a surface water body, the portion of the riparian zone outside the surface water body is measured landward as follows:

(a) Along a linear fluvial or tidal water, such as a stream, the riparian zone is measured landward of the feature's center line;

(b) Along a nonlinear fluvial water, such as a lake or pond, the riparian zone is measured landward of the normal water surface limit;



(c) Along a nonlinear tidal water, such as a bay or inlet, the riparian zone is measured landward of the mean high water line; and

(d) Along an amorphously-shaped feature such as a wetland complex, through which water flows but which lacks a discernible channel, the riparian zone is measured landward of the feature's center line.

(3) The applicant or designated representative shall be responsible for the initial determination of the presence of a riparian zone on a site, and for identifying the area of the riparian zone on any plan submitted to the Borough of Spotswood in conjunction with an application for a construction permit, subdivision, land development, or other improvement that requires plan submissions or permits. The initial determination shall be subject to review and approval by the Municipal Engineer, governing body, or its appointed representative, and, where required by state regulation, the New Jersey Department of Environmental Protection.

E. Variances. To the extent allowed by the Stormwater Management Rules (N.J.A.C. 7:8), the Flood Hazard Area Control Act Rules (N.J.A.C. 7:13), and the Highlands Water Protection and Planning Act Rules (N.J.A.C. 7:38), new disturbances for projects or activities in the riparian zone established by this section may be allowed through the Zoning Board of Adjustment review and approval of a variance, provided the disturbance is proposed to be located on a preexisting lot (existing as of the effective date of this section) when there is insufficient room outside the riparian zone for the proposed use otherwise permitted by the underlying zoning; there is no other reasonable or prudent alternative to placement in the riparian zone, including obtaining variances from setback or other requirements that would allow conformance with the riparian zone requirements; and upon proof by virtue of submission of appropriate maps, drawings, reports and testimony, that the disturbance is:

(1) Necessary to protect public health, safety or welfare;

(2) To provide an environmental benefit;

(3) To prevent extraordinary hardship on the property owner peculiar to the property; or

(4) To prevent extraordinary hardship, provided the hardship was not created by the property owner by not allowing a minimum economically viable use of the property based upon reasonable investment.

F. Exceptions. To the extent allowed under the Stormwater Management Rules (N.J.A.C. 7:8), the Flood Hazard Area Control Act Rules (N.J.A.C. 7:13), and the Highlands Water Protection and Planning Act Rules (N.J.A.C. 7:38) and subject to review and approval by the New Jersey Department of Environmental Protection to the extent required by those rules, the following disturbances for projects or activities in the riparian zone established by this section are allowed:

(1) Redevelopment within the limits of existing impervious surfaces;

(2) Linear development with no feasible alternative route;

(3) Disturbance that is in accordance with a stream corridor restoration or stream bank stabilization plan or project approved by the New Jersey Department of Environmental Protection;

(4) Disturbance necessary to provide for public pedestrian access or water-dependent recreation that meets the requirements of the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A, the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13, or the Coastal Zone Management Rules, N.J.A.C. 7:7E; or

(5) Disturbance with no feasible alternative required for the remediation of hazardous substances performed with New Jersey Department of Environmental Protection or federal oversight pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq. or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 et seq.

#### G. Appeals, conflicts, and severability.

(1) Any party aggrieved by the location of the riparian zone boundary determination under this section may appeal to the Borough of Spotswood contact under the provisions of this section. The party contesting the location of the riparian zone boundary shall have the burden of proof in case of any such appeal.

(2) Any party aggrieved by any determination or decision of the Borough of Spotswood contact under this section may appeal to the governing body of the Borough of Spotswood. The party contesting the determination or decision shall have the burden of proof in case of any such appeal.

(3) Conflicts. All other ordinances, parts of ordinances, or other local requirements that are inconsistent or in conflict with this section are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this section shall apply.

(4) Severability.

(a) This section shall be so construed as not to conflict with any provision of New Jersey or federal law.

(b) If any provision of this section is held to be invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the Ordinance shall continue to be of full force and effect.

(c) This section shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

#### H. Enforcement.

(1) A prompt investigation shall be made, by the Borough Engineer of the Borough of Spotswood, of any person or entity believed to be in violation hereof. If, upon inspection, a condition which is in violation of this section is discovered, a civil action in the Special Part of the Superior Court, or in the Superior Court, if the primary relief sought is injunctive or if penalties may exceed the jurisdictional limit of the Special Civil Part, by the filing and serving of appropriate process. Nothing in this section shall be construed to preclude the right of the Borough of Spotswood, pursuant to N.J.S.A. 26:3A2-25, to initiate legal proceedings hereunder in Municipal Court. The violation of any section or subsection of this section shall constitute a separate and distinct offense independent of the violation of any other section or subsection, or of any order issued pursuant to this section.

(2) Any person(s) who is found to be in violation of the provisions of this section shall be subject to a fine not to exceed \$1,250.

**§ 120-502.15. Steep slope terrain.**

**[Added 8-8-2011 by Ord. No. 2011-05]**

A. This section is consistent with all relevant sections of Middlesex County's Wastewater Management Plan bringing the municipality into compliance with New Jersey Department of Environmental Protection regulations.

B. Purpose. The purpose of this section is to regulate the intensity of use in areas of steeply sloping terrain in order to limit soil loss, erosion, excessive stormwater runoff, the degradation of surface water and to maintain the natural topography and drainage patterns of land.

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

D. Applicability. This section shall be applicable to new development or land disturbance on a steep slope within the Borough of Spotswood.

E. Definitions. As used in this section, the following terms shall have the meanings indicated:

**DISTURBANCE**

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

**IMPERVIOUS SURFACE**

Any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

#### **REDEVELOPMENT**

The construction of structures or improvements on areas which previously contained structures or other improvements.

#### **STEEP SLOPE**

Any slope equal to or greater than 20% as measured over any minimum run of 10 feet. Steep slopes are determined based on contour intervals of two feet or less.

F. Designation of areas. The percent of slope (rise in feet per horizontal distance) shall be established by measurement of distance perpendicular to the contour of the slope. The percent of slope shall be calculated for each two-foot contour interval. For example, any location on the site where there is a one-foot rise over a ten-foot horizontal run constitutes a slope of 10%; a one-and-one-half-foot rise over a ten-foot horizontal run constitutes a slope of 15%; a two-foot rise over a ten-foot horizontal run constitutes a slope of 20%.

#### G. Steep slope limits.

(1) For steep slopes any disturbance shall be prohibited except as provided below:

(a) Redevelopment within the limits of existing impervious surfaces; and

(b) New disturbance necessary to protect public health, safety or welfare, such as environmental benefit, such as remediation of a contaminated site; to prevent extraordinary hardship on the property owner peculiar to the property; or to prevent extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment. For example, redevelopment, within the footprint of existing impervious cover, should be allowed to support efforts to revitalize development that has fallen into disrepair.

(2) The applicant shall demonstrate through site plans depicting proposed development and topography that new disturbance is not located in areas with a twenty-percent or greater slope.

#### H. Conflicts and severability.

(1) Conflicts. All other ordinances, parts of ordinances, or other local requirements that are inconsistent or in conflict with this section are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this section apply.

(2) Severability.

(a) Interpretation. This section shall be so construed as not to conflict with any provision of New Jersey or federal law.

(b) Notwithstanding that any provision of this section is held to be invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the section shall continue to be of full force and effect.

(c) The provisions of this section shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

#### I. Enforcement, violations and penalties.

(1) A prompt investigation shall be made by the appropriate personnel of the Borough of Spotswood of any person or entity believed to be in violation hereof. If, upon inspection, a condition which is in violation of this section is discovered, a civil action in the Special Part of the Superior Court, or in the Superior Court, if the primary relief sought is injunctive or if penalties may exceed the jurisdictional limit of the Special Civil Part, by the filing and serving of appropriate process. Nothing in this section shall be construed to preclude the right of the Borough of Spotswood, pursuant to N.J.S.A. 26:3A2-25, to initiate legal proceedings hereunder in Municipal Court. The violation of any section or subsection of this section shall constitute a separate and distinct offense independent of the violation of any other section or subsection, or of any order issued pursuant to this section. Each day a violation continues shall be considered a separate offense.

(2) Any person(s) who is found to be in violation of the provisions of this section shall be subject to a fine not to exceed \$1,250.

## ARTICLE 600: LAND DEVELOPMENT REGULATIONS

### **§ 120-601. Off-street parking, loading and driveways**

#### A. General Provisions

1. Off-street parking, unloading and service requirements of this section shall apply and govern in all present and future zoning districts within the Borough. Except as provided in this section, no application for a building permit shall be approved unless there is included with the plan for such building, improvement or use a plot plan showing the required space reserved for off-street parking, unloading and service purposes. An occupancy permit shall not be given unless the required off-street parking, unloading and service facilities have been provided in accordance with those shown on the approved plan.
2. No land shall be used or occupied, no structure shall be designed, created, altered, used or occupied, and no use shall be operated unless off-street parking and loading facilities are provided in at least the amount and maintained in the manner required by this section. No other standard shall be applied. If this chapter does not provide a parking standard for a particular use, the Board may be guided by an alternative parking standard for comparative purposes only.
3. For residential developments, the number of required parking spaces shall be determined by the number of bedrooms per dwelling unit based on the current Residential Site Improvement Standards issued by the State of New Jersey. For all non-residential uses, minimum number of spaces shall be based on the requirements of this chapter. If no specific requirement is provided, the Board may be guided by the standards of The Institute of Transportation Engineers, the Urban Land Institute, American Planning Association or other recognized planning sources for informational purposes.
4. All properties in the Borough of Spotswood shall be subject to all design requirements contained in this subsection, except single-family and two-family residential dwellings, which shall be exempt from site plan review. Driveway and parking requirements for single-family and two-family residential dwellings shall be subject to the "General Regulations" Subsection of this Chapter §120-301.

#### B. Parking Lot Design Standards.

1. The minimum parking space requirement shall be provided. No off-street parking area shall be reduced in size or encroached upon by any building, vehicle storage, loading or unloading space or any other use where such reduction or encroachment will reduce the off-street parking and loading spaces below that required by these regulations.
2. Off-street parking spaces for all uses shall be provided on the same lot as the main building to be served by such parking.
3. All off-street parking, off-street loading and service areas shall be separated from walkways, sidewalks, streets or alleys by curbing or other protective device.

4. Each off-street parking, loading or service area shall be connected to a public street right-of-way by means of a driveway or access-way.
5. No parking of vehicles shall be permitted in fire lanes, streets, driveways, landscaped areas, aisles, buffer areas, sidewalks or turning areas. Where sidewalks occur in parking areas, parked vehicles shall not overhang or extend over the sidewalk unless an additional two (2) feet of sidewalk width is provided to accommodate such overhang. The arrangement of off-street parking and loading spaces shall be such that no vehicle shall have occasion to back into any street.
6. Internal roads, parking access aisles, parking areas, curbs and landscaping shall be designed to comply with Borough and/or RSIS standards and reasonably accommodate the turning movements of emergency vehicles regularly and routinely serving the Borough of Spotswood without requiring the mounting of curbs or interference with landscaping. Moreover, where required by the Planning Board and/or Borough Fire Official or other such designated Borough official, there shall be a designated fire lane at least 18 feet in width in front of the primary entrance into the principal building where the parking of vehicles shall not be permitted.
7. Where there is a row of contiguous parking stalls facing the facade of a building, there shall be a distance of at least ten feet (10') in width between the building facade and the parking stalls, defined by curbing, to allow access of emergency personnel to the facade of each building facing such parking.
8. A private walk, if provided adjacent to a building, shall be not less than four (4) feet in width and shall be in addition to the other requirements of this section.
9. All off-street parking spaces shall be not less than nine (9') feet wide nor less than eighteen (18') feet deep. Parallel spaces shall be nine (9') feet wide x twenty-two (22') deep.
10. Access driveways shall be at least twenty-four (24') feet wide where used with ninety (90°) degree-angle parking, at least twenty (20') feet wide where used with sixty (60°) degree-angle parking and at least eighteen (18') feet wide where used with forty-five (45°) degree-angle parking and at least fifteen (15') feet wide where used with thirty (30°) degree-angle parking or parallel parking.
11. Two-way traffic is only permitted with a driveway at least twenty-four (24') feet wide. Interior driveways shall be at least twelve (12) feet wide for one-way traffic movement and at least twenty-four (24) feet wide for two-way traffic movement. A one-way access driveway, exclusive of curb return radii, shall be not less than twelve (12) feet or more than thirty-six (36) feet in width.
12. All parking areas and driveways shall be set back minimum five feet (5') from all property lines.
13. At the intersection of streets, except lanes and alleys, a curb cut shall be set back not less than twenty-five (25) feet from the intersection of two (2) curb lines or such lines extended and shall be set back not less than five (5) feet from the intersection of two (2) property lines or such lines extended. Between the curb returns for any two (2) driveways

serving the same property, there shall be at least twenty-five (25) feet of curb, except that this distance may be reduced to as little as five (5) feet where it is demonstrated that restricted frontage makes this necessary in order to provide not more than two (2) adequate driveways for the property.

14. For non-residential uses and all multiple-family developments, all parking and loading areas, maneuvering spaces or access aisles shall be set back at least ten feet (10') from any street line.
15. Each off-street parking space shall be clearly marked, with 4"-6" painted lines and pavement directional arrows or signs shall be provided wherever necessary.
16. The off-street parking requirements for two (2) or more non-residential neighboring uses of the same or different types located on the same lot or on contiguous lots and within the same zoning district may be satisfied by the allocation of the required number of spaces for each use in a common parking facility, provided that the number of off-street parking spaces is not less than the sum of individual requirements, except that any use whose peak attendance will be at night or on Sundays, such as churches, theaters and assembly halls, may be assigned to a use which will be closed at night or on Sundays.
17. Parking spaces may be on, above or below the surface of the ground. When parking spaces are provided within a multi-level garage or other structure, said structure shall be considered a building and adhere to the principal building setbacks of the zone in which it is located.
18. For the purpose of this section, the number of employees shall be computed on the basis of the maximum number of persons to be employed at any one time, taking into consideration day, night and seasonal variations.
19. When units of measurement determining the number of required off-street parking spaces and off-street loading spaces result in the requirement of a fractional space, any fraction up to and including one-half (1/2) shall be disregarded and any fraction over one-half (1/2) shall require one (1) off-street parking or loading space.
20. Parking for the physically handicapped shall comply with the requirements of the Barrier-Free Subcode of the New Jersey Uniform Construction Code, N.J.A.C. 5:23-7.13 and 5:23-7:14, and/or its successors.

### C. Street Access and Circulation

- (1) Access to parking lots shall be designed so as not to induce queues on travel ways and to provide adequate pedestrian circulation and safety. There shall be adequate provision for ingress to and egress from all parking spaces to ensure ease of mobility, ample clearance, and the safety of vehicles and pedestrians.
- (2) The center lines of any separate access points to a single lot shall be spaced at least 100 feet apart, shall handle no more than three lanes of traffic, and shall be set back from the street line of any intersecting street at least 50 feet.



- (a) Only one (1) driveway access shall be permitted for any lot with 150 feet or less of frontage; for lots with 150 feet to 300 feet of frontage, two (2) driveways shall be permitted; and for lots with greater than 300 feet of frontage, the number of driveways shall be determined during the development application review and approval process.
- (b) Continuous open driveways having a width exceeding 16 feet at the street line shall be prohibited, except that two-way driveways serving nonresidential uses and multiple-family developments shall be at least 24 feet wide but no greater than 36 feet wide. The minimum width of any driveway shall be 12 feet. In all instances, due consideration to the proposed width, curbing, direction of traffic flow, radii of curves and method of dividing traffic lanes shall be given.
- (3) All points of access to nonresidential and multifamily development shall be graded, and adequate drainage facilities shall be installed to prevent stormwater runoff from entering the public road. Any vertical curve on a driveway shall be flat enough to prevent the dragging of any vehicle undercarriage. All driveway profiles and grades shall be submitted to and approved by the Borough Engineer. Should a sidewalk be so located with respect to the curb at a driveway opening that a vehicle undercarriage is likely to drag, the sidewalk involved shall be adequately depressed or elevated to avoid such a result.
- (4) No driveway access on any nonlocal road shall be located on the following: on a traffic circle; on a ramp of an interchange; within 50 feet of the beginning of any ramp or other portion of an interchange; or on any portion of such road where the grade has been changed to accommodate an interchange.
- (5) Driveways used for two-way operation shall intersect any road at an angle as near 90° as site conditions will permit and in no case less than 75°. Driveways used by vehicles in one direction of travel (right turn only) may form an angle smaller than 75°, but only with a nonlocal road and when acceleration and deceleration lanes are provided.
- (6) Where a driveway serves right-turning traffic from a parking area containing 200 or more parking spaces and the abutting road is classified as a non-local road, an acceleration lane shall be provided in accordance with "A Policy of Geometric Design of Rural Highways," American Association of State Highway and Transportation Officials. Where a driveway serves as an entrance to a development containing 50 or more parking spaces, a deceleration lane shall be provided for traffic turning right into the driveway from any collector, secondary or arterial road. The deceleration lane shall be at least 200 feet long and 13 feet wide measured from the abutting roadway curb line. A minimum forty-foot curb return radius shall be used from the deceleration lane into the driveways.
- (7) Any curb opening shall be properly reconstructed to the satisfaction of the Borough Engineer. Where curbing does not exist and conditions warrant, an adequate drainpipe shall be installed by the owner, at the owner's expense, as determined by the Borough Engineer and prior to the issuance of a building permit on the abutting lot.
- (8) Driveway grades shall not exceed 10%.

#### D. Construction Details for Paving and Curbing.

(1) All parking and loading areas and access drives shall be paved as provided below except that the Board, at the request of the applicant and in consideration of the specific parking needs of the applicant, may permit a reduction in the paved area devoted to parking, provided that:

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

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

(c) The applicant shall provide in writing on the submitted plan the conditions upon which banked, non-paved parking areas should be paved.

(2) All parking and loading areas and access drives shall be paved as outlined below unless otherwise specified by the Board and approved as part of the development application approval. All parking areas, regardless of size and location, shall be suitably drained and maintained.

(a) Areas of ingress and egress, parking stalls, loading and unloading areas, major interior driveways or access aisles and other areas likely to experience heavy traffic shall be paved with not less than six inches of compacted base course of plant mixed bituminous, stabilized base course (Mix No. I-2), constructed in layers of not more than three inches compacted thickness and prepared and constructed in accordance with New Jersey State Highway Standard Specifications for Road and Bridge Construction (1989) and any amendments thereto. A minimum two inches compacted wearing surface of bituminous concrete mixtures (Mix No. I-5) shall be constructed thereon in accordance with the aforesaid New Jersey Highway Department specifications and amendments thereto.

(b) Where subgrade conditions of proposed paved areas are wet, yielding or of such a nature that surfacing would be inadvisable without first treating the subgrade, the areas shall be excavated to a suitable depth below the proposed grade and filled with dense graded aggregate base materials as approved by the Borough Engineer. Where required by the Borough Engineer, a system of subsurface drains or an alternate solution approved by the Borough Engineer shall be constructed beneath the surface of the paved area and connected to a suitable drain. After the subbase material has been properly placed and compacted, the surfacing material, as described heretofore, shall be constructed thereon.

(3) All paved parking and loading areas and access drives shall be curbed, except single-family residential driveways. Curbing shall be depressed at the driveway or the curbing may be rounded at the corners and the driveway connected with the street in the same manner as another street.

(4) All construction shall be in accordance with the standard construction and detail sheets, Editor's Note: Detail sheets are included at the end of this chapter. as may be promulgated by the Borough Engineer and adopted by the Borough according to law, and the New Jersey Standard Specifications for Road and Bridge Construction (1989), latest edition, and any amendments thereto.

(5) All off-street parking, off-street loading and service facilities shall be so drained as to prevent damage to abutting properties or public streets and shall be constructed of materials which will assure a surface resistant to erosion. Such drainage and materials shall be installed as required by the engineer. All such areas shall be at all times maintained at the expense of the owners thereof in a clean, orderly and dust-free condition.

#### E. Minimum Number of Parking Spaces.

Minimum space requirements for off-street parking area shall be as follows:

- (1) Retail sales, drugstores, convenience stores and all other personal service uses not specified: one (1) parking space per 150 square feet of gross floor area.
- (2) Barber shops, beauty salons, day spas: one (1) parking space per 100 square feet of gross floor area.
- (3) Grocery stores, supermarkets: one (1) parking space per 200 square feet of gross floor area.
- (4) Mixed-use strip malls and shopping centers greater than 15,000 SF: four (4) parking spaces per 1,000 square feet of gross floor area of the entire facility.
- (5) General offices: one (1) parking space per 250 square feet of gross floor area.
- (6) Medical or dental offices: one (1) parking space per 100 square feet of gross floor area.
- (7) Hospitals, veterinary clinics or walk-in medical centers: one (1) space per 100 square feet of gross floor area.
- (8) Banks: one parking space per 200 square feet of gross floor area. Additionally, all drive-in banks shall provide vehicle stacking for at least ten (10) automobiles per drive-in window for queuing purposes, and one (1) by-pass lane for the drive-through facility.
- (9) Restaurant, tavern, bakery, deli, coffee shop, cafés or similar sit-down eating establishments: one (1) parking space per 75 square feet of gross floor area.
- (10) Drive-in or drive-through restaurants and similar eating establishments shall provide one parking space per 50 square feet of gross floor area. Additionally, drive-in restaurants shall provide stacking room for at least fifteen (15) automobiles per drive-in window for queuing purposes.
- (11) Automotive repair, service, sales, or washing uses shall provide four (4) spaces, plus one (1) parking space per refueling position, plus one (1) space per service bay, plus one (1) space per vehicle wash lane, plus one (1) space per vacuum station, plus one (1) space per 1,600 SF of vehicle display space.
- (12) Indoor recreation, dancing, bowling, skating, climbing, gymnastics, karate, art studios or similar places of assembly: one (1) parking space per 150 square feet of gross floor area.

- (13) Movie theatres: one (1) parking space per 2 seats.
- (14) Hotels or motel: one (1) parking space per room, plus one (1) per employee at maximum shift, plus one (1) per 200 square feet of meeting, conference or banquet hall space.
- (15) Mortuary or Funeral Homes: one (1) parking space per 25 square feet of chapel or assembly space, plus one (1) space per funeral vehicle, which may be kept inside.
- (16) Fraternal clubs, lodges, social halls, non-profit service foundations: one (1) parking space per 150 square feet of gross floor area.
- (17) All houses of worship: one space per every three (3) seats in a sanctuary or chapel space or part thereof, plus shall satisfy any additional requirement for office, social gathering, classroom, or other spaces. One seat shall be considered 24 inches in calculating the capacity of pews or benches. For faiths not customarily using formal seating in prayer the requirement shall be one space per three (3) persons permitted by building/fire code occupancy (whichever is more restrictive) in the prayer room space.
- (18) All school buildings, public or private (Grades K-6) shall provide one space per employee; intermediate schools (Grades 7-9) shall provide 1.5 spaces per employee; secondary schools (Grades 10-12) shall provide 2.5 spaces per employee; and in all cases, sufficient space for school bus loading and unloading shall be provided.
- (19) Industrial, laboratory, warehouse, manufacturing, self-storage and similar uses shall provide (1) one space for every 3,000 square feet or fraction thereof of gross floor area for inside storage or warehousing, plus one space for every 800 square feet or fraction thereof of gross floor area used for research laboratories or manufacturing.
- (20) All other uses not listed shall provide adequate on-site parking to accommodate the permitted activities and shall be subject to the review and approval of the Planning Board during site plan review.

#### F. Parking Lot Landscaping, Screening and Buffering.

(1) For parking lots of more than five (5) vehicles, an evergreen planting row, fence, wall or combination thereof, no less than three (3') or more than seven feet (7') in height, shall be provided surrounding the parking lot and between any lot lines, street lines and any other exposed sides of the parking lot. In locations where a sight triangle or corner vision clearance area is required, such plantings may have their height reduced accordingly.

(2) In addition to all other landscaping requirements, parking lots containing more than five (5) parking spaces shall be subject to the parking landscaping requirements found in the Landscaping Chapter §120-603 of this ordinance.

(3) All parking, loading, HVAC equipment, transformers, dumpster enclosures, donation bin enclosures and similar utilitarian compounds shall be screened with solid fencing and shall be surrounded with a 5' deep landscape buffer area. Such screening shall be by an extension of the building, a fence, berm, wall, planting or combination thereof and shall not be less than six (6) feet in height. Landscape areas shall be heavily planted with a mix of all season screening plantings, minimum 6' high, designed in order to obscure their view from any public street and adjacent property throughout the year.

(4) Where a parking lot in any zone abuts a residential zone or a residential use on an abutting lot, a 15' deep buffer area shall be provided between the parking lot and the abutting zone or use. The buffer area shall provide a solid 8' high fence and rows of all-season trees, shrubs and plantings to screen and buffer the uses from each other.

G. Loading.

(1) Minimum. Each principal building or use greater than 1,000 SF used for commercial, institutional or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, shall provide at minimum one (1) off-street loading space at the side or rear of the building or within the building. Each loading space shall be at least 15 feet in width by 48 feet in length with adequate ingress and egress from a public street and with adequate space for maneuvering. Additional spaces may be necessary and required dependent upon the specific activity. Loading and unloading areas shall be permitted only in the side and rear yards. There shall be no loading or unloading from the street.

(2) Additional spaces. Loading and unloading shall be provided according to the following schedule:

Gross Floor Area:	Spaces Required:
0 to 1000 SF	Exempt
1,001 to 25,000 SF	One (1) space
25,001 to 50,000 SF	Two (2) spaces
50,001 to 75,000 SF	Three (3) spaces
75,001 to 100,000 SF	Four (4) spaces
100,000 SF or greater	Four (4) spaces + 1 space per each additional 50,000 SF

(3) Screening. All loading areas shall be screened in order to obscure their view from any public street and adjacent property throughout the year.

H. Special vehicle parking regulations for residential zones

(1) Parking of commercial vehicles. One (1) registered commercial vehicle, with one rear axle, of a rated capacity not exceeding eight tons, eight feet in width, 20 feet in length, or nine feet in height (excluding any radio antennae) owned or used by a resident of the premises, shall be permitted to be regularly parked or garaged on any residential lot. One (1) registered commercial vehicle of a rated capacity not exceeding 1 1/2 tons on four wheels, 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. 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 with the New Jersey or other State Division of Motor Vehicles, 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 on any residential lot only on a paved driveway or in a rear or side yard area. The dimensions of 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 under this subsection.

## **§ 120-602. Lighting Requirements**

### A. Lighting Requirements for all zones.

- (1) All parking, loading and driveway areas and walkways thereto and appurtenant passageways serving commercial, public, office, multiple-family or other uses having common off-street parking and/or loading areas shall be adequately illuminated for security and safety purposes.
- (2) The light intensity provided at ground level shall be indicated in foot-candles on the submitted plans and shall average at least 0.5 foot-candles at intersections and a minimum of 0.3 foot-candles in all areas to be illuminated.
- (3) The lighting plan in and around the parking areas shall provide for non-glare, recessed lens lights focused downward so as to prevent light from spilling onto adjacent properties. The foot-candle level at beyond property lines shall not exceed 0.0 foot-candles.
- (4) Lighting shall be provided by building or pole fixtures with a mounting height not more than 18 feet high measured from the ground level to the center line of the light source.
- (5) All existing and proposed outdoor lighting shall be shown on a lighting plan in sufficient detail to allow a determination of the effects upon adjacent properties, traffic safety and overhead skyglow. The objective of these specifications is to minimize undesirable off-premises effects. No light shall shine into windows or onto streets and driveways in such a manner as to interfere with or distract driver vision. To achieve these requirements, the intensity of such light sources, the light shielding and similar characteristics shall be subject to site plan approval.

## **§ 120-603. Landscaping Requirements**

### A. General regulations for all zones.

- (1) All areas in a development not used for construction of buildings, roads, access ways, parking or sidewalks shall be fully landscaped.
- (2) Natural site features, such as existing trees, streams, rock outcroppings, etc., shall be preserved wherever possible. Whenever such natural features are absent or insufficient or have been destroyed during the development of the site, additional new plantings of a sufficient size as determined by the municipal agency shall be established to provide environmental protection to beautify the buildings and grounds and to provide privacy, shade and the screening out of objectionable features created on the site. Landscaping provided as part of any development plan should provide for a variety and mixture of plantings. The selection should consider susceptibility to disease, colors, growing season, textures, shapes, blossoms, and foliage as well as local soil conditions and water availability. The site plan and/or subdivision plan shall show the location, species, size at planting and quantity of each plant. All plant material shall be guaranteed for at least two (2) years from the date of planting, and any plant material which does not survive within that time period shall be replaced by plant material of the same size and species at the expense of the developer.
- (3) Landscape plans shall be required, except for existing single and two-family homes, where no plan is required. All landscape plans shall have a schedule of the Latin and common name, the quantity, the size, spacing and method of planting of each plant material. The Board, at its discretion, may consult with a landscape architect regarding the appropriateness of the landscaping plan as it relates to the physical characteristics of the site and the proposed use of the land.
- (4) A foundation planting on three sides of all buildings shall be required for all new construction.
- (5) For the protection and enjoyment of natural features, the Board may require conservation area easements or conservation area deed restrictions, and may require that such areas be delineated by monuments.

### B. Soil Removal.

Topsoil or rock shall be removed from or be imported to any site within the Borough without prior approval of the Director of Public Works and in accordance with §171, Soil Removal. Additionally, regarding applications for major subdivision or major site plan development only, the applicant shall provide the Planning Board, with an estimate of the total amount of soil or rock to be excavated from the site and the total amount of soil or rock to be imported to the site. The Planning Board shall review the data as part of its review of the application for development. The information provided by the applicant also shall include an addressment as to how the soil is to be distributed and stabilized, including grades and



contours. Moreover, if soil is to be imported to the site, the applicant shall describe, to the satisfaction of the Borough Engineer, the method and frequency of the testing of the imported soil in order to ensure its quality. Finally, the applicant shall describe the size and number of vehicles that are anticipated to haul the removed or imported soil or rock together with proposed truck routes.

C. Buffer regulations for non-single-family zones.

- (1) A minimum landscaped area of five (5) feet in width shall be provided along all property lines in all zones unless otherwise restricted.
- (2) All buffers and landscaped areas shall be protected from adjacent parking areas by curbs, or concrete, metal or wood bumpers at least six inches in height and securely anchored into the ground.
- (3) Retaining walls shall not be permitted within buffer areas unless approved as part of site plan approval.
- (4) In all zones where non-single-family zone lines abut an R-10, R-7.5 or R-5 single-family residential zone or use, a buffer shall be established in the above non-single-family zone as follows:

Zone:	Buffer: (feet)
C or PE	5'
MH	20'
TH	20'
APT	20'
SC	20'
MSR	10'
NC	15'
GC	20'
LI	25'

- (5) In all zones where a multifamily use abuts an existing commercial zone or use, a twenty-five-foot (25') buffer must be established and maintained by the multifamily developer, unless such buffer is already established along the common boundary of that zone or use.
- (6) In all zones where a multifamily use abuts an office or industrial zone or use, a twenty-five foot (25') buffer shall be established and maintained unless a greater buffer is already established and maintained along the common boundary of that zone or use.
- (7) In all zones where a commercial zone line abuts a multifamily residential use, a twenty-five-foot (25') buffer must be established and maintained unless such buffer is already established and maintained along the common boundary of that use.

D. Landscape coverage.

(1) Minimum landscape coverage requirements for lots shall be as follows:

Zone:	Coverage Minimum:
C and PE Zones:	90%
R-Zones:	50%.
AR-MHP Zone:	50%.
TH & APT Zones:	40%.
SC Zone:	40%.
MSR Zone:	10%.
NC Zone:	30%.
GC Zone:	40%
LI Zone:	20%

E. Street trees.

- (1) In addition to all other trees required to be replaced by this chapter, street trees shall be required for all streets and there shall be planted at a rate of one (1) shade tree for every fifty (50) feet of frontage, or fraction thereof. Street trees shall be planted along both sides of all streets and shall be of a hardy species approved by the Planning Board and/or Borough Engineer. All street trees and on-site shade trees shall not be less than 2½ caliper inches in diameter, measured one foot above the root crown and planted in accordance with the all other requirements of the Borough. All trees shall be brought to the site balled and burlapped, free of insects and disease and true to species and variety.
- (2) At intersections, trees shall not be located closer than 30 feet from the intersection of the street right-of-way lines, except when the sight triangle easements increase the distance for sight line purposes.
- (3) The types and locations of shade trees to be planted shall be shown in the plans submitted to the Planning Board in conjunction with the application for development.
- (4) Dead or dying trees which have been planted by virtue of the requirements of this section of the chapter shall be replaced by the developer during the next recommended planting season.
- (5) All trees shall be installed in accordance with the American Nurserymen Guide.
- (6) For residential subdivision or site plan development, a minimum of two (2) shade or evergreen trees per dwelling unit shall be planted in the rear or side yard area of each lot, or in the case of shared property developments, in a common area near the rear yard or rear/side entrance to each unit. All newly planted shade trees shall be of nursery stock and shall have a minimum caliper size of 2 1/2 inches.

F. Parking Lot Landscaping.

- (1) For parking lots with 5 spaces or more, parking lot landscaping shall be provided and consist of:
  - A. An evergreen screen planting row, berm, fence, wall or combination thereof, no less than three (3') or more than seven feet (7) in height, shall be provided surrounding the parking lot and between any lot lines, street lines and any other exposed sides of the parking lot. In locations where a sight triangle or corner vision clearance area is required, such plantings may have their height reduced accordingly.
  - B. In addition to all other trees required to be replaced by this chapter, deciduous shade trees shall be required around the perimeter of all parking lots and shall be planted at a rate of one (1) shade tree for every fifty (50') linear feet of parking lot perimeter, or fraction thereof.
  - C. In addition to all other trees required by this chapter, interior parking lot shade trees shall be provided and planted within protected landscape islands at a rate of one (1) shade tree per ten (10) parking spaces.
  - D. All street trees and on-site shade trees shall not be less than 2½ caliper inches in diameter, measured one foot above the root crown and planted in accordance with the all other requirements of the Borough. All trees shall be brought to the site balled and burlapped, free of insects and disease and true to species and variety. All parking lot shade trees shall be planted in accordance with the same specifications for street trees listed above and all other standards of the Borough.

G. Tree Removal and Replacement.

- (1) Whenever an application has been made for Site Plan or Subdivision approval, planned unit development or multi-residential development which requires the approval of the Planning Board, the developer shall be required to submit plans indicating the current location, size and species of all existing trees on the site. Trees to be removed and trees to remain on the site shall be identified on the plan. In cases of wooded areas in excess of one (1) acre in area, a sample area of 100' x 100' may be used to calculate and extrapolate calculations for tree removal and replacement.
- (2) All trees removed from a site shall be replaced and provided on-site based on the following formulas:
  - A. For trees with a D.B.H. equal to or greater than four (4) inches and less than sixteen (16) inches, replacement shall be based upon the total number of caliper inches removed. Tree replacement for said trees shall be 1" caliper replacement for every 1" caliper removed.
  - B. For trees with a D.B.H. equal to or greater than sixteen (16) inches, the removed tree shall be replaced based upon the following schedule:

Existing Tree	Number of Replacement Trees
18" or less:	3 replacement trees
21" or less:	4 replacement trees
24" or less:	5 replacement trees
27" or less:	6 replacement trees
29" or less:	7 replacement trees
31" or less:	8 replacement trees
33" or less:	9 replacement trees
35" or less:	10 replacement trees
37" or less:	11 replacement trees
39" or less:	12 replacement trees

(3) The species or type of replacement tree and the mix of replacement tree types (deciduous, coniferous) shall be selected from the species removed from the tract under consideration or from the tree species recommendations of the Borough. Replacement deciduous trees shall be a minimum of 2.5" caliper at the time of planting. Replacement evergreen trees shall be a minimum of 6'-8' high at the time of planting. If Arborvitae species are proposed, minimum tree height shall be a minimum 10' high at the time of planting to count toward tree replacement.

(4) The applicant may provide replacement trees on-site, or via a voluntary contribution to the Borough of Spotswood Tree Replacement Fund at a rate of \$150.00 per tree.

H. Utility equipment, dumpster, collection bin screening and landscaping.

All parking, loading, HVAC equipment, transformers, dumpster enclosures, donation bin enclosures and similar utilitarian compounds shall be screened with solid fencing and shall be surrounded with a 5' deep landscape buffer area. Such screening shall be by an extension of the building, a fence, berm, wall, planting or combination thereof and shall not be less than six (6) feet in height. Landscape area shall be heavily planted with a mix of all season screening plantings, minimum 6' high, designed in order to obscure their view from any public street and adjacent property throughout the year.

I. Recreation and open space requirements for all multi-family uses

A. Recreation.

(1) An active or passive recreation area shall be provided and improved by the developer for each multiple-family development. All active recreation areas shall be no closer to any residential structure than the minimum yard area 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 in accordance with the specifications contained in Lofts, Inc. Guide Seed and Sod In U.S. and Canada, current edition, and must be suitable for playing games, such as touch football and softball on an informal basis. In addition to such multipurpose 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.

(3) The recreation area shall not include any wetlands, wetlands 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 Spotswood 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 the Municipal Code of the Borough of Spotswood 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.

#### 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 located, shall be of the size, and shall be improved to best suit the purpose(s) for which the open space is intended.

(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) The protection of environmentally fragile and important resource land areas such as aquatic buffer areas, five-hundred-year floodplains, wetlands and treed acreage is a high priority.

(2) The Planning 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 development stages, the Board may require the set aside of open space acreage proportionate in size to the development stage 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 the Board shall forward such request with its recommendation to the Borough Council prior to the granting of preliminary approval of any development application 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 as provided in N.J.S.A. 40:55D-43 of this chapter. Such organization shall not be dissolved, nor shall it dispose of any common open space by sale or otherwise.

## **§ 120-604. Sign Regulations**

A. General provisions. The erection of any sign shall require a zoning permit and certificate of occupancy unless specifically exempted herein.

(1) General prohibitions.

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

(b) No billboards shall be erected or replaced;

(c) No signs shall be erected, altered, enlarged or replaced, which are not in accordance with the standards established in this chapter;

(d) No portion of any sign shall be located within or suspended over a public right-of-way or pedestrian walkway;

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

(f) 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 any public utility or similar agency concerned with the protection of the public health or safety;

(g) No sign shall be erected, constructed or maintained so as to obstruct or be attached to any fire escape, window, door or opening that is intended to provide light or a means of ingress or egress, or for fire-fighting purposes, or placed so as to interfere with any opening required for legal ventilation; and

(h) No sign, other than exempt signs, shall be permitted within 50 feet of the property line of any historical site or monument.

(2) Animated, flashing and illusionary signs. Signs using mechanical or electrical devices to revolve, flash or display movement or the illusion of movement are prohibited. This shall include LED style signs, variable message signs and electronic billboard signs.

(3) Height. Unless otherwise specifically specified to the contrary in this chapter, no freestanding sign in any district shall be higher than 15 feet, measured to the top of the sign from grade.

(4) Freestanding signs. Freestanding signs shall be supported by one or more columns or uprights which are firmly embedded in the ground. Exposed guy wires, chains or other connections shall not be a support of a freestanding sign.

(5) Illuminated signs. Illuminated signs shall be arranged to reflect the light and glare away from adjoining streets and properties. All lighting shall be placed and shielded to prevent the lighting from shining into neighboring properties or approaching vehicles. No sign with red, green, blue or amber illumination in a beam, beacon or flashing form resembling an emergency light, safety or warning device or traffic signal shall be erected in any location. No sign lighting or control mechanism that interferes with radio or television reception shall be permitted.

(6) Information, direction and nameplate signs. Street number designations, postal boxes and "private property," "no hunting," on-site directional and parking signs and warning signs are permitted in all zone districts, but are not considered in calculating sign area. No such sign shall exceed one square foot in area, nor do such signs require a zoning permit. Moreover, residential nameplate signs situated within the property lines and not exceeding 72 square inches shall be permitted, but are not considered in calculating sign area and do not require a zoning permit.

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

(a) Any sign that is or is becoming dangerous or unsafe in any manner whatsoever shall be repaired and made safe in conformity with this chapter, or such sign shall be removed by the owner, tenant, agent or occupant of the building, property or land upon which such dangerous or unsafe sign is located.

(b) Should notice be given by the Zoning Officer or Construction Official to an owner, tenant, agent or occupant of a building that a sign is or is becoming dangerous or unsafe, said notice shall require appropriate remedial action to be taken within 10 days from the date of service of the notice, or within a lesser time as shall be specified in the notice in cases where the danger to the public health, safety and general welfare is more imminent.

(8) Nonprofit organization event signs. Upon written application to the Zoning Officer by a Spotswood Borough based nonprofit organization, the Zoning Officer shall issue zoning permits, with optional fee, for the erection of up to three temporary signs announcing an event sponsored by said nonprofit organization, provided that the following requirements and regulations are met:

(a) One sign may be located on the property owned by the nonprofit organization, if and wherever such property exists, and up to two signs may be located on properties other than that which may be owned by the nonprofit organization, provided said properties are situated within nonresidential zoning district.



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

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

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

(e) The permitted sign(s) shall not be illuminated and shall be located so as not to interfere with driver vision.

(f) All signs shall be constructed of wood, be neatly painted and be adequately secured for aesthetic and safety purposes.

(g) No more than one sign for any particular nonprofit organization shall be permitted on any particular property at the same time, and no more than two nonprofit organization event signs shall be permitted on any particular property at the same time.

(h) Permitted signs may be displayed for a period not to exceed four weeks, and the specific time period for the display of all signs shall be indicated on the written application to the Zoning Officer unless the advertised event occurs earlier, in which instance the sign shall be removed within 24 hours after the event.

(i) It shall be the responsibility of the nonprofit organization to remove all permitted signs prior to the expiration of the specified time period for their display.

(9) Political signs. Political signs temporarily giving notice of political campaigns shall be set back at least 15 feet from all street and property lines and shall not exceed 16 square feet in area. Signs shall be permitted within 30 days prior to any municipal, county, state or national election and shall be removed within 10 days after election. All such signs do not need a zoning permit.

(10) Portable signs. No sign shall be exhibited which is portable; i.e., fixed on a movable stand, self-supporting without being firmly imbedded in the ground, supported by other objects, mounted on wheels or movable vehicles, or made easily movable in some other manner.

(11) Real estate signs. Real estate signs temporarily advertising the sale, rental or lease of the premises or portion thereof shall conform to the following requirements:

(a) All real estate signs shall be non-illuminated, shall not exceed four square feet in area and shall not require a zoning permit. Only one real estate sign may be erected on the property to be sold or rented.

(b) All real estate signs, if not attached to the building, shall be set back at least 10 feet from any street line and shall comply with all applicable side yard requirements for the zoning district in which it is located.

(c) For approved site plans or major subdivisions at the start-up of construction, one sign not exceeding 32 square feet in area shall be permitted during construction.

(d) All real estate signs shall be removed at the expense of the advertiser within 15 days after the termination or completion of the matter of business being advertised or, in the case of residential subdivisions, when 95% of the lots have been initially sold. Further, in the case of a subdivision or site plan undergoing construction, the sign shall be removed if construction activity ceases for a period of three consecutive months.

(e) "Sold" signs shall be permitted between the signing of the contract of sale and the date of legal closing.

(12) Sign area. The area of a sign shall be measured around the edges of a framed or enclosed sign or by the area utilized by isolated words and/or symbols, including the background whether open or enclosed, but said area shall not include any supporting framework and bracing incidental to the display itself.

(13) Signs with two exposures. Such signs shall be measured for area by using the surface of one side of the sign only; however, both sides of the sign may be used.

(14) Wall fascia or attached signs. Wall fascia or attached signs shall be firmly attached to the exterior wall of a building and shall not project more than six inches from the building.

(15) Window signs. Temporary interior window signs shall be considered in computing the allowable sign area. Temporary window signs shall not require a zoning permit.

(16) The flag of the United States of America or the State of New Jersey. The flag of the United States of America or the State of New Jersey may be displayed in all zoning districts and do not require a zoning permit.

(17) Nonconforming signs. Nonconforming signs may be continued in use, but may not be enlarged, relocated, altered, rebuilt, extended or made less conforming. Failure to keep signs in good repair for a period of 12 consecutive calendar months shall constitute abandonment, and such sign may not then be replaced or reused but must be removed.

(18) Zoning permit for signs. An application for a zoning permit to erect, hang or place a sign shall be submitted on forms obtainable from the Zoning Officer, unless such sign has been specifically approved by the Planning Board or Zoning Board of Adjustment, as the

case may be, as part of an approved application for development. Each application for any required zoning permit shall be accompanied by plans showing the area of the sign; the size and character of the sign; the method of illumination, if any; the exact location proposed for the sign; and, in the case of a projecting sign, the proposed method of fastening the sign to the building, the distance between the sign and the building, the vertical distance between the sign and the curb; and the distance between the sign and the street right-of-way.

(19) Directional of wayfinding signs shall be approved by the Planning Board in all locations and shall not exceed four feet (4') in height and two (2) square feet in area. Such signs shall include directional arrows and information and shall not include any advertising information beyond basic site and directional identification.

**B. Signs in the R-10, R7.5 and R-5 Zones:**

(1) Nameplate signs, not to exceed two square feet in area indicating the name and/or address of the occupant of the dwelling unit

(2) Political signs and signs expressing (non-commercial) free speech as protected under the First Amendment.

(3) Churches or fraternal organizations shall be permitted one freestanding sign not exceeding 25 square feet in area, 10 feet in height and set back at least 25 feet from all property lines, plus one attached sign not exceeding eight square feet in area.

**C. Signs in the TH, APT, AR-MHP and SC Zones:**

(1) Nameplate signs, not to exceed two square feet in area indicating the name and/or address of the occupant of the dwelling unit

(2) Political signs and signs expressing (non-commercial) free speech as protected under the First Amendment.

(3) Each development of 50 units or more may have one (1) monument sign along an arterial or collector road which the tract in question abuts, provided that there exists at least 250 feet of unbroken frontage on that road. No such sign shall be permitted on a local street. Such signs shall not exceed 5 feet in height, shall be set back from the street rights-of-way and driveways at least 30 feet, and shall be set back from any property line a minimum of 50 feet, and shall not exceed an area of 25 square feet and shall be used to display the development's name.

**D. Signs in the NC & GC Zones:**

(1) Churches shall be permitted one freestanding sign not exceeding 25 square feet in area, 10 feet in height and set back at least 25 feet from all property lines, plus one attached sign not exceeding eight square feet in area.

(2) Each principal commercial building not part of a shopping center, or, each shopping center may have one (1) major attached sign and one (1) freestanding sign, provided that the total area of both signs does not exceed 75 square feet and that the following additional provisions are met:

(a) Both the attached sign and the freestanding sign each shall not exceed an area equivalent to 5% of the front facade of the subject principal commercial building;

(b) The maximum height dimension the attached sign shall not exceed 10% of the height of the front facade of the subject principal commercial building, measured from ground level to the top of the upper story, excluding the roof area; and

(c) The freestanding sign shall not exceed 15 feet in height and shall be set back at least 25 feet from all street and property lines.

(3) Where a principal commercial use occupying at least 500 square feet of segregated area has direct access from the outside, an additional sign not exceeding eight square feet in area identifying the name of the activity shall also be permitted but shall not be counted in the overall permitted sign area. Such additional sign(s) shall be either attached flat against the building at the entrance to the activity or suspended in perpendicular fashion from a roof over a common walkway. Suspended signs shall be no closer than 10 feet at their lowest point to the finished grade below.

E. Signs in the MSR Zone:

(1) No ground signs shall be permitted. Only façade signs are permitted in this district.

(2) The maximum permitted sign area shall be ten (10%) percent of the front façade. On corner lots, signs may increase to account for both façade areas. There shall be a limit of one (1) sign per use or tenant.

(3) When a ground sign is proposed such signs shall be monument style signs with a height no greater than four (4') feet. A planter base shall be provided around the base of the sign. Such signs shall require relief from the appropriate Board.

(4) Shingle signs are permitted on the first and second floors. The maximum area should not exceed 4 square feet, the materials should be either painted wood or painted metal, and they should include ornamental metal brackets of some kind. They should only be externally illuminated and the message should only give the symbol or the name of the business.

(5) Surface mounted signs on the first floor cornice/sign band shall contain individually mounted letters or symbols and not be a large board sign that obscures the cornice and its details. They should be externally illuminated and the message should only contain the name or the symbol of the business.

(6) Surface mounted signs are not permitted above first floor.

(7) Awning signs shall be limited by the size of the fringe or the main area of the awning, depending on the location of the sign.

(8) All billboard signs are prohibited.

- (9) Cloth and canvas awnings are encouraged over building entrances and shall provide a minimum of eight foot (8') clearance and shall not extend more than four feet (4) from the building façade.
- (10) If an awning is so steeply sloped that it serves as a sign rather than as shelter, the sign must meet all the criteria (size, message, lighting, etc.) for wall signs that could be above the first floor.
- (11) All types of colors and patterns are acceptable if they meet the criteria for colors and signs: plain, striped, patterned, decorative, and so on. They must however, be compatible with the overall building.
- (12) If a single building contains more than one (1) shop front and more than one commercial space, the several awnings can either be identical to complement the building, or the can differ, to add variety and to express the identity of the individual shops. If a single shop occupies the ground floor of two adjacent buildings, the awnings in each building shall be identical, since the objective of maintaining the identity of the two buildings is met by the building designs.
- (13) Churches shall be permitted one freestanding sign not exceeding 25 square feet in area, 10 feet in height and set back at least 25 feet from all property lines, plus one attached sign not exceeding eight square feet in area.

F. Signs in the LI Zone:

(1) Each principal building may have one major attached sign and one freestanding sign, provided that the total area of both signs does not exceed 75 square feet and that the following additional provisions are met:

- (a) Both the attached sign and the freestanding sign each shall not exceed an area equivalent to 5% of the front facade of the subject principal building;
- (b) The maximum height dimension the attached sign shall not exceed 10% of the height of the front facade of the subject principal building, measured from ground level to the top of the upper story, excluding the roof area; and
- (c) The freestanding sign shall not exceed 15 feet in height and shall be set back at least 25 feet from all street and property lines.

(2) Where a principal use occupying at least 500 square feet of segregated area has direct access from the outside, an additional sign not exceeding eight square feet in area identifying the name of the activity shall also be permitted but shall not be counted in the overall permitted sign area. Such additional sign(s) shall be attached flat against the building at the entrance to the activity.

G. Signs in the C and PE Zones:

(1) No signs shall be permitted in the Conservation or Parks and Education zone except the for schools and public park facilities, which shall be permitted one freestanding sign not

exceeding 25 square feet in area, 10 feet in height and set back at least 25 feet from all property lines.

**§ 120-605. Design standards for right-of-way improvements**

A. Streets.

(1) All developments shall be served by paved streets in accordance with the approved subdivision and/or site plan. The arrangement of such streets not shown on the Master Plan or Official Map, as may be adopted by the Borough, shall provide for the appropriate extension of such streets and shall conform with the topography as far as practicable. Local streets shall be planned so as to discourage through traffic.

(2) When a new development adjoins land susceptible of being subdivided or developed, suitable provisions shall be made for access to adjoining lands. Two means of access from existing streets to a new development shall be provided, where feasible. Where only one means of access is provided, future extension(s) into adjacent, adjoining lands may be required, unless existing physical conditions prohibit such connections.

(3) In general, local residential streets shall be designed to discourage through traffic, and proposed larger traffic generators shall not be permitted through local residential streets. Streets and roadways shall be located to blend with the topographic and aesthetic features of the site. Local residential roads shall be curved wherever possible to avoid conformity of lot appearance and to discourage through traffic. The grade of the streets shall run with the site topography wherever possible and in a manner that provides most of the lots to be at or above the grade of the road.

(4) In the event that a development adjoins or includes existing streets that do not conform to the street widths as shown on the adopted Master Plan or Official Map and/or the street width requirements of this chapter, additional land along either or both sides of the street, sufficient to conform to the right-of-way requirements, shall be dedicated for the location, installation, repair and maintenance of streets, drainage facilities, utilities and other facilities customarily located on street rights-of-way, provided the following:

(a) The necessary deeds of ownership shall be furnished and the dedication shall be expressed as follows: "Street right-of-way granted for the purposes provided for and expressed in the Land Development Ordinance of Spotswood Borough."

(b) If the development is along one side only, 1/2 of the required extra width shall be dedicated and shall be improved, including excavation, base course and surfacing, in accordance with the approved application.

(c) Final approval of a development application shall not be construed as the acceptance of a street or portion thereof dedicated to public use.

(5) If the subdivision or site plan abuts a major arterial road, the proposed plan shall include provisions to minimize the number of curb cuts or entrances onto and exits from same.

(6) Streets shall be of sufficient width and of suitable design to accommodate prospective traffic, but in all cases shall have a right-of-way width, measured from lot line to lot line, of not less than 50 feet for minor or marginal access streets and not less than 60 feet for collector and arterial streets.

(7) The paved surface width of a municipal street shall be as measured between the face of curbs and shall as follows:

(a) Arterial and collector streets: 36 feet minimum.

(b) Minor and marginal streets: 30 feet.

(8) The width of the right-of-way of internal roads, alleys and serviceways in multifamily, commercial and industrial developments shall be determined on an individual basis, and in all cases shall be of sufficient width and of suitable design to comply with all applicable municipal requirements and to safely accommodate the anticipated peak traffic, parking and loading needs and to provide sufficient access and turnaround space for fire-fighting equipment.

(9) Street grades of local neighborhood streets shall not exceed 12%, street grades of minor collector streets shall not exceed 10%, and the minimum street grade permitted shall be 1/2 of 1%. The maximum grade within 50 feet of an intersection, measured from the nearest right-of-way level, shall be 5%. Intersections shall be designed with a flat grade where practical. All changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance.

(10) Street intersections shall be as nearly at right angles as possible and in no case shall be less than 75°. Approaches to all intersections involving nonlocal roads shall follow a straight line, or a curve with a radius of not less than 700 feet, for at least 100 feet. No more than two streets shall meet or intersect at any one point, and the center lines of both intersecting streets shall pass through a common point. Use of "T" intersections in subdivisions shall be encouraged. Street jogs with center line offsets of less than 150 feet are prohibited.

(a) Ordinarily, any development abutting an existing street classified as a nonlocal street shall be permitted only one new street connecting with the same side of the existing nonlocal street; except that where the frontage is sufficient, more than one street may intersect with the nonlocal street, provided that the streets shall not intersect with the same side of the existing street at intervals less than 800 feet.

(b) The block corners of intersections shall be rounded at the curb line, with the street having the highest radius requirement as outlined below determining the minimum standards for all curb lines:

[1] County streets: 35 feet;



[2] Minor collectors: 30 feet; and

[3] Local neighborhood streets: 25 feet.

(11) A tangent of at least 100 feet long shall be introduced between reverse curves on nonlocal streets; for local streets, a tangent of at least 50 feet shall be required between reverse curves. When connecting street lines deflect from each other at any one point, they shall be connected by a curve with a radius conforming to standard engineering practice as contained in the "Transportation and Traffic Engineering Handbook," ITE, latest edition. The minimum center line radius shall be 100 feet for local streets and 150 feet for minor collector streets.

(12) Vertical and horizontal curves and the sight easements on such vertical and horizontal curves shall be designed in accordance with the 1990 American Association of State Highway And Transportation Officials (AASHTO) street standards.

(13) Subdivisions abutting county roads shall provide a marginal service road or reverse frontage lots with planted buffer strips or such other means of separation of through and local traffic as the Board may determine appropriate.

(14) The right-of-way for internal roads in nonresidential developments shall be determined on an individual basis by the Board, and shall in all cases be of sufficient width and design to safely accommodate the expected traffic movements and parking and loading needs.

(15) Connecting streets shall be planned wherever possible and cul-de-sacs shall be no more than 750 feet in length, excluding the turnaround, but, in any case, shall provide access to no more than 20 dwelling units where such access is to single-family detached dwellings only, or to no more than 60 dwelling units where access is to other than single-family detached dwellings.

(a) A turnaround shall be provided at the end of the cul-de-sac with a radius of 50 feet on the curb line, plus a utility and planting strip of 10 feet around the entire cul-de-sac.

(b) The center point for the radius shall be offset to a point where the radius becomes tangent to the right curb line of the associated street wherever possible; otherwise, the center point shall be the center line of the associated street.

(c) If a cul-de-sac is temporary, the turnaround shall be provided temporarily, with provisions for the future extension of the street and the reversion of the excess right-of-way to adjoining properties.

(16) No street shall have a name which duplicates or so nearly duplicates the name of an existing street name that confusion will result. The continuation of an existing street shall have the same name. Curvilinear streets shall change their name only at street intersections. The Board reserves the right to approve the name(s) of any street(s) within a proposed development.

(17) The pavement width of streets and the quality of subsurface and base materials shall adhere to the minimum standards set forth by the county or state engineers when said paving concerns roads under their jurisdiction and where such standards exist. Concerning streets under the jurisdiction of the Borough of Spotswood, the following standards shall apply:

(a) All streets as defined herein are to be constructed in accordance with plans and specifications which have been prepared by a New Jersey licensed professional engineer and which have been approved by the Borough Planning Board or Zoning Board of Adjustment, as the case may be, and Borough Engineer. The plans and specifications shall include information, both in profile and cross-section, regarding the existing topographic conditions within the proposed right-of-way and the final finished road grades. The plans and specifications shall provide for a road design that complies with the requirements of this chapter.

(b) All streets shall be constructed in accordance with the standard construction and detail sheets, *Editor's Note: Detail sheets are included at the end of this chapter.* as adopted by the Borough in accordance with law, and the New Jersey Department of Transportation's Standard Specifications for Road and Bridge Construction (1989), as amended from time to time.

(c) Unstable subbase or subgrade conditions, including areas which develop prior to or ahead of the placement of the base course, shall be corrected by scarifying, reshaping and recompacting, or by replacement; all as determined to be required by the Borough Engineer in order to rectify the unstable conditions. Subgrade categories are shown in the standard construction and detail sheets as adopted by the Borough in accordance with law.

(d) If substitutions of paving material are proposed, the relative strength rates in the standard construction and detail sheets should be consulted to ensure appropriate substitutions.

(18) The location and terminal of any street right-of-way must not interfere with other streets of the Borough and shall be so constructed as not to constitute a traffic hazard or to seriously interfere with the access of any abutting property owner to a through street. In all cases where a proposed street or driveway will intersect a street which is within the jurisdiction of the New Jersey Department of Transportation or Middlesex County, written approval of such intersection by the appropriate jurisdictional authority shall be submitted to the Borough Council.

(19) When a street within a major subdivision intersects with a nonlocal street, or where a driveway serves as an entrance to a development providing 50 or more parking spaces, a deceleration lane shall be provided for traffic turning right into the street or driveway from the nonlocal street. The deceleration lane is to be at least 200 feet long and at least 13 feet wide measured from the proposed edge of the pavement of the nonlocal street.

(20) When a local street is proposed within a development which either ends in a cul-de-sac or loops through the development to provide two intersections with streets in Spotswood Borough, said local street shall not extend across municipal boundaries.

## B. Curbs and gutters.

(1) Curbs or curbs and gutters shall be used for drainage purposes, safety, and delineation and protection of the pavement edge. Curbs or curbs and gutters shall be installed on both sides of all streets except on minor collector streets in the single-family residential districts. Generally, curbs shall be required on streets with on-street parking.

(2) Flexibility regarding curb type shall be permitted provided that the curb type accommodates the system of drainage proposed. Generally, curbs should be constructed of concrete or granite block. Curbs, either granite blocks or concrete and gutters shall be constructed in accordance with the standard construction and detail sheets, as adopted by the Borough in accordance with law.

(a) The standard concrete curb section shall be a maximum of 10 feet in length, with an expansion joint, and shall be prepared in accordance with the requirements of the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition.

(b) Where bituminous concrete pavement is used for the road surface, the curb and/or gutter shall be constructed first.

(c) Where drainage inlets are constructed but curbs are not required, curbing shall be provided at least 10 feet on each side of the inlet, set back one foot from the extension of the pavement edge.

(3) The curbing shall be designed to provide depressed barrier-free curb ramps for bicycles and/or wheelchairs in accordance with the Design Standards for Curb Ramps for the Physically Handicapped of the New Jersey Department of Transportation and the Americans with Disabilities Act.

(4) In those cases where a developer requests a waiver from the chapter requirements for curbs and/or gutters and proposes shoulders and/or drainage swales instead, the Board, in reviewing the waiver request, shall consider the following guidelines:

(a) Curbs or gutters should be required at all street intersections and throughout any development generating large volumes of vehicular traffic or lying within close proximity to such development.

(b) Curbs or curbs and gutters should be required throughout any multifamily residential development.

(c) Curbs or curbs and gutters shall be required in conjunction with all single-family subdivisions.

(d) Curbs or curbs and gutters shall be required in any case where, in the opinion of the Borough Engineer, low gradients, unusual soil, structural problems or other conditions indicate susceptibility to poor surface water flow or lack of uniformity in shoulder grades.

(e) Curbs or curbs and gutters shall be required along existing or proposed municipal streets or roads in conjunction with any proposed development that would otherwise, in the opinion of the Borough Engineer, contribute to an adverse drainage condition, soil erosion or watercourse siltation.

(5) Where curbing is not required, pavement edge definition and stabilization shall be provided for safety reasons and to prevent pavement unraveling. However, curbing ordinarily always shall be required for stormwater management, road stabilization and the delineation of parking areas, and at locations 10 feet on each side of all drainage inlets, at intersections, at corners, and where tight radii exists.

#### C. Sidewalks.

(1) Sidewalks and walkways (and related aprons) shall be required along all streets, and shall be constructed by the developer, in accordance with the following criteria:

(a) Existing sidewalks shall be extended throughout all areas of the Borough when the roads upon which they are located are extended;

(b) Sidewalk and walkway linkages shall be provided throughout all areas of the Borough between existing and/or previously approved sidewalks, unless specifically waived in specific locations by the reviewing Board based upon good cause, such as the existence or proposal of alternate linkages for pedestrian movement, and/or a determination that such specific linkages will not be utilized, and/or other specific reasons;

(c) In all residential districts, sidewalks shall be provided on both sides of all local neighborhood streets, excepting that permanent culs-de-sac not more than 500 feet in length (measured from the center line of the intersecting street to the center of the cul-de-sac bulb) and not providing access to more than 10 dwelling units shall not require sidewalks, but shall provide a paved area at both corners of the intersection for pedestrian waiting off-street.

(d) In all residential districts, sidewalks shall be provided on one side of all minor collector streets and a graded area shall be provided on the other side, except that sidewalks shall be provided on both sides where the development or a portion thereof lies in close proximity to pedestrian movement generators.

(e) No developments in the LI Districts shall be required to provide sidewalks, except in locations determined by the Board to be necessary and/or desirable for safety purposes or for other good cause purposes.

(f) In those cases where a developer requests a waiver from the requirements of sidewalks as set forth in this section of the chapter, the Board, in considering such waiver, shall take into account the guidelines that sidewalks should be required in the case of any development or portion thereof lying in close proximity to school sites and other pedestrian movement generators including, but not limited to, recreational facilities, churches, clubs, eating establishments and retail shopping centers.

(2) Sidewalks may be located in the traditional manner between the proposed edge of pavement and parallel to the right-of-way line of the street or, in the alternative, the Board may permit the sidewalks to be set back from the proposed edge of pavement and be constructed in a meandering pattern in order to preserve topographical and other natural features and to provide visual interest.

(a) Regarding landscaping, when sidewalks are constructed in the traditional manner set back approximately five feet from and parallel to the street right-of-way line, street trees shall be required between the edge of pavement and the sidewalk.

(b) However, when the meandering pattern of sidewalk construction is approved, trees and shrubs shall be planted in concentrated areas at locations where the sidewalk turns as well as at other locations required and approved by the Board.

(3) Sidewalks, aprons, and sidewalks at aprons shall be concrete and shall be constructed in accordance with the standard construction details as adopted by the Borough in accordance with law.

(a) Sidewalks shall be at least four feet wide; wider widths may be necessary near pedestrian generators and employment centers. Where sidewalks abut the curb and cars overhang the sidewalk, sidewalks shall be at least six feet wide. In high-density residential areas when sidewalks abut the curb, a sidewalk or graded area of at least six feet in width also shall be required.

(b) Sidewalks shall be placed upon a compacted subgrade overlaid with at least four inches of porous material such as sand or gravel. Concrete sidewalks shall be at least four inches thick, except at points of vehicular crossing where they shall be at least six inches thick with reinforcement of welded wire fabric mesh or an equivalent. Concrete air-entrained sidewalks shall be of concrete having a twenty-eight-day compressive strength of 4,500 pounds per square inch.

(c) Blacktop or sidewalks of other approved materials may be permitted, depending upon the design of the development and as approved by the approving authority upon the advice of the Borough Engineer.

(d) Where sidewalks cross curbs, curb ramps shall be provided as outlined in § 120-513B(3) of this chapter hereinabove.

(e) Where subgrade is yielding or otherwise unsatisfactory in the opinion of the Borough Engineer, all unsuitable material shall be removed and suitable material shall be applied until the subgrade is nonyielding to the satisfaction of the Borough Engineer.

(4) Finished sidewalks shall be true to specified lines, grades, dimensions and curvatures. Completed work shall be adequately protected from traffic and the elements.

(5) Graded areas, where required, shall be planted with grass or treated with other suitable ground cover, and the width and cross slope shall correspond to that required of sidewalks.

D. Sight triangles. Sight triangle easements shall be required at intersections of a street with another street and at intersections of a street with a driveway providing ingress and/or egress to nonresidential developments. The sight triangle easement shall be in addition to the specified right-of-way width of a street and cartway width of a driveway and shall not contain any grading, planting or structure more than 30 inches above the center line of the street and/or driveway that would obstruct the clear sight across the area of the easements, except that street signs, fire hydrants and light standards may be located within a sight triangle easement. A public right-of-entry shall be reserved for the purpose of removing any object, material or other such obstruction to the clear sight.

(1) The sight triangle is that area outside of the street right-of-way or driveway cartway, bounded by the intersecting street right-of-way or driveway cartway lines and the straight line connecting sight points, one each located on the two intersecting street or driveway center lines.

(2) Sight triangles shall be provided in accordance with the 1990 street standards established by the American Association of State Highway and Transportation Officials (AASHTO). Additional lands may be required to be included within the sight triangle easement in order to provide an unobstructed view for the entirety of the required minimum distances.

(3) The dedication of sight triangle easements shall be expressed on a subdivision plat or site plan as follows: "Sight triangle easement deeded for purposes provided for and expressed in the Land Development Ordinance of Spotswood Borough."

E. Street trees. Regarding any land development, along all streets of a development and along proposed roads and street rights-of-way where natural woods are not present the following provisions shall apply:

(1) Shade trees shall be planted along both sides of all streets and shall be of a hardy species approved by the Planning Board or Zoning Board of Adjustment, as the case may be.

(2) Trees shall be planted at forty-foot to sixty-foot intervals, or an equivalent number shall be planted in an informal arrangement.

(3) At intersections, trees shall not be located closer than 30 feet from the intersection of the street right-of-way lines, except when the sight triangle easements increase the distance for sight line purposes.

(4) The caliper of the trees shall be a minimum of 2 1/2 inches measured six inches above the ground. The standing height shall be a minimum of 10 feet. All trees shall be brought to the site balled and burlapped, free of insects and disease and true to species and variety.

(5) Stripping existing trees or filling more than six inches around existing trees shall not be permitted unless it can be shown that construction requirements necessitate the removal of trees, in which case those lots shall be replanted with trees to reestablish the tone of the area and to conform with adjacent lots.

(6) Dead or dying trees which have been planted by virtue of the requirements of this section of the chapter shall be replaced by the developer during the next recommended planting season.

(7) All trees shall be installed in accordance with the American Nurserymen Guide.

#### F. Street signs.

(1) The design and placement of traffic signs shall follow the requirements specified in the "Manual on Uniform Traffic Control Devices for Streets and Highways," published by the United States Department of Transportation and adopted by the New Jersey Department of Transportation.

(2) At least two street signs shall be placed at each four-way street intersection and at least one street sign shall be placed at each "T" intersection. All street signs shall be placed so as not to obstruct sight distances and shall be located under light standards, if present, so that the street name is clearly visible. The design of street signs shall be consistent; shall be of the style found throughout the Borough of Spotswood; shall be of a uniform size and color; and shall be erected as approved by the Borough Engineer.

(3) At signalized intersections, street signs shall be located on the overhead arm supporting the traffic signal or otherwise suitably suspended over the intersection. Roadway clearance shall be a minimum of 15 feet from the bottom of any sign or supporting equipment and the top of the paved surface.

(4) If street signs are designed differently than those installed elsewhere in the Borough and are approved, at the request of an applicant, as part of a subdivision or site plan application for development, provision must be made by the applicant for the maintenance and/or replacement of said signs by an entity other than the Borough of Spotswood.

(5) Directional signs and other markings shall be of a size, color and design specified in the current edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways," published by the Federal Highway Administration, United States Department of Transportation. Unless otherwise approved by the Borough of Spotswood, all off-street signs, including traffic directional signs, shall be located on the same property as the use to which they are related.

#### G Street lighting.

(1) Street lighting shall be provided for all street intersections. Moreover, additional street lighting may be required for specific locations as deemed necessary for safety reasons and determined by the Borough Engineer: e.g., in locations with limited or hampered sight distance due to existing vegetation; a sharp curve of the street; or an obtuse or sharply angled intersection.

(2) The type of required street lighting to be supplied shall be specified by the Borough Engineer. The light intensity provided at ground level shall average at least 0.5 foot-candles at intersections and 0.3 foot-candles for other street lighting, as required.

(3) Wherever electric utility installations are required to be underground, the applicant shall provide for underground service for the required street lighting.

(4) Street lighting in addition to that required in § 120-504A(1) hereinabove may be provided in planned residential developments at the discretion of the developer and subject to the approval of the Borough Engineer and Board, provided the following:

(a) Such additional street lighting is optional and shall be maintained and operated by a homeowners' association established for the planned residential development. Optional street lighting shall adhere to the standards set forth in § 120-504B herein below, and all fixtures shall be of the standard type otherwise normally approved by the Borough.

(b) In cases where the developer proposes and receives approval for a type of light fixture consistent with the overall lighting plan for the planned residential development but different than the standard type of light fixture normally approved by the Borough for the required lighting, the homeowners' association also shall maintain and operate the nonstandard type of lighting.

(5) In the event that the developer elects either to install more street lighting than required by the provision of § 120-504A(1) of this chapter hereinabove and/or nonstandard lighting fixtures, agreements between the Borough and the developer, together with its successors and assigns, shall be entered into memorializing the perpetual obligation of the homeowners' association to operate and maintain said lighting.



**§ 120-606. Recycling facilities and design standards.**

A. Multifamily and townhouse dwellings. Recycling facilities shall be provided for multifamily and townhouse dwellings in accordance with the following:

(1) Each multifamily and townhouse dwelling unit shall be designed to provide a location containing at least 12 cubic feet of space per unit for the storage of designated recyclable materials. The location shall be clearly marked as such on floor plans of the dwelling unit.

(2) There shall be included in any new multifamily housing development which requires subdivision or site plan approval one or more indoor or outdoor recycling areas for the collection and storage of residentially generated recyclable materials. At a minimum, there shall be one recycling area for each 75 units or portion thereof. The dimensions of the recycling areas shall be sufficient in size 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. Outdoor recycling areas shall include a concrete pad of the same minimum size. The dimensions of the recycling areas and the bins or containers shall be determined in consultation with the recycling coordinator and shall be consistent with the district recycling plan, as adopted according to law; any applicable requirements of the Township Master Plan, as adopted according to law; and the Borough Land Use Ordinance in Chapter 120.

(3) The recycling areas shall be conveniently located for the residential disposition of source-separated recyclable materials, preferably near, but clearly separated from, refuse containers.

(4) The recycling areas shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling areas without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling areas and the bins or containers placed therein against theft of recyclable materials, bins or containers.

(5) The recycling areas or the bins and containers placed therein shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered, so as to keep the paper or cardboard dry.

(6) Signs clearly identifying the recycling areas and the materials accepted therein shall be posted adjacent to all points of access to the recycling areas. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.

(7) Each recycling area shall be enclosed on three sides by a solid fence six feet in height and landscaping shall be provided around the fence.

(8) The garden apartment or mobile home park owner or the incorporated homeowners' or condominium association shall be responsible for providing general maintenance of the recycling areas, including but not limited to removal of snow and ice, pad and pavement maintenance, and fence and landscaping maintenance.

(9) If the Borough determines that curbside collection shall be applicable to any multifamily housing development, the developer, for new construction, or the garden apartment or mobile home park owner or the incorporated homeowners' or condominium association shall provide a designated area for curbside collection at each unit. For new construction, access for such collection shall be designed so as to provide an adequate turning radius for collection vehicles without interference from parked cars or other obstacles.

B. Nonresidential developments. Nonresidential developments shall provide recycling facilities in accordance with the following:

(1) All nonresidential developments shall submit a recycling plan that includes the following information:

(a) A description of the type of business expected to occupy the building. If, during site plan or subdivision review, the business type is unknown, a recycling plan shall be submitted as part of the tenancy review process prior to issuance of a certificate of occupancy.

(b) A list of recyclable materials, as defined in Chapter 174, expected to be generated.

(c) The approximate amount of each recyclable material expected to be generated, in cubic yards or tons, monthly or annually.

(d) Material separation and handling practices, which shall include the following:

[1] A list of areas where material is expected to be generated.

[2] A method, in a manner acceptable to the recycling coordinator, of storing material at the point of generation, where applicable.

[3] A method of moving material from the generation area to the storage area, where applicable.

[4] The location of the designated storage area.

[5] The size of the storage area. An explanation of the method used to determine the size of the storage area shall be provided.

[6] The size and type of container used to store each material, both at the point of generation and storage prior to vendor pickup. An explanation shall be provided concerning how the determination was made for the sizing of storage containers.

[7] The method of screening the recycling container, where applicable.

[8] The method of material removal, including frequency of pickup and the type of vehicle expected to be used for pickup.

[9] Safeguards to minimize confusion between recycling areas and collection procedures.

(2) Site and space requirements for designated materials listed in the master plan recycling element.

C. Storage areas. Storage areas, both indoors and outdoors, shall meet all fire, building and health codes and requirements of the Borough.

**§ 120-607. Public utilities.**

A. All public services shall be connected to an approved public utilities system where one exists. In general, utilities shall be located within the right-of-way on both sides of, and parallel to, the cartway, or within utility easements outside the right-of-way.

B. The developer shall arrange with the servicing utility for the underground installation of the distribution supply lines and service connections, in accordance with the prevailing standards and practices of the utility or other companies providing such services; provided, however, that lots abutting existing easements or public right-of-way, where overhead electric, CATV or telephone distribution supply lines and service connections have heretofore been installed, may be supplied with electric, CATV and telephone service from these overhead lines, but the service connections from the utilities' overhead lines shall be installed underground.

(1) In cases where extension or replacement of service is needed to existing or new buildings in established subdivisions or developments, the present method of service may be continued.

(2) In the case of existing overhead utilities, however, should a road widening, or an extension of service, or other such condition occur as a result of the subdivision or site plan and necessitate the replacement or relocation of such utilities, the developer shall cause the replacement or relocation to be underground.

(3) Upon submission of preliminary plats or plans for approval, the developer shall present a statement of interest, setting forth all public utility companies to serve the tract and a letter from each company stating that service will be available to the development. The preliminary plans shall recite all public utilities that will serve the development. Any deviation from the statement of interest shall make null and void any approval granted by the Borough.

(4) Prior to the preconstruction meeting preceding the commencement of construction, the developer shall furnish the Administrative Officer a copy of the agreements with the

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

(5) The developer shall provide the Borough with four copies of a final as-built plan showing the installed location of the facilities. Utility areas shall be planted with grass, ground covers, and/or treated with other suitable cover material.

C. Easements along property lines or elsewhere for utility installation may be required. Such easements shall be at least 20 feet wide and located in consultation with the companies or Borough departments concerned and, to the fullest extent possible, shall be centered on or adjacent to lot lines. Such easement dedication shall be expressed on the plat or plan as follows: "Utility right-of-way easement granted for the purposes provided for and expressed in the Land Development Ordinance of Spotswood Borough." Utility easements along street right-of-way lines shall be a minimum of 10 feet in width.

D. Where natural foliage is not sufficient to provide year-round screening of any utility apparatus appearing above the surface of the ground, other than utility poles, the applicant shall provide sufficient live screening to conceal such apparatus year round.

E. On any lot where soil conditions, rock formulations, woods or other special conditions exist, and the Board deems it a hardship to the developer to comply with the provisions of this section, the developer may apply to the Board for an exception from the terms of this section. Where overhead lines are permitted as the exception, the alignments and pole locations shall be routed to avoid locations along horizons, to avoid the clearing of swaths through treed areas by selective cutting and staggered alignments, to minimize the views of the poles and alignments by planting trees in open areas at key locations, and to lessen the visual impact of the overhead lines by following rear lot lines and other interior locations.

### **§ 120-608. Sanitary sewers.**

#### A. Sewers.

(1) All subdivisions and site plans shall be provided with sanitary sewer facilities in such a manner as to provide adequate sewerage within the development to transport all sewerage from each lot and the total development to said collection system.

(2) Any sanitary sewer collection system shall be adequate to handle all present and probable future development. Alignments outside streets shall require easements or rights-of-way in accordance with § 120-517 of this chapter entitled "Easements."

(3) Any collection system shall be designed in accordance with the requirements of the New Jersey Department of Environmental Protection, the regional utility authority and all applicable Borough ordinances.

(4) The following sanitary sewer standards are required for all developments in the immediate vicinity of sanitary sewerage facilities:

(a) A complete engineer's report, setting forth the basis of design, shall be submitted to the approving authority. The report shall demonstrate the proposed collection system is designed to handle flows as specified elsewhere in these standards and shall demonstrate the downstream collection system can handle the additional flows without surcharging or creating adverse conditions.

(b) All sewer mains shall be extended along the entire frontage of the tract from the existing sewer main.

(c) All sanitary sewers shall be designed to carry the average flow estimated 25 years in advance with a peaking factor of four, unless otherwise determined by the Borough Engineer, determined by utilizing the Harman Equation (ASCE Manual No. 37.) Average flow shall be assumed to be 75 gallons per person, per day, with each house unit being occupied by four persons.

(d) All trunk and interceptor sewers shall conform generally to the Borough's Sanitary Sewer Master Plan where applicable.

(e) Gravity sewers shall be designed to flow with a minimum velocity of not less than two feet per second at full flow based on Kutter's Formula with  $n = 0.013$ . Inverted siphons and force mains shall be designed for a minimum velocity of three feet per second. The minimum gravity sewer size shall be eight inches in diameter. The minimum sewer lateral and force main size shall be four inches in diameter.

(f) All residential units shall be connected to a sanitary sewer by a four-inch (minimum) diameter sewer lateral. The lateral shall include connecting fitting and cleanout and shall be in accordance with the Borough's standard details. No lateral shall be accepted if the line has not been tested for water tightness. No connection shall be made without the approval of the Borough Engineer or Sewer Utility Superintendent and receipt of all required Borough permits and connection fees.

(g) Commercial and industrial units shall utilize a sewer lateral size in accordance with estimated sewerage flow from the particular unit with a minimum size of four inches.

(h) Materials used in construction of sewers, force mains, and outfalls shall be as follows:

[1] Gravity sewers shall be constructed of reinforced concrete pipe with steel and rubber joints, PVC pipe SDR-35, or cement-lined ductile iron pipe. Sewer laterals shall be constructed of PVC pipe or materials as approved by the State Uniform Construction Code. Cleanouts shall be of cast iron, soil pipe or PVC construction with brass caps.

[2] Inverted siphons and outfalls shall be constructed of cement-lined ductile iron pipe. Force mains shall be constructed of cement-lined ductile iron pipe, or PVC pressure pipe.

[3] Inverted siphons shall consist of a minimum of two pipes with provision for flushing.

[4] Flow control gates shall be provided in the chambers.

[5] Construction details are specified under "Detailed Information on Sewers" below.

(5) A general map of the entire project shall be furnished showing sewers, pumping stations and appurtenances. Plans shall show sanitary sewers and shall be of uniform size, 24 inches by 36 inches, with a one-half-inch border on top, bottom and right side, and a two-inch border on the left side, the last one for binding. The plans shall show the following:

(a) Details. The plans shall show contours of all existing and proposed streets, surface elevations of all breaks in grade and street intersections, tributary areas with population per acre, the true or magnetic meridian, boundary line, title, date and scale. Any area from which the sewerage is to be pumped shall be indicated clearly. All sheets shall be numbered.

(b) Symbols. Sewers to be built now and to be constructed later shall be shown by solid and dashed lines respectively. Existing sanitary sewers shall be shown by special designation. All topographical symbols and conventions shall be the same as the ones of the United States Geological Survey.

(c) Elevations. All permanent bench marks of New Jersey Coast and Geodetic Survey shall be shown. Elevations of streets shall be placed outside the street lines. The elevations of sewer inverts, shown as street intersections, ends of lines and at changes of grades, shall be written parallel with the sewer lines and between the street lines. The elevation of street surfaces and manhole rims shall be shown to the nearest 0.01 foot, the sewer inverts to the nearest 0.01 foot.

(d) Distances, grades and sizes. The distances and stationing between manholes, grades in decimals and sewer sizes and material shall be shown on the plans. Arrows shall show the direction of the flow.

(e) Profiles. Profiles shall show all manholes, siphons, pumping stations, and elevations of stream crossings, gradients and sizes of sewers, surface elevations and sewer inverts shall be shown at each manhole. They shall be drawn to standard engineering scale, and the scales shall also be shown on each street.

(f) Details of construction of manholes, etc. The standard details of the Borough for manholes, building service connections, siphons, etc., shall accompany the plans. Details shall be drawn to standard scales to show clearly the nature of design.

(g) Detailed plans for sewerage pumping stations and appurtenant odor control devices of a type acceptable to the Borough Engineer shall be provided.

(6) Complete specifications for the construction of the proposed sewerage system and appurtenances, including sewage pumping stations shall accompany the plans.

(7) A detailed estimate of the entire cost of construction shall be furnished. This estimate shall include cost of right-of-way, inspections, as-built plans, etc.

(8) Construction standards.

(a) Sewer connections shall be made to a street main only under the inspection of the Borough Engineer, Sewer Utility Superintendent or Borough Plumbing Subcode Inspector. Connection to the sewer shall be made through an approved wye, wye saddle or manhole-stub. Connections shall be watertight and shall be in accordance with the Borough's standard details. Connection to an existing manhole shall be made with a coring machine where a stub or knockout bulkhead has not been provided.

(b) Concrete pipe shall meet all requirements of ASTM Specifications C 76, latest revisions. All pipe shall be Class III strength except where stronger pipe is required.

[1] For depths less than three feet, measured from the top of the pipe, installed under traffic areas, Class IV or V pipe shall be utilized, as required.

[2] Pipes shall not be installed at depths in excess of the manufacturer's recommendation.

(c) PVC pipe shall meet ASTM D3034 — SDR 35, latest revision. PVC force main shall comply with AWWA C-900, latest revision and pressure class required by the Borough Engineer.

(d) Cement lined ductile iron pipe shall be Class 52 and must meet AWWA C104 and C151, latest revision.

(e) When the cover above the sewer pipe is three feet or less, a higher strength pipe, ductile iron pipe or concrete cradle or encasement shall be required.

(f) Joints for sewer pipes shall be as specified below:

[1] Reinforced concrete pipe. Push-on rubber gasket and steel joint for nonpressure pipe complying with ASTM C361, latest revision.

[2] PVC pipe. Push-on rubber gasket complying with ASTM D1869, latest revision.

(g) Ordinary bedding shall be required as per the appropriate section contained in the water distribution requirements of these standards.

(h) Concrete cradle bedding shall be as specified in the appropriate section contained in the water distribution system.

(i) Concrete encased pipe bedding shall be as specified in the water distribution system standards.

(j) Manholes shall be provided at ends of sewer lines, at intersections and at changes of grade or alignment. Distances shall not exceed 400 feet for sizes 18 inches or less. Where sewers enter manholes at elevations two feet or more above the invert, an external drop line shall be constructed, and comply with ASTM C478-64T, latest revision.

(k) Manhole frames and covers shall be of cast iron conforming to specifications ASTM A-48, latest revision. Manholes in roadways shall have nonpenetrating pickholes. Manholes in all areas subject to flooding shall be watertight. Manhole covers shall be cast with Borough designation as shown on the detail sheet.

(l) Pumping stations. The type of sewage pumping station to be utilized shall be determined on an individual basis by the Borough Engineer. The following general criteria will be applicable to all sewage pumping stations:

[1] The wet well shall have at least a 1:1 slope toward the pump intake. Raw sewage shall be screened before pumping. At least two pumps shall be designed, each capable of handling the total peak flow. If more than two pumps are used, their capacity shall be such that upon the failure of the largest pump, the others will handle the peak flow.

[2] Force main velocities shall be not less than three feet per second at normal pumping rates.

[3] All pump stations shall have watertight and lockable access covers. The detention time of the wet well shall not exceed 10 minutes at average daily flow.

[4] All pumping stations shall be provided with odor control devices, approved by the Borough Engineer, for control of odors emanating from the raw sewage received at the station.

[5] Pump controls and alarm conditions shall utilize encapsulated mercury switches designed for use with sewage.

[6] All pump stations shall be provided with an emergency power source housed in a masonry building approved by the Engineer.

[7] All force main headers shall have sewage-type gate and swing check valves.

[8] A cleanout/emergency bypass chamber shall be provided.



[9] Automatic audible and visual alarms shall be installed independently of station power and they shall give warning of illegal entry, lag pump on, high water and power failure conditions. Telemetry equipment shall be provided to transmit the alarm conditions to the receiving point designated by the Borough. All pump stations shall be enclosed in a six-foot chain link fence. Complete repair tools, accessories, and four bound sets of complete operation and maintenance manuals shall be provided with the pump station.

[10] Separate gates must be provided for pedestrian and truck use.

[11] Detailed estimates of operating and maintenance costs of the proposed pumping station must be submitted.

(m) Approval of plans by state agencies and others. Approval of plans, a permit to construct, and a permit to operate by the Regional Utilities Authority and/or the New Jersey State Department of Environmental Protection must be obtained by the applicant before the Borough's final approval will be given. The applicant shall obtain permits for all stream crossings or encroachments from the New Jersey Department of Environmental Protection. Permits to construct sewers and/or other structures within the right-of-way limits of state, county and municipal roads and all railroads must be secured and paid for by the applicant.

(n) The applicant must secure any necessary clearance from any public utility involved.

(o) Testing of completed sewerage. All sewers shall be subjected to an infiltration and/or exfiltration test as may be determined by the Borough Engineer. Exfiltration tests shall be constructed in lieu of infiltration tests when the pipe has been laid above the groundwater level. The tests shall be performed between two manholes or as otherwise directed by the Borough Engineer and shall include all related system components including the house connection.

(p) The contractor shall furnish all labor, material and equipment necessary for the testing.

(q) Exfiltration tests shall be under at least a four-foot head or a pressure corresponding to a head equal to the depth of the lower manhole of the section under test.

(r) Allowable infiltration or exfiltration shall not exceed a rate of 10 gallons per mile per inch of diameter of sewer per 24 hours for gravity sewers. Allowable exfiltration for force mains shall not exceed:

$$L = \frac{ND\sqrt{P}}{7400}$$

L = Allowable leakage (GPH)

N = Number of joints tested

- P = Average test pressure  
D = Nominal diameter of pipe

(s) All gravity sewers, siphons and force mains with infiltration or exfiltration in excess of the permissible limit shall be repaired, or removed and replaced, before proceeding with construction.

(t) Use of system.

[1] During construction and before final acceptance, the Borough shall have the right to use any portion completed without waiving their right to order correction of any defects.

[2] Use of the system for the discharge of sump pumps, or drainage from cellar drains, leaders, downspout, drainage tile, developers cellar pits or other criteria set forth in Chapter 205, Water and Sewers shall not be permitted.

[3] Sewage delivered into the facilities shall comply with the requirements of Regional Utilities Authority treating the sewage from the site and specifically shall not:

[a] Be of such a nature and in such quantity as to impair the hydraulic capacity of such facilities, normal and reasonable wear and usage expected.

[b] Be of such a nature as to, by either chemical or mechanical action, impair the strength or the durability of the sewer structures;

[c] Be of such a nature as to create explosive conditions in such facilities;

[d] Have a flash point lower than 187° F, as determined by the Tagliabue (Tag.) close up method;

[e] Have a pH index value lower than 5.0, or higher than 9.0;

[f] Include any radioactive substances, unless the municipality and Regional Utilities Authority shall have given written consent to its inclusion;

[g] Include any garbage than that received directly into public sewers from residences, after proper shredding, unless the municipality and Regional Utilities Authority consent to its inclusion.

(u) Within 30 days after construction and before final acceptance by the Borough, the applicant is to furnish the Borough one Mylar tracing of as-built drawings in ink, acceptable to the Borough Engineer, and six sets of prints (black on white) of each drawing showing the sewers, connections, etc., as constructed.

(v) The as-built plans shall accurately show the completed sewer system in sufficient detail to permit the future location and determination of all components of the system; including sewer lines, manholes, wyes or connections, service lines, clean outs and other pertinent features. The size and type of the components shall be indicated and shall be dimensioned and tied to existing physical features such as manholes, curbs, and buildings as may be appropriate. The plan and profile shall indicate invert in and out elevations of all pipes at manholes and as-built slopes of all pipelines.

(w) Preliminary as-builts may be required by the Borough Engineer prior to paving in order to insure facilities locations, beneath paved area.

B. It is the developer's responsibility to expand any on-tract public sanitary sewers to the limits of the tract boundary line to service future development and to conform to the Borough's Master Plan. Moreover, it is the developer's responsibility to maintain all sanitary sewer improvements within partially completed developments.

(1) 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.

(2) Comply with all applicable regulations of the New Jersey Department of Environmental Protection.

(3) Permit no accumulation on the property of any solid waste, junk or refuse.

(4) Comply with all provisions of the State Sanitary Code, Chapter VIII, Refuse Disposal, Public Health Council of the New Jersey Department of Health.

(5) 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.

G. Ventilation. No use shall obstruct the natural ventilation of adjacent uses nor contaminate the air with excessive heat or odor. Further, no air conditioners or exhaust fans shall be permitted to discharge exhausted air unless 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.

H. Vibration. There shall be no vibration which is discernible to the human senses of feeling beyond the immediate lot.

I. Dust. Dust due to nonagricultural operations shall not be permitted to escape beyond the immediate lot.

J. 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-1 et seq.) and any standards promulgated pursuant thereto by the New Jersey Department of Environmental Protection.

K. 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.

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

**§ 120-609. Water distribution system.**

A. All subdivisions, site plans and dwelling units shall be provided with water distribution facilities in such a manner as to provide adequate and continuous potable water to each buildable lot within the development or site. The water system shall be so designed to provide a minimum of 20 psi on the highest floors of proposed structures in accordance with the State Uniform Construction Code. *Editor's Note: See Ch. 72, Construction Codes, Uniform.*

B. All water distribution systems shall be adequate to handle all present and probable future development. Alignments outside streets shall require easements or right-of-way in accordance with § 120-517 of this chapter entitled "Easements."

C. All potable water distribution systems shall be designed in accordance with the recommendations of the American Water Works Association, Inc. (AWWA), and the requirements of the New Jersey Department of Environmental Protection, Division of Water Resources and applicable Borough ordinances.

D. The following potable water system standards are required for all developments to be served.

(1) A complete engineer's report, setting forth the basis of design, average daily, peak daily and peak hourly demands shall be submitted.

(2) All water distribution mains shall conform to the Borough's Water System Master Plan where applicable.

(3) Depending upon existing system and pressure gradient, all water mains shall be designed for a minimum working pressure of 150 psi unless higher pressure ratings are required. Water main size shall be a minimum of eight inches in diameter and provide a minimum flow rate of 1,000 gpm at all hydrants unless otherwise approved. Water mains shall be designed with Hazen-Williams coefficient C of 120. All water main sizes, flow rates and hydrant locations shall be subject to change and approval by the Borough Fire Subcode Official. Water mains shall be looped to avoid dead ends. Six-inch diameter water mains may be approved when deemed acceptable by the Engineer.

(4) Materials and details of construction shall comply with other applicable sections of these requirements.

(5) A general map of the entire project shall be furnished showing water mains, hydrants, main valves, lateral locations, etc.

(6) Plans shall show all water distribution, sanitary sewer and drainage facilities and shall be of a uniform size, 24 inches by 36 inches, with a one-half-inch border on top, bottom and

right side, and a two-inch border on the left side, the last one for binding. The placement of electric lines within water sanitary, or storm sewer trenches is strictly prohibited.

(7) The plans shall show the following.

(a) Details. The plans shall show contours of all existing and proposed streets, and surface elevations of all breaks in grade and street intersections, the true or magnetic meridian, boundary line, title, date and scale. All sheets shall be numbered.

(b) Symbols. Water mains to be built now and to be constructed later shall be shown by solid and dashed lines respectively. Existing water mains shall be shown by special designation. All topographical symbols and conventions shall be the same as the ones of the United States Geological Survey.

(c) Profiles. Profiles shall show all water mains, valves, hydrants, stream crossings, and clearance between sanitary and storm sewers and other underground utilities. The size and material of the water mains and the inverts of the water mains to the nearest 0.1 foot using a USGS datum shall be shown. They shall be drawn to standard engineering scale and the scale shall be shown on each sheet. An index of streets shall also be shown on each sheet.

(d) Details of construction. The standard details of the Borough for hydrants, valves, valve boxes, individual water service, sanitary sewer-water main clearances, etc., shall accompany the plans. Details shall be drawn to standard scales to show clearly the nature of design.

(8) Construction standards.

(a) Water connections shall be made to a street main only under the supervision and inspection of the Borough Engineer or Water Utility Superintendent. Connection to the main shall be made with a wet tap machine and AWWA approved service saddles, tapping sleeves, valves and other appurtenances.

(b) All underground components of the water distribution system shall be installed with a minimum cover of four feet or below the most severe frost line, whichever is greater.

(c) Pipe.

[1] Cement lined ductile iron pipe and fittings shall meet the standards of AWWA C150, AWWA C151, AWWA C110 and AWWA C104 1A test revisions. The minimum allowable pipe class shall be Class 52.

[2] All joints for the water main, shall be of the push-on joints type utilizing a neoprene rubber gasket with bronze conductivity wedges or mechanical joints using lead tipped gaskets. Joints shall meet the standards of AWWAC 111, latest revision.

(d) Valves shall meet AWWA Standard C509, latest revision, for resilient-seated nonrising stem gate valves. All valves should open counterclockwise.

(e) Valve boxes, curb boxes, and meter boxes shall be constructed of the finest quality gray cast iron and meet all applicable AWWA standards.

(f) Corporation cocks and curb stops shall be constructed of the finest quality red brass and meet all applicable AWWA standards.

(g) Service piping.

[1] All service line one inch through two inches shall be soft temper type K meeting standard ASTM B88, latest revision. Copper piping may be used to a nominal size of four inches.

[2] Cement lined ductile iron pipe shall meet AWWA standards C150, C151, C110, C111, and C104, latest revisions.

[3] Other service piping shall be permitted as specified in the State Uniform Construction Code. Nonmetallic pipe shall be wrapped with magnetic tracer wire or tape.

(h) The service saddle shall meet ASTM A536 and A307, latest revisions when required.

(i) The fire hydrant shall be installed in accordance with the Borough's standard detail, and shall be model Centurian as manufactured by Mueller Company.

(j) Water meters on water services shall be subject to approval by the Water Utility Superintendent and meet the latest standards of AWWA Sections C700-C708. Turbine meters shall not be permitted.

(k) Ordinary bedding shall be utilized for the installation of mains except where subsurface conditions require special stone bedding or concrete cradle bedding, by the Borough Engineer. Ordinary bedding shall be defined as that method of bedding mains in which the main is bedded, on approved granular material, with ordinary care in an earth foundation shaped to fit the lower part of the main exterior with reasonable closeness for a width of at least 50% of the main diameter; and in which the remainder of the main is surrounded to a height of at least 0.5 feet above its top with approved granular material, shovel placed and shovel tamped to completely fill all spaces under and adjacent to the main; all under the general direction of the Borough Engineer or Water Utility Superintendent during the course of construction. In all cases the type and amount of granular material shall be approved by the Borough Engineer.

(l) Concrete cradle bedding is that method of bedding mains in which the lower part of the main exterior is bedded in 2,000 pound concrete without reinforcement, having a minimum thickness under the pipe of 1/4 its nominal internal diameter and extending

upward to a height equal to 1/2 of the nominal inside diameter and same shall be utilized where so ordered by the Borough Engineer.

(m) Concrete encased pipe bedding is that method of bedding main in which the entire exterior is encased in three-thousand-pound concrete or better and same shall be utilized where ordered by the Borough Engineer.

(n) All water mains shall be extended along the entire frontage of the site to the farthest property limit from the existing main.

(o) Valves shall be provided at the intersection of each street and shall be a maximum of 1,000 feet apart. Accordingly, three gate valves are required at T-type intersections. Valves shall be provided between the water main and fire hydrant, upstream of all wet taps for water main extensions, at all wyes, tees and crosses in the mains, and at other locations recommended by the Borough Engineer or Water Utility Superintendent.

(p) Thrust blocks to resist any movement in mains and fittings shall be placed at valves, fittings, reducers, tees, crosses, bends, hydrants and dead ends.

(q) All thrust blocks shall be cast-in-place concrete, 3,000 psi strength. All bearings surfaces of thrust blocks shall be against undisturbed soil. The use of epoxy coated anchor rods and fittings or mechanical joint retainer glands may be required at the discretion of the Borough Engineer or Water Utility Superintendent.

(r) Fire hydrants shall be located as directed by the Borough Engineer and/or Fire Subcode Official and shall be required at the end of all dead-end mains and a maximum of 500 feet apart as measured along the curblineline of the roadway. Hydrants shall be provided at all high spots as a means of air release and at low spots as a point of flushing/blow off. Fire hydrants shall be equipped with six-inch gate valves and shall be constructed with the Borough's standard details.

(9) Approval of plans by state agencies and others. In the event that required approval(s) from a governmental agency other than the Borough reviewing agency is pending, the approving agency may, in appropriate instances and upon good cause demonstrated by the applicant, condition its final approval upon the subsequent approval of such governmental agency.

(a) Conditional approval shall not be granted without evidence confirming that required applications have been properly submitted and pursued.

(b) Conditional approval granted by the Borough reviewing agency shall be for an initial period not to exceed 65 days. In the event that the pending approval or permit has not been obtained upon the expiration of the conditional period, the approval granted by the reviewing agency shall be null and void.



(c) The approving authority may upon application and for good cause demonstrated, extend the conditional approval for additional period, each not exceeding 65 days.

(10) Testing of the completed water system. The water distribution system shall be subject to a hydrostatic test in accordance with Section 4 of AWWA Standard C-600, latest revision, with a pressure between 150 psig and 250 psig as directed by the Borough Engineer or Water Utility Superintendent. Any joint or component of the distribution system having a visible leak during testing shall be repaired or replaced prior to continuing construction.

(11) Disinfection of water system. After completion of the public water supply (including transmission and distribution mains and distribution system tanks), all surfaces with which adequately protected water may come into contact shall be effectively disinfected in accordance with AWWA C601, and/or NJDEP Safe Drinking Water Act requirements, latest revisions, and tested for the presence of bacteria by an NJDEP certified laboratory, before being placed into service.

(12) Use of system.

(a) During construction and before final acceptance, the Borough shall have the right to use any portion completed without waiving their right to order correction of any defects.

(b) The water supplied through the distribution system shall be properly chlorinated and treated to meet the potable water standards of the New Jersey Department of Environmental Protection, latest revision.

(c) The water distribution system shall be protected from contamination by sewage, radioactive, toxic, biological and other materials which may pose a hazard to public health and welfare by air-gap or backflow prevention devices meeting AWWA 506, latest revision.

(13) Within 30 days after construction, and before final acceptance by the Borough, the applicant is to furnish the Borough one Mylar tracing of as-built drawings in ink, acceptable to the Borough Engineer, and six sets of prints (black on white) of each drawing showing the water mains, connections, etc., as constructed.

(14) The as-built drawings shall accurately show the completed water system in sufficient detail to permit the future location and determination of all components of the system including water mains, valves, fittings, wet taps, corporations, services, curb stops and boxes, hydrants and other pertinent features. The size and type of the components shall be indicated and be dimensioned and tied to existing physical features such as manholes, curbs, buildings, hydrants and other major items acceptable to the Borough Engineer where blowup details are required for clarity they shall be provided.

(15) Preliminary as-builts may be required by the Borough Engineer prior to paving in order to insure facilities locations beneath paved areas.

(16) All new residential and commercial units shall be equipped with remote readout water meters installed in accordance with the Borough's Utility Department.

**§ 120-610. Easements.**

A. Easements along rear property lines or elsewhere for utility installation shall be required. Such easements shall be at least 20 feet wide for one utility and five additional feet for each additional utility and be located in consultation with the companies or Borough Departments concerned and, to the fullest extent possible, be centered on or adjacent to rear or side lot lines.

B. Floodplains and conservation easements shall be indicated on the preliminary and final plats and shown in such a manner that their boundaries can be accurately determined.

C. The removal of fir trees and ground cover shall be prohibited in a conservation easement or floodplain except for the following purposes: the removal of dead and diseased trees; limited thinning of trees and growth to encourage the most desirable growth; and the removal of trees to allow for structure designed to impound water or in areas to be flooded in the creation of ponds or lakes.

D. The boundary line of any easement shall be monumented along one side at its intersection with all existing or proposed street lines. Such easement dedication shall be expressed on the plat as follows: "\_\_\_\_\_ easement granted to the Borough of Spotswood as provided for in the ordinances of the Borough of Spotswood and a deed of easement shall be provided for all easement to the Borough of Spotswood."

**§ 120-611. Refuse containers and dumpster maintenance.**

A. Purpose: A section requiring dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times and prohibits the spilling, dumping, leaking, or otherwise discharge of liquids, semi-liquids or solids from the containers to the municipal separate storm sewer system(s) operated by the Borough of Spotswood and/or the waters of the state so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

B. Definitions. For the purpose of this section, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM**

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Spotswood or other public body, and is designed and used for collecting and conveying stormwater.

**PERSON**

Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

**REFUSE CONTAINER**

Any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.

**STORMWATER**

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

**WATERS OF THE STATE**

The ocean and its estuaries, all springs, streams and bodies of surface water or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

C. Covering of containers and dumpsters; prevention of leaks and discharges.

(1) Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.

(2) Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm sewer system(s) operated by the Borough of Spotswood.

D. Exceptions.

(1) Permitted temporary demolition containers;

(2) Litter receptacles (other than dumpsters or other bulk containers);

(3) Individual homeowner trash and recycling containers;

(4) Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit;

(5) Large bulky items (e.g., furniture, bound carpet and padding, white goods) placed curbside for pickup.

E. Enforcement. This section shall be enforced by the Code Enforcement Officer of the Borough of Spotswood.

F. Penalties. Any person(s) who is found to be in violation of the provisions of this section shall be subject to a fine not to exceed \$1,250.

**§ 120-612. Private storm drain inlet retrofitting.**

**A.** Purpose: A section requiring the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by the Borough of Spotswood so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

**B.** Definitions. For the purpose of this section, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)**

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Spotswood or other public body, and is designed and used for collecting and conveying stormwater.

**PERSON**

Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

**STORM DRAIN INLET**

An opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

**WATERS OF THE STATE**

The ocean and its estuaries, all springs, streams and bodies of surface water or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

**C.** Prohibited conduct. No person in control of private property (except a residential lot with one single-family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

(1) Already meets the design standard below to control passage of solid and floatable materials; or

(2) Is retrofitted or replaced to meet the standard in Subsection **D** below prior to the completion of the project.

**D.** Design standard. Storm drain inlets identified in Subsection **C** above shall comply with the following standard to control passage of solid and floatable materials through storm drain

inlets. For purposes of this Subsection D, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Subsection D(3) below.

(1) Grates.

(a) Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

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

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

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

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

(3) This standard does not apply:

(a) Where the Municipal Engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

(b) Where flows are conveyed through any device (e.g., end-of-pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

[1] A rectangular space  $4 \frac{5}{8}$  inches long and  $1 \frac{1}{2}$  inches wide (this option does not apply for outfall netting facilities); or

[2] A bar screen having a bar spacing of 0.5 inches.

(c) Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars; or

(d) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register-listed historic property.

E. Enforcement. This section shall be enforced by the Code Enforcement Officer of the Borough of Spotswood.

F. Penalties. Any person(s) who is found to be in violation of the provisions of this section shall be subject to a fine not to exceed \$1,250 for each storm drain inlet that is not retrofitted to meet the design standard.

### **§ 120-613. Floodplain areas.**

A. Basis of floodplain areas.

(1) The basis for the delineation of floodplain areas within Spotswood Borough was the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency and dated February 16, 1990. The mapping of the one-hundred-year floodplain areas is indicated on the map entitled "One-Hundred-Year Flood Hazard and Freshwater Wetlands Map," which is found in the Borough's 1994 Land Use Plan Update, although it is recognized that more floodplain areas exist in the Borough than those mapped. Any mapping of the flood hazard areas by the New Jersey Department of Environmental Protection shall take precedence.

(2) Additionally, while information depicted on the map has been prepared as accurately as possible, nevertheless, it must be understood that detailed information mapped at such a large scale may not represent the actual conditions on any particular parcel of land. Therefore, the information is not intended to take the place of specific on-site engineering data presented to and subjected to independent verification by the Borough at the time applications are submitted for approval of a subdivision, site plan, construction permit, and/or any other application which considers floodplain information.

B. Purpose of regulations for floodplain and stream corridor areas. The purpose of these regulations is:

(1) To protect floodplains and stream corridors so that floodwater may have a natural course to follow and so that the watercourse is not constricted or altered in a manner that will increase water velocities or create a dam.

(2) To allow water levels to rise without danger to persons, animals or property and cover larger land surfaces for the purposes of greater water percolation and recharge of the underground water supply.

(3) To promote the development of a park-like network throughout the Borough of Spotswood along stream corridors.

(4) To permit only that development of flood-prone areas and stream corridors within Spotswood Borough which:

(a) Is appropriate in light of the probability of flood damage and the need to reduce flood losses;

(b) Represents an acceptable social and economic use of the land in relation to the hazards involved;

(c) Does not increase the danger to human, plant or animal life; and

(d) Provides that no decrease in the amount of available storage for floodwaters within the floodplain results from any development.

(5) To prohibit any other types of development including, without limitation, the dumping of solid or hazardous waste, the construction of subsurface sewage disposal systems, the storage of any petroleum products, the addition or removal of fill and the altering of watercourses, temporary roadways and grading, and to retain areas adjacent to streams free from structures and other obstructions.

(6) To protect property from the adverse effects of flooding, erosion, loss of vegetation, seepage, and downstream deposits of silt, gravel and stone, and to prevent burdensome costs to the public arising from such damage and its repair.

(7) To protect other municipalities within the same watersheds from improper stream corridor development and the increased potential for flooding or for reduced stream flows in dry weather.

(8) To prevent disturbance to the ecological balance between wildlife, plant and marine life, which are dependent upon watercourses and their protective floodplains and slopes.

#### C. Applicability and interpretation.

(1) This section of the chapter regulates development in the following two ways:

(a) By protecting stream corridors, as defined in § 120-605D hereinbelow, from the type and intensity of development which would be destructive to their special environmental importance and harmful to the health and general welfare and to properties downstream; and

(b) By mitigating flood hazards within flood hazard areas pursuant to the requirements of the National Flood Insurance Program. These regulations are, in part, intended to satisfy

federal requirements in order to make flood insurance available within Spotswood Borough.

(2) Except in limited cases, the stream corridor requirements of § 120-605 do not permit structures within the stream corridor as defined in § 120-605D hereinbelow which, by that definition, includes flood hazard areas. The flood hazard mitigation requirements in § 120-605F apply only in those limited cases where structures or substantial improvements to structures are permitted.

#### D. Definitions.

##### **APPEAL**

A request for the review of the Borough Construction Official's interpretation of any provision of this section or a request for a variance from the Planning Board.

##### **AREA OF SHALLOW FLOODING**

A designated AO or VO Zone on the Flood Insurance Rate Map (FIRM.) The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

##### **AREA OF SPECIAL FLOOD HAZARD**

Land in the floodplain within the Borough subject to a 1% or greater chance of flooding in any given year.

##### **BASE FLOOD**

The flood having a 1% chance of being equaled or exceeded in any given year.

##### **BASEMENT**

The area of any building having its floor subgrade (below ground level) on all sides.

##### **BREAKAWAY WALL**

A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

##### **CHANNEL**

The bed and banks of the watercourses located within the boundaries of the Borough of Spotswood which convey the normal flow of said watercourses most of the time.

##### **DELINEATED STREAM**

A stream that has a delineated floodway officially adopted by the New Jersey Department of Environmental Protection pursuant to N.J.A.C. 7:13.

##### **DESIGN FLOOD PROFILE**

The elevations of the water surface of the floodway design flood and the flood hazard area design flood.

##### **DEVELOPMENT**

Any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, or storage of equipment or materials filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

##### **ELEVATED BUILDING**

A nonbasement building built to have the top of the elevated floor elevated above the ground level by means of piling, columns (posts and piers) or shear walls parallel to the



flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. "Elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

**FLOOD ELEVATION DETERMINATION**

The determination of the water surface elevations of the design flood, i.e., the flood level that has a 1% or greater chance of occurrence in any given year.

**FLOOD FRINGE AREA**

The portion of the flood hazard area not designated as the floodway.

**FLOOD HAZARD AREA**

The floodway and the flood fringe area of a delineated stream.

**FLOOD HAZARD AREA DESIGN FLOOD**

The one-hundred-year storm in nondelineated areas and the one-hundred-year storm plus 25% in delineated areas.

**FLOOD INSURANCE RATE MAP (FIRM)**

The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY**

The official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

**FLOOD or FLOODING**

A general and temporary condition of partial or complete inundation of normally dry areas from:

- (1) Inland or tidal waters; and
- (2) The unusual and rapid accumulation of runoff of surface water from any source.

**FLOODPLAIN**

The relatively flat area adjoining the channel of a natural stream which has been or may be hereafter covered by floodwater.

**FLOODPLAIN MANAGEMENT REGULATIONS**

State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**FLOODPROOFING**

Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY**

The channel of a natural stream and portions of the flood hazard area adjoining the channel which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream without accumulatively increasing the water surface elevation any more than 0.2 feet.

**FREEBOARD**

A factor of safety usually expressed in feet above the base flood elevation. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the base flood elevation.

### **HISTORIC STRUCTURE**

Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places:
  - (a) Approved by a state program as authorized by the Secretary of the Interior; or
  - (b) Directly approved by the Secretary of the Interior.

### **LOWEST FLOOR**

The lowest floor of the lowest enclosed area, including a basement. An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other applicable nonelevation design requirements.

### **MANUFACTURED HOME**

A structure, transportable in one or more sections which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For the purposes of floodplain management, the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers or other similar recreation vehicles.

### **MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISIONS**

A parcel (or contiguous parcels) of land divided into two or more manufactured homes lots for rent or sale.

### **NEW CONSTRUCTION**

Structures for which the start of construction commenced on or after the effective date of this chapter.

### **RECREATION VEHICLE**

A vehicle which is built on a single chassis; 400 square feet or less when measured at the largest horizontal projections; designed to be self-propelled or permanently towable by a

light-duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**START OF CONSTRUCTION**

Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement commenced within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STREAM**

A watercourse having a drainage area of over 50 acres.

**STREAM CORRIDOR**

Includes the area within a floodway, floodplain, flood hazard area and buffer strips 100 feet from the top of the channel banks of the stream. If the floodplain or flood hazard area extends for more than 100 feet from the top of the channel bank, said larger area shall be the stream corridor.

**STRUCTURE**

For floodplain management purposes, a walled or roofed building, a manufactured home, including without limitation, gas or liquid storage tanks, that is principally aboveground. For insurance purposes, "structure" means a walled and roofed building, other than a gas or liquid storage tank, that is principally aboveground and affixed to a permanent site. For the latter purpose, the term includes a building while in the course of construction, alteration or repair but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such material or supplies are within an enclosed building on the premises.

**SUBSTANTIAL DAMAGE**

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT**

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which is solely necessary to assure safe living conditions; or

(2) Any alteration of a structure listed on the National Register of Historic Places or the State Register of Historic Places.

## **VARIANCE**

A grant of relief by the Planning Board from the requirements of this section permitting construction in a manner otherwise prohibited by this section because the literal enforcement would result in unnecessary hardship.

### **E. Site plan review.**

(1) All proposals for any development within a floodplain or stream corridor area shall require site plan approval by the Planning Board in accordance with Article 800 of this chapter, provided, however, that when a plan does not include the construction of permanent buildings or structures but, instead, includes such work as grading, landscaping, work associated with agricultural uses and similar uses, and where, upon the recommendation of the Borough Construction Official, the proposed work is of such a minor nature that Planning Board review is not required, the need for site plan approval by the Planning Board may be waived by the Board. In any case, all other requirements of this section shall apply, and before the work actually begins, the Borough Construction Official shall have issued, in writing, his approval to proceed with the work.

(2) Review of proposal by Construction Official.

(a) When a proposal for development within a floodplain or stream corridor is made to the Borough, initially the Borough Construction Official shall review the proposal to:

[1] Determine that the requirements of this section have been satisfied;

[2] Determine that all necessary approvals have been obtained from those federal, state or other local governmental agencies from which prior approval is required;

[3] Determine if the proposed development is located in the floodway, and, if so, assure that the encroachment provisions pertaining to floodway are met; and

[4] Determine whether any plans for walls to be used to enclose space below the base flood level comply with applicable requirements.

(b) After the review is completed, the Borough Construction Official shall inform the Planning Board of the findings.

(3) Fees shall be provided for site plans in § 120-901 of this chapter and public notice of public hearings shall be given as stipulated for site plans in § 120-706D of this chapter.

(4) In addition to the applicable information required for site plan approval stipulated in either § 120-803 or 120-804 of this chapter, as applicable, the following additional information shall be provided:

(a) Proposed finished grade elevations at the corners of any structure or structures on U.S.G.S. datum.

(b) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures, existing and proposed.

(c) Elevation in relation to mean sea level to which any structure, existing or proposed, has been or will be floodproofed.

(d) Certification by a New Jersey registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria established by this section.

(e) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development. Where alteration or relocation of a watercourse is proposed, notification of the proposed alteration or relocation must be provided to adjacent municipalities and proof of such notification submitted to the Federal Insurance Administration and the New Jersey Department of Environmental Protection.

(f) The extent of proposed or previous filling, cutting or regrading of the land, if any.

(g) The location, type and size of all existing and proposed erosion and siltation control measures, such as slope protection soil stabilization, sedimentation basins, sediment trap headwalls and aprons.

(h) Proof of stream encroachment lines (floodway) obtained from the New Jersey Department of Environmental Protection. Where stream encroachment lines have not been established by the New Jersey Department of Environmental Protection, the following rules shall be utilized to determine the floodway delineation:

[1] Concerning hydrology methods that are acceptable are those outlined in "Technical Manual For Stream Encroachment" August, 1984, Section 3.1, published by the State of New Jersey, Division of Coastal Resources, Bureau of Floodplain Management, as amended.

[2] Concerning hydraulics:

[a] Water surface profiles shall be computed using the Step-Backwater method of analysis;

[b] Computations shall begin at a suitable control point at least 500 feet downstream from a project;

[c] Normal depth computed using Manning equation may be used as the starting elevation if the channel is of uniform cross section and slope, and it can be demonstrated that flow is not affected by backwater caused by downstream obstructions;

[d] Water surface profiles shall be computed based upon existing topography, proposed structures, and changes of topography proposed by the applicant; and

[e] Encroachment lines shall be set at or outside the floodway.

(5) The applicant should be prepared to present evidence that the proposal:

(a) Has an inherently low flood damage potential.

(b) Either acting alone or in combination with the existing or future uses will not obstruct flood flows or increase flood heights and/or velocities or reduce ground absorption or storage volume of stormwater.

(c) Does not affect adversely the water-carrying or storage capacity of the channel, floodway or flood fringe areas.

(d) Does not increase local runoff and erosion and provides proper drainage of the area to an existing adequate watercourse or drainage system.

(e) Does not unduly stress or degrade the natural environment of the floodplain or degrade the quality of surface water or the quality or quantity of groundwaters.

(f) Does not require channel modification or relocation.

(g) It is set forth in this chapter as a permitted use.

(h) It is not a prohibited use in that portion of the floodway, floodplain or stream corridor where proposed to be located.

(6) Where required by the Planning Board, the applicant shall furnish information relating to subsurface conditions based on percolation tests and soil borings or probes. Test borings or probes shall be performed by a licensed professional engineer and shall be in accordance with acceptable engineering standards and practices. Written notification of intention to conduct such tests shall be forwarded to and received by the Borough Engineer at least two working days prior to testing. A detailed report of the test shall be submitted to the Planning Board and the Borough Engineer for review.

(7) When base flood elevation data has not been provided by the Borough, its agents and employees shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source to administer this chapter.

(8) The reasons the use cannot be located totally outside the stream corridor area.

F. Uses in floodway flood fringe and stream corridor areas.

(1) Prohibited uses. No person shall hereafter engage in, cause or permit other persons to engage in prohibited uses in the floodway, flood-fringe, floodplain and stream corridor areas, unless specifically approved by the New Jersey Department of Environmental Protection. All uses not specifically permitted by § 120-605F(2) and (3) hereinbelow shall be prohibited.

(2) Permitted uses in floodway. The following uses shall be permitted in the floodway provided the requirements of § 120-605F(2)(e) and § 120-605G of this chapter are satisfied:

(a) Channel improvements or changes may be permitted only in connection with stream improvements and stabilization, which improvements or changes have the approval of the New Jersey Department of Environmental Protection, the Middlesex County Planning Board and the Spotswood Borough Planning Board.

(b) The accepted practices of soil husbandry and farming as well as recreational uses in the nature of parks, wildlife preserves, undeveloped common open space, play yards, provided that no play equipment is located in the floodway, picnic areas, boat landings and golf courses, provided that a maintenance program to promote stabilization of stream banks is established.

(c) Installation, repairs or replacement of sanitary sewers and appurtenances, and other utility lines and appurtenances.

(d) Culverts, bridges, road or driveway crossings where no other locations are feasible.

(e) No encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless a technical evaluation demonstrates that encroachment shall not result in any increase in floodlands during the occurrence of a flood having a 1% chance of being equaled or exceeded in any given year, unless specifically approved by the New Jersey Department of Environmental Protection. Any proposed use involving the removal of trees shall be undertaken in accordance with the approval of the Spotswood Borough Planning Board. Material, equipment or vehicles related to and used in conjunction with a permitted use shall not be parked or stored in the floodway area.

(f) Storm water management facilities.

(3) Permitted uses in the stream corridor areas. Except for within the floodway, the following uses shall be permitted in stream corridor areas:

(a) The accepted practices of soil husbandry and farming as well as recreational uses in the nature of parks, wildlife preserves, undeveloped open space, play yards provided no

play equipment is located in the stream corridor, picnic areas and golf courses, provided a maintenance program to promote stabilization of stream banks is established.

(b) Rebuilding existing structures provided the requirements of § 120-605G hereinbelow are met.

(c) Additions to preexisting structures not to exceed 25% of the gross floor area of the structure preexisting the adoption of this chapter.

(d) Farm fences allowing free passage of floodwaters and debris.

(e) Installation, repairs or replacement of sanitary sewers and appurtenances and other utility lines and appurtenances.

(f) Stormwater management facilities.

(g) Culverts, bridges, road or driveway crossings where no other locations are feasible.

G. Conditions of approval. The Planning Board may impose such conditions on permitted uses as it deems appropriate in order to promote the public safety, health and welfare to protect public and private property, wildlife and fisheries and to preserve and enhance the natural environment of the stream corridor. No certificate of occupancy shall be issued unless all conditions of approval have been complied with. In all flood hazard areas, the following conditions are specified in any case:

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(3) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(4) All new and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the system into the floodwaters.

(5) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(6) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(7) All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, the use of over-the-



top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(8) All subdivision proposals shall be consistent with the need to minimize flood damage.

(9) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(10) All new construction shall have electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities designed and/or located as to prevent water from entering or accumulating within the components during conditions of flooding.

(11) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(12) Appropriate and adequate controls on operations, sureties, deed restrictions and maintenance bonds shall be provided.

(13) The construction of stormwater detention and/or retention facilities, channel modifications, dikes, levees and other protective measures shall be required.

(14) The installation of an adequate flood warning system shall be required.

(15) The postponement of development until such a time as any necessary and required preconstruction protective measures are installed or implemented shall be required.

(16) New construction or substantial improvement of any residential structure shall have the lowest habitable floor, including a cellar or basement, elevated to one foot above the flood hazard area design flood elevation (a one-foot freeboard.)

(17) All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls, by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect and must meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the unimpeded gravity flow entry and exit of floodwater.

(18) New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including a cellar or basement, elevated to one foot above the design flood elevation (a one-foot freeboard) or, together with the attendant utility and sanitary facilities, be floodproofed so that below the design flood level the structure is watertight with walls substantially impermeable to the passage of

water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A licensed professional engineer or architect shall certify that the standards and methods of construction of this section are satisfied. Such certification shall be provided to the Planning Board. Any or all of the following floodproofing measures may be required:

- (a) Installation of watertight doors, bulkheads and shutters, or similar devices.
  - (b) Reinforced walls to resist water pressure.
  - (c) Use of paints, membranes or mortars to reduce seepage of water through walls.
  - (d) Addition of weights to structures to resist flotation.
  - (e) Installation of pumps to lower water levels of structures.
  - (f) Pumping facilities or comparable measures for the subsurface drainage systems of the building to relieve external foundation wall and basement flood pressures. Over the sidewalk and under the sidewalk gravity or sump pump drains are not permitted. All such drains shall outlet into an existing adequate watercourse or drainage system.
  - (g) Construction that resists rupture or collapse caused by water pressure or floating debris.
  - (h) Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewerage or stormwaters into the structure; gravity drainage of basements may be eliminated by mechanical devices.
  - (i) Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure that they are not subject to inundation and flooding.
  - (j) Annual inspection and recertification of all nonresidential structures which have been floodproofed to assure that floodproofed structures and attendant facilities have been properly maintained.
- (19) Where and when permitted, fill shall be no lower than one foot above the flood hazard area design flood elevation and shall extend at such height for a distance of at least 15 feet beyond the limits of any structure erected thereon.
- (20) Where and when permitted, structures on fill shall be so built that the lowest floor is at a minimum of one foot above the flood hazard design elevation.
- (21) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the finished floor elevation of the lowest floor is at or above the base flood elevation.

(22) All necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

(23) Adequate maintenance shall be provided within any altered or relocated portion of a watercourse so that the flood carrying capacity is not diminished.

H. Variances from conditions. Variances from the conditions of this section may only be issued by the Spotswood Borough Planning Board in conformance with the following provisions:

(1) For the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Register of Historic Places.

(2) Variances shall not be issued within any designated floodway, flood fringe area or stream corridor if an increase in flood levels during the design flood would occur.

(3) Variances may only be issued upon a determination that the variance is the minimum necessary to afford relief considering the flood hazards.

(4) Variances may only be issued upon a determination that failure to grant the variance would result in exceptional hardship to the applicant and a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

I. Flood insurance. Flood insurance in accordance with the Federal Insurance Agency shall be required for all developments in the floodplain.

J. Warning and disclaimer. The degree of flood protection required herein is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside flood hazard areas will be free from flooding or flood damage. This chapter shall not create liability on the part of the Borough of Spotswood or by any other officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

K. Flood hazard area searches.

(1) Official designated to make flood hazard searches. The Borough Council shall, annually, designate an official of the Borough and/or a number of private consulting firms who are authorized to make and prepare flood hazard area searches.

(2) Issuance of certificates. The official appointed to make such searches shall issue certificates with respect to flood hazard areas on behalf of the Borough within a reasonable time after receipt of the following:

(a) A written request for a flood hazard area search containing a diagram or description showing the location and dimensions of the tract of land to be covered by the certificate, and the name of the owner of the tract of land; and

(b) The total fees as herein provided.

(3) Fees for certificates. The following fees shall be received prior to the issuance of any certificate:

(a) Where the property described in the application is shown on the Tax Map as consisting of five acres or less, a fee of \$5.

(b) Where the property described in the application is shown on the Tax Map as consisting of more than five acres but less than 20 acres, a fee of \$10.

(c) Where the property described in the application is shown on the Tax Map as consisting of 20 acres or more, a fee of \$20.

**§ 120-614. Reserved**

## ARTICLE 700: CONDITIONAL USES

### **§ 120-701. Conditional uses: general**

Before a construction permit or certificate of occupancy shall be issued for any conditional use as permitted by this chapter, a conditional use application 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. Public notice and a hearing shall be required as stipulated in this chapter. In accordance with N.J.S.A. 40:55D-67a of the Municipal Land Use Law, the Planning Board shall grant or deny the application for a conditional use within 95 days of submission of a complete application to the Administrative Officer or within such further time as may be consented to by the applicant. Where a conditional use application involves a site plan or subdivision, notice of the hearing shall include reference to all matters being heard, and the Board shall review and approve or deny the subdivision or site plan simultaneously with the conditional use application. Failure of the Board to act within the required time period shall constitute approval of the application.

### **§ 120-702. Conditional use criteria**

Conditional uses include the following requirements:

A. Houses of worship, schools, firehouses, clubs and lodges located in the R-10 District:

(1) Houses of Worship, Public and private schools, Firehouses, Clubs and Lodges located in the R-10 District shall be subject to the bulk requirements listed in the R-10 subsection for principal uses which shall be considered conditional use criteria. Such uses shall subject to site plan review and approval from the Planning Board.

B. Recreational facilities in the MSR District:

(1) Recreational facilities, video arcades, entertainment facilities including bowling alleys, staking rinks, indoor theatres, taverns, nightclubs shall subject to site plan review and approval from the Planning Board.

C. Houses of Worship in the MSR District:

(1) Houses of worship, shall be located on lots of 3 acres or more, and shall be subject to site plan review and approval from the Planning Board.

D. Mixed-use buildings (non-conforming) in the MSR District:

Mixed-use buildings not providing the required arrangement of residential flats, apartments, condominiums or lofts on upper floors only, or buildings not providing the minimum requirement of 75% of all residential units in any single building to be one-bedroom units, studio-apartments or one-bedroom + den units, or wherein greater than 25% of the number of units shall be proposed to be two-bedroom units. Any building proposing three (3) or more

bedrooms in any unit shall not be considered part of this category of uses. When proposed, such uses shall be subject to all parking, loading, lighting, landscaping and design criteria listed in the MSR Zone and elsewhere in this Chapter, which shall be Conditional Use criteria. All such buildings shall also be subject to the additional, special recycling and buffer requirements of the Apartment Residential and/or Townhouse Residential Zone, and said regulations shall not be considered conditional use criteria, but rather standard design controls subject to bulk/design relief from the Planning Board. Site Plan review and approval shall be required.

E. Gasoline stations, gasoline service stations, automotive repair garages and body shops:

Automotive body shops, repair garages, engine, transmission, auto glass, or similar specialty automotive repair shops, when proposed in any zone, shall be in accordance with the following conditional use standards:

(1) The minimum lot size shall be 20,000 square feet and the minimum lot width, depth and frontage shall be 100 feet each.

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

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

(4) The maximum building coverage shall be 30% and the maximum lot coverage shall be 65%. Landscaping shall be provided in the front yard area and shall be distributed throughout the entire front yard area.

(5) All activity and facilities other than gasoline filling pumps, air pumps and trash enclosures shall be within a building except as specifically approved by the Planning Board as part of a site plan application. 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.

(6) No damaged, wrecked or dismantled vehicle, junk or trailers 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 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 days and, further, no more than five vehicles awaiting repair and/or service shall be stored overnight on the premises.

(7) The exterior display, storage and parking of motor vehicles, trailers, boats or other similar equipment for sale or rent shall not be permitted.

(8) There shall be no outside display or storage of merchandise, supplies, product, equipment or similar material or objects unless specifically approved by the Board 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 automotive use 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 vehicles 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.

(10) All fuel shall be kept in tanks of an approved design and the tanks shall be buried in accordance with the NJDEP and Board Engineer. No fuel tank shall be permitted under any shed or building. All gasoline tanks are to be buried shall not be located within ten (10) feet from any building or property line.

(11) Automotive uses shall provide off-street parking in accordance with the parking chapter of this ordinance.

(12) No parking shall be permitted on an unpaved area nor within 15 feet of any property line.

(13) Parking, storage and display spaces shall be separated from the driveway and general apron areas which give access to the facility, and no designated parking space shall obstruct access to such facilities.

(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 convenience stores and are not permitted as part of a service station.

(15) Service stations may be permitted one freestanding sign and one sign attached flat against the building. The freestanding sign shall not exceed an area of 50 square feet and a height of 10 feet, and shall be set back at least 10 feet from all street rights-of-way and lot lines. The attached sign shall not exceed 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 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 and accessory structures to be constructed.

(18) All of the other area, yard and general requirements of the respective zone and other applicable requirements of this chapter shall be met.

(19) All canopies covering fuel pumps shall be set back from all property lines a minimum of 20 feet. Canopies shall be permitted two (2) façade signs, mounted on the canopy façade, no greater than 20 SF each.

(20) Gasoline stations shall provide information on security cameras, cash/credit card acceptance and should solicit the comments of the Borough Police and Fire Departments relative to public safety and fire safety issues.

(21) Gasoline Stations shall be designed to be “generator-ready” so as to provide on-site emergency power generation or accept power from generator vehicles in the event of a long-term power outage.

F. Public utility buildings, structures, stations and substations:

(1) For purposes of this chapter, the term "public utility" shall include such uses such as telephone, television, internet equipment centers, power substations, equipment switching yards and other utilities serving the public, such as sewage treatment plants, but shall exclude dumps, sanitary landfills and telecommunications towers.

(2) Public utility lines shall be exempt. Public utility lines for the transportation, distribution or control of water, electricity, gas, oil, cable television and telephone or internet communications are permitted throughout the Borough of Spotswood and need not necessarily be located on a lot. This exemption shall apply strictly to transmission lines, and

not apply to any type of utility stations, buildings, structures, substations, equipment compounds, wireless towers or control buildings.

(3) Public utility transformer and junction boxes. Public utility transformer and junction boxes are permitted throughout the Borough of Spotswood and need not necessarily be located on a lot, provided that they are adequately screened with landscaping, fencing or a combination of the two and do not exceed three (3) feet in height. This exemption shall not apply to any such structure that exceeds three (3) feet in height or is unscreened.

(4) The proposed installation of a public utility use, station or equipment not exempted above shall require site plan approval and shall be a conditional use in all zones with the following conditional use criteria:

(a) Utilities may only be permitted in a location necessary for the convenient and efficient operation of the subject public utility and for the satisfactory provision of service by the utility to the 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.

(b) The design of any building in connection with the public utility installation must not adversely affect the safe and comfortable enjoyment of the properties in the surrounding area.

(c) Adequate fences, screening devices and other safety devices must be provided as may be required to completely screen the facility. In addition to all fencing or screening walls, a 20' deep heavily landscaped buffer shall be provided between the utility use and all property lines, except where site access is proposed.

(d) The maximum building coverage shall be 35% and the maximum lot coverage shall be 50%. Landscaping, including shrubs, trees and lawns, shall be provided and maintained.

(e) Off-street parking shall be provided as determined by the Planning Board during site plan review. When parking is proposed, the standards of the Parking Subsection of this ordinance shall apply.

(f) The Landscaping Chapter requirements of this ordinance shall apply.

(g) The use shall provide documentation to verify that they will comply with the performance standards of this ordinance.

(h) All buildings, structures and equipment shall be considered principal uses/structures and shall be subject to the building height restrictions of the respective zone in which the use is proposed. Any height violation by a building or equipment structure, pole, tower, antenna, etc shall require bulk or use variance relief from the Planning Board.

G. Community residences and community shelters for more than fifteen (15) persons in any residential zone:

(1) Any community residence for the developmentally disabled or community shelter for victims of domestic violence that house more than 15 persons, excluding resident staff, shall require conditional use and site plan approval for the use of, or the conversion of for the use of, a dwelling for such shelter or residence.

(2) In no case shall more than 15 persons, excluding resident staff, occupy any community residence or community shelter. The minimum gross habitable floor area shall be 300 square feet for each person housed at the residence or shelter.

(3) The minimum area and yard requirements applicable to the particular zoning district each shall be increased by 15% for each person housed in the community residence or community shelter over and above six persons, except that, at a minimum, a lot area of 40,000 square feet and a setback of 50 feet to any street or property line shall be provided.

(4) No community residence or community shelter occupied by more than six persons shall be located within 1,500 feet of an existing community residence or community shelter.

(5) A conditional use shall not be granted if the total number of persons, other than resident staff, residing in aggregate in such community residences or community shelters within the Borough of Spotswood exceeds 50 persons or 0.5% of the population of the Borough, whichever is greater.

(6) The residential character of the lot and buildings shall not be changed, and there shall be no exterior evidence of the community residence or community shelter. No signs shall be permitted except information and direction signs as permitted for single-family detached dwellings.

(7) Buffering and screening, as deemed necessary by the Board, shall be required between any community residence or community shelter and any adjoining residential use.

(8) The following design requirements shall be incorporated within the submitted plan:

(a) Each community residence or community shelter shall be connected to public water and public sewer facilities;

(b) Community residences or community shelters must have immediate access to public transportation services or, in the alternative, the occupants shall be provided with a van or equivalent transportation service; and

(c) Community residences or community shelters shall resemble single-family detached dwellings in appearance.

(9) All community residences or community shelters shall provide one off-street, on-site parking space for each two residents thereof, plus one space for each staff member and employee based upon the maximum number of employees on duty at any one time. The Planning Board shall give due consideration to provisions for visitation and the number of resident staff in order to ensure that there are ample on-site parking facilities. Sufficient off-street area is to be provided for the pickup and discharge of occupants by vans or other vehicles servicing the residents. No off-street parking or loading area shall be located within 20 feet of any street or property line, and all such areas shall be suitably screened.

(10) A community residence shall be located within reasonable walking distance to recreational facilities and shopping facilities.

(11) Notwithstanding compliance with the specific conditional use standards herein set forth, no conditional use will be permitted if the use at the proposed location would be detrimental to the health, safety and general welfare of the community and the residents of the facility itself.

(12) The Zoning Officer is empowered to issue use permits for the operation of the residences established by this Section of the chapter, which use permits shall be issued for a period not to exceed one year.

(a) At the expiration of the term of the permit, the Zoning Officer, pursuant to a written request from the operator of the residence, shall conduct an inspection of the premises in order to determine that the operation of the residence has continued to comply with the terms of this chapter.

(b) If the operation of the residence is found to be in compliance with the terms of this chapter, the Zoning Officer shall renew the use permit for a one-year time period.

(c) If any violations of the terms of this chapter are found by the Zoning Officer, the Zoning Officer shall notify the operator of the residence that the use permit shall not be renewed unless and until said violations are corrected. The Zoning Officer shall establish uniform periods of time to allow for the corrections of any violations.

(d) In any case, no use permit issued by the Zoning Officer shall be of any force and/or effect beyond a period of one year.

(13) During the term of a valid use permit as described herein, the Zoning Officer shall maintain a continuing power to inspect the premises to confirm compliance with the terms of this chapter, and shall recommend to the Borough Council that use permit be revoked whenever and wherever such action may be found to be in the interest of the health, safety and general welfare of the Borough.

(14) No use permitted shall be permitted to continue, or be renewed, if the Zoning Officer has determined that the ratio of residents to staff exceeds reasonable standards for the care of the residents, with specific consideration given to the type and nature of the care

required; the expertise of the staff; the degree of care required; the safety of the residents; and the neighborhood in which the residence is located.

(15) All of the other area, yard, building coverage, height and general requirements of the respective zone and other applicable requirements of this chapter must be met.

## **§ 120-703. Wireless communication facilities**

### A. Overall purposes and scope

It is the overall purpose of this subsection to provide specific zoning conditions, standards and limitations for the location, approval and operation of all wireless communication facilities within the Borough of Spotswood which recognize the need to safeguard the public good, health, safety and welfare and preserve the intent and the purposes of the Spotswood Borough Master Plan and Land Use and Development Ordinance. It is understood by the Borough of Spotswood that the federal government, through the Federal communications Commission (FCC), issues licenses for wireless communications, and that the FCC requires the license holders to provide coverage within the areas so licensed. However, it also is understood by the Borough of Spotswood that the Federal Telecommunications Act of 1996 ("FTA") expressly preserves the zoning authority of the Borough to regulate the placement, construction and modification of personal wireless service facilities subject to the six limitations noted at § 332(c)(7)(B) of the FTA. In this regard, the FTA does not abrogate local zoning authority in favor of the commercial desire to offer optimal service to all current and potential customers, and the providers of the personal wireless services must bear the burden of proving that any proposed service facility is the least intrusive means of filling a significant gap in wireless communication services in the area.

### B. Definitions. As used in this subsection, the following terms shall have the meanings indicated in the definitions subsection of this Chapter.

### C. Specific goals and overall objectives shall be:

- (1) The overall objective of this subsection is to allow the provision of wireless communication services while, at the same time, minimizing the number of antennas and supporting towers to the fewest possible, and only in those locations which do not negatively impact upon the prevailing visual character of the Borough of Spotswood.
- (2) To limit the impact of wireless communication antennas, towers and related facilities upon the residences and the streetscapes throughout the Borough of Spotswood;
- (3) To encourage the location of antennas upon, or within, existing structures, including, but not limited to, existing steeples, cupolas, industrial building towers, catenary support towers, other towers and water standpipes;
- (4) To encourage the collocation of antennas on the fewest number of existing structures within the Borough of Spotswood;
- (5) To encourage the communication carriers to configure their facilities in a manner that minimizes and mitigates any adverse impacts upon affected properties, streetscapes and viewsheds through careful design, location selection, landscape screening and innovative camouflaging techniques;

- (6) To encourage the use of alternate technologies which do not require the use of towers, or require towers at relatively lesser heights;
- (7) To enhance the ability of the carriers of wireless communications services who adhere to the letter and intent of these subsection provisions to provide such services quickly, effectively and efficiently; and
- (8) To comply with the mandate of the Federal Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7), which preserves local government authority to enforce zoning requirements that protect public safety, public and private property and community aesthetics.

D. Exemptions of applicability. This subsection shall not apply to any tower or the installation of any antenna that is under 70 feet high and is owned and operated only by a federally licensed amateur radio station operator or is used exclusively to receive transmissions

E. Locations where wireless communication antennas may be permitted. Wireless communication antennas may be located only at the following two prioritized locations:

(1) First-priority locations: The first-priority locations for wireless communication antennas shall be on existing monopoles, industrial building towers, catenary support towers, and other existing towers in Spotswood Borough. When proposed at one of these locations, wireless communications facilities shall be considered permitted uses.

(1) Second-priority locations: The second-priority locations for wireless communication antennas shall be on new wireless communication towers or poles on land areas within the LI Light Industrial Zoning District; antennas so located shall be conditionally permitted uses with the requirements for second priority locations serving as conditional use criteria.

F. Requirements for first-priority locations.

(1) The Zoning Officer/Construction Official shall maintain a list of locations of previously approved wireless communications facility sites which shall be know as Addendum I. All wireless communication antennas locating on or within the above listed structures in Spotswood Borough OR as identified in Addendum I shall be considered permitted uses by the Spotswood Borough Planning Board in accordance with this chapter.

(1) In addition to the information otherwise required for an application, the applicant shall provide the following information to the Planning Board:

[a] Any proposed structural modification to the existing tower, tank, cupola, steeple or silo that is necessary to accommodate the proposed antennas, provided that the height of the existing structure shall not be increased;

[b] Details of the proposed antennas, which shall be flush-mounted, panel style antennas totaling no more than six (6) in number per carrier; and no more than thirty (30) per location, inclusive of all carriers.

[c] The proposed location and landscape screening of any equipment shelters enclosing the related electronic equipment;

[d] Any other construction that may be proposed or required regarding the installation of the proposed antennas; and

[e] The height of any proposed antenna attached to an existing structure, provided that no antenna shall extend higher than 10 feet above the height of the existing structure.

G. Requirements for second-priority locations.

(1) Regarding for second-priority locations for wireless communication antennas (i.e., on land areas within the LI Light Industrial Zoning District), any such proposed tower, antennas and related equipment shall require both conditional use approval and site plan approval with this ordinance.

(2) The following information shall be submitted for site plan approval, and the referenced Subsections A(9), (10), (11) and (12) hereinbelow contain the specific conditions, standards and limitations for wireless communication antennas on wireless communication towers in the Borough of Spotswood:

[a] In order to be declared complete for site plan approval, the initially submitted application shall include all of the applicable documentation and items of information identified on the Borough's preliminary and final site plan application checklists as contained in this chapter;

[b] In order to be declared complete, the initially submitted application shall include an overall comprehensive plan in accordance with Subsection A(9) hereinbelow;

[c] In order to be declared complete, the initially submitted site plan shall indicate conformance with all of the area and setback conditions set forth in Subsection A(10) hereinbelow;

[d] In order to be declared complete, the initially submitted site plan shall indicate conformance with each of the design conditions set forth in Subsection A(11) hereinbelow;

[e] In order to be declared complete, the initially submitted application shall include the additional conditions indicated in Subsection A(12) hereinbelow; and

[f] During the public hearing process, the applicant shall schedule the time for a crane or balloon test with the Secretary of the Planning Board in order to provide the members of



the Planning Board and the general public the opportunity to view a crane or balloon at the location and height of the proposed tower. Thereafter, a visual sight distance analysis shall be prepared by the applicant and presented to the Planning Board, including photographic reproductions of the crane or balloon test, graphically simulating the appearance of the proposed tower, with at least three antenna arrays attached thereto and from at least 15 locations around and within one mile of any proposed tower where the tower will be most visible.

#### H. Overall comprehensive plan.

(1) In order to effectuate the purposes, objectives and goals of these subsection provisions, any applicant for approval to erect a new supporting tower for wireless communication antennas shall provide threshold evidence that the proposed location of the tower and antennas has been planned to result in the fewest number of towers within and around the Borough of Spotswood at the time full service is provided by the applicant.

(2) The applicant shall provide an overall comprehensive plan indicating how it intends to provide full service within and around the Borough of Spotswood and, to the greatest extent possible, shall indicate how its plan specifically relates to and is coordinated with the needs of all other providers of wireless communication services within and around the Borough.

(3) The overall comprehensive plan shall indicate the following, and this information shall be provided at the time of the initial submission of the application:

[a] The mapped location and written description of all existing and approved supporting towers for all providers of wireless communication services within one mile of the subject site, both within and outside of Spotswood Borough;

[b] The mapped location and written description of all existing or approved water towers or water standpipes and existing high tension power line stanchions within one mile of the subject site, both within and outside of Spotswood Borough;

[c] An explanation of why the proposed antennas could not be located on any of the structures listed and mapped in Addendum I attached to these subsection provisions;

[d] How the proposed location of the proposed antennas specifically relates to the anticipated need for additional antennas and supporting structures within and near the Borough of Spotswood by the applicant and by other providers of wireless communication services within the Borough;

[e] How the proposed location of the proposed antennas specifically relates to the objective of collocating the antennas of many different providers of wireless communication services on a single supporting structure; and

[f] How the proposed location of the proposed antennas specifically relates to the overall objective of providing adequate wireless communication services within the Borough of

Spotswood while, at the same time, limiting the number of towers to the fewest possible, including alternate technologies which do not require the use of towers or require towers of a lesser height.

I. Area and setback conditions.

(1) The proposed tower, antennas and ancillary related electronic equipment are required to be located on a lot area no less than 20,000 square feet;

(2) The minimum required land area shall either be a separate undeveloped lot or a leased portion of an existing undeveloped or developed lot;

(3) The proposed tower, antennas and related equipment, and any approved building housing the electronic equipment and any approved camouflaging of the tower, shall be the only land uses located on the required twenty-thousand-square-foot subject land area, whether a separate lot or a leased portion of a lot; and

(4) Except for any access driveway into the property, required landscaping and any underground utility lines reviewed and approved by the Planning Board as part of the site plan submission, no building, tower, other structure and/or disturbance of land shall be permitted within 100 feet of any street line and within 50 feet of any lot line of any adjacent property, provided that, in any case, no building, tower, other structure and/or land disturbance shall be located within 500 feet of an existing residential dwelling or within 1,000 feet of any historic district or site as duly designated by Spotswood Borough, Middlesex County, the State of New Jersey, and/or by the federal government.

J. Design conditions.

(1) All towers shall be a monopole design.

(2) All towers shall be camouflaged (e.g., housed in a silo, bell tower, etc., or made to look like a tree or a non-oversized flagpole) as may be appropriate in the context of the visibility of the tower from different vantage points throughout the Borough and the existing land uses and vegetation in the vicinity of the subject site.

(3) The height of any proposed new tower and the antennas attached thereto shall not exceed 125 feet from the existing ground level beneath the tower.

(4) No signage is permitted except such information signs deemed necessary for safety purposes by the Planning Board.

(5) Minimal off-street parking shall be permitted as needed and as specifically approved by the Planning Board.

(6) No lighting is permitted on a tower except lighting that specifically is required by the Federal Aviation Administration (FAA), and any such required lighting shall be focused and

shielded to the greatest extent possible so as not to project toward adjacent and nearby properties. The applicant shall provide to the Planning Board all applicable FAA standards regarding lighting that may apply to a proposed tower.

(7) Individual shelters for the required electronic equipment related to the wireless communication antenna(s) shall be permitted in accordance with the following design criteria:

[a] Any proposed shelter enclosing required electronic equipment shall not be more than 15 feet in height nor more than 250 square feet in area, and only one such shelter shall be permitted for each provider of wireless communication services located on the site;

[b] No electronic equipment shall interfere with any public safety communications;

[c] All of the electronic equipment shall be automated so that the need for on-site maintenance and the commensurate need for vehicular trips to and from the site will be minimized;

[d] All of the shelters for the required electronic equipment for all anticipated communication carriers to be located on the subject site shall be housed within a single one-and-one-half-story building, which building shall not exceed 1,000 gross square feet in area and 20 feet in height, and which shall be designed with a single-ridge, pitched roof with a residential appearance; and

[e] The building may have one light at the entrance to the building, provided that the light is attached to the building, is focused downward and is switched so that the light is turned on only when workers are at the building.

(8) Between the location of the tower and the building enclosing related electronic equipment and any public street or residential dwelling unit or residential zoning district within view of the tower and the building, landscaping shall be provided in accordance with the following:

[a] The landscaping shall consist of a combination of existing and/or newly planted evergreen and deciduous trees and shrubs of sufficient density to screen the view of the tower during all four seasons of the year, particularly at its base, to the maximum extent reasonably possible, and to enhance the appearance of the building from the surrounding residential properties and any public street;

[b] The landscaping plan shall be prepared by a licensed landscape architect who shall present testimony to the Planning Board regarding the adequacy of the plan to screen the tower from view and to enhance the appearance of the building; and

[c] Any newly planted evergreen trees shall be at least eight feet high at time of planting, and any newly planted deciduous trees shall be a minimum caliper of three inches at time of planting.

K. Additional conditions. Additional conditions include the following:

(1) Documentation by a qualified expert that any proposed tower will have sufficient structural integrity to support the proposed antennas and the anticipated future collocated antennas and that the structural standards developed for antennas by the Electronic Industries Association (EIA) and/or the Telecommunication Industry Association (TIA) have been met;

(2) A letter of intent by the applicant, in a form that is reviewed and approved by the Planning Board Attorney, indicating that the applicant will share the use of any tower with other approved wireless communication carriers at reasonable rates that are economically viable; and

(3) The applicant (and the landowner in the instance of a leased property) shall provide a performance bond and/or other assurances satisfactory to the Borough Clerk, in a form approved by the Borough Attorney, that will cause the antennas, any supporting tower, the electric equipment cabinets, and building enclosing the electronic equipment shelters, and all other related improvements to the land to be removed, at no cost to the Borough, when the antennas are no longer operative. Any wireless communication facility not used for its intended and approved purpose for a period of six months shall be considered "no longer operative" and shall be removed by the responsible party within 60 days thereof.

L. Location preferences for new towers. The following are not conditions, standards and limitations for the location of wireless communication towers, but are preferences of the Borough:

(1) To the greatest extent possible, no tower shall be located to be visible from any historic district or site as duly designated by the Borough of Spotswood, Middlesex County, the State of New Jersey, and/or by the federal government.

(2) To the greatest extent possible, no tower shall be located to be visible from any street.

(3) To the greatest extent possible, any tower shall be located behind existing buildings and/or natural topographic elevations in order to screen the tower from view from adjacent properties and from any street right-of-way.

M. Other requirements. All other applicable requirements of this chapter not contrary to the conditions, standards and limitations specified herein shall be met, but waivers and/or variance of such other applicable requirements may be granted by the Planning Board.

N. Technical review. In addition to its normal professional staff, given the technical and specialized nature of the testimony by the applicant's radio frequency expert(s), the Planning Board may, at the applicant's expense, hire its own radio frequency expert to review and comment upon the testimony presented by the applicant. The Planning Board may hire other experts with specialized areas of expertise if deemed necessary, also at the applicant's expense.

- O. Application for variances to the Planning Board. Any application for a variance to construct or install wireless communication antennas and/or a new wireless communication tower in a location not permitted by this subsection shall be required to submit all of the information required herein for second-priority locations, and no such application shall be deemed complete unless all of the required information is provided or unless the need to provide the required information is specifically waived by the Planning Board.
- P. Site Plan review required. Site Plan review shall be required for all wireless communications facilities proposed within the Borough of Spotswood except as provided below.
- Q. Collocation waiver from Site Plan review. Pursuant to the Municipal Land Use Law, an application for development to collocate wireless communications equipment on a wireless communications support structure or in an existing equipment compound may be eligible for a waiver of site plan review. To seek such a waiver, an application for development shall be required to be filed with the Planning Board for Site Plan approval, or exemption therefrom. The Planning Board shall conduct a public hearing, following its standard hearing procedures so as to determine if a waiver is appropriate under §40:55D-46.2a. If an applicant is seeking a waiver, it shall demonstrate to the Planning Board that the application meets all of the criteria listed below. If the applicant can satisfy the following waiver criteria a Site Plan waiver shall be granted under §40:55D-46.2a:
- (1) The wireless support structure shall have been previously granted all necessary approvals by the appropriate approving agency.
  - (2) The proposed collocation shall not increase the overall height of the wireless communications support structure by more than 10% of the original height of the support structure.
  - (3) The proposed collocation shall not increase the width of the wireless support structure.
  - (4) The proposed collocation shall not increase the square footage of the existing equipment compound to an area greater than 2,500 square feet.
  - (5) The proposed collocation shall comply with the final approval of the wireless communications support structure and all conditions attached thereto and
  - (6) Shall not create a condition for which variance relief would be required under the Municipal Land Use Law or any other applicable law, rule or regulation.

**§ 120-704. Reserved.**

ARTICLE 800: BOARD REGULATIONS AND APPLICATION PROCEDURES

**§ 120-801. Establishment of Planning Board**

A. A Planning Board is hereby created pursuant to N.J.S.A. 40:55D-23 et seq. consisting of nine (9) regular and up to four (4) alternate members of the following four classes:

(1) Class I: the Mayor or the Mayor's designee in the absence of the Mayor.

(2) Class II: one of the officials of the municipality other than a member of the Borough Council, to be appointed by the Mayor, provided that if there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board, as required by N.J.S.A. 40:56A-1, shall be deemed the Class II Planning Board member if there is a member of the Board of Education among the Class IV members or alternate members.

(3) Class III: a member of the Borough Council to be appointed by it.

(4) Class IV members: six other citizens of the municipality, to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, except that one member may be a member of the Historic Preservation Commission, if one exists. One member may be a member of the Board of Education. A member of the Environmental Commission who also is a member of the Planning Board, as required by N.J.S.A. 40:56A-1, shall be a Class IV Planning Board member unless there is among the Class IV members of the Planning Board a member of the Board of Education, in which case the member of the Environmental Commission shall be deemed to be the Class II member of the Planning Board.

(5) Alternate members: four (4) other citizens of the municipality may be appointed by the Mayor as alternate members. Alternate members shall meet the qualifications of Class IV regular members. The alternate members shall be designated by the Mayor at the time of their appointment as "Alternate No. 1," "Alternate No. 2," "Alternate No. 3" and "Alternate No. 4," respectively.

B. The term of the member composing Class I shall correspond with the Mayor's official tenure, or if the member is the Mayor's designee in the absence of the Mayor, the designee shall serve at the pleasure of the Mayor during the Mayor's official tenure. The terms of the member composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission. The term of a Class II or Class IV member who is also a member of the Environmental Commission shall be for three years or terminate at the completion of his term as a member of the Environmental Commission, whichever comes first. The term of a Class IV member who is also a member of the Board of Education shall terminate whenever he is no longer a member of such other body or at the completion of his/her Class IV term, whichever comes first.

C. All present Class IV members of the Planning Board shall continue in office until the completion of the terms for which they were appointed.

D. The terms of Class IV regular members first appointed pursuant to this chapter shall be so determined that to the greatest practicable extent the expiration of such term shall be evenly distributed over the first four years after their appointment, provided that the initial term shall not exceed four years. Thereafter the term of each Class IV regular member shall be four years. All terms shall run from January 1 of the year in which the appointment is made until December 31 of the last year of the appointment.

E. The terms of the Class IV alternate members shall be two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire any one year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two years. All terms shall run from January 1 of the year in which the appointment is made until December 31 of the last year of the appointment.

F. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote, then No. 2, then No.3, then No.4.

G. If a vacancy of any class shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for the unexpired term. Any member other than a Class I member may be removed by the Borough Council for cause, but only after public hearing, if requested, and other requested procedural due process protection.

H. The Planning Board shall organize annually by selecting from among its Class IV regular members a Chairman and Vice Chairman. The Board also shall select a Secretary, who may or may not be a member of the Board or an employee of the Borough.

I. The Borough Council, after giving due consideration to budget requests that may be submitted by the Planning Board, shall make provisions in its budget and appropriate funds for the expenses of the Planning Board. In any case, the Board shall not authorize expenditures which exceed, exclusive of gifts or grants, the amount appropriated by the Borough Council for its use.

J. The office of Planning Board Attorney is hereby created. The Planning Board may appoint to such office and fix compensation or rate of compensation of an attorney at law of New Jersey other than the Borough Attorney.

K. The Planning Board may also employ or contract for and fix the compensation of a Planning Board Engineer and a Planning Board Planner, such experts and other staff and services as it may deem necessary. All such experts shall be sworn under oath at the beginning of each calendar year and should be considered under oath for the duration of the entire year.



L. The position of Administrative Officer shall be created. The position may be appointed by the Municipal Council. In the absence of any appointment otherwise made, the Zoning Officer/Construction Official shall be given the authority to carry out the duties of Administrative Officer.

M. The Planning Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter.

N. All members of the Planning Board shall be required to successfully complete a basic course in land use law and planning offered by a state planning authority or organization within eighteen (18) months of assuming board membership in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-23.3). The Class I and Class III members of the board shall be exempt from this requirement.

### **§ 120-802. Powers and Jurisdiction of Planning Board**

A. The Planning Board shall have the powers listed below in addition to other powers established by law. Since the powers and jurisdiction of the Planning Board have been delegated to and imposed upon it by the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Planning Board shall in all cases follow the provisions applicable to it in said statute or subsequent statute(s).

(1) Make, adopt and, from time to time, amend a Master Plan for the physical development of the Borough, including any areas outside its boundaries which, in the Board's judgment, bear essential relationship to the planning of the Borough.

(2) Administer the zoning ordinance, applications for variance and subdivision and site plan review provisions of this chapter in accordance with the applicable provisions of the chapter.

(3) Hear and decide zoning applications including applications for conditional uses in accordance with the applicable provisions of this chapter and N.J.S.A. 40:55D-67.

(4) Participate in the preparation and review of programs or plans required by state or federal law or regulation.

(5) Assemble data on a continuing basis as part of a continuous planning process.

(6) Annually, at the request of the Borough Council, prepare a program of municipal capital improvements projects projected over a term of six years and recommend the program to the Borough Council.

(7) Consider and report to the Borough Council within 35 days after referral as to any proposed zoning ordinance, or official map adoption submitted to the Board pursuant to N.J.S.A. 40:55D-26a, and also pass upon other matters specifically referred to the Planning Board by the Borough Council pursuant to N.J.S.A. 40:55D-26b.

(8) Perform such other advisory duties as are assigned to it by ordinance or resolution of the Borough Council for the aid and assistance of the Borough Council or other agencies and officers.

B. Whenever a proposed development requires approval of a subdivision, site plan or conditional use, the Planning Board shall have the authority to grant:

(1) Bulk Variances pursuant to this chapter (N.J.S.A. 40:55D-70c).

(2) Direction pursuant to this chapter (N.J.S.A. 40:55D-34) for issuance of a permit for a building or structure in the bed of a mapped street or public drainage, flood control basin or public area reserved pursuant to N.J.S.A. 40:55D-32.

(3) Direction pursuant to this chapter (N.J.S.A. 40:55D-36) for issuance of a permit for a building or structure not related to a street.

C. Whenever relief is requested pursuant to this subsection of the chapter, notice of the hearing on the application for development shall include reference to the request for a variance, or direction for issuance of a permit, as the case may be.

D. The developer may elect to submit a separate application requesting approval of the variance or direction of the issuance of a permit, and a subsequent application for any required approval for a subdivision, site plan, or conditional use. The separate approval of the variance or direction of the issuance of a permit shall be conditioned upon grant of all required subsequent approvals by the Planning Board. No such subsequent approval shall be granted unless the approval can be granted without substantial detriment to the public good and without substantial impairment to the intent and purpose of the zone plan and the zoning provisions of this chapter.

### **§ 120-803 Planning Board shall exercise the powers of a Zoning Board of Adjustment**

As permitted in the Municipal Land Use Law (N.J.S.A. 40:55D-25(c)) the Borough of Spotswood, having a population of 15,000 persons or less, herein provides that the nine-member Planning Board created above in this subsection shall be authorized to exercise, to the same extent and subject to the same restrictions, all powers of a Zoning Board of Adjustment as specified below. Since the powers and jurisdiction of the Zoning Board of Adjustment have been delegated to it by the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Planning Board shall in all cases follow the provisions applicable to it in said statute. Additionally, no Class I or Class III member shall participate in an application for any "D" variance found in the Municipal Land Use Law (N.J.S.A. 40:55D-70(d) et seq.

A. Error or refusal. Hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, decision or refusal made by an official based on or made in the enforcement of the zoning provisions of this chapter.

B. Exceptions or interpretations. Hear and decide requests for interpretation of the Zoning Map or the Zoning Ordinance or for decisions upon other special questions upon which the Board is authorized to pass by any zoning provisions of this chapter or by any duly adopted Official Map.

C. General bulk variances.

(1) Where the strict application of any regulation of this chapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of a property, grant, upon an application or an appeal relating to the property, a variance from the strict application of such regulation so as to relieve such difficulties or hardship, based upon one or more of the following three reasons:

(a) Exceptional narrowness, shallowness or shape of a specific piece of property; or

(b) Exceptional topographic conditions or physical features uniquely affecting a specific piece of property; or

(c) An extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

(2) Where, in an application or appeal relating to a specific piece of property, the purposes of this chapter would be advanced by a deviation from the zoning requirements, and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from such zoning requirements.

D. Use variances, variances from conditional use standards

(1) In particular cases and for special reasons, grant a variance to allow departure from the zoning provisions of this chapter to permit:

(a) A use or principal structure in a zoning district restricted against such use or principal structure;

(b) An expansion of a nonconforming use;

(c) A deviation from a particular specification or standard set forth in this chapter as pertaining solely to a conditional use;

(d) An increase in the permitted floor area ratio as defined in this chapter and in N.J.S.A. 40:55D-4;

(e) An increase in the permitted density as defined in this chapter and in N.J.S.A. 40:55D-4, except as applied to the required lot area for a lot or lots for detached one- or two-dwelling-unit buildings, which lot or lots are either an isolated undersized lot or lots

resulting from a minor subdivision, in which event applications would be made pursuant to § 120-702C hereinabove; or

(f) A height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the zoning district for a principal structure.

(2) A variance under this subsection shall be granted only by affirmative vote of at least five members of the Planning Board. Additionally, no Class I or Class III member shall participate in an application for any variance found in the Municipal Land Use Law (N.J.S.A. 40:55D-70(d) et seq.

#### E. General provisions.

(1) No variance or other relief may be granted by the Planning Board under the terms of this chapter unless such variance or other relief can be granted without substantial detriment to the public good and without substantial impairment to the intent and purpose of the zone plan and the zoning provisions of this chapter.

(2) An application under this subsection of the chapter may be referred by the Planning Board to any appropriate person or agency for its report, provided that such reference shall not extend the period of time within which the Planning Board shall act.

(3) The Planning Board, in granting any variance which by law it is authorized to grant, may impose such conditions, in addition to those required in this chapter, as are necessary to assure that the general purposes and intent of this chapter are met.

(4) All variances shall expire within one year from the date of the variance approval unless the owner shall have secured a construction permit and shall have commenced construction in conformity with the variance approval, including any conditions attached to the approval, provided that the following exceptions shall apply:

(a) For variances which become the subject of litigation, the one-year period shall commence on the date of the last reviewing court's decision to grant the variance.

(b) For good cause shown, and after a hearing before the Board on notice in the manner required for original variance applications, the Planning Board may extend the variance by resolution. Any extension may not exceed one year in duration and no more than four 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.

(c) Anything herein to the contrary notwithstanding, any variance granted with a site plan, subdivision, and/or conditional use approval shall expire with the expiration of the site plan, subdivision, and/or conditional use approval.

F. Other powers. The Planning Board shall have such other powers as prescribed by law, including, but not limited to, the following:

(1) Direct issuance of a construction permit pursuant to N.J.S.A. 40:55D-34 for the construction of a building or structure within the bed of a mapped street or public drainageway, flood control basin or public area as shown on a duly adopted Official Map, if an Official Map is adopted by the Borough, whenever one or more parcels of land within said bed cannot yield a reasonable return to the owner unless a construction permit is granted. The Board may grant such relief only by affirmative vote of a majority of the full authorized membership of the Planning Board, ensuring that such relief will tend to cause a minimum change of the Official Map and will not significantly add to the cost of opening any proposed street. The Board shall impose reasonable requirements as a condition of granting the construction permit so as to promote the health, morals, safety and general welfare of the public.

(2) Direct issuance of a construction permit pursuant to N.J.S.A. 40:55D-36 for the construction of a building or structure on a lot not abutting a street which is shown on a duly adopted Official Map, if an Official Map is adopted by the Borough, or which is an existing state, county or municipal street or highway; or a street shown upon a plat approved by the municipal Planning Board; or a street on a plat duly filed in the office of the county recording officer. The Board may grant such relief only when the enforcement of the statute requirement that a building lot abut a street would entail practical difficulty or unnecessary hardship, or where the circumstances of the case not require the building or structure to abut a street. The Board shall impose requirements or conditions that will provide adequate access for fire-fighting equipment, ambulances and other necessary emergency vehicles for the protection of the health and safety and that will protect any future street layout on the Official Map or on the Traffic Circulation Plan Element of the Municipal Master Plan.

(3) The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon a grant of all required subsequent approvals by the Planning Board. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment to the intent and purpose of the zone plan and the zoning provisions of this chapter. The number of votes of Board members required to grant such subsequent approval shall be as otherwise provided in this chapter for the approval in question.

(4) Simultaneous review. The Planning Board shall have the power to act upon subdivision, conditional use, site plan or variance applications simultaneously without the applicant making further application for hearings. The longest time period for action by the Board, whether it is for subdivision, conditional use, site plan or variance approval, shall apply. Whenever approval of a conditional use or variance is requested by the applicant in conjunction with a site plan or subdivision application, notice of the hearing on the plan shall include reference to the request for such conditional use or variance.

**§ 120-804. Planning Board shall hear Appeals and applications for Interpretation**

A. Appeals to the Planning Board may be taken by any interested party affected by any decision of an administrative officer of the municipality based on or made in the enforcement of the zoning provisions of this chapter or a duly adopted Official Map. Such appeal shall be taken within 20 days by filing a notice of appeal with the official from whom the appeal is taken, with three copies of the notice given to the Secretary of the Planning Board. The notice shall specify the grounds for the appeal. The official from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(1) The Planning Board may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from and to that end have all powers of the municipal official from whom the appeal is taken.

(2) An appeal to the Planning Board shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the municipal official from whose action the appeal is taken certifies to the Planning Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court upon notice to the municipal official from whom the appeal is taken and due cause shown.

B. A developer may file an application for development with the Planning Board for action under any of its powers without prior application to an administrative officer. Twenty copies of the application shall be given to the Secretary of the Planning Board.

C. At the time of filing either an appeal or an application for development to the Planning Board, the interested party or developer also shall file all plot plans, maps or other papers required by virtue of any provision of this chapter or by any rule of the Planning Board. The applicant shall obtain all necessary forms from the board Secretary.

D. The Planning Board shall act upon any appeal or any application for development within 120 days either from the date the appeal is taken from the decision of the municipal official or from the date the application for development is certified as a complete application, as the case may be, or within such further time as may be consented to by the applicant, except that when an applicant elects to submit separate consecutive applications, first for a use or other variance approval pursuant to this chapter and subsequently for site plan, subdivision or conditional use approval, the one-hundred-twenty-day time period for action shall apply to the application for approval of the use or other variance, and the time period for granting or denying any subsequent site plan, subdivision or conditional use approval shall be as otherwise provided in this chapter.

E. Failure of the Planning Board to render a decision within the one-hundred-twenty-day time period prescribed hereinabove within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.

## **§ 120-805. Planning Board Rules and Procedures**

A. Conflicts of interest. No regular or alternate member of the Planning Board shall act on any matter in which he has either directly or indirectly any personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he/she shall not continue to sit with the Board on the hearing of such particular matter nor participate in any discussion by the Board or any decision relating thereto.

### B. Meetings.

(1) Meetings of both the Planning Board shall be scheduled no less than once a month and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process.

(2) Special meetings may be provided for at the call of the Chairman or on the request of any three (3) Board members, which meetings shall be held on notice to its members and the public in accordance with all applicable legal requirements.

(3) No action shall be taken at any meeting without a quorum being present; said quorum to be the majority of the full authorized membership of the Board.

(4) All actions shall be taken by majority vote of the members of the Board present at the meeting except as otherwise required by a provision of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) or of the Open Public Meeting Law (c. 231, Laws of New Jersey 1975). A member of the Board who was absent for one or more of the meetings at which a hearing was held shall be eligible to vote on a matter upon which the hearing was conducted, notwithstanding his or her absence from one or more of the meetings; provided, however, that such Board member has available the transcript or recording of all of the hearing from which he or she was absent, and certifies in writing to the Board that he or she has read such transcript or listened to such recording.

(5) All regular meetings and all special meetings shall be open to the public, except as provided in the Open Public Meeting Law (c. 231, Laws of New Jersey 1975). Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meeting Law (c. 231, Laws of New Jersey 1975).

### C. Public hearings.

(1) Subsequent to an application for development being declared complete, the Planning Board shall hold a hearing on the application for development. The Board may adopt procedures and rules governing such hearings, provided that such rules are not inconsistent with the provisions of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) or the provisions of this chapter.

(2) Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least 10 days before the date of the hearing during normal

business hours in the office of the Administrative Officer. The applicant may produce any documents, records or testimony at the hearing to substantiate or clarify or supplement the previously filed maps and documents.

(3) The officer presiding at the hearings, or such person as he/she may designate, shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law, P.L. 1953, c. 38 (N.J.S.A. 2A:67A-1 et seq.) shall apply.

(4) The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, or such other person as he/she may designate, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and reasonable limitations as to time and number of witnesses.

(5) Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.

#### D. Public notice of a hearing.

(1) Public notice of a hearing shall be given for the following applications for development.

(a) Any request for a variance;

(b) Any request for conditional use approval;

(c) Any request for issuance of a permit to build within the bed of a mapped street or public drainage or on a lot not abutting a street;

(d) Any request for site plan and/or subdivision approval involving one or more of the aforesaid elements;

(e) Any request for preliminary approval of a major subdivision and/or a major site plan; and

(f) Any request for approval of a planned development.

(2) The Secretary of the Planning Board shall notify the applicant at least two weeks prior to the public hearing at which the application will be discussed. Notice of a hearing requiring public notice shall be given by the applicant at least 10 days prior to the date of the hearing in the following manner:

(a) Publication in an official newspaper of the Borough, if there is one, or in a newspaper of general circulation in the Borough in the absence of an official newspaper; and



(b) By notification by personal service or certified mail to the following. An affidavit of proof of the giving of the required notice shall be filed by the applicant with the municipal agency at, or prior to, the hearing. It is not required that a return receipt is obtained since notice is deemed complete upon mailing (N.J.S.A. 40:55D-14); however, evidence that the required notice was mailed to the following shall be provided to the Planning Board prior to the subject public hearing:

[1] To all owners of real property as shown on the current tax duplicate, located in the state and within 200 feet in all directions of the property which is the subject of the hearing, provided that this requirement shall be deemed satisfied by notice to the condominium association, in the case of any unit owner whose unit has a unit above or below it; or to the horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it.

[a] Notice to a partnership owner may be made by service upon any partner.

[b] Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.

[c] Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

[2] To the Clerk of any adjoining municipality or municipalities when the property involved is located within 200 feet of said adjoining municipality or municipalities.

[3] To the Middlesex County Planning Board when the application for development involves property adjacent to an existing county road or proposed road as shown on the County Official Map or County Master Plan, property adjoining other county land or property situated within 200 feet of a municipal boundary.

[4] To the Commissioner of Transportation of the State of New Jersey when the property abuts a state highway.

[5] To the State Planning Commission when the hearing involves an application for the development of property which exceeds 150 acres or 500 dwelling units, in which case the notice shall include a copy of any maps or documents required to be filed with the Borough.

[6] To the person whose name appears on the registration form pursuant to N.J.S.A. 40:55D-12.1 for a public utility, cable television company, or local utility which possesses a right-of-way or easement within the Borough.

(3) Upon the written request of an applicant, the Administrative Officer shall, within seven days, make and certify a list from current tax duplicates of names and addresses of owners within the Borough of Spotswood to whom the applicant is required to give notice. The applicant shall be charged \$10 for said list and shall be entitled to rely upon the information contained in such list, and failure to give notice to any lot owner or to any public utility, cable television company, or local utility not on the list shall not invalidate any hearing or proceeding. Additionally, the applicant shall be responsible for giving proper notice to all property owners listed herein above who own property not located within the Borough of Spotswood.

(4) At minimum, the notice shall state the following:

(a) The name and address of the applicant;

(b) The date, time and place of the hearing;

(c) The nature of the matters to be discussed, including all variances and/or waivers requested by the applicant;

(d) An identification of the property proposed for development by street address, if any, and by reference to lot and block numbers as shown on the current tax duplicate in the Borough Tax Assessor's office; and

(e) The location and times at which any maps or documents for which approval is sought are available for inspection.

(5) Regarding any application for development being reviewed by the Planning Board, when said Board determines that substantial revisions have been made to said application subsequent to the date when it was determined to be a complete application, then the Board may require the applicant to again comply with the notice requirements specified in this subsection of the chapter.

(6) Every public utility, cable television company and local utility interested in receiving notice pursuant to N.J.S.A. 40:55D-12 may register with the Borough of Spotswood if the public utility, cable television company or local utility has a right-of-way or easement within the municipality. A registration fee of \$10 is required for any public utility, cable television company or local utility which registers to receive notice. The registration shall remain in effect until revoked by the public utility, cable television company, or local utility or by its successor in interest. The Administrative Officer of the Borough shall adopt a registration form and maintain a record of all public utilities, cable television companies, and local utilities which have registered with the Borough. The registration form shall include the name, address and position of the person to whom the notice shall be forwarded. The information contained therein shall be made available to any applicant.

E. Records.

(1) Minutes of every regular or special meeting shall be kept and shall include the names and addresses of the persons appearing and addressing the Planning Board and of any persons appearing by attorney, the action taken by the Planning or Zoning Board, the findings, if any, made by it and the reasons therefor. The minutes shall thereafter be made available, after approval by the Board, for public inspection during the normal business hours at the office of the Administrative Officer. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceedings concerning the subject matter of such minutes. Such interested party shall be charged a reasonable fee for the reproduction of the minutes as indicated in this chapter.

(2) A verbatim recording shall be made of every hearing on an application for development submitted to the Borough. The recording of the proceedings shall be made either by stenographer, mechanical or electrical means. The municipality shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his or her expense. Any transcript shall be certified in writing by the transcriber to be accurate. When an application for Major Site Plan or Major Subdivision is heard, the applicant shall, at his/her own expense provide to the Board Secretary a verbatim recording of the entire hearing by stenographer.

#### F. Decisions.

(1) Each decision on any application for development shall be reduced to writing by the Board and shall include findings of facts and conclusions based thereon.

(2) The Board shall provide the findings and conclusions through:

(a) A resolution adopted at a meeting held within the time period provided in this chapter for action by the Board on the application for development; or

(b) A memorializing resolution adopted at a meeting held no later than 45 days after the date of the meeting at which the Board voted to grant or deny approval. Only the members of the Board who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution. An action pursuant to N.J.S.A. 40:55D-9 (resulting from the failure of a motion to approve an application) shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution.

(3) The vote to adopt any memorializing resolution shall be deemed to be a memorialization of the action of the Board and not to be an action of the Board; however, the date of the adoption of the resolution shall constitute the date of the decision for purposes of the mailings, filings and publications required in this chapter.

(4) If the Board fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary manner for an

order compelling the Board to reduce its findings and conclusions to writing within a stated time and the cost of the application, including attorneys fees, shall be assessed against the municipality.

(5) Conditional approvals:

(a) Whenever any application for development is approved by the Board subject to specified conditions intended to be fulfilled before the approval becomes effective, said approval shall lapse and become null and void unless all specified conditions are fulfilled within six (6) months of the date the approval was granted by the Board unless a longer time period is specified by the Board. Only upon fulfillment of all such conditions shall any subdivision plat or site plan be signed or any required zoning permit, construction permit, occupancy permit or other approval be issued.

(b) Whenever any application for development is approved by the Board subject to conditions which are not required to be fulfilled before the approval becomes effective and are not guaranteed pursuant to this chapter, then the failure to fulfill any such condition within two (2) years from the date of the approval of the application for development shall be grounds for the issuance of a stop-work order by the enforcing official and the withholding of any zoning permit, construction permit, certificate of occupancy or any other approval until such condition is fulfilled.

(c) Nothing herein contained shall be construed as preventing the Board from specifying a longer period of time within which any specific condition must be fulfilled, or from granting, an extension of time for fulfilling a condition for good cause shown.

(d) The fulfillment of all conditions shall be reported in writing by the applicant to the Board, which may cause such reports to be verified in an appropriate manner.

(e) All approvals and denials shall be automatically conditioned upon full payment of all outstanding application and escrow fees and the payment of all other outstanding fees or invoices for professional services generated by the Borough, Planning Board or its professionals.

**§ 120-806. Appeal of a Planning Board 'D' variance approval**

A. Any interested party may appeal to the Borough Council any final decision of the Planning Board approving an application for a "d" variance pursuant to N.J.S.A. 40:55D-70d and this chapter. Notwithstanding the aforesaid right of appeal to the Borough Council, any party has the right to obtain a review of such Planning Board decision by any court of competent jurisdiction according to law.

B. Any appeal to the Borough Council shall be made within 10 days of the date of publication of such final decision pursuant to this chapter. The appeal to the Borough Council shall be made by serving the Borough Clerk in person or by certified mail with a notice of appeal

specifying the grounds thereof and the name and address of the appellant and the name and address of his or her attorney, if represented.

C. The appellant shall either:

(1) Within five days of serving notice of the appeal, arrange for a transcript and six copies thereof for use by the Borough Council, and pay a deposit of \$50 or the estimated cost for such transcription, whichever is less (provided that the charge by the Borough to the applicant for the transcript shall not exceed the maximum permitted in N.J.S.A. 2A:11-15); or

(2) Within 35 days of serving notice of the appeal, submit a transcript to the Borough Clerk for use by the Borough Council. Should the appellant neither arrange for or submit a transcript as provided hereinabove, the Borough Council may dismiss the appeal for failure to prosecute. All transcripts shall be certified in writing by the transcriber to be accurate.

D. Notice of the meeting to review the record below shall be given by the Borough Council by personal service or certified mail to the appellant, to those entitled to notice of a decision pursuant to this chapter, and to the Planning Board at least 10 days prior to the date of the meeting. The appeal shall be decided by the Borough Council only upon the record established by the Planning Board. The parties may submit oral and written arguments on the record at the Borough Council meeting.

E. The Borough Council shall conclude a review of the record below not later than 95 days from the publication of the notice of the subject decision of the Planning Board, unless the appellant consents in writing to an extension of such time period. Failure of the Borough Council to hold a hearing and conclude a review of the record below and to render a decision within such specified period without such written consent of the appellant shall constitute a decision affirming the action of the Planning Board.

F. The Borough Council may reverse, remand or affirm, with or without conditions, the final decision of the Planning Board being appealed. The affirmative vote of three members of the Borough Council shall be necessary to affirm or reverse the decision, to remand the application to the Planning Board or to impose conditions or alter conditions to the final decision of the Planning Board. In the event that the Borough Council cannot obtain three votes for an action on the appeal, the final decision of the Planning Board shall be deemed affirmed without change.

G. An appeal to the Borough Council shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the Planning Board certifies to the Borough Council, after the notice of appeal has been filed with the Board, that by reasons of facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court on application upon notice to the Planning Board and on good cause shown.

**§ 120-807. Notice of Planning Board and Borough Council decisions**

Any decision of the Planning Board when acting upon an application for development and any decision of the Borough Council when acting upon an appeal shall be given notice in the following manner:

A. A copy of the decision shall be mailed by the appropriate Borough authority within 10 days of the date of decision to the applicant or appellant, or, if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed within 10 days to any interested party who has requested it and who has paid the fee indicated in this chapter.

B. The Administrative Officer shall cause a brief notice of every final decision of the Planning Board or Borough Council, as the case may be, to be published in an official newspaper of the Borough. The notice shall be sent to an official newspaper for publication within 10 days of the date of any such decision and the cost for the notice shall be charged to the applicant's escrow account.

C. A copy of the decision shall also be filed in the office of the Administrative Officer, who shall make a copy of such filed decision available to any interested party upon payment of the fee as indicated in this chapter.

## ARTICLE 900: SUBDIVISION AND SITE PLAN REQUIREMENTS

### **§ 120-901. General application requirements**

A. Subdivision review. All subdivisions, as defined under § 120-203, are subject to the review procedures specified in this subsection below.

B. Site plan review required. 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 a site plan has been reviewed and approved by the municipality.

(1)When a structure or activity shall satisfy any one of the following criteria, a site plan shall be required when:

(a) The new use requires an increase in the number of required parking spaces;

(b) The new use category has significantly different hours of operation than the existing use;

(c) The new use category requires any special pickup or discharge of passengers from automobiles or any special loading or unloading of materials.

(d) The new use category involves the storage and/or handling of chemicals or hazardous substances;

(e) The new use category includes changes to the intensity of exterior lighting;

(f) The new use category will generate a volume of solid waste which will or should require additional refuse receptacles in addition to those which already exist; and

(g) The new use will involve any exterior alterations to the building beyond the placement of a permitted sign.

(h) The use requires approval for relief under N.J.S.A. 40:55D-70(d).

(i) The new development will involve a planned unit development , creation of a new road or installation of off-tract improvements such as sewer and water main or road improvements, but excluding incidental off-site improvements such as curb and sidewalk replacement and utility connections.

(j) The new use will increase building and/or impervious coverage on the site in an amount exceeding 10% of the current condition or permitted maximum condition.

(2)Exemptions and waivers

(a) A construction permit for a single-family detached dwelling unit or a two-family dwelling unit and/or their accessory building(s) or uses on a lot shall not require site plan approval.

(b) The use of any existing or proposed principal or accessory building for a home occupation as defined and permitted by this chapter shall require a zoning permit prior to the issuance of a construction permit or certificate of occupancy. The foregoing shall in no way affect the responsibility of an applicant to submit the necessary information and receive the necessary approvals as may be required pursuant to other ordinances.

(c) Any change of use from one permitted category of nonresidential use to another permitted category of nonresidential use shall not require site plan approval so long as it does not trigger any of the criteria listed above.

(d) Permitted accessory structures to residential and agricultural/horticultural uses shall not require site plan approval.

(e) Interior building alterations or changes in tenancy shall not require site plan approval if all of 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.

(f) 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.

(g) 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 in the signs chapter of this ordinance.



(h) An applicant may elect to file for preliminary and final approval simultaneously to expedite the review process. The site plan shall be prepared according to the requirements stipulated for final approval. Developers electing to bypass the preliminary approval stage are doing so at the peril of added expense if changes in design are required.

(i) An applicant may request a waiver from filing certain elements of minor site plan when such plan is required. The applicant shall file a written waiver request along with a completed site plan application and submit all required application and escrow fees for a full site plan. The Planning Board shall have the power to, upon showing of undue hardship or practical difficulties, grant a waiver from submission of specific elements of a site plan at any time. An applicant's seeking a waiver of specific elements of a site plan shall do so at their own risk however, as the Planning Board may, through the course of an application request additional pertinent information which would be within the scope of a waived element.

C. Variance relief. All applications for variance relief to the Planning Board not involving any related site plan, subdivision or conditional use approval shall be filed with the Administrative Officer at least 30 days prior to the regular meeting of the Board and shall include 15 copies of any maps and related material; 15 completed copies of the appropriate application form(s), which includes the checklist *Editor's Note: The checklists are included at the end of this chapter.*

D. Informal review by the Planning Board.

(1) At the request of a developer, the Planning Board shall grant one informal review regarding a concept plan for a development for which a developer intends to prepare and submit an application for development.

(2) The developer shall be required to pay a fee for an informal presentation of a concept plan in accordance with this chapter, which fee shall be credited towards the fee for review of a development application, if subsequently submitted; moreover, 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.

(3) The developer shall not be bound by any concept plan for which the review is requested, and the Planning Board shall not be bound by any such review.

(4) A developer desiring to have a concept plan informally reviewed by the Planning Board shall so notify the Administrative Officer at least 30 days prior to the regular meeting of the Board. The Administrative Officer shall thereafter notify the developer of the time and place which has been scheduled by the Planning Board for the informal review.

**§ 120-902. Submission of Minor Subdivision plats and Minor Site plans**

A. Procedure for submitting minor subdivision plats and minor site plans. The applicant shall submit to the Administrative Officer at least 30 days prior to the regular meeting of the Board: 18 copies of the minor plat or plan; 18 copies of the appropriate application(s), which includes the checklist(s) pursuant to N.J.S.A. 40:55D-10.3 attached to this chapter; *Editor's Note: The checklists are included at the end of this chapter.* and a fee in accordance with this chapter. The application shall contain an acknowledgment signed by the applicant stating that the applicant is familiar with the procedure set forth herein for submitting and acting upon minor subdivision plats and minor site plans, and agrees to be bound by it. The Administrative Officer shall process the application and shall issue an application number. Once an application has been assigned a number, such number shall appear on all papers, maps, plats or plans and other documents for processing in conjunction with the application.

B. Details required for minor subdivision plats and minor site plans. Each minor plat or minor plan shall be drawn by a professional engineer and/or land surveyor licensed to practice in the State of New Jersey and shall bear the name, title, address, telephone number, license number, seal and signature of the said professional engineer and/or land surveyor; provided, however, that all engineering data shall be signed and sealed by a professional engineer and all surveying data shall be signed and sealed by a professional land surveyor. Each submission shall be drawn at an appropriate scale of one inch equals not more than 20 feet and shall be submitted on one of the three following standard sheet sizes (8.5 inches by 14 inches; 12 inches by 18 inches; 18 inches by 24 inches; or 24 inches by 36 inches), with all sheets submitted of the same size, and each with a clear perimeter border at least 1/2 inches wide. Each minor plat or plan shall show the following information, as such information is applicable to the minor subdivision or minor site plan submission:

- (1) A key map showing the entire tract and its relation to the surrounding area at a scale of one inch equals not more than 400 feet.
- (2) Title block in accordance with the rules governing title blocks for professional engineers (N.J.S.A. 45:8-36), including:
  - (a) Name of the development, Borough of Spotswood, Middlesex County, New Jersey, with each sheet specifically titled with appropriately descriptive words;
  - (b) Name, title, address and telephone number of applicant;
  - (c) Name, title, address, telephone number, license number, seal and signature of the professional or professionals who prepared the plat or plan;
  - (d) Name, title and address of the owner or owners of record;
  - (e) Scale (written and graphic); and

- (f) Date of original preparation and of each subsequent revision thereof and a list of the specific revisions entered on each sheet.
- (3) North arrow, including reference.
- (4) Acreage to the nearest 10th of an acre (both with and without areas within public rights-of-way).
- (5) 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.
- (6) 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 10% or more of any class of stock of the corporation in accordance with N.J.S.A. 40:55D-48.1 et seq.
- (7) Approval signature and date lines:
- (a) Chairman; and
  - (b) Secretary.
- (8) Existing tax sheet number(s) and existing block and lot number(s) of the lot(s) to be subdivided or developed as they appear on the Borough Tax Map, and proposed block and lot number(s) as provided by the Borough Tax Assessor upon written request.
- (9) 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.
- (10) Zoning district(s) affecting the tract, including district names and all area and bulk requirements, with a comparison to the proposed development.
- (11) The location of existing and proposed property lines (with bearings and distances), streets, structures (with their numerical dimensions and an indication as to whether existing structures will be retained or removed), parking spaces, loading areas, driveways, watercourses, railroads, bridges, culverts, drain pipes, and natural features such as treed areas, both within the tract and within 100 feet of its boundary.
- (12) The location and width of all existing and proposed utility easements and rights-of-way, the use(s) for which they are intended to be limited, and the manner in which the easements will be controlled.
- (13) All dimensions necessary to confirm conformity to the chapter 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.

- (14) Proposed buffer and landscaped areas and the location and identification of existing vegetation with an indication as whether it is to remain or be removed.
- (15) Delineation of streams, ponds, floodplains, marshes, wetlands, wetland buffers and lands subject to flooding within the tract and within 100 feet thereof.
- (16) Existing topographic contours on U.S.G.S. datum and proposed grades.
- (17) The name 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.
- (18) Certification from the Borough Tax Collector that all taxes and assessments are paid to date.
- (19) Concerning minor subdivisions only, existing and proposed monuments.
- (20) Concerning minor site plans only, lighting details, sign details, circulation and parking details and drainage calculations and proposed drainage improvements and details.
- (21) Proposals for soil erosion and sediment control as required by N.J.S.A. 4:24-39 et seq. and in accordance with the Middlesex County Soil Conservation District.
- (22) No minor subdivision or minor site plan involving any street(s) additional right-of-way width as specified in the Master Plan or Official Map and the street requirements of this chapter shall be approved unless such additional right-of-way, either along one or both sides of said street(s), as applicable, shall be granted to the Borough of Spotswood or other appropriate governmental agency.
- (23) Plans of proposed improvements and utility layouts including sewers, storm drains and waterlines, and feasible connections to gas, telephone and electrical utility systems. If private utilities are proposed, they shall comply fully with all Borough, county, state and federal regulations. If service will be provided by an existing utility company, in lieu of detailed plans, a letter from that company stating that service will be available before occupancy will be sufficient. Additionally, letters from the appropriate county and state agencies granting approval for the extension of utility service(s) under their respective jurisdiction shall be submitted with the application.
- (24) No minor subdivision or minor site plan involving any corner lot shall be approved unless a sight triangle easement shall be granted as specified in this chapter.
- (25) Deed descriptions including metes and bounds, easements, covenants, restrictions and roadway and sight triangle dedications shall be submitted for approval and required signatures prior to filing with the county recording officer.
- (26) A list of all known licenses, permits and other forms of approval required by law for the development and operation of the proposed project. The list shall include approvals

required by the Borough, as well as agencies of the county, state and federal government. Where approvals have been granted, copies of said approvals shall be submitted.

(27) The Board reserves the right to require additional information before granting approval when unique circumstances affect the tract and/or when the application for development poses special problems for the tract and surrounding area. Such information shall include, but not be limited to, an environmental impact statement and/or traffic impact statement, provided, however, that no application shall be deemed incomplete for the lack of such additional information.

C. Action by the Borough on minor subdivision plats and minor site plans.

(1) The position of Administrative Officer shall be created and shall have the powers and duties as described in the Municipal Land Use Law for purposes of determining completeness of a particular application. For purposes of this ordinance, the Zoning Officer shall serve as the Administrative Officer. The Administrative Officer shall review the aforesaid application for the purpose of determining, within 45 days of its submission, whether said application is complete:

(a) If said application is found by the Administrative Officer to contain all of the information required by the appropriate checklist found in this chapter, the Administrative Officer shall certify that said application is complete and shall direct the application to the Planning Board.

(b) If said application is found by the Administrative Officer to lack some of the information required by the checklist found this chapter, the Administrative Officer shall:

[1] Notify the applicant, in writing and within 45 days of the submission of the application, that said application is incomplete, with a specific listing of the deficiencies in the application; and/or

[2] If a waiver of any checklist item has been specifically requested by the applicant in the submitted application for development, the Administrative Officer shall act on the request for the waiver(s) within 45 days of the submission of the application. If the Administrative Officer reasonably concludes that the missing item(s) of information are not applicable to the subject application and/or are not necessary to make an informed decision on the application, the Administrative Officer may waive the requirement that said item(s) be supplied as a prerequisite for completeness and certify that the application is complete notwithstanding the missing item(s.)

(c) An application which has been declared incomplete by the Administrative Officer shall be resubmitted by the applicant or, in the alternative, the applicant may choose to proceed before the Planning Board for a determination of completeness. Any resubmitted application shall be treated as a new application submission and shall be acted upon by the Administrative Officer in accordance with the time periods for action as listed hereinabove and as specified in the Municipal Land Use Law. An applicant who

has been notified that his/her application is incomplete may request a waiver of one or more of the submission requirements set forth in § 120-901B of this chapter.

(d) In the event that the Administrative Officer fails to act pursuant to § 120-901 hereinabove within 45 days of the date of the submission of the application, said application shall be deemed complete as of the 46th day following its submission.

(2) On the date the aforesaid application is certified complete, or on the 46th day following the submission of the application in the event that the Administrative Officer fails to make a determination of completeness, as the case may be, the applicable time period within which the Planning Board must act upon the application shall commence.

(a) In any case, the applicant is obliged to prove that he or she is entitled to approval of the application.

(b) Moreover, the Planning Board may subsequently require the correction of any information found to be in error and/or the submission of additional information not specified in this chapter and/or revisions to the documents accompanying the submitted application, each and all as are reasonably necessary for the Board to make an informed decision as to whether or not the requirements necessary for approval of the application have been met.

(3) Promptly after certification of completeness, the application documents shall be distributed by the Administrative Officer to the following:

(a) The Planning Board (11 copies each of the minor plat or plan and the application);

(b) Borough Engineer (one copy each of the minor plat or plan, the application and any protective covenants, easements and/or deed restrictions);

(c) Board Planner (one copy each of the minor plat or plan, the application and any protective covenants, easements and/or deed restrictions);

(d) Board Attorney (one copy each of the minor plat or plan, the application and any protective covenants, easements and/or deed restrictions);

(e) Zoning Officer (one copy of the minor plat or plan);

(f) At the direction of the Planning Board additional copies of the minor plat or plan and/or other items of submitted information shall be sent to other Borough, county or state agencies and/or to other professional consultants as may be designated by the Board; and

(g) It shall be the applicant's responsibility, unless specifically provided otherwise in this chapter, to submit the required application to any agency (including but not limited to the Middlesex County Planning Board, the Middlesex County Health Department, The

Freehold Soil Conservation District, and the New Jersey State Department of Environmental Protection, and the New Jersey Department of Transportation) having jurisdiction over any aspect of the proposed development.

(4) The Planning Board shall take action on minor subdivision and minor site plan applications within 45 days after the application has been certified complete by the Board or within such further time as may be consented to by the applicant. Failure of the Board to act within the prescribed time period shall constitute approval of the application, provided that any minor subdivision or minor site plan application which includes any requested variance relief pursuant to N.J.S.A. 40:55D-60 of this chapter shall be acted upon within 120 days or within such further time as may be consented to by the applicant.

(5) The Planning Board shall take action on a minor subdivision or minor site plan application under its jurisdiction in the time frame(s) as prescribed in this chapter hereinabove unless said minor subdivision or minor site plan application is being considered simultaneously with an application for a use variance in accordance with N.J.S.A. 40:55D-70d, which case the Zoning Board of Adjustment shall act upon all aspects of the application within 120 days after the application has been certified complete by the Zoning Board of Adjustment or within such further time as may be consented to by the applicant. Failure of the Board to act within the prescribed time period shall constitute approval of the application.

(6) The professional staff of the Board shall read any written reports submitted concerning the application and shall review the submission to ascertain its conformity with the requirements of this chapter. The professional staff of the Board shall offer its recommendations to the Planning Board.

(7) Any proposed application for development determined by the Board to be creating, imposing, aggravating or leading to the possibility of an adverse effect upon either the property in question or upon any adjacent properties, may be required to be revised to remove any adverse effect(s) prior to further review or approval by the Board, or, where the remaining portion of the original tract is sufficient to be subdivided or developed further, the applicant may be required to submit a sketch of the entire remaining portion of the tract to indicate a feasible plan whereby the applied for subdivision or development, together with subsequent subdivision(s) or development(s), may be submitted that will not create, impose, aggravate or lead to any adverse effect.

(8) For any application that is heard by the Planning Board and is continued for additional studies, reports, plans or revisions to previously submitted material, the new or revised material must be submitted to the Borough at least 10 days prior to the hearing at which the new material is to be considered by the Board.

(9) When a minor subdivision or minor site plan is approved by the Board, a notation to that effect, including the date of approval, shall be made and at least 10 prints of the plat or plan and any related deed descriptions to be filed with the county recording officer shall be signed by the Chairman and Secretary of the Board. No further approval of the application

shall be required and the Administrative Officer, within 10 days of the date of approval, shall notify the applicant of the Board's action. Additionally, the Administrative Officer shall forward the applicant a copy of the approved resolution, adopted in accordance with § 120-800 of this chapter, within 10 days of its adoption by the Board.

(10) When a minor subdivision or minor site plan is disapproved by the Board, the Administrative Officer, within 10 days of such action, shall notify the applicant of such disapproval. Additionally, the Administrative Officer shall forward the applicant a copy of the disapproval resolution, adopted in accordance with § 120-800 of this chapter, within 10 days of its adoption by the Board, setting forth the reasons for the disapproval.

(11) Any resolution by the Board shall be deemed to include a contingency that all necessary approvals by other agencies having jurisdiction over any aspect of the proposed development are required as a condition of the Board's approval.

(12) Filing of map with county recording officer.

(a) Within 190 days from the date on which the resolution of municipal approval of a minor subdivision is adopted by the Board, a plat map drawn in compliance with the Map Filing Act, P.L. 190, c. 141 (N.J.S.A. 46:29-9.9 et seq.) or deed description, properly drafted and signed by the Chairman and Secretary of the Board shall be filed by the subdivider with the county recording officer, provided that if an applicant elects to file a deed, said deed shall be accompanied with a photographically reduced copy of the approved plat. Unless filed within the 190 days or an extension for filing is granted by the Board, the approval shall expire and will require Board approval as in the first instance.

(b) The Board may extend the one-hundred-ninety-day period for filing a minor subdivision or deed if the developer proves to the reasonable satisfaction of the Board:

[1] That the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities; and

[2] That the developer applied promptly for and diligently pursued the required approvals.

(c) The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Board. The developer may apply for the extension either before or after what would otherwise be the expiration date.

(13) The zoning requirements and general terms and conditions, whether conditional or otherwise, shall not be changed for a period of two years either after the date on which the resolution of approval is adopted by the Board for a minor subdivision or after the date of approval by the Board of a minor site plan. The Board shall grant an extension of this period for a period determined by the Board but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the



Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the approvals. A developer shall apply for this extension before what would otherwise be the expiration date or the 91st day after the date on which the developer receives the last of the legally required approvals from the other governmental entities, whichever occurs later.

(14) Before the Administrative Officer returns any approved minor subdivision or minor site plan to the applicant, the applicant shall provide additional copies of the plat or plan as may be necessary in order to furnish copies to each of the following:

- (a) Borough Clerk;
- (b) Borough Engineer (including, in the case of subdivisions only, a map of the plat drawn to the Tax Map scale of one inch equals 100 feet or one inch equals 400 feet as directed by the Board Engineer);
- (c) Construction Official;
- (d) Borough Tax Assessor;
- (e) Such other Borough, county or state agencies and officials as directed by the Board.

### **§ 120-903. Submission of Preliminary Major Subdivision plats or Site Plans**

A. Procedure for submitting preliminary major subdivision plats and preliminary major site plans.

(1) The applicant shall submit to the Administrative Officer at least 30 days prior to the regular meeting of the Board: 18 copies of the preliminary plat or preliminary plan; 18 completed copies of the appropriate applications which includes the checklist(s) pursuant to N.J.S.A. 40:55D-10.3 attached to this chapter; *Editor's Note: The checklists are included at the end of this chapter.* 18 copies of any protective covenants or deed restrictions applying to the land being subdivided or developed; 18 copies of the environmental impact statement; and a fee in accordance with § 120-1000 of this chapter. In addition to the above required submittals, all drawings associated with an application for preliminary major site plan, approval of a preliminary major subdivision approval for three or more lots, and their applicable reports shall be submitted in Adobe portable document format (.pdf) at 400 by 400 dpi. All other documents, such as, but not limited to, application, escrow sheet, completion checklist, environmental impact study, traffic study, stormwater report, sewer and water report, reforestation or woodland management plan, and permits associated with the application shall be submitted in Adobe portable document format (pdf) at 300 by 300 dpi. All revisions and resubmissions shall also be submitted in these formats. All filed maps and required final as-built plans shall be submitted in one of the following formats: autocad drawing file (dwg), ESRI Shapefile (shp), Drawing Exchange Format File (dxf) or Microstation drawing file (dgn) and contain coordinate values for at least three identifiable boundary corners (preferably in the 1983 New Jersey State Plane Coordinate System). Exceptions may be granted, by the approving land use agency, for circumstances where production of a Cad file presents an undue hardship.

(2) The application shall contain an acknowledgment signed by the applicant, stating that the applicant is familiar with the procedure set forth herein for submitting and acting upon preliminary major subdivision plats and preliminary major site plans, and agrees to be bound by it. The Administrative Officer shall process the application and shall issue an application number. Once an application has been assigned a number, such number shall appear on all papers, maps, plats or plans and other documents submitted for processing in conjunction with the application.

B. Details required for preliminary major subdivision plats and preliminary major site plans. Each preliminary plat or preliminary plan shall be drawn by a professional engineer and/or land surveyor licensed to practice in the State of New Jersey and shall bear the signature, seal, license number and telephone number of the said professional engineer and/or land surveyor; provided, however, that all engineering data shall be signed and sealed by a professional engineer and all surveying data shall be signed and sealed by a professional land surveyor. Each submission shall be drawn at an appropriate scale not less than one inch equals 100 feet for major subdivision plats and one inch equals 50 feet for major site plans and shall be submitted on one of five of the following standard sheet sizes (8.5 inches by 14 inches; 12 inches by 18 inches; 18 inches by 24 inches; 24 inches by 36 inches; 30 inches by 42 inches), each with a clear perimeter border at least 1/2 inch wide. All plan sheets shall be folded into

eighths with the title block revealed. If more than one sheet is required to show the entire subdivision, a separate composite map shall be drawn showing the entire subdivision and the sheets on which the various sections are shown, and each detail sheet shall include a key map showing its relation to the whole tract. Each preliminary plat or plan shall show the following information, as such information is applicable to the preliminary major subdivision or preliminary major site plan submission:

(1) A key map showing the entire tract and its relation to the surrounding areas, at a scale of one inch equals not more than 1,000 feet.

(2) Title block in accordance with the rules governing title blocks for professional engineers (N.J.S.A. 45:8-36), including:

(a) Name of subdivision or development, Borough of Spotswood, Middlesex County, New Jersey, with each sheet specifically titled with appropriately descriptive words;

(b) Name, title, address and telephone number of applicant;

(c) Name, title, address, telephone number, license number, seal and signature of the professional or professionals who prepared the plat or plan;

(d) Name, title and address of the owner or owners of record;

(e) Scale (written and graphic); and

(f) Date of original preparation and of each subsequent revision thereof and a list of the specific revisions entered on each sheet.

(3) North arrow, including reference.

(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 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) Approval signature and date lines:

(a) Chairman; and

(b) Secretary.

(7) Acreage to the nearest 10th of an acre (both within and without areas within public rights-of-way) and a computation of the area of the tract to be disturbed.

(8) The name(s) and block and lot number(s) of all property owners within 200 feet of the extreme limits of the tract as shown on the most recent tax list prepared by the Borough Tax Assessor.

(9) 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 numbers as provided by the Borough Tax Assessor upon written request.

(10) 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.

(11) Zoning district(s) affecting the tract, including district names and all area and bulk requirements, with a comparison to the proposed development, and all zoning district(s) within 200 feet of the tract.

(12) The location of man-made and natural features such as bridges, wetlands, treed areas, high points, marshes and depressions, both within the tract and within 100 feet of its boundaries. A Letter of Interpretation (LOI) from the State Department of Environmental Protection shall be submitted for all delineated wetlands.

(13) The location and species of all existing individual trees or groups of trees having a caliper of six inches or more measured three feet 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.

(14) A landscape plan showing the proposed location of all proposed plantings, screening and buffering, a legend listing the botanical and common names, the sizes at the time of planting, a planting schedule, method of irrigation, the total quantity of each plant, and the location of each plant keyed to the plan or plat.

(15) 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 holes(s) and borings, soil logs, proposed location of the septic disposal areas, test results, soil types, 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.

(16) All existing and proposed watercourses within the tract and within 200 feet of the tract shall be shown and be accompanied by the following information:

(a) When a stream is proposed for alteration, improvement or relocation or where a drainage structure or fill is proposed over, under, in or along a running stream, a report on the status of review by the State Department of Environmental Protection, Division of Water Resources, shall accompany the submission;

- (b) Cross-sections of watercourses and/or drainage swales at an approximate scale showing the extent of the floodplain, top of bank, normal water levels and bottom elevations at the locations required by the Borough Engineer;
  - (c) The location and extent of drainage and conservation easements and stream encroachment lines; and
  - (d) The location, size, direction of flow and type of adequate drainage provisions to reasonably reduce and minimize exposure to flood damage.
- (17) Existing and proposed contours with intervals of one foot where slopes are less than 5%; with intervals of two feet where slopes are shown between 5% and 10%; and with intervals of five feet where slopes exceed 10%. All contour information shall be related to U.S.G.S. datum. Existing contours shall be shown as a dashed line; finished grades shall be shown as a solid line.
- (18) Proposals for soil erosion and sediment control as required by N.J.S.A. 4:24-39 et seq. and in accordance with the Freehold Soil Conservation District.
- (19) Locations of all existing structures and their uses, both within the tract and within 100 feet 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.
- (20) Size, height and location of all proposed buildings (including grades), structures, signs and fences, including details for any signs, fences and trash enclosures.
- (21) All dimensions necessary to confirm conformity to the chapter 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 coverage. All tract and lot sizes shall be expressed in acres and square feet and shall include bearings and distances.
- (22) The proposed location, height, direction of illumination, power and type of proposed outdoor lighting, including details of lighting poles, luminaries and the hours and time of lighting.
- (23) 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.
- (24) 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.
- (25) All means of vehicular access 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.

(26) The application shall include plans and computations for any storm drainage system including the following as may be required by the Borough Engineer:

(a) All existing or proposed storm sewer lines within or adjacent to the tract showing profile, size, invert 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;

(b) The location and extent of any proposed groundwater recharge basins, detention basins or other water or soil conservation or drainage devices, with cross-sections every 50 feet at right angles to the long access of the basin, each extending 75 feet beyond the top of the rim of the basin on each side;

(c) A drainage area map drawn to scale (minimum scale one inch equals 100 feet) showing the contributing area to each inlet or cross drain;

(d) A weighted runoff coefficient for each drainage area shall be determined for use in the computations; and

(e) A report by the design engineer containing the criteria used, alternates considered, reasons for selection and design calculations.

(27) 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 200 feet of its boundaries.

(28) Plans of proposed improvements and utility layouts including sewers, storm drains and water lines, and feasible connections to gas, telephone and electrical utility systems, including plans, inverts, profiles and details of all existing and proposed sanitary sewage facilities and water mains with proposed connections. If private utilities are proposed, they shall comply fully with all Borough, county, state and federal regulations. If service will be provided by an existing utility company, in lieu of detailed plans, a letter from that company stating that service will be available before occupancy will be sufficient. Additionally, letters from the appropriate county and state agencies granting approval for the extension of utility service(s) under their respective jurisdiction shall be submitted with the application.

(29) Plans, typical cross sections and construction details, horizontal and vertical alignments of the center line of all proposed streets and of all existing streets abutting the tract including street names. The vertical alignments shall be based on U.S.G.S. vertical datum, including curbing, sidewalks, street trees and planting strips, storm drains and gutters, drainage structures and cross sections every half and full station of all proposed streets and of all existing streets abutting the tract. Sight triangles, the radius of curblines and street sign locations shall be clearly indicated at the intersections. The width of cartway and right-

of-way, location and width of utility lines, type and width of pavement and final design grades shall be included.

(30) Any protective covenants or deed restrictions applying to the land being developed shall be submitted with the application and/or indicated on the submitted plat or plan.

(31) 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.

(32) The proposed permanent monuments shall be shown, in accordance with the Map Filing Law, N.J.S.A. 46:23-9.9.

(33) Certificate from the Borough Tax Collector that all taxes and assessments are paid to date.

(34) An environmental impact statement in accordance with this chapter.

(35) A traffic impact statement in accordance with this chapter.

(36) Evidence of the submission of the application(s) for other agency approvals having jurisdiction over the application and/or required by the Borough Engineer.

(37) Concerning major 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.

(38) Concerning major site plans only, detailed floor plans of the entire structure, existing and proposed, and signed and sealed, scaled architectural elevations by a licensed New Jersey architect of the front, side and rear of any structure to be erected or modified, showing the exterior facade and materials to be used in construction and any attached signage.

(39) The Planning Board reserves the right to require additional information before granting preliminary approval when unique circumstances affect the tract and/or when the application for development poses special problems for the tract and surrounding area. Such information shall include, but not be limited to, drainage calculations and traffic analyses; provided, however, that no application shall be declared incomplete for the lack of such additional information.

(40) Submission of preliminary major subdivision plats and preliminary major site plan. A plan, in the form of a narrative description and diagrams or maps, shall be submitted for every development proposal for the construction of 50 or more units of single-family or two-family housing, any multifamily or townhouse housing or more than 25 units and any nonresidential development proposal for the utilization of 1,000 square feet or more of land. The plan shall include details as to the storage, collection, disposition and recycling of

recyclable materials as designated in Chapter 174 entitled "Solid Waste" and shall comply with all requirements thereof. When a nonresidential tenant/user is unknown at the time of the subdivision application, the recycling plan shall be submitted as part of a subsequent tenancy review application.

C. Environmental impact statement.

(1) General provisions. The impact on the environment generated by land development necessitates a comprehensive analysis of the variety of problems that may result and the actions that can be taken to minimize the problems. It is further recognized that the level of detail required for various types of applications will vary depending upon the size of the development, the nature of the site, the location of the development and the information already in the possession of the Borough. Therefore, having determined that some flexibility is needed in preparing the environmental impact statement, the requirements for such a document pertaining to different types of development applications are listed below:

(a) All agricultural operations conducted in accordance with a plan approved by the Soil Conservation District and all silviculture operations conducted in accordance with a plan prepared by a professional forester are specifically exempt from the environmental impact statement requirements.

(b) Any variance applications to the Planning Board not involving a site plan or subdivision application shall not require an environmental impact statement unless the information contained therein is deemed essential by the Board in order to make an informed decision regarding the submitted application. The Planning Board shall inform the applicant regarding any information that may be required.

(c) Any application for minor site plan or minor subdivision approval, either to the Planning Board or to the Planning Board shall not require an environmental impact statement unless the information contained therein is deemed essential by the Board in order to make an informed decision regarding the submitted application. The Planning Board shall inform the applicant regarding any information that may be required.

(d) All preliminary major subdivision and/or preliminary major site plan applications shall be accompanied by an environmental impact statement.

(2) Submission format. When an environmental impact statement is required, the applicant shall retain one or more competent professionals to perform the necessary work. The qualifications and background of the professionals shall be provided, and the method of investigation shall be described. All applicable material on file in the Borough pertinent to evaluation of regional impacts also shall be considered. Furthermore, as much original research as necessary shall be conducted to develop the environmental impact statement. All environmental impact statements shall consist of written and graphic materials which clearly present the required information utilizing the following format:



(a) Project description. Indicate the purpose and scope of the proposed project. Enumerate the benefits to the public which will result from the proposed project and describe the particular suitability of the site for the intended use. A description of the proposed project shall be presented to indicate the extent to which the site must be altered, the kinds of facilities to be constructed and the uses intended. The resident population, working population and visitor population shall be estimated. The compatibility or incompatibility of the proposed project shall be described in relation to the following:

- [1] Borough Master Plan.
- [2] Master Plan of adjacent municipalities.
- [3] Middlesex County Master Plan.
- [4] State Development and Redevelopment Plan.
- [5] Other pertinent planning documents.

(b) Site description and inventory. Provide a description of the environmental conditions on the site, including the following items:

- [1] Types of soils. List and describe each soil type on the site. If applicable, provide percolation data. Where the proposed area of land disturbance will involve soils with moderate or severe limitations relative to the type of use proposed, a complete mapping of all soil types where the moderate and severe limitations exist shall be provided.
- [2] Topography. Describe the topographic conditions on the site.
- [3] Geology. Describe the geologic formations and features associated with the site as well as depth to bedrock conditions. Delineate those areas where bedrock is within two feet of the surface as well as major rock outcroppings.
- [4] Vegetation. Describe the existing vegetation on the site. A map shall be prepared showing the location of major vegetative groupings such as woodlands, open fields and wetlands. Where woodlands are delineated, the forest types shall be indicated.
- [5] Wildlife. Identify and describe any unique habitats of endangered or protected species.
- [6] Subsurface water. Describe the subsurface water conditions on the site both in terms of depth to groundwater and water supply capabilities. The location, depth, capacity and water quality of all existing water wells on the site and within 500 feet of the site shall be indicated.

[7] Distinctive scenic and/or historic features. Describe and map those portions of the site that can be considered to have distinctive scenic and/or historic qualities.

[8] Existing development features. Describe any existing features on the site that are not considered to be part of the natural environment including, but not necessarily limited to, roads, driveway accesses, housing units, accessory structures, utility lines, etc.

[9] Miscellaneous. When warranted, an analysis shall be conducted of existing air quality and noise levels as prescribed by the New Jersey State Department of Environmental Protection.

(c) Impact. Discuss both the negative and positive impacts during and after construction. Indicate those negative impacts that are unavoidable. The specific concerns that shall be considered include the following and shall be accompanied by specific quantitative measurements where possible and necessary:

[1] Soil erosion and sedimentation resulting from surface runoff.

[2] Flooding and floodplain disruption.

[3] Degradation of surface water quality.

[4] Groundwater pollution.

[5] Reduction of groundwater capabilities.

[6] Sewage disposal.

[7] Solid waste disposal.

[8] Vegetation destruction.

[9] Disruption of wildlife habitats of endangered and protected species.

[10] Destruction or degradation of scenic and historic features.

[11] Air quality degradation.

[12] Noise levels.

[13] Energy utilization.

(d) Environmental performance controls. Describe what measures will be employed during the planning, construction and operation phases which will minimize or eliminate negative impacts that could result from the proposed project. Of specific interest are:

[1] Drainage plans which shall include soil erosion and sedimentation controls.

[2] Sewage disposal techniques.

[3] Water supply and water conservation proposals.

[4] Energy conservation measures.

[5] Noise reduction techniques.

(e) Licenses, permits and other approvals required by law. The applicant shall list all known licenses, permits and other forms of approval required by law for the development and operation of the proposed project. The list shall include approvals required by the Borough, as well as agencies of the county, state and federal governments. Where approvals have been granted, copies of said approvals shall be attached. Where approvals are pending, a note shall be made to that effect.

(f) Documentation. All publications, file reports, manuscripts or other written sources of information which were first consulted and employed in compilation of the environmental impact statement shall be listed. A list of all agencies and individuals from whom all pertinent information was obtained orally or by letter shall be listed separately. Dates and locations of all meetings shall be specified.

(3) Disposition by the Board. The Board shall review the information furnished in the environmental impact statement in the context of the overall design of the proposed development and the relationship of the proposed development to the environment. The information is to be used solely to help ensure that the proposed development will cause no reasonably avoidable damage to any environmental resource.

#### D. Traffic impact statement.

##### (1) General provisions.

(a) The impact on the existing road systems generated by land development necessitates a comprehensive analysis of the variety of problems that may result and the actions that can be taken to minimize the problems. Therefore, all preliminary major subdivision applications resulting in the generation of more than 10 lots and/or all preliminary major site plan applications shall be accompanied by a traffic impact statement unless specifically waived by the Board. Any application for subdivision approval where less than 10 lots are involved and all applications for minor site plan approval, either before the Planning Board or Zoning Board of Adjustment, as the case may be, shall not require a traffic impact statement unless specifically requested by the Board.

(b) The Board may waive the requirement for a traffic impact statement totally or partially only if sufficient evidence is submitted to the Board indicating that the proposed project will have a negligible traffic impact, or, alternatively, that a complete report need

not be prepared and submitted in order to evaluate adequately the specific traffic impact to be generated by the proposed development. The burden of demonstrating the exceptions hereinabove stated shall at all times rest with the applicant who must affirmatively demonstrate to the Board the basis for a waiver request.

(2) Content of report. The traffic impact statement shall contain the following information:

(a) Projections of traffic to be generated by the proposed development for average daily, morning peak hour(s), afternoon peak highway hour(s) and any other peak traffic condition deemed applicable as a result of the type and/or location of the proposed generator. Traffic generation rates should be based upon local indices, where applicable, or rates promulgated by the Institute of Transportation Engineers, where local indices are not available. All rates should be documented in the report. Also, the method and data base upon which traffic approach route distributions are based shall be fully documented. Any assumptions regarding the diversion of existing traffic to alternative routes should be clearly specified in the report. Included in this portion of the traffic impact statement shall be an assessment of transportation control measures which would reduce the number of vehicular trips generated by the proposed development.

(b) The report shall contain documentation of existing conditions on adjacent streets serving immediate site access/egress, including roadway pavement width, rights-of-way, curb parking conditions, sight visibility, grade curvatures of roadway and traffic control devices. Existing traffic volumes or average daily and peak hour conditions shall be presented with the source of data denoted.

(c) Assessment of the traffic impact of the proposed development shall be provided, including estimates of levels of services. In preparing these estimates, assumptions regarding the annual growth rate of existing traffic should be fully documented. Capacity determination shall be based upon normally accepted standards, with the basis of these estimates clearly indicated. All substantial applications for development, both within Spotswood Borough and neighboring municipalities, which recently have been built, are under construction or are being considered for approval shall be factored in the analysis. In the event the project is staged over a period of time, independent estimates for each stage shall be provided.

(d) In the event that roadway deficiencies are identified for existing and/or future conditions, specific recommendations for the resolution of these problems shall be addressed in the report. The report shall contain a listing of any and all actions to be undertaken by the applicant to resolve or minimize traffic problems and, as such, shall be considered a firm offer by the applicant to undertake said actions, subject to approval by the Board.

(e) Any alteration or amendment to the development application which would substantially alter specific land uses, site acreage, building floor area, highway access design or any other feature which could cause a significant change in traffic generation rates shall require the submission of a revised traffic impact statement.

(f) In situations where state or county highways are adjacent to and/or potentially impacted by the proposed project, a copy of the report shall be provided to the Commissioner of Transportation, New Jersey Department of Transportation for State Highways, and the Middlesex County Department of Transportation for county highways for their review and comment.

(3) Disposition by the Board. The Board shall review the information furnished in the traffic impact statement in the context of the overall design of the proposed development and the traffic impact of the proposed development on the affected road system. The information is to be used to determine whether or not the proposed development will create any negative impact(s) upon the roadway system, adjacent properties or the zone plan of the municipality. The traffic impact statement shall be forwarded to the Borough Traffic Consultant and/or Borough Engineer for review and comment.

E. Action by the Borough on preliminary major subdivision plats and preliminary major site plans.

(1) The Administrative Officer shall review the aforesaid application for the purpose of determining, within 45 days of its submission, whether said application is complete:

(a) If said application is found by the Administrative Officer to contain all of the information required by § 120-804B of this chapter, the Administrative Officer shall certify that said application is complete and shall direct the application to the Planning Board.

(b) If said application is found by the Administrative Officer to lack some of the information required by the checklist found this chapter, the Administrative Officer shall:

[1] Notify the applicant, in writing and within 45 days of the submission of the application, that said application is incomplete, with a specific listing of the deficiencies in the application; and/or

[2] If a waiver of any checklist item has been specifically requested by the applicant in the submitted application for development, the Administrative Officer shall act on the request for the waiver(s) within 45 days of the submission of the application. If the Administrative Officer reasonably concludes that the missing item(s) of information are not applicable to the subject application and/or are not necessary to make an informed decision on the application, the Administrative Officer may waive the requirement that said item(s) be supplied as a prerequisite for completeness and certify that the application is complete notwithstanding the missing item(s.)

(c) An application which has been declared incomplete by the Administrative Officer shall be resubmitted by the applicant or, in the alternative, the applicant may choose to proceed before the Planning Board for a determination of completeness. Any resubmitted application shall be treated as a new application submission and shall be acted upon by the Administrative Officer in accordance with § 120-900) hereinabove. An applicant who

has been notified that his/her application is incomplete may request a waiver of one or more of the submission requirements set forth in this chapter.

(d) In the event that the Zoning Officer fails to act within 45 days of the date of the submission of the application, said application shall be deemed complete as of the 46th day following its submission.

(2) On the date the aforesaid application is certified complete, the applicable time period within which the Planning Board or Zoning Board of Adjustment must act upon the application shall commence.

(a) In any case, the applicant is obliged to prove that he or she is entitled to approval of the application.

(b) Moreover, the Planning Board may subsequently require the correction of any information found to be in error and/or the submission of additional information not specified in this chapter and/or revisions to the documents accompanying the submitted application, each and all as are reasonably necessary for the Board to make an informed decision as to whether or not the requirements necessary for approval of the application have been met.

(3) Promptly after certification of completeness, the application documents shall be distributed by the Administrative Officer to the following:

(a) The Planning Board (11 copies each of the preliminary plat or plan, the application, the environmental impact statement, the traffic impact statement, and any protective covenants, easements and/or deed restrictions);

(b) Borough Engineer (one copy each of the preliminary plat or plan, the application, the environmental impact statement, the traffic impact statement, and any protective covenants, easements and/or deed restrictions);

(c) Board Planner (one copy each of the preliminary plat or plan, the application, the environmental impact statement, the traffic impact statement and any protective covenants, easements and/or deed restrictions);

(d) Board Attorney (one copy each of the preliminary plat or plan, the application, the environmental impact statement, the traffic impact statement, and any protective covenants, easements and/or deed restrictions);

(e) Zoning Officer (one copy of the preliminary plat or plan);

(f) At the direction of the Planning Board, additional copies of the preliminary plat or plan and/or other items of submitted information shall be sent to other Borough, county or state agencies and/or to other professional consultants as may be designated by the Board; and

(g) It shall be the applicant's responsibility, unless specifically provided otherwise in this chapter, to submit the required application to any agency (including but not limited to the Middlesex County Planning Board, the Middlesex County Health Department, the Freehold Soil Conservation District, the New Jersey Department of Transportation, and the New Jersey State Department of Environmental Protection) having jurisdiction over any aspect of the proposed development.

(4) The Planning Board shall take action on a preliminary major site plan application involving 10 acres of land or less and 10 dwelling units or less and/or a preliminary major subdivision application involving 10 lots or less within 45 days after the application has been certified complete or within such further time as may be consented to by the applicant. Failure of the Board to act within the prescribed time period shall constitute approval of the application, provided that any preliminary major site plan or preliminary major subdivision application which includes any requested variance relief pursuant to N.J.S.A. 40:55D-60 shall be acted upon within 120 days or within such further time as may be consented to by the applicant.

(5) The Planning Board shall take action on a preliminary major site plan application involving more than 10 acres of land or more than 10 dwellings and/or a preliminary major subdivision application involving more than 10 lots within 95 days after the application has been certified complete or within such further time as may be consented to by the applicant. Failure of the Board to act within the prescribed time period shall constitute approval of the application, provided that any preliminary major site plan or preliminary major subdivision application which includes any requested variance relief pursuant to N.J.S.A. 40:55D-60 shall be acted upon within 120 days or within such further time as may be consented to by the applicant.

(6) The Planning Board shall take action on a preliminary major site plan application and/or preliminary major subdivision application under its jurisdiction in the time frame(s) as prescribed hereinabove unless said preliminary major site plan or preliminary major subdivision application is being considered simultaneously with an application for a use variance in accordance with N.J.S.A. 40:55D-70d in which case the Planning Board shall act upon all aspects of the application within 120 days after the application has been certified complete by the Administrative Officer or within such further time as may be consented to by the applicant. Failure of the Board to act within the prescribed time period shall constitute approval of the application.

(7) The professional staff of the Board shall read any written reports submitted concerning the application and shall review the submission to ascertain its conformity with the requirements of this chapter. The professional staff of the Board shall offer its recommendations to the Planning Board.

(8) Any proposed application for development determined by the Board to be creating, imposing, aggravating or leading to the possibility of an adverse effect upon either the property in question or upon any adjacent properties, may be required to be revised to remove any adverse effect(s) prior to further review or approval by the Board, or, where the

remaining portion of the original tract is sufficient to be subdivided or developed further, the applicant may be required to submit a sketch of the entire remaining portion of the tract to indicate a feasible plan whereby the applied for subdivision or development, together with subsequent subdivision(s) or development(s), may be submitted that will not create, impose, aggravate or lead to any adverse effect.

(9) All hearings held on applications for preliminary major subdivision and/or preliminary major site plan approval shall require public notice of the hearing. The Planning Board shall set the date, time and place for the public hearing and shall inform the applicant of this at least 14 days prior to said hearing date. Notice of the hearing shall be given by the applicant at least 10 days prior to the date of the hearing.

(10) For any application that is heard by the Planning Board and is continued for additional studies, reports, plans or revisions to previously submitted material, the new or revised material must be submitted to the Borough at least 10 days prior to the hearing at which the new material is to be considered by the Board.

(11) In the case of planned developments only, the Board shall find the following facts and conclusions prior to granting approval:

(a) That departures by the proposed development from zoning regulations otherwise applicable to the subject property conform to the zoning provisions specified in Articles 400, 600 & 700 of this chapter, as the case may be, pursuant to N.J.S.A. 40:55D-65c.

(b) That the proposals for maintenance and conservation of the common space are reliable, and the amount, location and purpose of the common open space are adequate.

(c) That provision through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment are adequate;

(d) That the proposed planned development will not have an unreasonably adverse impact upon the area in which it is proposed to be established;

(e) In the case of a proposed development which contemplates construction over a period of years, that the terms and conditions intended to protect the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development are adequate.

(12) If the Board acts favorably on the preliminary plat or plan, the Chairman and Secretary of the Board shall affix their signatures to at least 10 copies of the plat or plan with the notification that it has been approved. The applicant shall furnish such copies to the Board. The Administrative Officer shall distribute one copy of the Board's resolution to the Borough Clerk.



(13) Should minor revisions or additions to the plat or plan be deemed necessary, the Board may grant preliminary approval subject to specified conditions and receipt of revised plans within 30 days from the date of said approval. Revised plans will then be reviewed by the Board's Engineer, Planner and the Zoning Officer to verify conformity with the resolution of approval within 30 days after receipt of the revised submission. Five copies of the revised, verified plan shall then be signed by the Borough Engineer. Two copies will be sent to the Borough and one copy will be returned to the applicant. After the final development plans have been approved, seven complete sets should be submitted to the Borough. The plans will be stamped approved and distributed to Staff with one set returned to the applicant.

(14) Any resolution by the Board shall be deemed to include a contingency that all necessary approvals by other agencies having jurisdiction over any aspect of the proposed development, and submission of all outstanding fees are required as a condition of the Board's approval. Any substantial plan revision required by an outside reviewing agency, including the County Planning Board, after final action by the Planning Board will require a new substantive review. Whenever a development application which has been the subject of a public hearing has been substantially amended, the Board shall require that an amended plat or plan be submitted and acted upon as in the case of the original application.

(15) If the Board, after consideration and discussion of the preliminary plat or plan, determines that it is unacceptable, a notation shall be made by the Chairman of the Board to that effect on the plat or plan and a resolution adopted in accordance with § 120-800 of this chapter setting forth the reasons for such rejection. One copy of the plat or plan and said resolution shall be returned to the applicant within 10 days of the adoption of said resolution.

F. Effect of preliminary approval of major subdivision plats and major site plans.

(1) Preliminary approval shall confer upon the applicant the following rights for a three-year period from the date on which the resolution of preliminary approval is adopted:

(a) That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to: use requirements; layout and design standards for streets, curbs and sidewalk; lot size; yard dimensions; and off-tract improvements; and in the case of a site plan, any requirements peculiar to site plan approval, except that nothing therein shall be construed to prevent the municipality from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety;

(b) That the applicant may submit for final approval, on or before the expiration date of preliminary approval, the whole or a section or sections of the preliminary plat or plan; and

(c) That the applicant may apply for and the Board may grant extensions on such preliminary approval for additional periods of at least one year, but not to exceed a total

extension of two years, provided that if the design standards have been revised by ordinance, such revised standards may govern.

(2) In the case of a subdivision or of a site plan for an area 50 acres or more, the Planning Board may grant the rights referred to hereinabove for such period of time, longer than three years, as shall be determined by the Board to be reasonable taking into consideration the number of dwelling units and nonresidential floor area permissible under preliminary approval; economic conditions; and the comprehensiveness of the development. The applicant may apply for thereafter, and the Board may thereafter grant, an extension to preliminary approval for such additional period of time as shall be determined by the Board to be reasonable taking into consideration:

(a) The number of dwelling units and nonresidential floor area permissible under preliminary approval;

(b) The potential number of dwelling units and nonresidential floor area of the section or sections awaiting final approval;

(c) Economic conditions;

(d) The comprehensiveness of the development; and

(e) Provided that if the design standards have been revised by ordinance, such revised standards may govern.

(3) Whenever the Board grants an extension of preliminary approval pursuant to the procedures listed hereinabove and preliminary approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.

(4) The Board shall grant an extension of preliminary approval for a period determined by the Board but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the approvals. A developer shall apply for this extension before what would otherwise be the expiration date or the 91st day after the date on which the developer receives the last of the legally required approval from the other governmental entities, whichever occurs later. An extension granted pursuant to this subsection shall not preclude the Board from granting an extension pursuant to § 120-900 or (2) hereinabove.

## **§ 120-904. Submission of Final Major Subdivision Plats and Final Major Site Plans**

A. Procedure for submitting final major subdivision plats and final major site plans. A final plat or final plan shall be submitted to the Administrative Officer within three years after the date of preliminary approval or any authorized extension thereof. The applicant shall submit to the Administrative Officer at least 30 days prior to the regular meeting of the Board: 18 copies of the final major subdivision plat or final major site plan; 18 copies of the appropriate application(s), which includes the checklist(s) pursuant to N.J.S.A. 40:55D-10.3 attached to this chapter; *Editor's Note: The checklists are included at the end of this chapter.* and a fee in accordance with § 120-1000 of this chapter. The application shall contain an acknowledgment signed by the applicant stating that the applicant is familiar with the procedure set forth herein for submitting and acting upon final major subdivision plats and final major site plans, and agrees to be bound by it. In addition to the above required submittals, all drawings associated with an application for final major site plan and final major subdivision and their applicable reports shall be submitted in Adobe portable document format (pdf) at 400 by 400 dpi. All other documents, such as, but not limited to, application, escrow sheet, completion checklist, environmental impact study, traffic study, stormwater report, sewer and water report, reforestation or woodland management plan, and permits associated with the application shall be submitted in Adobe portable document format (pdf) at 300 by 300 dpi. All revisions and resubmissions shall also be submitted in these formats. All filed maps and required final as-built plans shall be submitted in one of the following formats: Autocad drawing file (dwg), ESRI Shapefile (shp). Drawing exchange format file (DXF) or Microstation drawing file (dgn) and contain coordinate values for at least three identifiable boundary corners (preferably in the 1983 New Jersey State Plane Coordinate System). Exceptions may be granted, by the approving land use agency, for circumstances where production of a Cad file presents an undue hardship.

B. Details required for final major subdivision plats and final major site plans. The following information shall be submitted:

- (1) All details stipulated in § 120-900 of this chapter.
- (2) All additional details required at the time of preliminary approval shall be submitted including a copy of the signed preliminary plat or plan in conformance with the resolution of approval.
- (3) A section or staging plan, if proposed, indicating the portion of the tract to be considered for final approval as part of the current application and the relationship of the portion of the tract to the remaining land area, including all applicable comparisons such as parking spaces, building coverage, lot coverage, open space areas and number of lots.
- (4) Detailed architectural and engineering data including:
  - (a) An architect's design drawing of each building and sign or a typical building and sign showing front, side and rear elevations.

(b) Cross sections, plans, profiles and established grades of all streets, aisles, lanes and driveways, including center line geometry and horizontal alignments with bearings, radii and tangents.

(c) Plans and profiles of all storms and sanitary sewers and water mains.

(d) All dimensions of the exterior boundaries of any subdivision shall be balanced and closed to a precision of one to 5,000 and the dimensions of all lot lines to within one to 10,000. All dimensions, angles and bearings must be tied to at least two permanent monuments not less than 300 feet apart and all information shall be indicated on the plat. At least one corner of the subdivision shall be tied horizontally to the New Jersey State Grid Coordinate System and vertically to the U.S. Geodetic Survey System, with the data on the plat as to how the bearings were determined.

(5) Evidence that a duplicate copy(ies) of the application for development has been filed with any other agency having jurisdiction over any aspect of the proposed development.

(6) The final submission shall be accompanied by the following documents:

(a) Certification from the Borough Tax Collector that all taxes and assessments are paid to date.

(b) Letters directed to the Chairman of the Board and signed by a responsible official of the lighting agency, water company, sewer utility and of any other company or governmental authority or district which provides accessory utility service and has jurisdiction in the area, approving each proposed utility installation design and stating that the applicant paid the required fees for the utility connections and service or installed all utility improvements in accordance with the requirements of this chapter so that service will be available prior to occupancy. The designing engineer(s) shall certify to the Board that the existing cross-section(s) and profile(s) have been run in the field and the field notes shall be forwarded to the Borough Engineer.

(c) The applicant shall certify in writing to the Board that he has:

[1] Installed all improvements in accordance with the requirements of this chapter and the preliminary plat approval; and/or

[2] Posted a performance guarantee in accordance with § 120-1000 of this chapter.

(d) A statement from the Borough Engineer that:

[1] All improvements installed prior to application have been inspected and as-built drawings have been submitted by the applicant for the installed improvements; and

[2] That such improvements installed prior to application for final approval that do not meet or exceed Borough standards shall be factored into the required performance guarantee.

(e) Concerning major subdivisions only, a Sales Map in the following format and containing the information noted hereinbelow. The developer of the subject major subdivision shall provide all contract purchasers with a copy of the Sales Map at the time of contract and maintain a record of the contract purchasers' receipt of the Sales Map for the Borough's reasonable inspection.

[1] The Sales Map shall be at a scale of not more than 100 feet to the inch;

[2] The Sales Map shall identify the location of all on-site flood hazard areas, streams, ponds, wetlands, wetland buffers, steep slopes and stormwater facilities and, to the extent available from preexisting public records, such features within 200 feet of the development also shall be identified;

[3] The Sales Map shall show the zoning district classification of all property within the development and within 2,000 feet of the development, both within and outside of the Borough, including a brief description of the permitted uses in each zoning district; and

[4] The Sales Map shall show the development plan for the subject property and all land contiguous thereto for a distance of 2,000 feet from the perimeter of the development, including lands outside of the Borough, with the following information indicated thereon:

[a] The location of all streets, with those streets to be connected to the proposed development clearly highlighted;

[b] The location of all state, county and Borough roads, both in existence and/or proposed by any governmental agency having jurisdiction to establish such roads; and

[c] The location of all railroads, power transmission lines and easements, pipe lines, rights-of-way for public utilities and any existing utilities.

C. Action by the Borough on final major subdivision plats and final major site plans.

(1) The Zoning Officer shall review the aforesaid application for the purpose of determining, within 45 days of its submission, whether said application is complete:

(a) If said application is found by the Administrative Officer to contain all of the information required by § 120-900 of this chapter, the Administrative Officer shall certify that said application is complete and shall direct the application to the Planning Board.

(b) If said application is found by the Administrative Officer to lack some of the information required by § 120-900 of this chapter, the Administrative Officer shall:

[1] Notify the applicant, in writing and within 45 days of the submission of the application, that said application is incomplete, with a specific listing of the deficiencies in the application; and/or

[2] If a waiver of any checklist item has been specifically requested by the applicant in the submitted application for development, the Administrative Officer shall act on the request for the waiver(s) within 45 days of the submission of the application. If the Administrative Officer reasonably concludes that the missing item(s) of information are not applicable to the subject application and/or are not necessary to make an informed decision on the application, the Administrative Officer may waive the requirement that said item(s) be supplied as a prerequisite for completeness and certify that the application is complete notwithstanding the missing item(s.)

(c) An application which has been declared incomplete by the Administrative Officer shall be resubmitted by the applicant or, in the alternative, the applicant may choose to proceed before the Planning Board for a determination of completeness. Any resubmitted application shall be treated as a new application submission and shall be acted upon by the Administrative Officer in accordance with § 120-900 or (b) hereinabove. An applicant who has been notified that his/her application is incomplete may request a waiver of one or more of the submission requirements set forth in § 120-900 of this chapter.

(d) In the event that the Administrative Officer fails to act pursuant to § 120-900 or (b) hereinabove within 45 days of the date of the submission of the application, said application shall be deemed complete as of the 46th day following its submission.

(2) On the date the aforesaid application is certified complete, or on the 46th day following the submission of the application in the event that the Administrative Officer fails to make a determination of completeness, as the case may be, the applicable time period within which the Planning Board must act upon the application shall commence.

(a) In any case, the applicant is obliged to prove that he or she is entitled to approval of the application.

(b) Moreover, the Planning Board may subsequently require the correction of any information found to be in error and/or the submission of additional information not specified in this chapter and/or revisions to the documents accompanying the submitted application, each and all as are reasonably necessary for the Board to make an informed decision as to whether or not the requirements necessary for approval of the application have been met.

(3) Promptly after certification of completeness, the application documents shall be distributed by the Administrative Officer to the following:

- (a) The Planning Board (11 copies each of the final plat or plan and the application);
  - (b) Borough Engineer and Planner (one copy each of the final plat or plan and the application);
  - (c) Board Attorney (one copy each of the final plat or plan and the application);
  - (d) Borough Construction Official (one copy of the preliminary plat or plan);
  - (e) At the direction of the Planning Board additional copies of the preliminary plat or plan and/or other items of submitted information shall be sent to other Borough, county or state agencies and/or to other professional consultants as may be designated by the Board; and
  - (f) It shall be the applicant's responsibility, unless specifically provided otherwise in this chapter, to submit the required application to any agency (including but not limited to the Middlesex County Planning Board, the Middlesex County Health Department, Middlesex County Soil Conservation District, and the New Jersey State Department of Environmental Protection) having jurisdiction over any aspect of the proposed development.
- (4) The Board shall take action of final site plan and final subdivision applications within 45 days after the application has been certified complete or within such further time as may be consented to by the applicant. Failure of the Board to act within the prescribed time period shall constitute approval of the application.
- (5) The professional staff of the Board shall read any written reports submitted concerning the application and shall review the submission to ascertain its conformity with the requirements of this chapter. The professional staff of the Board shall offer its recommendations to the Planning Board.
- (6) If the Board acts favorably on the final plat or plan, the Chairman and Secretary of the Board (or the acting Chairman or Secretary, where either or both may be absent) shall affix their signatures to at least 10 paper copies of the plat or plan with the notification that it has been approved. The applicant shall furnish such copies to the Board for signing. Moreover, in the case of final subdivisions only, the applicant shall include for signing one cloth copy and at least two Mylar copies of the approved plat in addition to the 10 paper copies.
- (7) For any application that is heard by the Board and is continued for additional studies, reports, plans or revisions to previously submitted material, the new or revised material must be submitted to the Borough at least 10 days prior to the hearing at which the new material is to be considered by the Board.
- (8) Should minor revisions or additions to the plat or plan be deemed necessary, the Board may grant preliminary approval subject to specified conditions and receipt of revised plans within 30 days from the date of said approval. Revised plans will then be reviewed by the

Board to verify conformity with the resolution of approval within 30 days after receipt of the revised submission. Five copies of the revised, verified plan shall then be signed by the Borough Engineer. Two copies will be sent to the Borough and one copy will be returned to the applicant. After final development plans have been approved by the Board Engineer, seven complete sets should be submitted to the Borough. The plans will be stamped approved and distributed to Staff with one set returned to the applicant.

(9) Any resolution by the Board shall be deemed to include a contingency clause that all necessary approvals by other agencies having jurisdiction over any aspect of the proposed development are required as a condition of the Board's approval. Any substantial plan revision required by an outside reviewing agency, including the County Planning Board, after final action by the Planning Board will require a new substantive review. Whenever a development application which has been the subject of a public hearing has been substantially amended, the Board shall require that an amended plat or plan be submitted and acted upon as in the case of the original application.

(10) After approval of the final plat or plan by the Board, the Administrative Officer shall retain one paper copy of the signed plat or plan and shall furnish other copies to each of the following within 10 days from the date of the adoption of a resolution in accordance with § 120-800 of this chapter:

(a) Borough Clerk (one paper copy);

(b) Borough Engineer (one paper copy and, in the case of subdivisions only, one Mylar copy drawn to the Tax Map scale of one inch equals 100 feet or one inch equals 400 feet, as directed by the Borough Engineer);

(c) Zoning Officer (one paper copy);

(d) Borough Tax Assessor (one paper copy);

(e) The applicant (one paper copy and, in the case of subdivisions only, one Mylar copy);  
and

(f) Such other Borough, county or state agencies and officials as directed by the Board.

(11) Within 95 days from the date of signing of the final subdivision plat, the subdivider shall file a copy of same with the Middlesex County Clerk. In the event of failure to file within said 95 days, the approval of the major subdivision shall expire and any further proceedings shall require the filing of a new application as in the first instance. The Board, for good cause shown, may extend the filing for an additional 95 days. The Board may extend the ninety-five-day or one-hundred-ninety-day period if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities; and that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to



the period of delay caused by the wait for the required approvals, as determined by the Planning Board. The developer may apply for an extension either before or after the original expiration date.

(12) If the Board, after consideration and discussion of the final plat or plan, disapproves the submission, a notation to that effect shall be made by the Chairman of the Board on the plat or plan. The Administrative Officer, within 10 days of such adoption, shall notify the applicant of such disapproval and forward the applicant a copy of the adopted resolution setting forth the reasons for the disapproval.

D. Effect of final approval of major subdivision plats and major site plans.

(1) Final approval of a subdivision or site plan shall confer upon the applicant the following rights for a period of two years from the date on which the resolution of final approval is adopted:

(a) The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer, whether conditionally or otherwise, shall not be changed.

(b) If the developer has followed the standards prescribed for final approval, the Board may extend the period of protection for extensions of one year each, not exceeding three such extensions.

(2) In the case of a subdivision or site plan for a planned development or residential cluster of 50 acres or more, or in the case of a conventional subdivision or site plan of 150 acres or more, the Board may grant the rights referred to hereinabove for such period of time, longer than two years, as shall be determined by the Board to be reasonable taking into consideration the number of dwelling units and nonresidential floor area permissible under final approval; economic conditions; and the comprehensiveness of the development. The developer may apply for thereafter, and the Board may thereafter grant, an extension to final approval for such additional period of time as shall be determined by the Board to be reasonable taking into consideration:

(a) The number of dwelling units and nonresidential floor area permissible under final approval;

(b) The number of dwelling units and nonresidential floor area remaining to be developed;

(c) Economic conditions; and

(d) The comprehensiveness of the development.

(3) Whenever the Board grants an extension of final approval pursuant to § 120-900 or (2) of this section and final approval has expired before the date on which the extension is

granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.

(4) The Board shall grant an extension of final approval for a period determined by the Board but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the approvals. A developer shall apply for this extension before what would otherwise be the expiration date or the 91st day after the date on which the developer receives the last of the legally required approval from the other governmental entities, whichever occurs later. An extension granted pursuant to this subsection shall not preclude the Board from granting an extension pursuant to § 120-900 or (2) hereinabove. *Editor's Note: The checklists which immediately followed this section can be found at the end of this chapter.*

ARTICLE 1000: FEES

**§ 120-1001. Application and Escrow Fee Schedule**

A. Fee schedule.

(1) Every application for development shall be accompanied by a certified checks payable to the Borough of Spotswood in accordance with the following schedule of administrative charges and escrow account deposits.

(2) Where one 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.

(3) Fees and copies of requested items, special meetings, and other items also are included in the fee schedule.

		Application Fee	Escrow Fee
1.	Informal reviews		
	(a)	One fifteen-minute appearance without professional review	\$100
	(b)	Any additional appearance and/or any appearance with professional review	\$1,000
2.	Subdivisions		
	(a)	Minor subdivision plat	\$150
	(b)	Preliminary major subdivision plat	\$250
	(c)	Final major subdivision plat	\$200
	(d)	Amended minor, preliminary major and/or final major subdivision plat or plan resubmission	\$150
	(e)	Each resubmission of	\$50 flat fee each
			Original total Escrow amount

		revised plan sets	submission	x 20%
	(f)	Request for re-approval or extension of time	\$300	\$500
3.	Site plans			
	(a)	Minor site plan	\$250	\$1,500
	(b)	Preliminary major site plan	\$250	\$5,000
	(c)	Final major site plan	\$200	\$2,500
	(d)	Amended minor, preliminary major and/or final major site plan or plan resubmission	\$150	\$500
	(e)	Each resubmission of revised plan sets	\$50 flat fee each submission	Original total Escrow amount x 20%
	(f)	Request for reapproval or extension of time	\$300	\$500
4.	Conditional uses (in addition to any fees required for site plan or subdivision review)		\$300	\$500
5.	Variances			
	(a)	Appeals (40:55D-70a)	\$100	\$500 each
	(b)	Interpretation (40:55D-70b)	\$100	\$500 each
	(c)	Bulk (40:55D-70c)	\$200 per application	\$400
	(d)	Use and others: each (40:55D-70d)	\$200	\$1,000
	(e)	Permit (40:55D-34, 35 & 36 )	\$200	\$500
6.	Submission Waivers		\$100	\$100 each waiver
7.	Requested special meeting of Planning or Zoning Board		\$1,000	Not applicable
8.	Certified list of property owners or certified list of public utilities		\$10 flat fee	Not applicable
9.	Copy of minutes, resolutions or decisions		\$1/page for first copy of said page, plus \$0.25/copy for each additional copy of said page	Not applicable

10.	Transcription of meeting proceedings	At cost, in accordance with N.J.S.A. 2A:11-15 <sup>17</sup>	Not applicable
11.	Copy of tape of public hearing	\$25/tape	Not applicable
12.	Subdivision approval certificate	\$50/certificate	Not applicable
13.	Certificate of nonconformity (N.J.S.A. 40:55D-68)	\$50/certificate	Not applicable
14.	Zoning permit	\$50	

B. The administrative charges are flat fees to cover administrative expenses and are nonrefundable.

C. The escrow account deposits noted in this chapter 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, in an account for such purposes under the sole control of the Borough. Said review escrows may be commingled with similar escrows from other applicants, but accurate accounts and records shall be kept so as to identify the particular escrows and charges made against the same.

D. An applicant is responsible to reimburse the Borough of Spotswood 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;

(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 or digital 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; and

(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 Spotswood 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 is required or chooses to provide 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.

**§ 120-1002. Specific subdivision and site plan requirements; guaranties; inspections; acceptance of improvements**

For purposes of this chapter section, the term "public improvements" shall include streets, grading, pavement, gutters, curbs, sidewalks, streetlighting, 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 preliminary subdivision approval have been satisfactorily completed; or

(b) The developer has entered into a developer's agreement with the Borough of Spotswood, 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 § 120-1002D hereinbelow.

(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 § 120-1002E(4) hereinbelow:

(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 macadam base course surfacing of all streets;

(c) Construction of all required curbs; and/or

(d) Filed with the Borough of Spotswood a performance guarantee in accordance with § 120-1002D of this chapter, 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 certificate of occupancy specified in § 120-1102E of this chapter.

(4) Unless provided otherwise elsewhere in this chapter, the remaining required improvements shall be at least 50% completed as to each category set forth in the performance guarantee within one year from the date of final approval or by such time as 50% of the lots in the section in question have been conveyed in any manner by the developer, whichever shall first occur. At least 75% of the improvements shall be completed as to each category as set forth in the performance guarantee within 18 months from the date of final approval, or at such time as 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 100% completed and accepted by the Borough within two years from the date of final approval or at such time as all of the lots in the section in question 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 subsection 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 preliminary site plan approval have been satisfactorily completed; or

(2) The developer, with the approval of the Planning Board has entered into a developer's agreement with the Borough of Spotswood 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 § 120-1002D of this chapter.



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 § 120-1002D hereinbelow, 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 under this subsection must be completed prior to the issuance of a certificate of occupancy, or within 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, provided that, in any case, the roadway pavement has been completed.

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 their estimated cost, 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 45 days of receipt of the appeal in writing by the Borough Clerk. 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 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 copies of the performance guarantee in an amount equal to 120% of the approved construction cost 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 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 Spotswood 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 owner 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 § 120-1002U of this chapter.

(5) Ten percent of the amount of the approved performance guarantee shall be deposited by the developer in cash with the Borough.

(a) The remaining 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 10% cash shall be first applied to the completion of the requirements and any bidding and legal costs associated therewith, and the remaining 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 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) If authorized by the Borough Council at the request of the Borough Engineer, the developer has had a preconstruction meeting with the Borough Engineer in accordance with § 120-1102 of this chapter for the purpose of forecasting and resolving problems that may arise during the time of construction; and

(6) Regarding major subdivisions only, the developer has posted the Sales Map as required by § 120-900 of this chapter in a prominent location in all offices from which sales of property in the subdivision development will be conducted.

#### F. Inspection and tests.

(1) All site improvements and utility installations for site plans, subdivisions, plot plans and other realty improvements shall be inspected during the time of their installation under the supervision of the Borough Engineer to insure 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 \$500 or 5% of the cost of the improvements as determined by the Borough Engineer in accordance with § 120-1002D(2) of this chapter, provided that:

(a) For those developments for which the reasonably anticipated inspection fees are less than \$10,000, the fees may, at the option of the developer, be paid in two installments. The initial amount deposited by the developer shall be 50% of the reasonably anticipated fees. When the balance of deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Borough Engineer for the inspection(s), the developer shall deposit the remaining 50% of the anticipated inspection fees.

(b) For those developments for which the reasonably anticipated inspection fees are \$10,000 or greater, the fees may, at the option of the developer, be paid in four installments. The initial amount deposited by the developer shall be 25% of the reasonably anticipated fees. When the balance of deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Borough Engineer for the inspection(s), the developer shall make additional deposits of 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 inspection fees, expenses and costs of the Borough Engineer 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 § 120-1002F(1) of this chapter hereinabove 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 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 macadam base course has first been restored. Shade trees shall not be planted until all grading and earth moving is completed. The placing of surveyor's monuments shall be among the last operations.

(6) The Borough Engineer's office shall be notified at least two 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., 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 square foot in area. Bare spots greater than one 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 approval 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 § 120-1100 of 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 § 120-1002E, F(4) and F(6) hereinabove shall constitute just cause for:

(a) Removal of the uninspected improvement;

(b) The payment by the developer of any costs for material testing;

(c) The restoration by the developer of any improvements disturbed during any material testing; and/or

(d) The issuance of a stop-work order by the 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 of Spotswood 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 pursuant to § 120-1002D(3) of this chapter, 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 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 45 days from the receipt of the request, the obligor may apply to the Court 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 § 120-1002F(11) hereinabove, 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 § 120-1002D(3) of 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 § 120-

1002D(3) of this chapter. This resolution shall be adopted not later than 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 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 as specified in § 120-1002F(11) of this chapter 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 45 days from the receipt of the Borough Engineer's list and report, the obligor may apply to the Court 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 § 120-1002D(3) of this chapter, and the cost of applying to the Court, 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 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 15% of the cost of installing the improvements, the "cost" to be determined by the Borough Engineer in accordance with this chapter hereinabove.

(a) The maintenance guarantee shall run for a period of two 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, at the request of the landowner, who also shall pay for the Borough Engineer's services, has certified that the improvements have been in continuous use for not less than two 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; and

(4) An as-built plan and profiles of all utilities and roads (two black and white prints to be sent to the Borough Engineer plus a Mylar copy and two black and white prints to be sent to the Administrative Officer), with certification signed and sealed by a New Jersey licensed professional engineer as to the actual construction as approved by the Borough Engineer, shall be provided.

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 120% of the installation cost as redetermined. In the event that the redetermined cost shall be less than the cost as originally determined, and in further event that the developer's performance guarantee exceeds 120% of such redetermined costs, the developer shall be entitled to a reduction of the performance guarantee to an amount equal to 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 subsection, "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 defaulted in compliance 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 for violation of this chapter in accordance with 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 on site or off site) 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-construction order or the standards for construction as established by the Borough.

#### **§ 120-1003. Additional provisions for escrow deposits**

A. The Borough of Spotswood, or the Planning Board 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 of Spotswood, the charge shall not exceed 200% of the sum of the products resulting from multiplying the hourly base salary of each of the professionals (which shall be established annually by ordinance) 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 of Spotswood, the charge shall be at the same rate as all other work of the same nature by the professional for the municipality when fees are not reimbursed or otherwise imposed on applicants or developers; and

(3) If the Borough of Spotswood 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 of Spotswood, or the Planning Board 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 of Spotswood, to the Planning Board 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-fourth-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 \$1,000 or less, or on a monthly basis if the monthly charges exceed \$1,000.

(3) If an escrow account or deposit contains insufficient funds to enable the Borough of Spotswood, the Planning Board 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 10 days of the written notice, shall post a deposit to the account in an amount to be agreed upon between the Borough of Spotswood, the Planning Board 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 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. Whenever an amount of money in excess of \$5,000 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 this chapter, or for inspections pursuant to this chapter, or to satisfy the guarantee requirements pursuant to of this chapter, 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 of Spotswood 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 of Spotswood 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 of Spotswood shall not be required to refund an amount of interest paid on a deposit which does not exceed \$100. However, if the amount exceeds \$100, 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 33 1/3% of that entire amount which shall be in lieu of all other administrative and custodial expenses.

## **§ 120-1004. Fees for 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 therefore 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 developers proportionate pro rata monetary share for the necessary off-tract developments.

B. Improvements to be constructed at the expense of the developer. In cases where the need for an off-tract improvement is reasonably created by the proposed subdivision or development and where no other property owners receive a special benefit thereby (as opposed to a mere incidental benefit), the applicant may be required, as a condition of approval and at the applicant's sole expense, to acquire and/or improve lands outside the tract and dedicate such lands to the Borough of Spotswood or Middlesex 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 of Spotswood 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 Energy, and all Spotswood 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 prorated 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 prorated 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 prorated share shall be computed as follows:

$$\frac{\text{Developer's cost}}{\text{Total cost of road-way improvement and/or extension}} = \frac{\text{Additional peak-hour traffic generated by the development}}{\text{Future total peak-hour traffic}}$$

(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 prorated 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 of Spotswood in an amount equal to the cost of connecting the subdivision to an existing public water supply system calculated on the basis of 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.

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 Spotswood in a separate account until such time as the improvement is constructed. In lieu of a cash escrow account, developer's 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 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 of Spotswood 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 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 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 90 days after receipt of said list and description, shall determine and advise the Planning Board 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 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 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 Spotswood Borough in regard to off-tract improvements, in accordance with this chapter and any other ordinances, policies, rules and regulations of the Borough of Spotswood, Middlesex County and the State of New Jersey any 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 § 120-1004D (escrow accounts) hereinabove, to secure the developer's pro rata share of the eventual cost of providing future structural improvements based upon the standards expressed herein.

(3) Where properties outside the subject tract will benefit by the improvements, the 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, (*N.J.S.A. 40:56-1 et seq.*) 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 of Spotswood, County of Middlesex 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 improvements to be required are delayed;
- (c) The extent to which temporary measures may sufficiently alleviate the condition or conditions requiring the off-tract improvement and the likelihood that larger, regional or subregional facilities will be required in the future to serve the development tract and the general area of the municipality in which the same is located; and
- (d) The extent to which the health, safety and welfare of the residents, both current and future, depend upon the immediate implementation of the off-tract improvement.



§ 120-1100. ADMINISTRATION AND ENFORCEMENT

**§ 120-1101. Administration**

These rules, regulations and standards shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Borough of Spotswood. Any action taken by the Borough under the terms of this Chapter 120, Land Use and Development, shall give primary consideration to the above mentioned matters and to the welfare of the entire municipality.

**§ 120-1102. Enforcement**

It shall be the duty of the Borough Engineer, the Borough Construction Official and the Borough Zoning Officer to administer and, as noted herein, to enforce the provisions of this chapter.

A. Borough Engineer.

(1) When requested by the Borough Council, it shall be the duty of the Borough Engineer to monitor land disturbances and land improvements undertaken in Spotswood Borough pursuant to approval of a subdivision and/or site plan in accordance with the applicable provisions of this chapter.

(2) When authorized by the Borough Council at the request of the Borough Engineer, the developer shall be required to attend a preconstruction meeting with the Borough Engineer prior to the commencement of any land disturbance or any land improvement. At said meeting, the subject subdivision plat and/or site plan shall be identified, marked and dated by the Borough Engineer with an acknowledgment as to its conformity to the subdivision and/or site plan approved by the Planning Board or Zoning Board of Adjustment, as the case may be, including any conditions of approval written in the approval resolution. Thereafter, the marked and dated subdivision and/or site plan shall be filed in the office of the Administrative Officer.

(3) In accordance with this Chapter 120, all improvements for both site plans and subdivisions shall be inspected during the time of their installation under the supervision of the Borough Engineer. At the time of inspection, in addition to an evaluation and determination of the sufficiency of the engineering aspects of the improvements, the Borough Engineer shall evaluate and determine the correctness of the improvements relative to all aspects of the approved subdivision and/or site plan.

(4) Should any improvement, whether completed or under construction, be found by the Borough Engineer to be contrary to the subdivision and/or site plan as approved by the Planning Board including any imposed conditions, such fact shall immediately be orally communicated to the developer or his/her appropriate representative on site and, thereafter, shall be communicated by the Borough Engineer in writing to the developer or his/her attorney.

(a) A copy of the written communication shall be immediately filed in the office of the Administrative Officer, and additional copies shall be immediately forwarded to the Chairman of the Planning Board and to the Board's Attorney.

(b) On the day following the oral communication to the developer or his/her representative, the improvement found by the Borough Engineer to be contrary to the subdivision and/or site plan shall be corrected so as to conform to the approved subdivision and/or site plan; otherwise the Borough Engineer shall communicate in writing within two working days the particulars of the developer's noncompliance to the Borough Attorney.

#### B. Construction Official.

(1) It shall be the duty of the Construction Official to monitor the construction of any building or structure in Spotswood Borough. No new structure and no improvement to the interior of any existing structure shall be undertaken until a construction permit is obtained from the Construction Official in accordance with N.J.A.C. 5:23-2.14 and this chapter. At the time of issuance of any building permit, the Building Code Official will provide written instruction on proper disposal and recycling of construction and demolition waste and furnish a Notification of Construction/Demolition Activity Form that, when required, must be completed by the permittee and faxed to the Middlesex County Division of Solid Waste Management (MCDSWM) within 48 hours of the issuance of a municipal permit.

(2) It shall be the duty of the Construction Official in accordance with N.J.A.C. 5:23-4.5 to keep a record of all applications and all construction permits which are either issued or denied, with notations of any conditions involved, including the actual elevation (NGVD) of the lowest floor area of any structure and/or the elevation to which a structure has been floodproofed in floodplain areas, which data shall form a part of the Borough public records. A monthly report of construction permits shall be filed with the Administrative Officer and with the Tax Assessor.

(3) Should any construction, whether completed or in process, be found by the Construction Official to be contrary to the approved construction plans and/or the Uniform Construction Code of the State of New Jersey, such fact shall immediately be noticed to the landowner or his/her appropriate representative on site. The Construction Official shall issue in writing to the landowner or his/her attorney a notice of violation and orders to terminate, directing the discontinuance of the illegal action or condition and the correction of the violation pursuant to N.J.A.C. 5:23-2.30.

(4) The construction improvement found by the Construction Officer to be contrary to the approved construction plans and/or the Uniform Construction Code shall be corrected so as to conform to the applicable construction requirements, or the Construction Official shall, pursuant to N.J.A.C. 5:23-2.31:

(a) Issue a stop-construction order pending the correction of said construction or the resolution of any dispute; and/or

(b) Assess a monetary penalty.

(5) The landowner immediately shall comply with any issued stop-construction order and/or any other conditions imposed by the Construction Official; otherwise the Construction Official may communicate in writing the particulars of the landowner's noncompliance to the Borough Attorney pursuant to N.J.A.C. 5:23-2.31.

C. Zoning Officer.

(1) It shall be the duty of the Zoning Officer to inspect the uses, land and structures in Spotswood Borough and order the owner in writing to remedy any condition found to exist in violation of any provision of this chapter and/or any approved variance, subdivision and/or site plan by the Planning Board or Zoning Board of Adjustment, as the case may be, including any conditions of approval written in the approval resolution; no structure or land shall be used in violation of this chapter and/or any approved subdivision and/or site plan.

(2) Should any use, land or structure be found by the Zoning Officer to exist in violation of any provision of this chapter and/or any approved subdivision and/or site plan, such fact shall immediately be orally communicated to the landowner or his/her appropriate representative on-site and, thereafter, shall be communicated by the Zoning Officer in writing, by certified or registered mail, to the landowner or his/her attorney. A copy of the written communication shall be immediately filed in the office of the Administrative Officer, and additional copies shall be immediately forwarded to the Borough Attorney and to the Chairman of the Planning Board or to the Chairman of the Zoning Board of Adjustment, as the case may be, and to the Board's Attorney.

(3) On the day following the oral communication to the landowner or his/her representative, the use, land or structure found by the Zoning Officer to exist in violation of any provision of this chapter and/or any approved subdivision and/or site plan, shall be corrected so as to conform to this chapter and any subdivision and/or site plan approval, or the Construction Official, at the Zoning Officer's request, may revoke the certificate of occupancy and, in any case, shall notify the Borough Attorney and the Borough Engineer of the violation via a written communication.

D. Construction permits.

(1) Every application for a construction permit shall be accompanied by two sets of plans drawn in ink or a blueprint showing:

(a) The actual shape and dimensions of the lot to be built upon;

(b) The exact location, size and height of all existing and proposed structures and substructures;

(c) All existing easements;

- (d) A delineation and description of any proposed extension(s) of public utilities;
- (e) The existing or intended use of each structure;
- (f) The number of dwelling units the structure is designed to accommodate;
- (g) The number and location of off-street parking spaces and off-street loading areas; and
- (h) Such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Chapter 120, Land Development.

Additionally, all requirements for construction permits contained in the Uniform Construction Code (N.J.A.C. 5:23-2.15) shall be met. All dimensions on these plans relating to the location and size of the lot to be built upon shall be based on an actual survey of the lot by a licensed surveyor in the State of New Jersey.

(2) The fee for each construction permit shall be governed by the terms of the Code of the Borough of Spotswood establishing a State Uniform Construction Code enforcing agency and a fee schedule pursuant to Chapter 217, Laws of New Jersey 1975 and Title 5, Chapter 23 of the New Jersey Administrative Code, including any amendments or supplements which may from time to time be adopted. *Editor's Note: See Ch. 72, Construction Codes, Uniform, and Ch. 91, Fees, Art. I, Schedule of Fees.*

(3) A construction permit shall be granted or denied in writing within 20 working days of a complete application unless additional time is agreed upon in writing by the applicant. One copy of such plans shall be returned to the owner when such plans have been approved or denied by the Construction Official together with such permit as may be granted.

(4) The lot and the location of the structure(s) thereon shall be staked out on the grounds before construction is started and a copy of the construction permit shall be posted conspicuously on the premises affected whenever construction work is being performed thereon. Additionally, all other requirements for construction permit procedures set forth in the Uniform Construction Code at N.J.A.C. 5:23-2.16 shall be met.

(5) No construction permit shall be issued for any structure until prior site plan, subdivision and variance approvals, as may be necessary, have been granted by the appropriate federal, state, county, or municipal agency or agencies in accordance with the provisions of this chapter, and until all review and inspection fees and all local taxes and assessments on the property have been paid.

(6) Additionally, any proposed extension(s) of public water, sewerage and/or stormwater management facilities shall be reviewed and approved by the Borough Engineer prior to the issuance of a construction permit, and a written communication of the results of such review and a statement of approval or denial shall be provided by the Borough Engineer to the

Construction Official; the application for the construction permit shall be accompanied by an additional fee of \$500 for such a review when applicable.

(7) The Zoning Officer/Construction Official shall provide the Planning Board with a simple monthly update indicating when an application previously before the Planning Board has been issued a construction permit. Such a report shall be for information and communicational purposes to notify the Board and its professionals that all conditions of approval have been satisfied. Failure to provide such a report shall not have any impact on the Planning Board or on any application.

E. Certificate of occupancy.

(1) It shall be unlawful to use or permit the use of any structure or part(s) thereof until a certificate of occupancy shall have been issued by the Construction Official pursuant to N.J.A.C. 5:23-2.23. Any change of use from one category of permitted use to another category of permitted use shall require a new certificate of occupancy. Additionally, any use requiring site plan approval shall require a new certificate of occupancy. It shall be the duty of the Construction Official to issue a certificate of occupancy only when:

(a) The structure or part(s) thereof and the proposed use conform to this chapter and all other applicable codes and ordinances of the Borough;

(b) Prior site plan, subdivision and variance approvals, as may be necessary, have been granted by the appropriate municipal agency or municipal agencies in accordance with the provisions of this chapter;

(c) All local taxes and assessments on the property have been paid; and

(d) A letter from each utility company has been received by the Borough stating that the utility has been installed and has been inspected in accordance with the approved plan and is ready for use.

(2) The fee for a certificate of occupancy shall be governed by the terms of the Code of the Borough of Spotswood establishing a State Uniform Construction Code Enforcing Agency and a Fee Schedule pursuant to Chapter 217, Laws of New Jersey 1975 and Title 5, Chapter 23 of the New Jersey Administrative Code, including any amendments or supplements which may from time to time be adopted. *Editor's Note: See Ch. 72, Construction Codes, Uniform, and Ch. 91, Fees, Art. I, Schedule of Fees.*

(3) Unless additional time is agreed upon by the applicant in writing, a certificate of occupancy shall be granted or denied in writing within 10 working days from the date that a written notification and a certified location or field survey, signed and sealed by a New Jersey state licensed surveyor, is filed with the Construction Official stipulating that the erection of the structure and all required site improvements are completed pursuant to N.J.A.C. 5:23-2.23 and 2.24.

(4) With respect to any finally approved subdivision and/or site plan or subsection thereof, a certificate of occupancy shall be issued only upon the written confirmation by the Borough Engineer to the Construction Official of the completion of the following improvements as such improvements may be required as part of subdivision and/or site plan approval:

(a) Curbs;

(b) All utilities;

(c) Water supply and sewerage treatment facilities, which shall be functioning and servicing the property in question;

(d) Storm drainage facilities;

(e) Final grading of the property;

(f) Base course (in the case of subdivisions) or final course (in the case of site plans) of the street or streets serving the property; and

(g) Base course (in the case of subdivisions) or final course (in the case of site plans) of driveways and parking areas.

(5) With respect to any individual residential lot within a subdivision or any building containing townhouses or apartments, a certificate of occupancy shall be issued only upon the written confirmation by the Borough Engineer to the Construction Official of the completion of the following improvements, in addition to those listed in hereinabove, to the extent the same are required as part of a subdivision and/or site plan approval:

(a) Sidewalks;

(b) Driveways and driveway aprons;

(c) Grading, topsoil and seeding;

(d) House number(s);

(e) Street names and regulatory signs; and

(f) Any other work deemed necessary and appropriate by the Borough Engineer.

(6) A copy of any issued certificate of occupancy shall be kept on file at the premises affected and shall be shown to the Construction Official upon request. Additionally, a copy of an issued certificate of occupancy shall be provided by the Construction Official to the Administrative Officer for placement in the applicable site plan or subdivision application file.

(7) Should the Construction Official decline to issue a certificate of occupancy, his reason for doing so shall be stated on two copies of the application and one copy shall be returned to the applicant.

(8) A temporary certificate of occupancy may be issued for any new structure or use for which site plan and/or subdivision approval has been granted although not all conditions of said approval have been complied with, provided the following:

(a) Such temporary certificate of occupancy shall be issued only in extenuating circumstances and only with the concurrent written approval of the Construction Official and Zoning Officer who, together, shall establish specific terms and conditions, including, but not limited to, a timetable not exceeding 90 days for the installation of the uncompleted site improvements, and the receipt of a performance guarantee assuring the installation of the improvements as indicated on the approved plat or plan, whether or not said improvements were included with a performance bond in accordance with § 120-902 of this chapter;

(b) Any temporary certificate of occupancy beyond a ninety-day time period may only be granted by the Planning Board and

(c) A temporary certificate of occupancy may be issued by the Construction Official for any building or structure not part of a site plan or subdivision application pursuant to N.J.A.C. 5:23-2.23(e).

(9) A monthly report of the certificates of occupancy issued shall be filed with the Tax Assessor. A record of all certificates of occupancy pursuant to N.J.A.C. 5:23-4.5 shall be kept in the office of the Construction Official and copies shall be furnished on request to any person having a proprietary or tenancy interest in the structure or land affected. The charge for each copy shall be established by resolution of the Borough, except that there shall be no charge to a municipal agency.

(10) The following shall be prohibited until a certificate of occupancy is issued by the Construction Official:

(a) Occupancy and use of a structure erected, constructed, restored, altered or moved, when such erection, construction, restoration, alteration or movement required a construction permit;

(b) Occupancy, use or change in use of vacant land, other than for agricultural purposes;

(c) Occupancy and use of any enlargement to an existing structure;

(d) Any change of use from one category of permitted use to another category of permitted use, in accordance with the applicable listings of permitted uses in this chapter; and

(e) Any change in the use of a nonconforming use or nonconforming structure.

**§ 120-1103. Subdivision approval certificates**

In accordance with N.J.S.A. 40:55D-56, a prospective purchaser, prospective mortgagee or any other person interested in any land in the Borough which has been part of a subdivision since July 14, 1973, may apply in writing to the Administrative Officer for the issuance of a certificate certifying whether or not such subdivision has been duly approved by the Planning Board.

A. Such application shall contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof. A fee as indicated in § 120-901A of this chapter shall be paid to the Administrative Officer, on behalf of the Borough, for the requested certificate.

B. The Administrative Officer shall make and issue such certificate within 15 days after receipt of the written application and accompanying fee. The Administrative Officer shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fee received, in a binder as a permanent record in his or her office.

C. Each certificate shall be designated a "Certificate as to Approval of Subdivision of Land" and shall certify:

(1) Whether there exists a duly established Planning Board and whether there is a duly adopted ordinance controlling the subdivision of land;

(2) Whether the subdivision, as it relates to the land shown in the application, has been approved by the Planning Board and, if so, the date of such approval, any conditions attached to such approval and any extensions and terms thereof showing that the subdivision, of which the subject lands are a part, is a validly existing subdivision; and

(3) Whether such subdivision, if the same has not been approved, is statutorily exempt from the requirements of approval as provided in the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) and as defined in this chapter.



**§ 120-1104. Violations and penalties.**

A. Fines.

(1) A violation of any provision of this chapter shall be punishable by one or more of the following: a fine not to exceed \$1,250 for each offense and/or imprisonment for a term not exceeding 90 days and/or a period of community service not exceeding 90 days. In addition, a violation of any provision of this chapter shall be punishable by a fine not to exceed \$2,000 if the person violating this chapter has been provided a thirty-day period during which said person has been afforded an opportunity to cure or abate the condition for which the violation has been cited and an opportunity for a judicial hearing for an independent determination concerning said violation and thereafter it is determined that the abatement has not been substantially completed. The following individuals shall be subject to potential punishment:

(a) The owner, general agent, contractor or occupant of a building, premises or part thereof where such a violation has been committed or does exist; and

(b) Any agent, contractor, architect, engineer, builder, corporation or other person who commits, takes part or assists in the violation.

(2) Each day that a violation continues shall constitute a separate offense.

(3) The imposition of penalties herein shall not preclude the 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.

**§ 120-1105. Selling land before final subdivision approval.**

A. If, before final subdivision has been granted, any person, as owner or agent, transfers or sells or agrees to transfer or sell any land which forms a part of a subdivision for which municipal approval is required in accordance with the provisions of this chapter, except pursuant to an agreement expressly conditioned on final subdivision approval, such person shall be subject to a penalty not to exceed \$1,000, and each lot disposition so made may be deemed a separate violation.

B. In addition to the foregoing, the Borough may institute and maintain a civil action:

(1) For injunctive relief; and

(2) To set aside and invalidate any conveyance made pursuant to such a contract or sale, if a certificate of compliance has not been issued in accordance with N.J.S.A. 40:55D-56.

## **§ 120-1106. Variances and waivers**

A. Variances. Departures from the literal zoning requirements specified in Articles of this Chapter 120, Land Use and Development, may be granted by the Planning Board only in accordance with the applicable provisions specified in the Municipal Land Use Law and in this Chapter.

B. Variance or design waiver clarification. Whenever nonconformance is proposed relative to a bulk requirement, including but not limited to standards for; minimum lot area, lot width, lot frontage, lot depth, all building setback requirements, maximum building height requirements, building coverage, impervious coverage, accessory building requirements, such matters shall be considered variances and require variance relief. A departure from the required quantity of parking spaces shall require variance relief. A departure from the required landscape coverage, buffer, fencing, or other landscaping requirement shall require variance relief. A departure from the required lighting, loading, screening, trash containment requirements shall require variance relief. There shall be no consideration of the term, "design waiver" and all items in non-conformance with the technical specifications of this chapter shall be considered requiring variance relief.

C. Waiver from submitting requirement. The Planning Board, when acting upon applications for use or bulk variance, subdivision and/or site plan approval, shall have the power to grant such waivers and exceptions from the requirements specified for submission or approval within Articles of this Chapter 120, Land Use and Development, provided that the applicant demonstrates:

- (1) The literal enforcement of the requirement is impracticable or will exact an undue hardship because of peculiar conditions pertaining to the land in question; and
- (2) The request for the waiver of the requirement is reasonable and within the general purpose and intent of the applicable provisions of this chapter.
- (3) Waivers of Residential Site Improvement Standards shall follow the procedures outlined in N.J.A.C., Title 5, Chapter 21.
- (4) As part of any application to the Planning Board, an applicant seeking a waiver from submitting any requirement shall be formally required to request this waiver(s) as part of the application.

## **§ 120-1107. Repealer**

This Chapter 120, Land Development, amends and replaces in its entirety "Land Development: Chapter 120: an Ordinance of the Borough of Spotswood. Any and all remaining sections of the Code of the Borough of Spotswood which contain provisions contrary to the provisions of this Chapter 120, Land Development, are hereby repealed.

**§ 120-1108. Validity of ordinance**

If any section, paragraph, subsection, clause or provision of this Chapter 120, shall be adjudged by the courts to be invalid, such adjudication shall apply only to that section, paragraph, subsection, clause or provision so adjudged and the remainder of this chapter shall be deemed valid and effective.

**§ 120-1109. Ordinance amendments**

This chapter may be amended from time to time by the Borough Council after the appropriate referrals, notices, hearings and other requirements of law. In amending this chapter, the Borough of Spotswood shall comply with all of the applicable requirements specified in the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.).

Attachment 120: 1 Bulk Table