

Chapter 130

LAND USE

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[HISTORY: Adopted by the City Council of the City of Salem 5-2-1994 by Ord. No. 9403. Amendments noted where applicable.]

Part 1
General Provisions

ARTICLE I
General Provisions

§ 130-1. Title.

The long title for this chapter shall be "A comprehensive ordinance regulating and limiting the uses of land and the uses and locations of buildings and structures; regulating and restricting the height and bulk of buildings and structures and determining the area of yards and other open spaces; regulating and restricting the density of population; dividing the City of Salem into districts for such purposes; adopting a map of said City boundaries and the classification of such districts; establishing rules, regulations and standards governing the subdivision and site planning of land within the city; establishing a Planning Board and Board of Adjustment; and prescribing penalties for the violation of its provisions."

§ 130-2. Short title.

This chapter shall be known and may be cited as the "Land Development Ordinance of the City of Salem."

§ 130-3. Purposes enumerated.

It is the general purpose of the chapter to encourage and guide the appropriate use and development of all land and natural resources within the City of Salem in a manner which will promote the health, safety and moral and general welfare of the community and which will further the following related and more specific objectives:

- A. To guide and regulate the orderly growth and development of the City in accordance with a Comprehensive Plan.
- B. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of the community and the preservation and conservation of the natural environmental and natural resources.
- C. To protect the established character and the social and economic well-being of the community.
- D. To provide sufficient space in appropriate locations for a variety of land uses according to their respective environmental requirements.
- E. To promote the conservation of open spaces, prime agricultural lands and other valuable natural resources and to prevent environmental degradation through the improper use of land.
- F. To encourage the location and design of safe and efficient transportation routes which will promote the free flow of traffic and pedestrians.
- G. To promote a desirable and attractive visual environment through creative development techniques and good community design.
- H. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with the land use policies.

ARTICLE II
Definitions

§ 130-4. Word usage.

- A. For the purposes of this chapter, the following rules of construction shall apply:
- (1) The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
 - (2) Words used in the singular include the plural and vice versa.
 - (3) Any word tense includes every tense of the word.
 - (4) The word "shall" is mandatory; the word "may" is permissive.
 - (5) The words "used" and "occupied" includes the words "designed, intended or arranged to be" used or occupied.
 - (6) The word "building" includes the words "structure," "dwelling" or "residence" and includes "or any part thereof."
 - (7) The word "lot" includes the words "plot," "premises" and "tract."
 - (8) The word "zone" includes district and vice versa.
- B. Whenever a term is used in the chapter which is defined in N.J.S.A. 40:55D-1 et seq., such term is intended to have the meaning as defined in said statute, unless specifically defined to the contrary in this chapter.
- C. Any word or term not defined herein shall be used with a meaning of standard usage.

§ 130-5. Words and phrases defined.

Unless otherwise stated in context, the words and phrases set forth in the following definitions shall have the meaning therein indicated:

ACCESSORY BUILDING — A building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building.

ACCESSORY USE — A use subordinate to the main use of land or of a building on a lot and customarily incidental thereto.

ALTERNATIVE TREATMENT CENTER (ATC) or MEDICAL CANNABIS ALTERNATIVE TREATMENT CENTER — An organization issued a permit, including a conditional permit by the Commission to operate as a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis, dispensary or clinical registrant. For the purposes of zoning, an ATC is the interface between provider and patient and is synonymous with a medical marijuana dispensary. Cultivation and manufacturing, unless within the same structure or property as a dispensary, shall be treated as a separate use category though it may be part of the license issued by the state for a single entity. This term shall include the organization's officers, directors, board members and employees. **[Added 10-19-2020 by Ord. No. 20-09]**

BUILDING —

- A. **DETACHED** — A building which has no party wall.

- B. SEMIDETACHED — A building which has only one party wall in common with an adjacent building.
- C. ATTACHED — A building which has two party walls in common with adjacent buildings. (See also "townhouse.")

BUILDING AREA — The aggregate of the maximum horizontal cross-section area, excluding cornices, eaves and gutters of all buildings on a lot.

BUILDING LINE — The line parallel to the street line at a distance therefrom equal to the depth of the required front yard.

CANNABIS — All parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.) for use in cannabis products as set forth in this Act, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. "Cannabis" does not include: medical cannabis dispensed to registered qualifying patients pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.); marijuana as defined in N.J.S.2C:35-2 and applied to any offense set forth in Chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L. 2001, c. 114 (N.J.S.A. 2C:35B-1 et seq.), or marihuana as defined in Section 2 of P.L. 1970, c. 226 (N.J.S.A. 24:21-2) and applied to any offense set forth in the New Jersey Controlled Dangerous Substances Act, P.L. 1970, c. 226 (N.J.S.A. 24:21-1 et seq.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the New Jersey Hemp Farming Act, P.L. 2019, c. 238 (N.J.S.A. 4:28-6 et seq.). **[Added 4-17-2023 by Ord. No. 23-06]**

CANNABIS CONSUMPTION AREA — As further described in section 28 of P.L. 2019, c. 153 (N.J.S.A. 24:6I-21), a designated location operated by a licensed cannabis retailer or permit holder for dispensing medical cannabis, for which both a state and local endorsement has been obtained, that is either: (1) an indoor, structurally enclosed area of the cannabis retailer or permit holder that is separate from the area in which retail sales of cannabis items or the dispensing of medical cannabis occurs; or (2) an exterior structure on the same premises as the cannabis retailer or permit holder, either separate from or connected to the cannabis retailer or permit holder, at which cannabis items or medical cannabis either obtained from the retailer or permit holder, or brought by a person to the consumption area, may be consumed. **[Added 4-17-2023 by Ord. No. 23-06]**

CANNABIS CULTIVATOR — Any licensed person or entity that grows, cultivates, or produces cannabis in this state, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 Cannabis Cultivator license. **[Added 4-17-2023 by Ord. No. 23-06]**

CANNABIS DELIVERY SERVICE — Any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer. This person or entity shall hold a Class 6 Cannabis Delivery license. **[Added 4-17-2023 by Ord. No. 23-06]**

CANNABIS DISTRIBUTOR — Any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as

necessary to carry out transportation activities. This person or entity shall hold a Class 4 Cannabis Distributor license.**[Added 4-17-2023 by Ord. No. 23-06]**

CANNABIS ESTABLISHMENT — A cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.**[Added 4-17-2023 by Ord. No. 23-06]**

CANNABIS EXTRACT — A substance obtained by separating resins from cannabis by:**[Added 4-17-2023 by Ord. No. 23-06]**

- A. A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane, or propane;
- B. A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or
- C. Any other process identified by the Cannabis Regulatory Commission by rule or regulation.

CANNABIS FLOWER — The flower of the plant *Cannabis sativa* L. within the plant family Cannabaceae.**[Added 4-17-2023 by Ord. No. 23-06]**

CANNABIS ITEM — Any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin. "Cannabis item" does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the New Jersey Hemp Farming Act, P.L. 2019, c. 238 (N.J.S.A. 4:28-6 et seq.).**[Added 4-17-2023 by Ord. No. 23-06]**

CANNABIS LEAF — The leaf of the plant *Cannabis sativa* L. within the plant family Cannabaceae.**[Added 4-17-2023 by Ord. No. 23-06]**

CANNABIS MANUFACTURER — Any licensed person or entity that processes cannabis items in this state by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 2 Cannabis Manufacturer license.**[Added 4-17-2023 by Ord. No. 23-06]**

CANNABIS PARAPHERNALIA — Any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing a cannabis item into the human body. "Cannabis paraphernalia" does not include drug paraphernalia as defined in N.J.S.A. 2C:36-1 and which is used or intended for use to commit a violation of chapter 35 or 36 of Title 2C of the New Jersey Statutes.**[Added 4-17-2023 by Ord. No. 23-06]**

CANNABIS PRODUCT — A product containing usable cannabis, cannabis extract, or any other cannabis resin and other ingredients intended for human consumption or use, including a product intended to be applied to the skin or hair, edible cannabis products, ointments, and tinctures. "Cannabis product" does not include:**[Added 4-17-2023 by Ord. No. 23-06]**

- A. Usable cannabis by itself;
- B. Cannabis extract by itself; or
- C. Any other cannabis resin by itself.

CANNABIS RESIN — The resin extracted from any part of the plant *Cannabis sativa* L., including

cannabis extract and resin extracted using nonchemical processes, processed and used in accordance with P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.). "Cannabis resin" does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.); hashish as defined in N.J.S.A. 2C:35-2 and applied to any offense set forth in Chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L. 2001, c. 114 (N.J.S.A. 2 C:35B-1 et seq.), or as defined in Section 2 of P.L. 1970, c. 226 (N.J.S.A. 24:21-2) and applied to any offense of the New Jersey Controlled Dangerous Substances Act, P.L. 1970, c. 226 (N.J.S.A. 24:21-1 et seq.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the New Jersey Hemp Farming Act, P.L. 2019, c. 238 (N.J.S.A. 4:28-6 et seq.).**[Added 4-17-2023 by Ord. No. 23-06]**

CANNABIS RETAILER — Any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer. This person or entity shall hold a Class 5 Cannabis Retailer license.**[Added 4-17-2023 by Ord. No. 23-06]**

CANNABIS TESTING FACILITY — An independent, third-party entity meeting accreditation requirements established by the cannabis Regulatory Commission that is licensed to analyze and certify cannabis items and medical cannabis for compliance with applicable health, safety, and potency standards.**[Added 4-17-2023 by Ord. No. 23-06]**

CANNABIS WHOLESALER — Any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers. This person or entity shall hold a Class 3 Cannabis Wholesaler license.**[Added 4-17-2023 by Ord. No. 23-06]**

CARTWAY — The portion of a street or alley intended for vehicular use.

COMMISSION — Cannabis Regulatory Commission established to regulate the cannabis industry.**[Added 10-19-2020 by Ord. No. 20-09]**

COMMISSIONER — Commissioner of Health.**[Added 10-19-2020 by Ord. No. 20-09]**

COMPLETE APPLICATION — An application form completed as specified by this chapter and the rules and regulations of the City of Salem and all accompanying documents required by ordinance for approval of the application for development, including, where applicable, but not limited to a site plan or subdivision plat, provided that the Planning Board may require such additional information not specified in this chapter as is reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the Planning Board. An application shall be certified as complete immediately upon the meeting of all requirements specified in the chapter and in the rules and regulations of the Planning Board and shall be deemed complete as of the day it is so certified by the administrative officer for purposes of the commencement of the time period for action by the Planning Board.

CONDITIONAL LICENSE — A temporary license designated as either a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 3 Cannabis Wholesaler license, a Class 4 Cannabis Distributor license, a Class 5 Cannabis Retailer license, or a Class 6 Cannabis Delivery license that allows the holder to lawfully act as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service as the case may be, which is issued

pursuant to an abbreviated application process, after which the conditional license holder shall have a limited period of time in which to become fully licensed by satisfying all of the remaining conditions for licensure which were not required for the issuance of the conditional license. **[Added 4-17-2023 by Ord. No. 23-06]**

CONDITIONAL USE — A use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in § 130-86 herein and upon the issuance of an authorization therefor by the Planning Board.

CONSUMER — A person 21 years of age or older who purchases, directly or through a cannabis delivery service, acquires, owns, holds, or uses cannabis items for personal use by a person 21 years of age or older, but not for resale to others. **[Added 4-17-2023 by Ord. No. 23-06]**

CONSUMPTION — The act of ingesting, inhaling, or otherwise introducing cannabis items into the human body. **[Added 4-17-2023 by Ord. No. 23-06]**

CUL-DE-SAC — A street with access closed at one end and with a vehicular turnaround at the closed end.

DELIVERY — The transportation of cannabis items and related supplies to a consumer. "Delivery" also includes the use by a licensed cannabis retailer of any third-party technology platform to receive, process, and fulfill orders by consumers, which third party shall not be required to be a licensed cannabis establishment, distributor, or delivery service, provided that any physical acts in connection with fulfilling the order and delivery shall be accomplished by a certified cannabis handler performing work for or on behalf of the licensed cannabis retailer, which includes a certified cannabis handler employed or otherwise working on behalf of a cannabis delivery service making off-premises deliveries of consumer purchases fulfilled by that cannabis retailer. **[Added 4-17-2023 by Ord. No. 23-06]**

DEPARTMENT — The Department of Health. **[Added 4-17-2023 by Ord. No. 23-06]**

DEVELOPER — The legal or beneficial owner or owners of a lot of any land proposed to be included in a proposed subdivision or 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 of any mining, excavating or landfill and any use or change in the use of any building or other structure or land or extension of use of land for which authorization may be required pursuant to this chapter.

DEVELOPMENT REGULATION — A zoning ordinance, subdivision ordinance, site plan ordinance, Official Map ordinance or other City regulation of the use and development of land, or amendment thereto, adopted and filed pursuant to N.J.S.A. 40:55D-1 et seq.

DIRECTOR — The Director of the Office of Minority, Disabled Veterans, and Women Cannabis Business Development in the Cannabis Regulatory Commission. **[Added 4-17-2023 by Ord. No. 23-06]**

DRAINAGE RIGHT-OF-WAY — The lands required for the installation of stormwater sewers or drainage ditches; or lands required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage in accordance with Chapter 1 of Title 58 of the New Jersey Statutes Annotated.

DWELLING —

- A. **SINGLE-FAMILY** — A building, on a lot, designed and occupied exclusively as a residence for one family.

- B. TWO-FAMILY — A building, on a lot, designed and occupied exclusively as a residence for two families.
- C. MULTIPLE DWELLING or APARTMENT HOUSE — A building, on a lot, designed and occupied exclusively as a residence for three or more families.
- D. HOTEL; MOTEL; TOURIST HOUSE — A building or group of buildings on a lot, with three or more rental rooms, arranged and used for the lodging and accommodation of guests for compensation.
- E. TOWNHOUSE — A group of attached, single-family dwellings or dwelling units constructed in a series as part of a unified development on a single lot or tract, with each dwelling unit extending from basement to roof.
- F. DWELLING UNIT — One or more living rooms or bedrooms with separate cooking and sanitary facilities which are used or intended to be used by a single family and to which there is access to the outdoors either directly or through a common entrance hall.

EASEMENT — A right granted for the use of private land for certain public or quasi-public purposes; also the land to which such a right pertains.

ELECTRIC SUBSTATION — An assemblage or equipment for purposes other than generation or utilization, through which electric energy in bulk is passed for the purposes of switching or modifying its characteristics to meet the needs of the general public, provided that in residence districts an electric substation shall not include rotating equipment, except as is incidental to the operation of the substation as such, storage of materials, trucks or repair facilities or housing of repair crews.

EXECUTIVE DIRECTOR — The Executive Director of the Cannabis Regulatory Commission. **[Added 4-17-2023 by Ord. No. 23-06]**

FAMILY — One or more persons related by blood, adoption or marriage, including foster children and household servants, living and cooking together as a single housekeeping unit. A number of persons, but not exceeding three, living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage shall be deemed to constitute a "family."

FINAL APPROVAL — The official action of the Planning Board 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, including inspection fees and maintenance guaranties.

FINANCIAL CONSIDERATION — Value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions, or donations. **[Added 4-17-2023 by Ord. No. 23-06]**

HEIGHT OF BUILDING — A building's vertical measurement from the main level of the ground abutting the building to a point midway between the highest and lowest points of the roof, provided that chimneys, spires, towers, elevator penthouses, tanks and similar projections of the building and structures supporting utility or transmission facilities shall not be included in calculating the height.

HOME OCCUPATION — Any lawful occupation customarily conducted in a dwelling as an incidental use. A clinic, barbershop, beauty parlor, hair stylist, tearoom, tourist home, mortuary, convalescent home, commercial kennel or any similar use shall not be deemed to be a "home occupation."

IMMATURE CANNABIS PLANT — A cannabis plant that is not flowering. **[Added 4-17-2023 by Ord. No. 23-06]**

IMPACT ZONE — Any municipality, based on past criminal marijuana enterprises contributing to higher concentrations of law enforcement activity, unemployment, and poverty, or any combination thereof, within parts of or throughout the municipality, that:**[Added 4-17-2023 by Ord. No. 23-06]**

- A. Has a population of 120,000 or more according to the most recently compiled federal decennial census as of the effective date of P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.);
- B. Based upon data for calendar year 2019, ranks in the top 40% of municipalities in the State for marijuana- or hashish-related arrests for violation of Paragraph (4) of Subsection a. of N.J.S.A. 2C:35-10; has a crime index total of 825 or higher based upon the indexes listed in the annual Uniform Crime Report by the Division of State Police; and has a local average annual unemployment rate that ranks in the top 15% of all municipalities, based upon average annual unemployment rates estimated for the relevant calendar year by the Office of Research and Information in the Department of Labor and Workforce Development;
- C. Is a municipality located in a county of the third class, based upon the county's population according to the most recently compiled federal decennial census as of the effective date of P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.), that meets all of the criteria set forth in Subsection B other than having a crime index total of 825 or higher; or
- D. Is a municipality located in a county of the second class, based upon the county's population according to the most recently compiled federal decennial census as of the effective date of P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.):
 - (1) With a population of less than 60,000 according to the most recently compiled federal decennial census, that for calendar year 2019 ranks in the top 40% of municipalities in the State for marijuana- or hashish-related arrests for violation of Paragraph (4) of Subsection a. of N.J.S.A. 2C:35-10; has a crime index total of 1,000 or higher based upon the indexes listed in the 2019 annual Uniform Crime Report by the Division of State Police; but for calendar year 2019 does not have a local average annual unemployment rate that ranks in the top 15% of all municipalities, based upon average annual unemployment rates estimated for the relevant calendar year by the Office of Research and Information in the Department of Labor and Workforce Development; or
 - (2) With a population of not less than 60,000 or more than 80,000 according to the most recently compiled federal decennial census; has a crime index total of 650 or higher based upon the indexes listed in the 2019 annual Uniform Crime Report; and for calendar year 2019 has a local average annual unemployment rate of 3.0% or higher using the same estimated annual unemployment rates.

LICENSE — A license issued under P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.), including a license that is designated as either a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 3 Cannabis Wholesaler license, a Class 4 Cannabis Distributor license, a Class 5 Cannabis Retailer license, or a Class 6 Cannabis Delivery license. The term includes a conditional license for a designated class, except when the context of the provisions of P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.) otherwise intend to only apply to a license and not a conditional license.**[Added 4-17-2023 by Ord. No. 23-06]**

LICENSEE — A person or entity that holds a license issued under P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.), including a license that is designated as either a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 3 Cannabis Wholesaler license, a Class 4 Cannabis Distributor license, a Class 5 Cannabis Retailer license, or a Class 6 Cannabis Delivery license, and includes a person or entity that holds a conditional license for a designated class, except when the context of the provisions

of P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.) otherwise intend to only apply to a person or entity that holds a license and not a conditional license. **[Added 4-17-2023 by Ord. No. 23-06]**

LICENSEE REPRESENTATIVE — An owner, director, officer, manager, employee, agent, or other representative of a licensee, to the extent that the person acts in a representative capacity. **[Added 4-17-2023 by Ord. No. 23-06]**

LOT —

- A. A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.
- B. A parcel of land on which a main building and any accessory buildings are or may be placed, together with the required open spaces. The area of a "lot" which abuts a street shall be measured to the street line only.

MAINTENANCE GUARANTY — Any security, other than cash, which may be accepted by a municipality for the maintenance of any improvements required by this chapter.

MAJOR SUBDIVISION — Any subdivision not classified a minor subdivision.

MANUFACTURE — The drying, processing, compounding, or conversion of usable cannabis into cannabis products or cannabis resins. "Manufacture" does not include packaging or labeling. **[Added 4-17-2023 by Ord. No. 23-06]**

MARIJUANA — The definition as provided in Section 2 of the New Jersey Controlled Dangerous Substances Act, P.L. 1970, c.226 (effective January 17, 1971), codified N.J.S.A. 24:21-1 et seq. **[Added 10-19-2020 by Ord. No. 20-09]**

MATURE CANNABIS PLANT — A cannabis plant that is not an immature cannabis plant. **[Added 4-17-2023 by Ord. No. 23-06]**

MEDICAL CANNABIS ACT or ACT — The Jake Honig Compassionate Medical Cannabis Act codified at N.J.S.A. 6I-1 et seq., as amended. **[Added 10-19-2020 by Ord. No. 20-09]**

MEDICAL CANNABIS — Cannabis dispensed to registered qualifying patients pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.). "Medical cannabis" does not include any cannabis or cannabis item which is cultivated, produced, processed, and consumed in accordance with P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.). **[Added 4-17-2023 by Ord. No. 23-06]**

MEDICAL CANNABIS CULTIVATION CENTER — A building, structure, or premises used for the cultivation or storage of medical cannabis. Includes the planting, propagating, cultivation, growing, harvesting, labeling or manufacturing, compounding and storing of medicinal cannabis for the limited purpose of this chapter. A cultivation center may be physically separate and off-site from the associated licensee's ATC medical cannabis dispensary. When connected to, or part of, the same property by which an ATC dispenses from, it is considered part of the ATC. This includes greenhouses, commercial/industrial warehouse setups, hydroponic systems, etc. **[Added 10-19-2020 by Ord. No. 20-09]**

MEDICAL CANNABIS DISPENSARY or DISPENSARY — An organization issued a permit by the commission that authorizes the organization to purchase or obtain medical cannabis and related supplies from medical cannabis cultivators; purchase or obtain medical cannabis products and related supplies from medical cannabis manufacturers; purchase or obtain medical cannabis, medical cannabis products, and related supplies and paraphernalia from other medical cannabis dispensaries and from clinical registrants; deliver, transfer, transport, distribute, supply and sell medical cannabis and medical cannabis products to other medical cannabis dispensaries; furnish medical cannabis, including medical cannabis products

to designated caregivers, and institutional caregivers. A medical cannabis dispensary permit shall not authorize the permit holder to cultivate medical cannabis, to produce, manufacture, or otherwise create medical cannabis products. **[Added 10-19-2020 by Ord. No. 20-09]**

MEDICAL CANNABIS MANUFACTURER — An organization issued a permit by the Commission that authorizes the organization to purchase or obtain medical cannabis and related supplies from a medical cannabis cultivator or a clinical registrant; purchase or obtain medical cannabis products from another medical cannabis manufacturer or a clinical registrant; produce, manufacture, or otherwise create medical cannabis products; and possess, deliver, transfer, transport, distribute, supply and sell medical cannabis products and related supplies to other medical cannabis manufacturers and to medical cannabis dispensaries and clinical registrants. A medical cannabis manufacturer permit shall not authorize the permit holder to cultivate medical cannabis or to deliver, transfer, transport, distribute, supply, sell or dispense medical cannabis, medical cannabis products, paraphernalia, or related supplies to registered qualifying patients, designated caregivers or institutional caregivers. **[Added 10-19-2020 by Ord. No. 20-09]**

MEDICAL USE OF CANNABIS — The acquisition, possession, transport or use of cannabis or paraphernalia by a registered qualifying patient as authorized by the P.L. 2009, c.307 (N.J.S.A 2461- 1 et al) and P.L. 2015 c.158 (N.J.S.A 18A: 40- 12. 22) as amended. **[Added 10-19-2020 by Ord. No. 20-09]**

MEDICAL MANUFACTURING FACILITY — Facility that operates as a medical cannabis manufacturer. **[Added 10-19-2020 by Ord. No. 20-09]**

MEDICAL CANNABIS BUSINESS — Encompasses all components of the industry as is consistent with the Act. Accordingly, it shall mean any business legally involved in cultivating, manufacturing, distribution, sales, or testing of medical cannabis. **[Added 10-19-2020 by Ord. No. 20-09]**

MEDICAL MARIJUANA PROGRAM or MMP — The program within the Department of Health, which is responsible for the administration and implementation of activities related to the Act. **[Added 10-19-2020 by Ord. No. 20-09]**

MICROBUSINESS — A person or entity licensed under P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.) as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service that may only, with respect to its business operations, and capacity and quantity of product: **[Added 4-17-2023 by Ord. No. 23-06]**

- A. Employ no more than 10 employees;
- B. Operate a cannabis establishment occupying an area of no more than 2,500 square feet, and in the case of a cannabis cultivator, grow cannabis on an area no more than 2,500 square feet measured on a horizontal plane and grow above that plane not higher than 24 feet;
- C. Possess no more than 1,000 cannabis plants each month, except that a cannabis distributor's possession of cannabis plants for transportation shall not be subject to this limit;
- D. Acquire each month, in the case of a cannabis manufacturer, no more than 1,000 pounds of usable cannabis;
- E. Acquire for resale each month, in the case of a cannabis wholesaler, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof; and
- F. Acquire for retail sale each month, in the case of a cannabis retailer, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof.

MINOR SITE PLAN — A development plan of one or more lots which proposes new development within the scope of development specifically permitted by this chapter as a "minor site plan"; does not involve planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to N.J.S.A. 40:55D-42; and contains the information reasonably required in order to make an informed determination as to whether the requirements established by this chapter for approval of a "minor site plan" have been met.

MINOR SUBDIVISION — A subdivision of land that does not involve the creation of more than three lots, including any residual portion of the tract; planned development; any new street; extension of any off-tract improvement, the cost of which is to be prorated in accordance with § 130-148E of this chapter; conflict with any portion or provision of the Master Plan, Official Map, Part 3 (Zoning) of this chapter or other provisions of this chapter; or will not adversely affect the proper development of any remainder of the tract or the adjoining properties.

MULTIFAMILY HOUSING DEVELOPMENT — A building containing three or more dwelling units occupied or intended to be occupied by persons living independently of each other, or a group of such buildings.

NONCOMMERCIAL — Not dependent or conditioned upon the provision or receipt of financial consideration. **[Added 4-17-2023 by Ord. No. 23-06]**

NONCONFORMING BUILDING OR USE — A building or a use of land or of a building legally existing at the effective date of this chapter or any amendment hereto which does not conform with the requirements of this chapter or such amendment. **[Amended 10-16-1995 by Ord. No. 95-15]**

NOXIOUS — That which is toxic and injurious to health.

OFF-SITE — 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 contiguous portion of a street or right-of-way.

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

ON-SITE — Located on the lot in question.

ON-TRACT — Located on the property which is the subject of a development application or on a contiguous portion of a street or right-of-way.

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

OVERLAY DISTRICT — A zoning district which is an additional district, carrying its own restrictions, to another zoning classification of land.

PARAPHERNALIA — The definition as provided in N.J.S.A. 2C: 36-1. **[Added 10-19-2020 by Ord. No. 20-09]**

PARKING SPACE — An open space or a garage, on a lot, used for parking motor vehicles, the area of which is not less than 180 square feet and to which there is access from a street.

PERFORMANCE GUARANTY — Any security, which may be accepted by a municipality, including cash, provided that not more than 10% of the total performance guaranty may be required in cash.

PERMIT — The documents issued by the Department of Health pursuant to this chapter granting the legal

right to operate as an alternative treatment center for a specified time.[Added 10-19-2020 by Ord. No. 20-09]

PLAT — A map or maps of a subdivision or site plan.

PRELIMINARY APPROVAL — The conferral of certain rights, pursuant to N.J.S.A. 40:55D-46, 55D-48 and 55D-49, prior to final approval after specific elements of a development plan have been agreed upon by the Planning Board and the applicant.

PREMISES or LICENSED PREMISES — Includes the following areas of a location licensed under P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.): all public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms, and storerooms; all areas outside a building that the Cannabis Regulatory Commission has specifically licensed for the production, manufacturing, wholesaling, distributing, retail sale, or delivery of cannabis items; and, for a location that the commission has specifically licensed for the production of cannabis outside a building, the entire lot or parcel that the licensee owns, leases, or has a right to occupy.[Added 4-17-2023 by Ord. No. 23-06]

PRIVATE GARAGE — An accessory building used for the storage of motor vehicles, which may include one commercial vehicle, owned and used by the owner or tenant of the premises and for the storage of not more than two private noncommercial vehicles owned and used by persons other than the owner or tenant of the premises.

PRODUCE — The planting, cultivation, growing or harvesting of cannabis. "Produce" does not include the drying of cannabis by a cannabis manufacturer, if the cannabis manufacturer is not otherwise manufacturing cannabis.[Added 4-17-2023 by Ord. No. 23-06]

PUBLIC PLACE — Any place to which the public has access that is not privately owned; or any place to which the public has access where alcohol consumption is not allowed, including, but not limited to, a public street, road, thoroughfare, sidewalk, bridge, alley, plaza, park, playground, swimming pool, shopping area, public transportation facility, vehicle used for public transportation, parking lot, public library, or any other public building, structure, or area.[Added 4-17-2023 by Ord. No. 23-06]

PUBLIC GARAGE — A building, not a private garage, used primarily for the storage and/or repair of motor vehicles of any type or ownership.

QUALIFYING PATIENT or PATIENT — A resident of the state who has been authorized for medical use of cannabis by a health care practitioner.[Added 10-19-2020 by Ord. No. 20-09]

RADIO — A system for transmitting sound without visual images, and includes broadcast, cable, on-demand, satellite, or Internet programming. "Radio" includes any audio programming downloaded or streamed via the Internet.[Added 4-17-2023 by Ord. No. 23-06]

RECYCLING AREA — Space allocated for collection and storage of source-separated recyclable materials.

REGISTRATION WITH THE COMMISSION — A person has met the qualifications requirements for, and has been registered by the Commission as a registered qualifying patient, designated caregiver or institutional caregiver.[Added 10-19-2020 by Ord. No. 20-09]

RESUBDIVISION — 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 any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law but does not include conveyances so as to combine existing lots by deed or other instrument.

RIGHT-OF-WAY — Land set aside for use as a street, alley, crosswalk or common means of

communication, travel or drainage.

SIGNIFICANTLY INVOLVED PERSON — A person or entity who holds at least a 5% investment interest in a proposed or licensed cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service, or who is a decisionmaking member of a group that holds at least a 20% investment interest in a proposed or licensed cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service, in which no member of that group holds more than a 5% interest in the total group investment interest, and the person or entity makes controlling decisions regarding the proposed or licensed cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service operations. **[Added 4-17-2023 by Ord. No. 23-06]**

SINGLE AND SEPARATE OWNERSHIP — The ownership of a lot by one or more persons, partnerships or corporations, which ownership is separate and distinct from that of an adjoining lot.

SITE PLAN — A development plan of one or more lots on which is shown:

- A. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, floodplains, marshes and waterways;
- B. 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
- C. Any other information that may be reasonably required in order to make an informed determination pursuant to the provisions of this chapter relating to review and approval of site plans by the Planning Board.

STREET — Any street, avenue, boulevard, road, parkway, viaduct, drive or other way which is an existing state, county or municipal roadway; which is shown upon a plat heretofore approved pursuant to law; which is approved by official action as provided by this chapter; or which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a Planning Board and the grant of 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, curbs, sidewalks, parking areas and other areas within the street lines. For the purpose of this chapter, "streets" shall be classified as follows:

- A. **ARTERIAL OR MAJOR STREETS** — Those which are used primarily for fast or heavy through traffic.
- B. **MINOR COLLECTOR STREETS** — Those which carry traffic from residential service streets to arterial or major streets, including the principal entrance streets of a residential development and streets for circulation within such a development.
- C. **RESIDENTIAL SERVICE STREETS** — Those which are used primarily for access to the abutting properties.
- D. **MARGINAL ACCESS STREETS** — Streets which are parallel to and adjacent to arterial or major streets and which provide access to abutting properties and protection from through traffic.
- E. **ALLEYS** — Minor ways which are used primarily for vehicular service access to the back or the side of properties which have frontage on a street.

STREET LINE — The dividing line between a lot and outside boundary of a public street, road or highway

legally open or officially plotted by the City or between a lot and a private street, road or way over which the owners or tenants of two or more lots held in single and separate ownership have the right-of-way.

STRUCTURAL ALTERATION — Any change in or addition to the supporting members of a building or structure, such as bearing wall partitions, columns, beams or girders.

SUBDIVISION — The division of a lot, tract or parcel of land for sale or development. The following shall not be considered "subdivisions" if no new streets are created:

- A. Divisions of land found by the Planning Board or Subdivision Committee thereof to be for agricultural purposes where all resulting parcels are five acres or larger in size;
- B. Divisions of property by testamentary or intestate provisions;
- C. Divisions of property upon court order, including but not limited to judgments of foreclosure;
- D. Consolidation of existing lots by deed or other recorded instrument; and
- E. The conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the Planning Board Secretary to conform to the requirements of the City development regulations and are shown and designated as separate lots, tracts or parcels on the Tax Map of the city. The term "subdivision" shall also include the term "resubdivision."

TELEPHONE CENTRAL OFFICE — A building and its equipment erected and used for the purposes of facilitating transmission and exchange of telephone or radiotelephone messages between subscribers and other business of the telephone company but, in residence districts, not to include public business facilities, storage of materials, trucking or repair facilities or housing of repair crews.

THC — Delta-9-tetrahydrocannabinol and its precursor, tetrahydrocannabinolic acid, the main psychoactive chemicals contained in the cannabis plant. **[Added 4-17-2023 by Ord. No. 23-06]**

TRACT — A contiguous land area unbroken by a public street or road, distinguishable in its ownership from all adjacent areas.

TRANSCRIPT — A typed or printed verbatim record of the proceedings or reproduction thereof.

USABLE CANNABIS — The dried leaves and flowers of the female plant *Cannabis sativa* L., and does not include the seedlings, seeds, stems, stalks, or roots of the plant. **[Added 4-17-2023 by Ord. No. 23-06]**

VERTICAL INTEGRATION — The co-location or combination of the following activities related to the production of usable marijuana for qualifying patients within a single corporate entity: cultivation, manufacturing, and dispensing. **[Added 10-19-2020 by Ord. No. 20-09]**

YARD —

- A. **FRONT** — The required open space extending along the street line throughout the full width of the lot, exclusive of overhanging eaves, gutters, cornices and steps.
- B. **SIDE** — The required open space extending along the side line of the lot throughout the full depth of the lot, exclusive of overhanging eaves, gutters, cornices and steps.
- C. **REAR** — The required open space extending along the rear line of the lot throughout the full width of the lot, exclusive of overhanging eaves, gutters, cornices and steps.

Part 2
Administration

ARTICLE III
Planning Board

§ 130-6. Establishment; composition. [Amended 12-18-2000 by Ord. No. 00-19]

- A. There is hereby established in and for the City of Salem a Planning Board of nine members consisting of the following four classes pursuant to N.J.S.A. 40:55D-23:
- (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 city, other than a member of the City Council. The Class II member may be a member of the Environmental Commission; if it is not, then one of the six Class IV members must be a member of the Environmental Commission. The Class II member shall be appointed by the Mayor.
 - (3) Class III: one member of the City Council. The Class III member shall be appointed by the City Council.
 - (4) Class IV: six other citizens of the city, to be appointed by the Mayor. The Class IV members shall hold no other City office, position or employment (however membership on a City board or commission whose function is advisory in nature, and the establishment of which is discretionary and not required by statute, shall not be considered the holding of municipal office); except that One Class IV member may be a member of the Historic Preservation Advisory Board or Commission; One Class IV member may be a member of the Board of Education; and One Class IV member shall be a member of the Environmental Commission unless the Class II member is a member of the Environmental Commission.
- B. In addition to the foregoing, up to four alternate members may be appointed to the Planning Board by the Mayor. Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1," "Alternate No. 2," "Alternate No. 3," and "Alternate No. 4."

§ 130-7. Terms of office. [Amended 12-18-2000 by Ord. No. 00-19]

- A. The term of the member composing Class I shall correspond to 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.
- B. The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission. The term of a Class II or Class IV member who is also a member of the Environmental Commission shall be for three years or terminate at the completion of his term of office as a member of the Environmental Commission, whichever occurs first.
- C. The term of a Class IV member shall be for four years, except that the term of a Class IV member who is also a member of the Environmental Commission, Historic Preservation Advisory Board or Commission or Board of Education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first. The terms of all Class IV members first appointed under this revised section by the Mayor shall be so determined that to the

greatest practicable extent the expiration of such terms shall be distributed evenly over the first four years after their appointments, provided that the initial Class IV term of no member shall exceed four years. Thereafter, the Class IV term of each such member shall be four years.

- D. The term of the alternate members shall be for two years, except that the term of not more than two alternate members shall expire in any one year, and provided further that in no instance shall the terms of the alternate members first appointed by the Mayor under this revised section exceed two years.
- E. All terms shall run from January 1 of the year in which the appointment was made.

§ 130-8. Vacancies and removal.

- A. If a vacancy of any class shall occur otherwise than by expiration of term, it shall be filled by appointment as provided above for the unexpired term.
- B. Any member other than a Class I member, after a public hearing if he requests one, may be removed by the governing body for cause.

§ 130-9. Organization.

The Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV and select a Secretary, who may be either a member of the Planning Board or a municipal employee designated by it.

§ 130-10. Experts and staff.

- A. There is hereby created the office of Planning Board Solicitor. The Planning Board may annually appoint and fix the compensation of the Planning Board Solicitor, who shall be an attorney other than the City Attorney.
- B. The Planning Board may also employ or contract for the services of experts and staff as it may deem necessary. The Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the Council for its use.

§ 130-11. Powers and duties generally.

- A. The Planning Board shall have the following powers and duties:
 - (1) To make and adopt and from time to time amend a Master Plan for the physical development of the city, including any areas outside its boundaries, which in the Board's judgment bear essential relation to the planning of the city, in accordance with the provisions of N.J.S.A. 40:55D-28.
 - (2) To administer provisions of all development regulations of the City in accordance with the provisions of said regulations and the Municipal Land Use Law of 1975, N.J.S.A. 40:55D-1 et seq.
 - (3) To consider and make recommendations to the Council within 35 days after referral as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26a and also pass upon other matters specifically referred to the Planning Board by the Council, pursuant to the provisions of N.J.S.A. 40:55D-26b.
 - (4) To assemble data on a continuing basis as part of a continuous planning process.
 - (5) To annually participate in the preparation and review of a municipal capital improvement

program projected over a term of six years and amendments thereto when requested by the City Council.

- (6) To participate in the preparation and review of programs or plans required by state or federal law or regulations.
 - (7) Pursuant to N.J.S.A. 40:55D-25c(1), the Planning Board 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 the Class III members shall not participate in the consideration of applications for development which involve relief pursuant to N.J.S.A. 40:55D-70d. After the effective date hereof, any and all references to the "Zoning Board," "Zoning Board of Adjustment" or the "Board of Adjustment" shall be deemed to be a reference to the Planning Board. [**Amended 12-18-2000 by Ord. No. 00-19**]
 - (8) To perform such other advisory duties as are assigned to it by ordinance or resolutions of the Council for the aid and assistance of the Council or other agencies or officers.
- B. The Planning Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions of this Part 2.

ARTICLE IV

Development Review Procedures**§ 130-12. Application for development.**

- A. Assignment. The applicant shall have the option of seeking the advice of the administrative officer as to which approvals are required and the appropriate Board for hearing the same or of filing an application and proceeding before the Board which the applicant believes to be appropriate. The administrative official's determination and advice shall be presumed to be correct but shall not be binding on the Boards or on the Council.
- B. Specifications and checklists for items and information to be subtitled for complete applications for development.
- (1) In order for an application for development to be complete for purposes of commencing the applicable time period for action by a municipal agency pursuant to N.J.S.A. 40:55D-10.3, the items set forth in the attached Schedule A, General Requirements, must be submitted, regardless of the type of application for development, as well as those items on the following Schedules B, C, D, E and F¹ for the particular type of application being made. Said schedules shall serve as checklists and shall be provided to each applicant for development approval.
 - (2) A development application shall be complete for purposes of commencing the applicable time period for action by the approving authority when so verified by the approving authority or its authorized committee or designee. In the event that the Board, committee or designee does not certify the application to be complete within 45 days of the date of the submission, the application shall be deemed complete upon the expiration of the forty-five-day period for purposes of commencing the applicable time period unless the application lacks information indicated on the checklist of items to be submitted specified herein and provided in writing to the applicant, and the approving authority or its authorized committee or designees has notified the applicant, in writing, of the deficiencies in the application within 45 days of submission of the application. The applicant may request that one or more of the submission requirements be waived, in which event the Board or its authorized committee shall grant or deny the request within 45 days of the date of its submission. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that the applicant is entitled to approval of the application. The approving authority may subsequently require correction of any information found to be in error and submission of additional information not specified in this chapter or any revisions in the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the approving authority.
 - (3) An applicant may appeal the committee's or designee's decision concerning completeness of an application to the Board which has jurisdiction to hear the application. The Board shall have 45 days after receipt of a written request to schedule a public hearing, at which time the Board will determine if the application is complete. The Board shall affirm, modify or reverse the decision of the committee or designee.

§ 130-13. General review procedures.

1. Editor's Note: Schedules A through F are included at the end of this chapter.

- A. All subdivisions and site plans as defined by this chapter are subject to the review and approval requirements specified herein.
- B. The Planning Board shall determine, on the basis of advice from the City Engineer, the Planning Board Solicitor and the Planning Board Secretary, that the application is complete and properly submitted and therefore subject to review or that the application is incomplete, in which case the developer shall be advised within 45 days of his initial submission as to the additional materials required. An amended application shall be submitted in the same manner as the original application.
- C. An applicant for subdivision or site plan approval may make a sketch plat or plan submission for purposes of classification and informal discussion. A conceptual sketch of the proposed site plan or subdivision is strongly recommended for major development prior to any sketch plat submission. The submission of a conceptual sketch need not meet sketch plat information requirements and affords the applicant the opportunity to discuss the proposal in its formative stages and receive the advice of the Planning Board. If a sketch submission results in classification as a major subdivision, the application shall not be deemed to be complete until all preliminary application requirements have been met. Notwithstanding these procedures for sketch submissions, nothing shall prohibit an applicant from initially submitting to the Planning Board for preliminary major subdivision approval.
- D. Whenever review or approval of the application by the County Planning Board is required by Section 5 of P.L. 1968, c. 285 (N.J.S.A. 40:27-6.3), in the case of a subdivision, or Section 8 of P.L. 1968, c. 285 (N.J.S.A. 40:27-6.6), in the case of a site plan, the Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required period.

§ 130-14. Minor subdivision approval.

Minor subdivision approvals shall be granted or denied within 45 days of the date of submission of a complete application or within such further time as may be consented to by the applicant. Said approval shall not be subject to notice requirements or a public hearing and shall be the final action of the Board, which may be conditioned upon improvement provisions specified in Part 5 pursuant to N.J.S.A. 40:55D-38. Failure of the Planning Board to act within the prescribed period shall constitute minor subdivision approval. Pursuant to N.J.S.A. 40:55D-48, approval of a minor subdivision shall expire 190 days from the date of Planning Board approval unless, within such period, a plat in conformity with such approval and the Map Filing Law or a deed clearly describing the approved minor subdivision is filed by the developer with the County Clerk, City Engineer and City Tax Assessor. Any such plat or deed must be signed by the Chairman and Secretary of the Planning Board before it will be accepted for filing by the County Clerk. The zoning requirements and approval terms and conditions shall not be changed for a period of two years after the date of minor subdivision approval, provided that the subdivision has been duly recorded.

§ 130-15. Major subdivisions and site plans.

- A. Preliminary approval.
 - (1) Pursuant to N.J.S.A. 40:55D-48c, upon submission of a complete preliminary application for a subdivision of 10 or fewer lots or a site plan of 10 acres or less, the Planning Board shall grant or deny preliminary approval within 45 days of submission or within such time as may be consented to by the developer. Upon submission of a complete preliminary application for a subdivision of more than 10 lots, a site plan of more than 10 acres or planned development

application, the Planning Board shall grant or deny preliminary approval within 95 days or within such further time as may be consented to by the developer. All such applications shall be subject to a public hearing after proper notice. Failure to act within the period prescribed shall constitute preliminary approval of the subdivision or site plan.

- (2) In the event preliminary approval of a subdivision or site plan is denied because of failure to comply with municipal or regional development requirements, a notation to that effect, together with the signature of the Planning Board Secretary, shall be placed on the plat and reasons for the decision shall be stated in the denial resolution.
- (3) Preliminary approval of a major subdivision, site plan or planned development shall be granted by resolution, which shall set forth any conditions that must be met, including required performance guaranties, and plat changes that must be made precedent to final action. A notation indicating preliminary approval shall be placed on each plat and plan, together with the signature of the Chairman and Secretary of the Planning Board. This preliminary approval does not authorize the recording of a subdivision or the issuance of a building permit for a site plan.
- (4) Pursuant to N.J.S.A. 40:55D-49, preliminary approval of a subdivision plat or site plan shall confer upon the developer the following rights:
 - (a) That the zoning requirements and the general terms and conditions on which preliminary approval was granted shall not be charged for a three-year period from the date of preliminary approval unless modified by ordinance provisions relating to public health and safety;
 - (b) That the developer may submit for final approval, on or before the expiration date of preliminary approval, the whole or a section or sections of the preliminary subdivision plat or site plan; and
 - (c) That the applicant may apply for and the Planning Board may grant extensions of one year or longer as provided in N.J.S.A. 40:55D-49.

B. Final approval.

- (1) Pursuant to N.J.S.A. 40:55D-50, an application for final major subdivision or site plan approval shall be granted or denied within 45 days of submission of a complete final application or within such further time as consented to by the developer. Failure of the Planning Board to act within the prescribed period shall constitute final approval.
- (2) Final approval of a major subdivision, site plan or planned development shall be granted only after all requirements and conditions imposed at the time of preliminary approval have been complied with and all required easements have been submitted and approved as to content by the City Engineer and approved as to form by the City Attorney.
- (3) Final approval of a major subdivision shall expire 95 days from the date of the signing of the plat unless, within such period, a plat meeting the Map Filing Law and bearing the signature of the Chairman and Secretary of the Planning Board shall have been duly filed with the County Clerk. The Planning Board may in accordance with N.J.S.A. 40:55D-54, for good cause shown, extend the period for recording for an additional period not to exceed 190 days from the date of signing of the plat.
- (4) Final approval of a major subdivision or site plan shall confer upon the developer the following rights:

- (a) Zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer in Subsection A of this section shall not be changed for a period of two years after the date of final approval, provided that in the case of a major subdivision the rights conferred by this section shall expire if the plat has not been duly and properly recorded. The Planning Board may in accordance with N.J.S.A. 40:55D-52 extend such protection periods by extensions of one year but not exceeding three such extensions. The granting of final approval of a major subdivision or site plan terminates the time period of preliminary approval given pursuant to Subsection A of this section for any portion granted final approval.
 - (b) In the case of a subdivision or site plan of a planned development or residential cluster of 50 acres or more or a conventional subdivision or site plan for 150 acres or more, the Planning Board may extend the period of protection as provided in N.J.S.A. 40:55D-52.
- (5) Upon final approval, copies of the approved plat or plans shall be distributed by the Planning Board Secretary to the Planning Board files, City Engineer, Zoning Administrative Officer, Tax Assessor, County Planning Board and the applicant.

§ 130-16. Conditional use approval.

In exercising its power to grant conditional uses pursuant to N.J.S.A. 40:55D-67 and § 130-11A(2) of this Part 2, the Planning Board shall grant or deny a conditional use application within 95 days of submission of a complete application or within such further time as may be consented to by the applicant. Said applicant shall be subject to a public hearing after proper notice. The review of the conditional use application shall include any required site plan review within this prescribed period. Failure of the Planning Board to act within the prescribed period shall constitute approval of the application.

§ 130-17. Ancillary powers.

Whenever the Planning Board is called upon to exercise its ancillary powers before granting approval for a variance or the issuance of building permits as set forth in § 130-11A(7) of this Part 2, the Planning Board shall grant or deny approval of the application within 95 days after submission by the developer of a complete application or within such further times as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute approval.

§ 130-18. Simultaneous review and approval.

The Planning Board shall have the power to review and approve or deny conditional uses or site plans simultaneously with review for subdivision approval without the developer being required to make further application to the Planning Board or the Planning Board being required to hold further hearings. The longest time period for action by the Planning Board, whether it be for subdivision, conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the developer pursuant to this section, notice of the hearing on the plat shall include reference to the request for such conditional use.

§ 130-19. Exception in application regulation.

The Planning Board when acting upon an application for a preliminary or minor subdivision approval or preliminary site plan approval shall have the power to grant such exceptions from the requirements for approval as may be reasonable and within the general purpose and intent of the provisions for review and approval of this Part 2, if the literal enforcement of one or more provisions of this chapter is impractical or

will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such exceptions and reasons therefor shall be recorded in the minutes.

§ 130-20. Appeals to Mayor and Council.

An appeal from any final decision of the Planning Board may be taken to the Council, provided that such appeal shall be taken in accordance with N.J.S.A. 40:55D-17.

ARTICLE V

Board of Adjustment Powers
[Amended 12-18-2000 by Ord. No. 00-19]**§ 130-21. Board of Adjustment powers.**

- A. Pursuant to N.J.S.A. 40:55D-25c(1) and N.J.S.A. 40:55D-70, the Planning Board shall exercise, to the same extent and subject to the same restrictions, all the powers and duties of a board of adjustment, including the following powers as granted by law:
- (1) Hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision or referral made by an administrative officer or agency based on or made in the enforcement of this chapter. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such other requirement, decision or determination as ought to be made and, to that end, have all the powers of the administrative officer from whom the appeal was taken.
 - (2) Hear and decide requests for interpretation of the Zoning Map or regulations as provided in this chapter.
 - (3) Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property or by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to this chapter would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship. Where, in an application or appeal relating to a specific piece of property the purposes of this chapter would be advanced by a deviation from the requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to this chapter; provided however, that the fact that a proposed use is an inherently beneficial use shall not be dispositive of a decision on a variance under this subsection and provided that no variance from those departures enumerated in Subsection A of this section shall be granted under this subsection.
 - (4) In particular cases for special reasons, grant a variance to allow departure from regulations in Part 3, Zoning, to permit a use or principal structure in a district restricted against such use or principal structure, an expansion of a nonconforming use, deviation from a specification or standard pursuant to N.J.S.A. 40:55D-67 pertaining solely to a conditional use, an increase in the permitted floor area ratio as defined in N.J.S.A. 50:55D-4, an increase in the permitted density as defined in N.J.S.A. 40:55d-4, except as applied to the required lot area for a lot or lots for detached one- or two-dwelling -unit buildings, which lot or lots are either an isolated structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure. A variance under this subsection shall be granted only by affirmative vote of at least five members of the Planning Board, and pursuant to N.J.S.A. 40:55D-25c(1), the Class I and Class III members shall not participate in the consideration of applications for development which involve relief pursuant to this Subsection A(4). If an application for development requests one or more variances but not a variance for a purpose enumerated in this Subsection A(4) of this section, the decision on the requested variance or variances shall be rendered under Subsection A(3) of this section.

- (5) Direct issuance of a permit pursuant to N.J.S.A. 40A:55D-34 for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved on the Official Map but only by the affirmative vote of a majority of the full authorized membership of the Board.
 - (6) Direct issuance of a permit to N.J.S.A. 40:55D-16 for a building or structure or a lot not abutting a street as required by N.J.S.A. 40:55D-36.
- B. No variance or other relief may be granted under the provisions of this section, including a variance or other relief involving an inherently beneficial use, without a showing that such variance or other relief can be granted with substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and Part 3, Zoning. Any application under any subsection of this section may be referred to any appropriate person or agency for its report, provided that such reference shall not extend the period of time within which the Planning Board shall act.
- C. The Planning Board shall, pursuant to N.J.S.A. 40:55D-70.1, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report on its findings on the provisions of Part 3, Zoning, amendment or revision, if any. The Planning Board shall send copies of the report and resolution to the Council.

§ 130-22. Appeals and applications.

- A. Pursuant to N.J.S.A. 40:55D-72, appeals to the Planning Board may be taken by any interested party affected by the decision of an administrative officer of the City based on or made in the enforcement of Part 3, Zoning, or the Official Map. Such appeal shall be taken within the 20 days prescribed by the statute by filing a note of appeal with the officer from whom the appeal was taken, together with 10 copies of said notice, with the Secretary of the Planning Board. Said notice of appeal shall specify the grounds for said appeal. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- B. Applications may be made to the Planning Board under any of its powers without prior application to an administrative officer. Ten copies of a completed application form and all plats or plans, along with all required accompanying documents and fees, shall be filed with the Board Secretary at least 10 days prior to the date set for the hearing. The applicant shall obtain all necessary forms from the Board Secretary. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting dates of the Board.
- C. Pursuant to N.J.S.A. 40:55D-75, an appeal stays all proceedings in furtherance of the action in respect of which the decision appealed from was made, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in this opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by an order of the Superior Court of New Jersey upon notice to the officer from whom the appeal is taken and on due cause shown.
- D. Decision.
- (1) Pursuant to N.J.S.A. 40:55D-73, the Planning Board shall render its decision not later than 120 days after:
 - (a) An appeal is taken from the decision of an administrative officer; or
 - (b) The submission of a complete application for development to the Board pursuant to the

provisions of N.J.S.A. 40:55D-72b.

- (2) Failure of the Board to render a decision within such one-hundred-twenty-day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.
- E. Expiration of variance. Any variance from the terms of Part 3, Zoning, hereafter granted by the Planning Board, or heretofore granted by the Zoning Board of Adjustment, permitting the erection or alteration of any structure or structures, or use of any land or structure, shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance or unless such permitted use has actually been commenced within nine months from the date of publication of the notice of determination of the Board, provided that a longer period of time for such expiration may be granted by the Board as reasonably necessary and appropriate due to circumstances clearly demonstrated by the applicant at the hearing; except, however, that the running of the period of limitation herein provided shall be suspended from the date of filing an appeal from the decision of the Board to the Council or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding. **[Amended 9-18-2006 by Ord. No. 06-23]**

§ 130-23. Appeal to Council.

Any interested party may appeal to the Council any final decision of the Planning Board approving a use variance application pursuant to § 130-21A(4) of this Part 2, provided that such appeal shall be made within 10 days of the date of publication of the Board's final decision. Such appeal shall be in accordance with N.J.S.A. 40:55D-17.

§ 130-24. (Reserved).

§ 130-25. (Reserved).

§ 130-26. (Reserved).

§ 130-27. (Reserved).

ARTICLE VI
Provisions Applicable to Planning Board
[Amended 12-18-2000 by Ord. No. 00-19]

§ 130-28. Meetings.

- A. Pursuant to N.J.S.A. 40:55D-9, meetings of the Planning Board shall be scheduled no less often than once a month, and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process.
- B. Special meetings may be provided for at the call of the Chairman or on the request of any two Board members, which shall be held on notice to its members and the public in accordance with all applicable legal requirements.
- C. No action shall be taken at any meeting without a quorum being present.
- D. All actions shall be taken by majority vote of a quorum except as otherwise required by any provision of the Municipal Land Use Law, the Open Public Meetings Law² or other applicable law.
- E. The provisions of the Open Public Meetings Law, where applicable, shall be observed.

§ 130-29. Minutes.

Pursuant to N.J.S.A. 40:55D-9c, minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the City Clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a fee for reproduction of the minutes for use as provided for in the rules of the Board.

§ 130-30. Notice requirements for hearings.

- A. Whenever a hearing is required on an application for development pursuant to N.J.S.A. 40:55D-1 et seq. or pursuant to the determination of the municipal agency in question, the applicant shall give notice thereof as follows:
 - (1) Public notice shall be given by publications in the official newspaper of the City at least 10 days prior to the date of the hearing.
 - (2) Notice shall be given to the owners of all real property, as shown on the current tax duplicate or duplicates, located within 200 feet in all directions of the property which is the subject of such hearing and whether located within or without the City in which applicant's land is located. Such notice shall be given by:
 - (a) Serving a copy thereof on the owner shown on the said current tax duplicates or his agent in charge of the property; or
 - (b) Mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate. A return receipt is not required.

2. Editor's Note: See N.J.S.A. 40:55D-1 et seq. and 10:4-6 et seq.

- (3) Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.
 - (4) Notice of all hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the Clerk of such municipality, which notice shall be in addition to the notice required to be given pursuant to Subsection B of this section to the owners of lands in such adjoining municipality which are located within 200 feet of the subject premises.
 - (5) Notice shall be given by personal service or certified mail to the County Planning Board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the Official County Map or on the County Master Plan, adjoining other county land or situated within 200 feet of a municipal boundary.
 - (6) Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a state highway.
 - (7) Notice shall be given by personal service or certified mail to the Director of the Division of State and Regional Planning in the Department of Community Affairs of a hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the City Clerk pursuant to N.J.S.A. 40:55D-10.
 - (8) Notice of hearings on applications for approval of a major subdivision or a site plan not defined as a minor site plan requiring public notice shall be given, in the case of a public utility, cable television company or local utility which possesses a right-of-way or easement within the City and which has registered with the City in accordance with N.J.S.A. 40:55D-12.1, by:
 - (a) Serving a copy of the notice on the person whose name appears on the registration form on behalf of the public utility, cable television company or local utility; or
 - (b) Mailing a copy thereof by certified mail to the person whose name appears on the registration form at the address shown on that form.
- B. All notices hereinabove specified in this section shall be given at least 10 days prior to the date fixed for the hearing, and the applicant shall file an affidavit of proof of service with the Board holding the hearing for the development application. Any notice made by certified mail as hereinabove required shall be deemed to be complete upon mailing in accordance with N.J.S.A. 40:55D-14.
- C. Form of notice. Pursuant to N.J.S.A. 40:55D-11, all notices required to be given pursuant to the terms of this Part 2 shall state the date, time and place of the hearing, the nature of the matters to be considered and identification of the property proposed for development by street address, if any, and by reference to lot and block numbers as shown on the current tax duplicate in the City Tax Assessor's office and the location and times at which any maps and documents for which approval is sought are available as required by law.
- D. List of property owners furnished. Pursuant to the provisions of N.J.S.A. 40:55D-12c, the City Tax Assessor shall, within seven days after receipt of a request therefor and upon receipt of payment of a fee of \$10, make and certify a list from the current tax duplicate of names and addresses of owners to whom the applicant is required to give notice pursuant to this section. In addition, the Tax Assessor

shall include on the list the names, addresses and positions of all those persons who, not less than seven days prior to the date on which the applicant, requested to receive notice pursuant to N.J.S.A. 40:55D-12.1.

§ 130-31. Hearings.

- A. Rules. In accordance with N.J.S.A. 40:55D-10, the Planning Board shall make rules governing the conduct of hearings before such body, which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et seq. or of this chapter.
- B. Oaths. The officer presiding at the hearing or such person as he may designate shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law (N.J.S.A. 2A:67A-1 et seq.) shall apply.
- C. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
- D. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
- E. Records. The Board shall provide for the verbatim recording of the proceedings by either stenographer or mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at their expense.

§ 130-32. Decisions.

- A. Each decision on any application for development shall be set forth in writing as a resolution of the Board, which shall include findings of fact and legal conclusions based thereon.
- B. A copy of the decision shall be mailed by the Board within 10 days of the date of decision to the applicant or, if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and who have paid the fee prescribed by the Board for such service. A copy of the decision shall also be filed in the office of the City Clerk, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the city.
- C. Publication of decision. A brief notice of every final decision shall be published in the official newspaper of the city. Such publication shall be arranged by the Secretary of the Planning Board. The cost shall be charged to the applicant. Said notice shall be sent to the official newspaper for publication within 10 days of the date of any such decision.

§ 130-33. Conflicts of interest.

No 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 shall not continue to sit with the Board on the hearing of such matter nor participate in further discussion or decision relating thereto.

§ 130-34. Payment of taxes.

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

§ 130-35. Fees.

A. The following fees shall be charged an applicant for review of an application by the Planning Board. Every application for development shall be accompanied by check(s) payable to City of Salem in accordance with the following schedule of administrative escrow fees. Administrative fees and escrow fees shall be paid in separate checks. **[Amended 8-16-2021 by Ord. No. 21-08]**

	Administrative Fees	Escrow Deposits
Informal review		
1 15-minute appearance	\$100	\$300
Any additional appearance	\$200	\$750
Subdivisions		
Minor subdivision plat	\$100	\$1,000
Preliminary major subdivision plat	\$500	\$500, plus \$150 per lot Minimum deposit shall be \$2,000
Final major subdivision plat	\$500	\$250, plus \$75 per lot Minimum deposit shall be \$1,000
Amended minor, preliminary major and/or final major subdivision plat	\$200	\$1,000
Request for reapproval or extension of time	\$300	\$300, plus \$25 per lot Minimum deposit shall be \$500
Site plans		
Minor	\$200	\$2,000

	Administrative Fees	Escrow Deposits
Preliminary major site plan	\$300	\$500/acre or part thereof, plus \$50 per dwelling unit in the case of multiple-family units and/or \$0.10/gross square foot of building area in the case of nonresidential buildings, provided a minimum \$4,000 shall be deposited
Final major site plan	\$200	\$250/acre or part thereof, plus \$25 per unit in the case of multiple-family units and/or \$0.05/gross square foot of building area in the case of nonresidential buildings, provided a minimum \$2,000 shall be deposited
Amended minor, preliminary major and/or final major site plan	\$200	\$1,000
Request for reapproval or extension of time	\$300	\$300, plus \$100 per acre or part thereof
Conditional uses (in addition to fees for required site plan or subdivision review)	\$300	\$100 per acre or part thereof, minimum deposit is \$1,000
Variances		
Use and others (N.J.S.A. 40:55D-70d)	\$300	\$2,000
Conditional use and bulk (N.J.S.A. 40:55D-70c)	\$300	\$500 first variance, plus \$200 each additional variance
Hardship (N.J.S.A. 40:55D-70c)	\$300	\$500
Appeals and interpretations	\$300	\$1,000
Permit (N.J.S.A. 40:55D-34 and 40:55D-35)	\$300	\$1,000
Site plan waivers	\$200	\$500

B. Application and escrow fees. [Amended 8-16-2021 by Ord. No. 21-08]

- (1) The application fees and escrow fees received hereinabove are minimums which must accompany the application. An application shall not be deemed complete until the application fee and escrow fee required have been paid. The Planning Board shall exercise its discretion in establishing the figure required for the escrow fund in the event that the project will require more time for review than has been provided for by the figures received hereinabove or the project is of a nature that is not expressly included in one of the aforementioned categories.

- (2) Application fees and escrow fees must be submitted in separate checks payable to Salem City.
- C. All fees, unless otherwise specified, shall be paid by the applicant or appellant to the Secretary or Clerk of the municipal agency to which the application for appeal is being made at the same time as his application is submitted or his appeal is filed. Said fee shall then be turned over to the City Treasurer at the end of each month.

ARTICLE VII
Environmental Commission
[Amended 10-16-1995 by Ord. No. 95-15]

§ 130-36. Establishment.

The purpose of this article is to create an Environmental Commission, pursuant to N.J.S.A. 40:56A-1 et seq., to advise the Council of the City of Salem in matters concerning the protection, development or use of natural resources, including water resources, located within the territorial limits of Salem, New Jersey.

§ 130-37. Composition and appointment of members.

The Commission shall consist of seven members appointed by the Mayor, one of whom shall be designated by the Mayor as the chairperson. One member shall be a member of the Planning Board, and all members shall be residents of the City of Salem, New Jersey. All members shall serve without compensation.

§ 130-38. Terms of office.

Initially, two Commissioners shall be appointed for one-year terms, two for two-year terms and three for three-year terms. Thereafter, each appointment shall be for a three-year term. A vacancy on the Commission occurring otherwise than by expiration of the term shall be filled for the unexpired term in the same manner as an original appointment.

§ 130-39. Removal from office.

The City Council of the City of Salem may remove any member of the Commission for cause, on written charges served upon the member and after a hearing thereon at which the member shall be entitled to be heard in person or by counsel.

§ 130-40. Powers and duties.

The Environmental Commission organized under this article shall have power to conduct research into the use and possible use of the open land areas of the City and may coordinate the activities of unofficial bodies organized for similar purposes and may advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which, in its judgment, it deems necessary for its purposes. The Commission shall keep an index of all open areas, publicly or privately owned, including open marshlands, swamps and other wetlands, in order to obtain information on the proper use of such areas and may from time to time recommend to the Planning Board or, if none, to the Council plans and programs for inclusion in a City Master Plan and development and use of such areas.

§ 130-41. Acquisition of property.

The Environmental Commission may, subject to the approval of the Council, acquire property, both real and personal, in the name of the City by gift, purchase, grant, bequest, devise or lease for any of its purposes and shall administer the same for such purposes subject to the terms of the conveyance or gift. Such an acquisition may be to acquire the fee or any lesser interest, development right, easement (including conservation easement), covenant or other contractual right (including a conveyance on conditions or with limitations or reversions), as may be necessary to acquire, maintain, improve, protect, limit the future use of or otherwise conserve and properly utilize open spaces in other land and water areas in the city.

§ 130-42. Records and annual report.

The Environmental Commission shall keep records of its meetings and activities and shall make an annual report to the Council.

§ 130-43. Appropriation of funds.

The Council may appropriate funds for the expenses incurred by the Environmental Commission. The Commission may appoint such clerks and other employees as it may from time to time require and as shall be within the limits of funds appropriated to it.

§ 130-44. Studies and recommendations.

The Environmental Commission shall have the power to study and make recommendations concerning open space preservation, water resources management, air pollution control, solid waste management, noise control, soil and landscape protection, environmental appearance, marine resources and protection of flora and fauna.

§ 130-45. Applications for development.

When the Environmental Commission has prepared and submitted to the Planning Board and the Board of Adjustment an index of the natural resources of the City pursuant to § 130-40, the Planning Board or the Board of Adjustment shall make available to the Environmental Commission an informational copy of every application for development submitted to either Board, in accordance with N.J.S.A. 40:55D-27, for the Commission's review, comments and recommendations on said application. Failure of the Planning Board or Board of Adjustment to make such informational copy available to the Environmental Commission shall not invalidate any hearing or proceeding.

Part 3
Zoning

ARTICLE VIII
Classification of Districts

§ 130-46. Zoning district designation.

A. For the purposes of this Part 3, the City of Salem is hereby divided into districts as follows:

R-1	Residence Districts
R-2	Residence Districts
PA	Planned Apartment Districts
RLC	Residence - Limited Commercial Districts
C-1	Retail Commercial Districts
C-2	General Commercial Districts
M-1	Light Manufacturing Districts
M-2	General Manufacturing Districts
HPD	Historic Preservation District

B. District Map. The boundaries of these zoning districts are established on the map entitled "Zoning Map of the City of Salem," dated April 22, 1976, revised July 1, 1977, or as may be subsequently amended. Said map and all notations, references and dates pertaining to zoning and zoning districts shown thereon are hereby incorporated by reference into this Part 3 and shall be as much a part of this chapter as if they were fully described herein.³

C. Interpretation. Where uncertainty exists as to the exact location of any boundary shown on said Zoning Map, the following rules shall apply:

- (1) Zoning boundary lines are intended to follow the line of streets, railroad rights-of-way or stream channels and other natural features where possible. Where zoning boundaries do not follow such features, it shall be determined either by the dimensions shown on the map or by use of the graphic scale shown thereon.
- (2) Where boundary lines are not fixed by dimensions and where they do not scale more than 10 feet distant from a plat or Tax Map line, such lot lines shall be construed to be the boundary line.
- (3) Where physical or cultural features existing on the ground are at variance with those shown on the official Zoning Map or in other circumstances not covered by Subsection C(1) and (2) above, the Planning Board shall interpret the district boundaries.
- (4) Where a district boundary line divides a lot which was held in single and separate ownership at the time the boundary line was established, the use regulations applicable to the less restricted district shall extend over the portion of the lot in the more restricted district a distance of not

3. Editor's Note: The Zoning Map is on file in the office of the City Clerk.

more than 50 feet beyond the district boundary line.

ARTICLE IX
R-1 Residence Districts

§ 130-47. Applicability of regulations.

In R-1 Residence Districts, the following use and area regulations shall apply.

§ 130-48. Use regulations.

A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other:

A. Permitted uses. **[Amended 11-18-2002 by Ord. No. 02-30]**

- (1) Single-family detached dwelling.
- (2) Municipal building or use.

B. Accessory use on the same lot with and customarily incidental to any of the foregoing permitted uses. The term "accessory use" shall not include a business but shall include:

- (1) Private garage.
- (2) Professional office for a physician, lawyer, dentist, architect, professional engineer or other such profession or studio and/or rooms for home occupations, provided that such office, studio or rooms for home occupations shall be located in a dwelling in which the practitioner resides or in a separate building and no goods shall be publicly displayed on the premises.
- (3) Signs when erected and maintained in accordance with the provisions of Article XVI of this chapter.
- (4) The renting of not more than one room to one roomer, as an accessory use.

§ 130-49. Area regulations.

Area regulations shall be as follows:

- A. Lot area width. A lot area of not less than 7,200 square feet per family shall be provided for every building hereafter erected or used in whole or in part as a dwelling. Each lot shall have a frontage on at least one street of not less than 60 feet.
- B. Building area. Not more than 30% of the area of each lot may be occupied by buildings.
- C. Front yard. There shall be a front yard on each street on which a lot abuts which shall be not less than 30 feet in depth, except as provided in § 130-85 hereof. The front yard on the long side of a corner lot may be reduced to a depth of not less than 20 feet.
- D. Side yards. There shall be two side yards on each lot which shall be not less than 20 feet in aggregate width, and neither of which shall be less than eight feet in width.
- E. Rear yard. There shall be a rear yard on each lot which shall be not less than 25 feet in depth.

ARTICLE X
R-2 Residence Districts

§ 130-50. Applicability of regulations.

In R-2 Residence Districts, the following regulations shall apply.

§ 130-51. Use regulations.

A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other:

- A. Any use permitted in R-1 Residence Districts.
- B. Single-family semidetached dwelling, provided that the adjoining semidetached dwelling with which it has a party wall in common is erected at the same time. **[Amended 6-19-2006 by Ord. No. 06-15⁴]**

§ 130-52. Area regulations.

- A. Lot area and width. A lot area of not less than 3,600 square feet per family shall be provided for every semidetached dwelling hereafter erected or used in whole or in part as a dwelling, and a lot area of not less than 7,200 square feet per family shall be provided for every detached dwelling hereinafter erected or used in whole or in part as a dwelling. The minimum lot width at the building line shall be 55 feet for detached buildings and 33 feet for semidetached buildings. **[Amended 6-19-2006 by Ord. No. 06-15]**
- B. Building area. Not more than 40% of each lot may be occupied by buildings.
- C. Front yard. There shall be a front yard on each street on which a lot abuts which shall be not less than 25 feet in depth, except as provided in § 130-85 hereof. The front yard on the long side of a corner lot may be reduced to a depth of not less than 13 feet.
- D. Side yard.
 - (1) For every detached building, there shall be two side yards on each lot which shall be not less than 20 feet in aggregate width, and neither of which shall be less than seven feet in width.
 - (2) For every semidetached building, there shall be one side yard on each lot which shall be not less than 12 feet in width.
- E. Rear yard. There shall be a rear yard on each lot which shall be not less than 20 feet in depth.

4. Editor's Note: This ordinance also repealed former Subsection B, which permitted two-family homes, and redesignated former Subsection C as Subsection B.

ARTICLE XI

PA Planned Apartment Districts**§ 130-53. Purpose; applicability of regulations.**

PA Planned Apartment Districts are designed to make special provision for low lot coverage, low-density apartment development in designated portions of residence districts in the City where apartment development is considered appropriate by virtue of such criteria as direct access to major highways, availability of public sewer and water facilities, adequacy of or provision for school, recreation and other community facilities, environmental amenity and safety and economic viability. In those portions of residence districts which have also been classified as PA Planned Apartment Districts, the following regulations shall apply.

§ 130-54. Special procedural requirements.

An application for an amendment to the Zoning Map to establish a Planned Apartment District and/or an application for a permit to construct a use permitted in an established Planned Apartment District shall be accompanied by a plan and supplementary data relating to the proposed use and development in accordance with the provisions of § 130-58, Application requirements. Each such plan shall be subject to review and approval by the Planning Board and by the Council. When a permit is sought for an apartment, the Planning Board shall hold a public hearing thereon prior to submitting its recommendation to Council.

§ 130-55. Use regulations.

In PA Planned Apartment Districts, a building may be erected or used and a lot may be used or occupied for any of the following purposes and no other:

- A. Any use permitted in the residence district of which the PA Planned Apartment District is a part, subject to the requirements of the residence district in which located.
- B. An apartment house or group of apartment houses or townhouses, designed and maintained as a unified project, under private ownership or under condominium ownership.
- C. Accessory use on the same lot with and customarily incidental to the foregoing apartment use, which may include the following:
 - (1) Off-street parking area or parking structure.
 - (2) Recreational use or facility, such as a swimming pool, tennis court, sports or play area and community building, designed to serve the residents of the apartment development.
- D. Signs, as permitted in residence districts under the provisions of Article XVII hereof.

§ 130-56. Site development standards.

For any building or group of buildings on a lot, the following standards shall apply:

- A. Lot area and frontage. A minimum lot area of not less than four acres shall be required. Such lot shall have not less than two-hundred-foot frontage on a public street.
- B. Density.
 - (1) The maximum number of dwelling units in any apartment project shall be determined by the lot

area per family requirements in accordance with the following:

Unit Type by Number of Bedrooms	Square Feet of Lot Area per Dwelling Unit
Efficiency or 1	3,500
2	4,000
3 or more	4,500

- (2) For purposes of this Part 3, any habitable room other than a kitchen, dining room or living room, but including such rooms as dens, studios, libraries, etc., shall be considered a bedroom. Water areas and lands officially designated as wetlands shall not be included in calculating permitted density.
- C. Building coverage and paving. Not more than 25% of the area of a lot or tract shall be occupied by buildings; and not more than 50% of the lot or tract shall be occupied by buildings, paving and accessory uses.
- D. Minimum floor area. The minimum livable floor area required for each type of dwelling or apartment unit shall be not less than:
 - (1) Four hundred fifty square feet for each efficiency or no-bedroom dwelling unit;
 - (2) Six hundred fifty square feet for each one-bedroom dwelling unit, provided that such area may be reduced to 470 square feet for apartments exclusively for senior citizens.
 - (3) Eight hundred square feet for each two-bedroom dwelling unit, plus 100 square feet for each additional bedroom.
- E. Units per building. No apartment building shall contain more than 16 dwelling units.
- F. Yards and building placement. Perimeter yards of not less than 50 feet shall be maintained along any public street line and yards of not less than 40 feet along any other property line. Within any apartment projects, no building shall be closer than 25 feet from an internal street, measured from the curb- or cartway line. No parking area shall be located closer than 15 feet from the front of any apartment building or from any entrance thereto or closer than 10 feet from any other part of the apartment building. The distance, at the closest point, between any two buildings shall be not less than 50 feet.
- G. Height. No apartment building shall exceed two stories in height.
- H. Parking space. At least two parking spaces shall be provided for each dwelling unit in a designated parking lot or lots, not to include any driveway area.

§ 130-57. Required utilities, recreation area and special design requirements.

- A. Sewer and water. No application for an apartment building or project shall be considered unless such building or project can be served by the City sewer and water system. The installation of public water, sewerage and drainage facilities shall be in accordance with City specifications and shall be made at the sole expense of the developer.
- B. Underground utilities. All telephone and electric transmission service lines connecting individual

buildings on the site with the street transmission lines and between buildings on the site shall be installed underground.

- C. Recreation areas and natural features. At least 10% of the total tract area shall be reserved and developed for outdoor recreation purposes. Such recreation areas shall be of such dimensions and in such locations that they are suitable for the intended purpose.
- D. Refuse disposal. Provision for the disposal of refuse shall be the responsibility of the apartment owner and shall be subject to approval of the Council.
- E. Supervision and management. At least one qualified superintendent shall reside on the premises for supervision and management, unless alternative arrangements are approved by the Council on recommendation by the Planning Board. The name, address and phone number of the superintendent shall be kept on file with the City Housing Officer, and the apartment owner shall be responsible for advising the Housing Officer of any change of superintendent.

§ 130-58. Application requirements.

The application for a permit to construct an apartment house or an apartment project in a Planned Apartment District or an application for an amendment to establish a Planned Apartment District shall include or be accompanied by a plan or plans showing the following information:

- A. The location, boundaries, dimensions and ownership of the area to be included in the proposed development and the owner of adjoining properties.
- B. Natural features, including topography, tree masses and streams.
- C. The location, use, dimensions and height of each building and other structure proposed to be erected on the lot; the total gross floor area of the buildings to be constructed; the total area of ground to be built on; and the total paved area.
- D. The location, dimensions and arrangements of all open spaces, yards, accessways, entrances, exits, off-street parking spaces and pedestrianways and the location and width of all streets and sidewalks.
- E. The character of buffer areas and screening devices to be maintained, including the location, dimensions and arrangement of all areas devoted to planting, lawns and trees.
- F. Provisions made for stormwater drainage, sewer and water utilities and exterior lighting.
- G. Sketch showing the building facades, signs, types of materials used and typical floor and individual apartment plans.
- H. The provision made for the maintenance of the premises, including all recreation areas, common open spaces, parking, landscaped and buffer areas; provision for refuse disposal, traffic control and police protection; and a statement defining the responsibility of the owner, management or other responsible party with respect to maintenance of the premises and refuse disposal.
- I. Sufficient data in all instances to enable the Planning Board to:
 - (1) Judge the effectiveness of the design and character of the entire tract or district;
 - (2) Consider properly such things as the relationship of the proposed development or use to surrounding areas, anticipated traffic, potential hazards, public health, safety and the general welfare;

- (3) Determine that the proposed plan and use complies with the requirements of this Part 3 and any other applicable ordinances and codes; and
- (4) Evaluate the economic viability of the project in such terms, for example, as probable municipal revenues compared with probable required municipal expenditures.

ARTICLE XII
C Commercial Districts

§ 130-59. Classes; applicability of regulations.

There shall be three classes of commercial districts, which shall be designated as RLC Residence - Limited Commercial, C-1 Retail Commercial and C-2 General Commercial Districts, in which the following regulations shall apply.

§ 130-60. Use regulations.

- A. RLC Residence Districts. In Residential Limited - Commercial Districts, a building may be erected or used and a lot may be used or occupied for any of the following purposes and no other:
- (1) All uses permitted by this Part 3 in R-2 Residence Districts.
 - (2) Office or office building for administrative or executive offices, central or headquarters office building for single concern or affiliated members; insurance or financial institution; governmental and public utility offices.
 - (3) Professional office or office building, including the offices of a physician, dentist, surgeon, optician or other of the healing arts, attorney, accountant, tax consultant, architect, engineer, insurance broker, real estate broker or any combination of specified or similar offices.
 - (4) Sales offices, including office of a manufacturer's representative or catalogue-ordering establishment, provided that no inventories of merchandise shall be maintained except for display purposes in such offices.
 - (5) Private school; photograph or art studio; or dancing or music studio, when located and soundproofed so that it will not result in noise or vibration which may interfere with the normal use of an adjoining property for any other use permitted in the district.
 - (6) Personal service shops as follows: beauty, barber- tailor or dressmaker shop; pickup agency for dry cleaning, laundry, shoe repair or similar services; or repair and servicing of radios, televisions and appliances.
 - (7) Motor vehicle parking lot not to be used for the sale, servicing or dead storage of vehicles.
 - (8) Club or lodge organized for fraternal or social purposes.
 - (9) Mortuary.
- B. C-1 Retail Commercial Districts. A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other:
- (1) Any use permitted in RLC Residence - Limited Commercial Districts.
 - (2) Retail store.
 - (3) Restaurant, cafe or catering establishment.
 - (4) Theater and other place of amusement, recreation or assembly.
 - (5) Residential apartments containing kitchen and bathroom facilities, subject to the minimum

square footage requirements for apartments set forth in § 130-56, and further provided that residential apartments shall not be permitted on the first floor/street level. **[Amended 12-5-2005 by Ord. No. 05-36]**

- (6) Hand laundry; automatic or self-service laundry (laundromat); or self-service synthetic dry-cleaning establishment or synthetic cleaning establishments.
 - (7) Newspaper publishing or job printing establishment.
 - (8) Bakery or confectionery shop, for the production of articles to be sold only at retail on the premises.
 - (9) Public garage, motor vehicle service station, automobiles sales agency, parking garage or lot, provided that all facilities are located and all services are conducted on the lot.
 - (10) Any use of the same general character as any of the above permitted uses, provided that no use which is noxious or hazardous shall be permitted.
 - (11) Accessory use on the same lot with and customarily incidental to any of the above permitted uses, and signs when erected and maintained in accordance with the provisions of Article XVII hereof.
- C. C-2 General Commercial Districts. A building may be erected or used and a lot may be occupied or used for any of the following purposes and no other:
- (1) All uses permitted by this Part 3 in C-1 Retail Commercial Districts.
 - (2) Contractor, craftsman's or general service shop, including plumbing, heating, light metalworking, carpentry, welding, appliance or motor repair, or similar shop.
 - (3) Wholesale business establishment.
 - (4) Warehouse; or yard for storage, sale and distribution of lumber and other building materials, ice, coal or petroleum products, when enclosed within a solid fence of not less than six feet in height, but not including a junk-, salvage, automobile or other wrecking yard.
 - (5) Drive-in establishment, such as automobile washing, battery and tire service and restaurant.
 - (6) Trailer and truck sales agency.
 - (7) Express trucking or hauling station.
 - (8) Dairy or baker.
 - (9) Bottling or distributing station for milk or other beverages.
 - (10) Scientific or industrial research laboratory.
 - (11) Shopping center, to include any combination of permitted uses.
 - (12) Any use of the same general character as any of the above permitted use, provided that no use which is noxious or hazardous shall be permitted.
 - (13) Accessory use on the same lot with and customarily incidental to any of the above permitted uses, and signs when erected and maintained in accordance with the provisions of Article XVII

hereof.

§ 130-61. Area regulations.

Every building hereafter erected or used in whole or in part as a dwelling shall comply with the area requirements prescribed for the R-2 Residence Districts in § 130-52 hereof. For commercial and other buildings no part of which is used as a dwelling, the following area regulations shall apply:

- A. Building area. Not more than 60% of the area of each lot may be occupied by buildings.
- B. Front yard. There shall be a front yard on each street on which a lot abuts which shall be not less than 20 feet in depth, subject to the provisions of § 130-95. The front yard on the long side of a corner lot may be reduced to a depth of not less than 10 feet.
- C. Side yard. Side yards are not required for buildings used exclusively for commercial or other nondwelling purposes, subject to the following provisions:
 - (1) Where side yards are provided, each such side yard shall be not less than five feet in width.
 - (2) Where a lot used for business purposes abuts a residence district, a side yard of not less than five feet shall be provided on the side of the lot which abuts the residence district.
- D. Rear yard. There shall be a rear yard on each lot which shall be not less than 20 feet in depth.

ARTICLE XIII

M-1 Light Manufacturing Districts.**§ 130-62. Applicability of regulations.**

In M-1 Light Manufacturing Districts, the following regulations shall apply.

§ 130-63. Use regulations.

A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other, provided that no use which is noxious or hazardous shall be permitted except in accordance with § 130-82 of this chapter:

- A. Any use permitted in C Commercial Districts.
- B. Wholesale business establishment.
- C. Warehouse or yard for storage, sale and distribution of ice, coal, petroleum products, building materials or products of manufacturing uses permitted in the city, not including a junk-, salvage or wrecking yard.
- D. Manufacturing or processing as follows:
 - (1) Beverages (nonalcoholic) or bottling establishment.
 - (2) Canvas and canvas products.
 - (3) Clothing and other textile products, not including manufacture of textiles.
 - (4) Containers for food products, fruits and vegetables.
 - (5) Electrical equipment; appliances; and supplies, manufacture and assembly of, not including heavy electrical machinery.
 - (6) Food processing; or jewelry, clocks and watches.
 - (7) Leather products, not including tanning or leather processing.
 - (8) Medical, dental, drafting equipment, optical goods and professional and scientific instruments.
 - (9) Metal stamping and extrusion of small products.
 - (10) Musical instruments.
 - (11) Pharmaceutical products, compounding of.
 - (12) Rubber products or small and synthetic processing.
 - (13) Small products from the following previously prepared materials: bone, cork, feathers, felt, fur, glass, hair, horn, paper, plastics and shells.
 - (14) Tool, die and pattern-making and similar small machine shops.
 - (15) Wood products, including furniture, boxes and baskets.
- E. Carpet and rug cleaning.

- F. Laundry, dry-cleaning or dyeing plant.
- G. Laboratory, research, experimental and testing.
- H. Trucking terminal.
- I. Any use of the same general character as any of the above permitted uses when authorized as a conditional use by the Planning Board.
- J. Accessory use on the same lot with and customarily incidental to any of the above permitted uses.

§ 130-64. Area regulations.

The area regulations for commercial districts, § 130-61, shall apply in M-1 Light Manufacturing Districts, except that the front yard on any lot on West Broadway shall not be less than 100 feet, and said front yard shall not be used for any driveway carrying trucks or other heavy traffic.

ARTICLE XIV

M-2 General Manufacturing Districts.**§ 130-65. Applicability of regulations.**

In M-2 General Manufacturing Districts, the following regulations shall apply.

§ 130-66. Use regulations.

A building may be erected or used and a lot may be used or occupied for any lawful purpose, except the purposes specified below or any purpose substantially similar to any specified, provided that no use which is noxious or hazardous shall be permitted except in accordance with § 130-82:

- A. Dwellings except for living quarters for any such persons as a watchman or caretakers and their families as an accessory use to a business or industrial use.
- B. Slaughterhouse or stockyard.
- C. Distillation of bones and wood.
- D. Fish smoking or curing.
- E. Incineration or reduction of garbage offal and dead animals, except by municipal agents and on municipally owned lots.
- F. Junkyard, salvage or wrecking yard or the baling of rags or junk, except when enclosed within a building or within a solid fence of not less than 10 feet in height.
- G. Manufacture of:
 - (1) Asphalt or asphalt products, including refining of explosives or fireworks, including the storage of.
 - (2) Fertilizer, when manufactured from organic materials.
 - (3) Glue, size or gelatin.
 - (4) Gypsum, cement, plaster or plaster of paris.
 - (5) Rubber, caoutchouc or gutta percha.
 - (6) Sulfurous, sulfuric, nitric, picric or hydrochloric or other offensive or corrosive acids.
- H. Wood pulp and fiber, reduction and processing of.

§ 130-67. Area regulations.

The area regulations prescribed for C Commercial Districts, § 130-61, shall apply in the M-2 General Manufacturing District.

ARTICLE XV

Historic Preservation (HP)⁵

[Amended 10-16-1995 by Ord. No. 95-15; 6-18-2001 by Ord. No. 01-4; 6-19-2006 by Ord. No. 06-14]

§ 130-68. Intended purposes.

The historic preservation regulations of this article are intended to:

- A. Safeguard the heritage of the City of Salem by preserving resources within the City which reflect elements of its cultural, social, economic, archaeological and architectural history;
- B. Encourage the continued use of historic properties and facilitate their appropriate use;
- C. Maintain and develop an appropriate and harmonious setting for the historic and architecturally significant buildings, structures, sites, objects or districts within the City;
- D. Stabilize and improve property values within the City of Salem and foster civic pride in properties and therein;
- E. Promote appreciation of historic properties for education, pleasure and the welfare of the local population;
- F. Encourage beautification and private reinvestment;
- G. Manage change by preventing alteration or new construction not in keeping with historic preservation;
- H. Discourage the unnecessary demolition of historic resources;
- I. Encourage the proper maintenance and preservation of historic properties, settings and landscapes;
- J. Encourage appropriate alteration of historic properties;
- K. Enhance the visual and aesthetic character, diversity, continuity and interest in the City;
- L. Promote the conservation of historic properties, sites and areas and invite and encourage voluntary compliance;
- M. Not require or prohibit any particular architectural style but rather preserve the past by making the past compatible with and relevant to the present; and
- N. Assure the continued useful life of designated landmarks within the City of Salem by declaring that maintenance is a high City priority.

§ 130-69. Definitions.

ADDITION — An extension or increase in a building's size, floor area or height.

ALTERATION — Any change in the exterior appearance of a structure, which includes additions, removals or replacements.

APPLICANT — Any private or public person, persons, or any representative or any private entity,

5. Editor's Note: These provisions were originally adopted 12-15-1980 as Ord. No. 8023. No substantive changes were made to the historic preservation provisions in the recodification of the land use regulations.

private organization, association, or public agency with legal authority to make an alteration, addition, improvement, renovation, repair or demolition of a structure.

APPLICATION FOR DEVELOPMENT — Application to the Planning Board of the City for approval of a major or minor subdivision plot or site plan, planned development, conditional use or zoning variance, or an application for the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or landfill, or for any use or change in the use of any building or other structure, or of any parcel of land, for which permission may be required pursuant to the Municipal Land Use Law.⁶

BUILDING — A structure designed for habitation, shelter, storage, trade, manufacture, religion, business, education and the like, enclosing a space within its walls and usually, but not necessarily, covered with a roof, including, but not limited to, house, barn, warehouse, store, factory, church, hotel or school.

CONSERVATION DISTRICT — A geographically defined area that is recognized for its design integrity, is not yet historic, but deserves some limited regulation of exterior building changes.

CONTRIBUTING — Adding to the historic architectural qualities, historic associations, or archaeological values for which a landmark is significant because it:

- A. Was present during the period of significance and possesses historic integrity reflecting its character at that time or is capable of yielding important early information about the period; or
- B. Independently meets the criteria for historic designation.

DEMOLITION — Partial or total razing, dismantling or destruction, whether entirely or in significant part, of any building, structure, object or site. Demolition includes the removal of a building structure or object from its site or the removal or destruction of the facade or surface.

DEMOLITION BY NEGLECT — The deferment of maintenance of or within any designated landmark resulting in any one or more of the following as determined by the Department of Inspections:

- A. Deterioration where the cost of correcting the outstanding code violations of the property and implementing the standards set forth in § 163-1 et seq. of the City Code⁷ exceeds 25% of the cost of replacing the entire improvement on which the violations occur.
- B. Deterioration to the extent that it creates or permits a hazardous or unsafe condition.
- C. Deterioration to a building(s) characterized by one or more of the following:
 - (1) Those buildings which have parts thereof which are so attached that they may fall and injure members of the public or property.
 - (2) Deteriorated floor supports or floor supports which are insufficient to carry imposed loads with safety.
 - (3) Members of walls or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.
 - (4) Members of walls or other vertical supports which are insufficient to carry imposed loads with safety.
 - (5) Members of ceilings, roofs, ceilings and roof supports or other horizontal members that

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

7. Editor's Note: See Ch. 163, Property Maintenance.

sag, split, or buckle due to defective material or deterioration.

- (6) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which are insufficient to carry imposed loads with safety.
- (7) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.
- (8) Any fault, defect or condition in the building that renders the same structurally unsafe or not properly watertight.

D. Action by the City or Fire Marshal relative to the safety or physical condition of any designated landmark.

DESIGNATED LANDMARK — A landmark that is designated to the City Register of Historic Landmarks and subject to Historic Preservation Commission review authority.

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 of any mining excavation or landfill; and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to the Municipal Land Use Law.⁸

DISTRICT — A significant concentration, linkage or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

FABRIC — Building materials and parts, such as brick, stone, wood, glass, clapboards, stucco, window sashes, decorative woodwork, floorboards, trim and moldings, doors, hardware, plaster, and the like.

HISTORIC — At an age of 50 years or greater. A property can be significant without meeting this criterion.

HISTORIC CONTEXT — A pattern or trend in history by which a specific occurrence, property or site is understood and its meaning (and ultimately its significance) within history or prehistory is made clear.

HISTORIC DISTRICT — A geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects that has been designated by ordinance.

HISTORIC DISTRICT RESOURCES — Those buildings, structures, sites or objects classified as key, contributing or noncontributing.

HISTORIC INTEGRITY — The ability of a property to convey its significance. Location, design, setting, materials, workmanship, feeling and association are the aspects of historic integrity.

HISTORIC PRESERVATION COMMISSION (HPC) — The body which, for the purposes of the Ordinance acts as the Historic Preservation Commission as cited in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

HISTORIC PRESERVATION (HP) PERMIT — A document indicating permission to commence work or activity on a historic landmark.

HISTORIC SIGNIFICANCE — The importance of a property to the history, architecture, archaeology, engineering, or culture of a community. Significance is achieved by association with events, activities, patterns, persons, physical design, construction or form or potential to yield important information.

HISTORIC SITE — A term synonymous with "landmark."

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

IMPROVEMENT — A building or other structure or any work constituting a man-made alteration of, or addition to, any site.

INVENTORY — A list of properties determined as meeting the historic significance criteria.

KEY — Contributing, but of especially outstanding historic significance.

LANDMARK — A building, structure, site, district, streetscape, or object having historic significance which is identified in the Master Plan or subsequent inventory.

MASTER PLAN — The Master Plan of the City of Salem, as amended from time to time compiled pursuant to the Municipal Land Use Law.

MUNICIPAL LAND USE LAW — The Municipal Land Use Law of the State of New Jersey, P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.) as amended from time to time.

NATIONAL REGISTER OF HISTORIC PLACES — The official list of New Jersey's historic resources of local, state and national interest as created by the New Jersey Register of Historic Places Act of 1970 (N.J.S.A. 13:1B-15.128 et seq.). It is closely modeled after the National Register program, having the same criteria for eligibility, nomination forms and review process.

NEW JERSEY REGISTRAR OF HISTORIC PLACES — The official list of New Jersey's historic resources of local, state, and national interest as created by the New Jersey Registrar of Historic Places Act of 1970 (N.J.S.A. 13:1B-15.128 et seq.). It is closely modeled after the National Register program having the same criteria for eligibility, nomination forms, and review process.

NONCONTRIBUTING — Not adding to the historic architectural qualities, historic associations, or archaeological values for which a property is significant because it:

- A. Was not present during the period of significance; or
- B. No longer possesses historic integrity reflecting its character at that time or is not capable of yielding important information about the period due to alterations, disturbances, additions, or other changes.

NONORDINARY REPAIR — Repairs that are necessary to protect the health and safety of the occupants, the general public and/or to maintain the habitability of the structure as determined by the City Department of Inspections.

OBJECT — A construction primarily artistic in nature or small in scale and simply constructed. An object is associated with its setting and can include statuary, monuments, mileposts, boundary markers, sculpture and fountains.

ORDINANCE MAINTENANCE — The act of repairing any deterioration, wear or damage to a structure, or any part thereof, in order to return the same as nearly practicable to its condition prior to the occurrence of such deterioration, wear, damage and includes replacement of exterior elements or accessory hardware, including signs, using the same materials and having the same appearance.

ORDINANCE MAINTENANCE FAILURE — Deterioration to the point that, in the opinion of the Department of Inspections office, the cost of correcting the outstanding violations of the property and implementing the standards set forth in § 163-1 et seq. of the City Code⁹ exceeds 15% of the cost of replacing the entire improvement on which the violations occur.

PRESERVATION — The act or process of applying measures necessary to sustain the existing form, integrity and materials of an historic property. Work, including preliminary measures to protect and

9. Editor's Note: See Ch. 163, Property Maintenance.

stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features, rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

RECONSTRUCTION — The act or process of depicting, by means of new construction, the form, features, and detailing of a nonsurviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

REHABILITATION — The act or process of making possible a compatible use for a property through repair, alterations and additions while preserving those portions or features which convey its historical, cultural or architectural values.

REPAIR — Any work done on any improvement which:

- A. Is not an addition to the improvement; and
- B. Does not change the exterior architectural appearance of any improvement.

REPLACEMENT — The act or process of replicating a feature that is used to substitute for an existing and deteriorated or extensively damaged architectural feature.

RESTORATION — The act or process of accurately depicting the form, features and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

SITE — The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself possesses historic, cultural or archaeological value regardless of the value of any existing structure.

STABILIZATION — The process of applying measures designed to reestablish a weather-resistant enclosure and structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

STREETSCAPE — The elements in the view from a public right-of-way, including buildings, the roadway itself, curbs, sidewalks, fences, streetlights, signs and vegetation.

§ 130-70. Area and use regulations.

This historic preservation classification shall be in addition to the zoning classification heretofore made for the areas designated as historic landmarks, and the use and area limitations and regulations pertaining to said zoning classification shall apply.

§ 130-71. Historic Preservation Commission.

A. Membership.

- (1) There is hereby established in and for the City of Salem an Historic Preservation Commission (HPC) of five members, which shall include at least one member of each of the following classes:
 - (a) Class A: A person who is knowledgeable in building design and construction or

architectural history and who may reside outside the City;

- (b) Class B: A person who is knowledgeable or with a demonstrated interest in local history and who may reside outside the City; and
- (c) Two alternate members who meet the requirements of Class C at a minimum. Class C: Persons who are citizens of the City, who hold no other City office, position or employment except for membership on the Planning Board.

(2) Those regular members who are not designated Class A or B shall be designated Class C.

- B. The Mayor, with the advice and consent of Council, shall appoint all members of the Commission and shall designate at the time of such appointment the regular members by class and the alternate members as "Alternate No. 1" and "Alternate No. 2." The terms of the members first appointed under this section shall be so determined that to the greatest practicable extent, the expiration of the terms shall be distributed, in the case of regular members, evenly over the first four years after their appointment and, in the case of alternate members, evenly over the first two years after their appointment, provided that the initial term of no regular member shall exceed four years, and that the initial term of no alternate member shall exceed two years. Thereafter, the term of a regular member shall be four years, and the term of an alternate member shall be two years. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only. Vacancies should be filled with qualified members within 60 days. Notwithstanding any other provision herein, the term of any member common to the Historic Preservation Commission and the Planning Board shall be for the term of membership on the Planning Board.
- C. The Historic Preservation Commission shall elect a chairman and a vice chairman from its members and select a secretary, who may or may not be a member of the Historic Preservation Commission or a municipal employee.
- D. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.
- E. No member of the Historic Preservation Commission shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest.
- F. A member of a Historic Preservation Commission may, after public hearing if he requests it, be removed by the Council for cause. Prima facie cause for removal shall exist where a Commission member fails to attend at least 50% of the meetings of the Commission in a calendar year or fails to annually attend either a conference or training workshop on historic preservation issues.
- G. The Historic Preservation Commission may employ, contract for, and fix the compensation of experts and other staff and services as it shall deem necessary. The Commission shall obtain its legal counsel from the City Attorney at the rate of compensation determined by the Council, unless the Council, by appropriation, provides for separate legal counsel for the Commission. Expenditures pursuant to the subsection shall not exceed, exclusive of gifts or grants, the amount appropriated by the Council for the Commission's use.
- H. The Enforcement Officer, as designated by City Council, shall attend HPC meetings.
- I. The Historic Preservation Commission shall annually adopt and, in accordance with the Open Public Meetings Act,¹⁰ publish a list of its regularly scheduled meetings for each new calendar year.

Meetings of the Commission shall be scheduled not less than once each month and shall be held as scheduled unless canceled for lack of applications or other business to process; however, in no event shall there be less than four meetings of the Commission held each year. Special meetings shall be held upon the call of the Chairman, or upon the request of any two Commission members, which special meeting shall be held on notice to all Commission members and the public in accordance with the Open Public Meetings Act. No action shall be taken at any meeting without a quorum being present. All actions shall be taken by a majority vote of the members present at the meeting, except as otherwise required by this chapter or applicable law. Minutes of all meetings shall be kept and shall include the names of persons appearing and addressing the Commission, the actions taken by the Commission, the findings, if any, made by it and reasons therefor. The minutes shall, after being approved by the Commission, thereafter be made available for public inspection during regular business hours at the Office of the City Clerk.

§ 130-72. Responsibilities.

The Historic Preservation Commission shall have the responsibility to:

- A. Prepare and update surveys of historic sites of the City in a manner compatible with the statewide historic sites inventory and statewide comprehensive historic preservation planning process utilizing State Historic Preservation Office survey forms.
- B. Make recommendations to the Planning Board on the historic preservation plan element of the Master Plan and on the implications for preservation of historic sites of any other Master Plan elements.
- C. Advise the Planning Board on the inclusion of historic sites in the recommended capital improvement program.
- D. Advise the Planning Board on applications for development pursuant to § 130-76 of this article.
- E. Provide written reports pursuant to § 130-76.1 of this article on the application of the zoning ordinance provisions concerning historic preservation.
- F. Make recommendations to the Council regarding the expansion of existing historic districts and/or the designation of new landmarks.
- G. Carry out such other advisory, education and informational functions as will promote historic preservation in the City.
- H. Render a written annual report to the Council, with a copy of the same to be provided to the Planning Board. The report shall summarize the applications and reports in response thereto rendered by the Commission and/or its Chairman for the preceding calendar year and set forth any comments, recommendations, or changes recommended by the Commission in relation to the policy and/or procedures contained in this or otherwise in furtherance of historic preservation in the City. The report shall, to the extent available, follow the format of, and include the information required in, the annual report required to be submitted to the State Historic Preservation Office by Certified Local Governments. The report shall be delivered to the City Clerk on or before the first Monday in January of each year, and the information contained therein shall relate to the period from January 1 of the preceding calendar year to December 31 of the year in which the report is being rendered.
- I. Adopt and promulgate such rules of procedure not inconsistent with this article as are necessary and

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

proper for the effective and efficient performance of the duties herein assigned.

§ 130-73. Establishment of the City Landmarks Inventory.

- A. There is established a City Landmarks Inventory, which consists of the landmarks, which can be buildings, structures, objects, sites or districts, identified in the Master Plan Historic Preservation Element and by subsequent survey by the HPC according to the provisions of § 130-72A and the historic significance criteria in § 130-75.
- B. Landmarks identified in the City Landmarks Inventory are not regulated under § 130-76.1 unless subsequently designated to the City Register of Historic Landmarks.

§ 130-74. Establishment of the City Register of Historic Landmarks.

- A. There is established a City Register of Historic Landmarks which shall consist of:
 - (1) Historic districts previously established by City ordinance No. 76-02 shown on the City of Salem Zoning Map which include:
 - (a) Market Street Historic District.
 - (b) Broadway Historic District.
 - (2) Landmarks in the City Landmarks Inventory subsequently designated to the Register according to § 130-75.
- B. Designated landmarks are subject to the Historic Preservation Commission review authority according to § 130-76.1.
- C. Notwithstanding nonconforming uses, all permitted uses in the zone incorporating the designated landmark shall be limited to those uses identified in § 130-46 of the City's Zoning Ordinance.¹¹
- D. The regulations pursuant to this designation as contained herein shall all be in addition to those otherwise in force in the respective zoning district of which the landmarks are a part.

§ 130-75. Designation of Landmarks to the City Register of Historic Landmarks.

- A. Eligibility. Landmarks to be designated to the City Register of Historic Landmarks shall be either:
 - (1) Identified in the Master Plan historic preservation element; or
 - (2) Identified as significant according to the criteria set forth in § 130-75B by City Council in a resolution and recorded in its minutes.
- B. Historic significance criteria. The identification of historic landmarks within the City shall be based on their historical, architectural, archaeological, and cultural significance in that they possess integrity of location, design, setting, materials, workmanship, feeling and association and:
 - (1) Are associated with events that have made a significant contribution to the broad patterns of the history of the City of Salem; or
 - (2) Are associated with the lives of historic persons significant in Salem's past; or

11. Editor's Note: See Part 3, Zoning, Art. VIII, Classification of Districts, § 130-46, Zoning district designation.

- (3) Embody distinctive characteristics of a type, period or method of construction or represent the work of a master or possess high artistic value or represent a significant and distinguishable entity whose components may lack individual distinction; or
- (4) Are able or likely to yield information important in prehistory or history; or
- (5) Are already listed on the New Jersey and/or National Registers of Historic Places.
- (6) Ordinarily cemeteries, birthplaces or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature and properties that have achieved significance within the past 50 years shall not be considered eligible for designation as a landmark. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:
 - (a) A religious property deriving primary significance from architectural or artistic distinction or historical importance; or
 - (b) A building or structure removed from its original location but which is significant primarily for architectural value or which is the surviving structure most importantly associated with a historic person or event; or
 - (c) A birthplace or grave of a historical figure of outstanding importance if there is no other appropriate site or building directly associated with his/her productive life; or
 - (d) A cemetery that derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or
 - (e) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan and when no other building or structure with the same association has survived; or
 - (f) A property primarily commemorative in intent if design, age, tradition or symbolic value has invested it with its own historical significance; or
 - (g) A property achieving significance within the past 50 years if it is of exceptional importance.

C. Delineation of historic district boundaries.

- (1) The following principles shall guide the delineation of historic districts:
 - (a) If any part of a property is deemed historically significant, the entire property in common ownership at the time of designation shall be included within the boundary of the historic district.
 - (b) Wherever possible, configure boundaries of historic districts to provide views of the major historic features of the district from the public way.
 - (c) Consider buffer zones to encompass other adjacent land historically related to the setting of historic sites and buildings.
- (2) The following criteria shall be considered when delineating historic districts:

- (a) Relationship of the physical aspects of the property or district to the significance for which it was designated. Some questions to be asked are:
 - [1] What was the extent of the resource at the time it achieved significance?
 - [2] How much of the resource survives in relatively unaltered condition?
 - [3] How much of the resource is needed to convey a sense of the past?
 - (b) Visual qualities. These may include not only the view of the surroundings of the property or district but also the view from it.
 - (c) Natural boundaries. These may include such features as rivers or other water bodies, changes in contour and distinctive changes in soil and/or vegetation.
 - (d) Man-made boundaries, such as highways, walls and fences, tree lines and hedges.
 - (e) Political divisions and property lines.
 - (f) Differences in land use.
 - (g) Lines of convenience.
- (3) For landmarks that are not districts, the entire tax parcel shall be included.
- D. Procedure for designation of landmarks.
- (1) Persons wishing to make a nomination shall contact the HPC Secretary regarding consideration of a proposed landmark designation. The HPC may also initiate the designation of a landmark. The HPC will schedule a hearing to review the proposed landmark designation.
 - (2) A nomination to designate a landmark which is not a district shall include the following information which addresses the criteria for designation as set forth herein:
 - (a) A photographic print, black and white or color, of the proposed landmark; and
 - (b) A copy of the municipal Tax Map showing the property on which the proposed landmark is located; and
 - (c) A physical description of the proposed landmark; and
 - (d) A statement of historic significance.
 - (3) A nomination to designate an historic district shall include the following information which addresses the criteria for designation as set forth herein:
 - (a) A building-by-building inventory of all properties within the district; and
 - (b) A photographic print, black and white or color, of all properties within the district; and
 - (c) A copy of the municipal Tax Map showing boundaries; and
 - (d) A physical description of the proposed district; and
 - (e) A statement of historic significance.
 - (4) Following receipt of a nomination to designate a landmark, the HPC shall schedule a public

hearing on the proposed designation.

- (5) At least 14 days prior to the public hearing, the HPC shall, by personal service or certified mail, perform the following:
 - (a) Advise the owner(s) of record of the landmark's historic significance and the consequences of such designation, and of the rights of the owner(s) of record to contest such designation under the provision of this article;
 - (b) Notify the owner(s) of record of the date, time, and location of the hearing concerning the proposed designation of the landmark; and
 - (c) Serve any further notices as may be required under the provisions of the Municipal Land Use Law.
- (6) At least 14 days prior to the public hearing, the HPC shall also cause public notice of the hearing to be published in the official newspaper of the City.
- (7) At least 14 days prior to the public hearing, a copy of the nomination report shall also be made available for public inspection in the municipal offices of the City.
- (8) At the public hearing scheduled in accordance with this article, the HPC shall review the nomination report and accompanying documents. Interested persons shall be given the opportunity to be heard and to comment on the proposed nomination for designation.
- (9) If the proposed nomination is approved by the HPC, then the HPC shall forward a report concerning the proposed landmark to the City Council, which shall contain a statement of the HPC's recommendations and the reasons therefor. City Council action on designating a historic landmark shall then be otherwise subject to those procedures and statutes which apply to a change of a zoning designation and the adoption, revision or amendment of any development regulation.
- (10) All other requirements of the Municipal Land Use Law¹² regarding adoption of development regulations shall be followed.
- (11) Upon adoption of an ordinance by the City Council designating an historic landmark, the said designation shall supplement, rather than supersede, the existing zoning district in which the affected historic landmark is located. At that time, the designation list and map shall be incorporated into the Master Plan and Zoning Ordinance of the City as required by the Municipal Land Use Law and shall be delineated on the City Zoning Map. Designated properties shall also be noted as such on the records for those properties as maintained by the Planning Board, as well as the offices of the Construction Official, the City Tax Assessor and the City Clerk.
- (12) Amendments to historic landmark designations may be made in the same manner as they were adopted in accordance with the provisions of this article.

§ 130-76. Referral of applications for development.

The Planning Board shall refer to the Historic Preservation Commission every application for development submitted to the Planning Board for development affecting landmarks designated on the Zoning or Official

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

Map or identified in any component element of the Master Plan. This referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner. Failure to refer the application as required shall not invalidate any hearing or proceeding. This Historic Preservation Commission may provide its advice, which shall be conveyed through its delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written report which may have been submitted. An applicant before the Planning Board on an application for development may simultaneously therewith apply to the Planning Board for any HP permit which would be required for the project under consideration.

§ 130-76.1. Referral of applications for permits.

- A. No building, construction, demolition or other like permit shall be issued, nor shall any such work or activity be commenced, on any designated landmark unless and until an HP permit shall be issued by the Department of Inspections and Permits ("the Department"). It shall be the duty of all City officials reviewing all permit applications involving real property or improvements thereon to determine whether such applications involve any activity which should also be the subject of an application for an HP permit and, if it should, to inform, in writing, both the Secretary of the HPC and the applicant in a timely fashion. Activity affecting designated landmarks for which an HP permit from the Department shall be required shall include any alteration of exteriors of structures, such as but not limited to a change in the color of paint on exterior surfaces; change in exterior building materials on structures; removal of part of the structure or its exterior materials; addition to a structure; and erection or removal of fences, benches, sidewalks, signposts and light standards, as well as the erection, alteration, renovation or removal of structures which customarily require a building permit, which requirement of a building permit shall be in addition to the HP permit required by this section.
- B. An HP permit shall not be required:
- (1) When the proposed work is interior only; or
 - (2) When the proposed work involves ordinary maintenance which does not change the color, texture or material of a structure.
 - (3) When a historic landmark requires immediate emergency repair to preserve the continued habitability of the landmark and/or health and safety of its occupants or others, emergency repairs shall be performed only in accordance with the following procedure:
 - (a) When a historic landmark or key or contributing historic district resource requires immediate repair to preserve its continued habitability and/or the health and safety of its occupants or others, emergency repairs may be performed in accordance with the applicable construction codes immediately upon approval of the Zoning Officer, who shall certify that a bona fide emergency of the type described herein exists, without first obtaining an HP permit from the HPC. Under such circumstances, the repairs performed shall be only such as are necessary to preserve the continued habitability of the building or structure and/or health and safety of its occupants or others. Where feasible, temporary measures to prevent further damage shall be used, provided these measures are reversible without damage to the building or structure.
 - (b) Simultaneously with the commencement of the emergency work, the property owner shall make a request for an HP permit from the HPC memorializing the approval of said emergency work. This request shall be made pursuant to the procedures set forth in this section.

- (c) It should be noted that the procedures outlined in this section should be strictly limited to those circumstances which, in the opinion of the Zoning Officer, rise to the level of a bona fide emergency of the type referenced above. No work in addition to the emergency repairs shall be performed until an appropriate request for approval has been granted by the Zoning Officer and the HPC.
- C. When ordinary maintenance requires the removal of an architectural feature or material listed under minor application, Subsection E(1) below, the feature or material must be repaired or replaced within six months. Otherwise, an HP permit will be required.
- D. Application forms (including completeness checklists for various application types) and procedures for HP permits and other Commission responsibilities shall be promulgated by the Historic Preservation Commission and shall become effective upon submission to and written approval by the Planning Board. All forms and rules of procedure of the Commission shall be kept on file in the office of the City Clerk and shall be available to the public.
- E. Applications for HP permits shall be divided into two categories: minor applications and major applications, as follows:
- (1) "Minor application," for the purposes herein, shall be defined as the following activities affecting designated landmarks:
- (a) Exterior painting of structures.
 - (b) Installation of storm windows, storm doors or screens.
 - (c) Installation or replacement of window sash, exterior doors or shutters.
 - (d) Replacement of missing architectural detail.
 - (e) Installation of gutters or downspouts not affecting architectural detail.
 - (f) Installation or replacement of sidewalks, fences and gates.
 - (g) Installation of streetscaping.
 - (h) Installation of signage.
 - (i) Exterior lighting.
 - (j) Installation of natural gas meters, propane tanks, electric meters or oil tanks.
- (2) "Major applications" are defined as all activities not defined as "minor" herein, including but not limited to the following activities:
- (a) Replacement of roofs.
 - (b) Alteration, removal or demolition (in whole or in part) of any structure.
 - (c) Alteration of architectural detail or elements.
 - (d) Installation, replacement or removal of exterior siding.
 - (e) Removal, installation or replacement of window or doorframes.
 - (f) Construction of new structure or addition, including buildings proposed to be moved into

an historic district.

- (g) Surface treatment of masonry buildings (stucco).
- F. HP permits involving minor applications will be issued by the Department upon written approval recommendation from the Chairman of the Historic Preservation Commission. HP permits involving major applications will be issued by the Department only upon written approval recommendation by the Commission. The Commission, in the case of major applications, or the Chairman of the Commission, in the case of minor applications, shall have 45 days from the date of the Department's referral to deliver a recommendation report on the application to the Department. For the purposes hereof the referral, shall be deemed as being made only after the application materials are reviewed by the Chairman or his designee and deemed to be complete in all respects. If within the forty-five-day period the Commission or the Chairman of the Commission, as the case may be, delivers its report to the Department and such report recommends against the issuance of the permit or recommends conditions to the permit to be issued, the Department shall deny issuance of the permit or include the conditions in the permit, as the case may be. Failure to report within the forty-five-day period shall be deemed to constitute a report in favor of issuance of the permit and without recommendations of conditions to the permit.
- G. The owner shall post the HP permit in a conspicuous location at the site of the approved work for the duration of the approved work.
- H. The applicant for an HP permit may appeal the decision of the Commission or Chairman of the Commission, as the case may be, to the Planning Board upon application filed therewith in accordance with N.J.S.A. 40:55-70a. Nothing herein shall be deemed to limit the right of judicial review of the action after an appeal is concluded by the Planning Board. The appellant shall pay all costs for copies of any transcript(s) required for appeal. **[Amended 11-21-2006 by Ord. No. 06-27]**
- I. If a construction permit is required for such work, the HP permit shall be valid for the life of the construction permit and any extensions thereof; otherwise, the HP permit shall be valid for a period of 18 months from the date of issuance. Unless otherwise specifically set forth therein, the work authorized by an HP permit must be initiated within six months from the date that the HP permit was granted. An HP permit shall be deemed invalid if the work ceases for a period of six months after commencement. Expiration of the permit will require an application for extension to the HPC.
- J. Requirement of obtaining HP permit for government actions.
- (1) It is recognized that the intent and purposes of this article would not be fully served if the municipality and other governmental agencies were to control the actions of others but fail to apply similar constraints to themselves. The City of Salem, when it plans an alteration, demolition, construction or change in appearance to any City-owned property on any designated landmark, shall submit such plans to the HPC and shall receive an advisory report on the appropriateness of those plans before undertaking the work.
- (2) In those circumstances where the municipality cannot require compliance, as in certain cases involving the county, state and federal governments, the City most strongly urges the voluntary cooperation of such agencies in seeking an HP permit and hereby authorizes the HPC to consider such requests and applications. This does not relieve the property owner from complying with applicable state and federal regulations regarding historic preservation.
- K. The following fee schedule is hereby established for HPC applications:

- (1) Minor application: \$10.
- (2) Major application: \$25.

§ 130-76.2. Standards and design review criteria of application for HP permit.

- A. In reviewing any applications for an HP permit, the Commission, Commission Chairman or the Planning Board, as the case may be, shall consider and be guided by:
 - (1) The purposes set forth in § 130-68.
 - (2) The purposes set forth in N.J.S.A 40:55D-2.
 - (3) Any development plan, streetscape plan, park plans, architectural plans, sketches and renderings for individual buildings, photographs, drawings or like material relating to the City of Salem which is owned or possessed by the City or otherwise available from the Historic Society or other pertinent source.
 - (4) The historic preservation plan element of the City of Salem Master Plan.
 - (5) The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings, as issued by the U.S. Department of Interior, National Park Service, in 1995 and revised from time to time.
- B. With respect to applications for HP permits relating to changes in exterior appearance, new construction, alteration(s), addition(s), nonordinary repair(s), rehabilitation, replacement(s), signage or exterior lighting, excavation, ground disturbance, or any other improvement to designated landmarks, the following shall be considered:
 - (1) The use of any building and/or structure involved.
 - (2) The historical or architectural value and significance of the building and/or structure and its relationship to the historic value of the surrounding area.
 - (3) The effectiveness of the proposal in adhering to the building and/or structure's original style or destroying or otherwise affecting the exterior texture, materials and architectural features.
 - (4) The overall effect that proposed work would have upon the protection, enhancement, perpetuation and use of the property, adjoining properties and, if applicable, the historic district in which it is located.
 - (5) The general compatibility of exterior design, arrangement and materials proposed to be used and any other factor, including aesthetic, which is found to be pertinent.
 - (6) The practicality of performing the work with materials or workmanship of a type equivalent or similar to the historic or architectural era during which the structure, building or place was constructed.
- C. In assessing visual compatibility, the following factors (commonly known as "visual compatibility factors") shall be considered in reviewing applications for new construction, alterations, additions, or replacements:
 - (1) Height. The height of the proposed building and/or structure should be visually compatible with

adjacent buildings and/or structures.

- (2) Proportion of the building's front facade. The relationship of the width of the building and/or structure to the height of the front elevation should be visually compatible with buildings and/or structures and places to which it is visually related.
- (3) Proportion of window and door openings. The relation of the width of windows to the height of the doors in a building and/or structure should be visually compatible with the buildings and/or structures and places to which it is visually related.
- (4) Rhythm of filled spaces between buildings and/or structures. The relationship of filled spaces to open space between it and adjoining buildings and/or structures and places to which it is visually related.
- (5) Rhythm of solids to voids on facades fronting on public places. The relationship of solids to voids in such facades of a building and/or structure should be visually compatible with the buildings and/or structures and places to which it is visually related.
- (6) Rhythm of entrance and porch projections. The relationship of entrance and porch projections with buildings and/or structures to the street to which it is visually related.
- (7) Roof shape. The roof shape of a building and/or structure should be visually compatible with buildings and/or structure to which it is visually related.
- (8) Relationship of materials, texture and color. The relationship of materials, textures and color of the facade and roof of a building and/or structure should be visually compatible with the predominant materials used in the buildings and/or structures to which it is visually related.
- (9) Scale of buildings and/or structure. The size and mass of a building and/or structure in relationship to open spaces, the windows, door openings, porches and balconies should be visually compatible with the buildings and/or structures and places to which it is visually related.
- (10) Wall of continuity. Appurtenances of a building and/or structure, such as walls, open-type fencing, evergreen landscape masses, should form cohesive walls of enclosure along a street, to the extent necessary to maintain visual compatibility of the building and/or structure and places to which it is visually related.
- (11) Directional expression of front elevation. A building and/or structure should be visually compatible with the buildings and/or structures to which it is visually related in its dimensional character, whether this is vertical character, horizontal character or nondirectional character.
- (12) Exterior features. A building and/or structure's related exterior features, such as lighting, fences, signs, sidewalks, driveways and parking areas, should be compatible with the features of those buildings and/or structures which it is visually related to and should be appropriate for the historic period for which the building and/or structure is significant.
- (13) It is not the intent of this article to discourage contemporary architectural expression or to encourage new construction which emulates existing buildings or historical architectural interest or of a certain period architectural style but rather to preserve the integrity and authenticity of a historic preservation district and to ensure the compatibility of new structures therein.

- D. In addition to the visual compatibility factors listed in Subsection C above, the following standards for rehabilitation as promulgated by the U.S. Secretary of the Interior should be considered with respect to work proposals dealing with designated landmarks:
- (1) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall, whenever possible, be avoided.
 - (2) Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historic development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken, whenever possible, and be avoided.
 - (3) Most properties change over time; those changes that have acquired historic significance in their own right shall, whenever possible, be retained and preserved.
 - (4) Distinctive stylistic features, finishes and construction techniques or examples of craftsmanship which characterize a building, structure or site shall, whenever possible, be preserved.
 - (5) Deteriorated historic features shall, whenever possible, be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall, whenever possible, be substantiated by documentary, physical or pictorial evidence.
 - (6) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall, whenever possible, be avoided. The surface cleaning of buildings and/or structures, if appropriate, shall be undertaken using the gentlest means possible.
 - (7) Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
 - (8) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property, neighborhood and its environment.
 - (9) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
- E. In addition to such of the foregoing as is applicable, the following factors shall be considered with respect to applications dealing with signage:
- (1) Appropriately designed signs enhance the building facade while contributing to the visual harmony of the overall street scene. They also play a crucial role in advertising and attracting business. On the other hand, poor signage detracts from even the most attractive storefront and diminishes the historic character of the building and its surroundings.
 - (2) That size, placement and materials of signs may be regulated and contracted by other sections of this chapter, and any such regulation must be identified and complied with.
 - (3) The size, shape, materials and placement of signs should complement the composition and design of the building and neighborhood buildings. Signs should not conceal important

architectural detail, overpower or clutter the facade or otherwise detract from the historic character of the building.

- (4) In general, painted wooden signs with raised letters look best on nineteenth-century commercial buildings. Other suitable materials include metal or plywood, prepared and painted. Lettered signs painted on the window glass of the storefront also are recommended. Plastic signs and internally lighted glass signs are often not appropriate. However, signs can be illuminated from an indirect light source. Neon signs may be appropriate for certain buildings.
 - (5) Signs can fit flush with the existing facade or project from the second-story level to a limit of 36 inches. Signs should also fit within the features of the facade. On most late-nineteenth- and twentieth-century commercial buildings, the lintel above the storefront and the configuration of the storefront itself create natural frames for the placement of signs. Projecting signs should be no larger than six square feet.
 - (6) Later signs may have acquired significance in their own right, such as signs painted on walls and older neon signs. These signs should be retained when possible.
- F. The total or partial demolition of designated landmarks shall be discouraged, and a permit for demolition within said area shall be approved only in accordance with the following criteria:
- (1) The structure is a hazard to public safety and repairs are impractical.
 - (2) The structure is not essential or even important to the integrity of the whole designated landmark and is not of great historic significance itself.
 - (3) The value and harmony of neighboring structures and the district as a whole would benefit more from its removal than its retention.

§ 130-76.3. Enforcement.

A. HP permit violations.

- (1) If any person or other legal entity shall undertake any activity upon a designated landmark that requires an HP permit without first having obtained an HP permit as detailed in § 130-76.1, such person or entity shall be deemed to be in violation of this article and, upon conviction thereof, be subject to the penalties imposed herein.
- (2) Upon learning of the violation, the Enforcement Officer, as designated by City Council, shall personally serve upon the owner of the tax parcel whereon the violation is occurring a notice which:
 - (a) Describes the violation in detail; and
 - (b) Stops the work; and
 - (c) Gives the owner 10 days to abate the violation by submitting an application of the extent and proposed work to the Historic Preservation Commission as detailed in § 130-76.1.
- (3) If the owner cannot be personally served within the City with said notice, a copy shall be posted on site and a copy sent by certified mail, return receipt requested, to the owner at the last known address as it appears on the City tax rolls.
- (4) In the event that the violation is not abated within 10 days of service or posting on site,

whichever is earlier, the Enforcement Officer shall cause to be issued a summons and complaint, returnable in the Municipal Court, charging violation of this article.

- (5) In the event that an HP permit application is denied, the owner of the tax parcel shall be required to reverse the reviewable activity, restore the property to the previous condition and be subject to penalties as outlined herein from the date of initial service or posting on site, whichever is earlier.
- (6) A separate and distinct offense shall be deemed committed on each day during or on which violation occurs or continues.
- (7) The penalty for violations shall be as follows:
 - (a) For each day, up to 10 days: not more than \$100 per day.
 - (b) For each day, 11 to 25 days: not more than \$150 per day.
 - (c) For each day beyond 25 days: not more than \$200 per day.
- (8) At the discretion of the Municipal Court Judge, any person violating any of the provisions of this article may also be subject to imprisonment for up to 90 days.

B. Ordinary maintenance failure.

- (1) Designated landmarks shall be maintained free of outstanding maintenance code violations in accordance with the standards and penalties of the City Property Maintenance Code, § 163-1.
- (2) In the event of preventative maintenance failure on a designated landmark, the Enforcement Officer shall serve personally or by certified mail, return receipt requested, a notice to the owner of the designated landmark listing the violations, the estimate cost for their abatement and the replacement cost of the structure. If the owner does not take all necessary remedial action within 90 days or such extensions as the Enforcement Officer grants, the City may, after such 90 days or any extensions thereof, enter upon the property and abate such violations itself and cause the cost to become a lien on the property.

C. Demolition by neglect.

- (1) In the event the Department of Inspections makes a determination of demolition by neglect, the Enforcement Officer shall notify the property owner:
 - (a) By certified mail, return receipt requested, to the last known address of the owner listing the violations, the estimated cost of their abatement and the replacement cost of the structure; or
 - (b) If the procedure outlined in Subsection C(1)(a) above is not successful, then such notice shall be attached to the building or improvements twice within a week. Upon notification, the property owner has 90 days to submit an application to the HPC in accordance with § 130-76.1.
- (2) If the owner does not submit an application to the HPC outlining a remediation plan within 90 days, the City may enter upon the property in order to assess the condition and submit an application to the HPC on behalf of the owner. Upon approval of the remediation plan by the HPC, the City may enter upon the property in order to implement the approved remediation plan. The City shall then certify the cost of such work, plus all administrative, professional,

clerical and legal costs and overhead attributable to the work. The City Council, may, by resolution, vote to cause the sum so certified to become a lien upon the property, payable with the next quarter's property taxes and, if not paid then, bearing interest at the same rate and collectible in the same manner as delinquent taxes.

- D. Injunctive relief. In the event that any action which would permanently and adversely change a designated landmark, such as demolition or removal, is about to occur without an HP permit having been issued, the Enforcement Officer is hereby authorized to apply to the Superior Court of New Jersey for such injunctive relief as is necessary to prevent the destruction of any designated landmark.

ARTICLE XVI
General Regulations

§ 130-77. Nonconforming building or uses.

- A. Continuation. Any lawful building or structure and any lawful use of a building or land existing or authorized by a building permit which is valid at the effective date of this Part 3, or any amendment thereto, may be continued although such use does not conform to the provisions of this Part 3, or any amendment thereto.
- B. Extension. A nonconforming use of a building or land may be extended only as a variance by the Board of Adjustment. It is the policy of the City that any such extension or enlargement shall be immediately adjacent to the existing nonconforming use and shall conform to the area and height regulations of the district in which it is situated.
- C. Changes. A nonconforming use of a building or land may be changed to a nonconforming use of the same or more restricted classification. Whenever a nonconforming use of a building or land has been changed to a use of a more restricted classification or to a conforming use, such use shall not thereafter be changed to a use of a less restricted classification.
- D. Restoration. A nonconforming building, wholly or partially destroyed by fire, explosion, flood or other phenomenon or legally condemned, may be reconstructed, repaired and used for the same nonconforming use, provided that building reconstruction shall be commenced within one year from the date the building was destroyed or condemned and shall be carried on without interruption.
- E. Abandonment. If a nonconforming use of a building or land is voluntarily abandoned and ceases for a continuous period of one year or more, subsequent use of such building or land shall be in conformity with the provisions of this Part 3.

§ 130-78. Building height regulations.

In residence districts, no building shall exceed 35 feet in height, provided that such height limits may be exceeded by one foot for each foot by which the width of each side yard is increased beyond minimum side yard requirements, up to a maximum of 50 feet. In Commercial and in M-1 Manufacturing Districts, no building shall exceed 180 feet in height.

§ 130-79. Reduction of lot.

No lot area shall be so reduced that the area of the lot or the dimensions of the open spaces shall be smaller than herein prescribed.

§ 130-80. Yard exception for private garage; accessory building.

A private garage or other accessory building which is not an integral structural part of a main building may be located in the required side and/or rear yard but not less than five feet from any property line on lots which are more than 50 feet in width and not less than two feet from property line on lots which are 50 feet or less in width, provided that such building is situated not less than 10 feet farther back from the street line than the rearmost portion of the main building. Nothing in this section shall be construed to prohibit the erection of a common or joint garage which is not an integral structural part of a main building on adjoining lots.

§ 130-81. Obstruction of vision of street intersections.

No hedge, tree, evergreen, shrub, bush, fence or other planting or structure shall be located on any corner lot in such manner as to cause danger to traffic on a public street, road or avenue by obstructing the vision of persons operating vehicles on said public ways; and all hedges, trees, evergreens, shrubs, bushes, fences or other plantings or structures which, on the effective date of this Part 3, are so located on corner lots as to cause said danger to traffic or which otherwise fail to comply with the site triangle requirements of Part 5, Subdivision of Land, shall be cut, trimmed, removed or altered, within five days after notice from the Zoning Administrative Officer, in such manner and to such extent that said danger to traffic shall be eliminated.

§ 130-82. Prohibited uses. [Amended 8-16-2021 by Ord. No. 21-07; 4-17-2023 by Ord. No. 23-06; 7-15-2024 by Ord. No. 24-18]

- A. No building may be erected, altered or used and no lot or premises may be used for any use which is hazardous, noxious or injurious to the public health or safety by reason of odor, dust, vibration, illumination or noise or which constitutes a public hazard whether by fire, explosion or otherwise. In order to determine whether a use for which application is made is hazardous, noxious or is injurious to the public health or safety, the Board of Adjustment shall be guided by applicable regulations of the State of New Jersey and may consult such official agencies or private experts as it deems necessary.
- B. No lot may be used for a trailer camp.
- C. All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in Section 3 of P. L. 2021, c. 16, are prohibited, but not the delivery of cannabis items and related supplies by a delivery service or as those uses permitted in § 130-154 as related to medical cannabis. Effective upon the adoption of this section, no more than two cannabis retailer businesses and two cannabis delivery businesses as defined in § 130-5 shall be permitted to operate in the City of Salem.

§ 130-83. Parking space.

- A. Provisions for parking spaces shall be as provided in Schedule G.¹³
- B. Off-street parking space shall be as provided in Schedule G, which space shall be not less than the amount indicated; shall have proper access from a street or alley and shall be located on or near the lot on which such use is situated, provided that the Zoning Board of Adjustment may modify these requirements as a special exception in any case in which the unreasonableness of these regulations is clearly demonstrated.
- C. In addition to the minimum area per parking space required, adequate driveways, aisles and maneuvering spaces shall be provided. Parking areas shall be graded for convenient access and shall be paved with a bituminous concrete surface as determined suitable by the City Engineer.
- D. Off-street parking facilities existing at the effective date of this Part 3 shall not subsequently be reduced to an amount less than that required under this Part 3 for a similar new building or new use. Off-street parking facilities provided to comply with the provisions of this Part 3 shall not subsequently be reduced below the requirements of this Part 3.

13. Editor's Note: Schedule G is included at the end of this chapter.

§ 130-84. Loading and unloading space.

Off-street loading and unloading space, with proper access from a street or alley, shall be provided on any lot on which a building for trade or business is hereafter erected or substantially altered.

§ 130-85. Front yard exception.

The front yard of a proposed building may be decreased in depth to the average alignment of existing buildings within 100 feet on each side of the proposed building and within the same block, if such alignment of existing buildings is less than the front yard requirement for the district.

§ 130-86. Standards for review of conditional use, variance or change.

In any instance where the Planning Board or the Board of Adjustment is required by this Part 3 to consider a request for a use on a conditional use or variance basis or when a change in Part 3, Zoning, or the Zoning Map is under consideration, the Planning Board, Board of Adjustment or Council shall:

- A. Give full consideration to the size, scope, extent and character of the use desired and assure itself that such request is consistent with the plan for future land use in the City of Salem and with the spirit, purpose and intent of Part 3, Zoning.
- B. Consider the suitability of the property for the use desired.
- C. Take into consideration the character and type of development in the area surrounding the location for which the request is made and determine that the proposed use will be appropriate in the area and will not substantially injure or detract from the use of surrounding property or from the character of the neighborhood.
- D. Determine that the proposed use will promote the harmonious and orderly development of the district in which it is located and that it will serve the best interests of the city, the convenience of the community (where applicable) and the public health, safety, morals and general welfare.
- E. Consider the suitability of the proposed location of a use with respect to traffic and highways in the area and ensure that adequate access and off-street parking arrangements are provided in order to protect major streets from undue congestion and hazard.
- F. Make certain that the proposed change is reasonable in terms of the logical, efficient and economical extension of public services and facilities, such as public water, sewers, police and fire protection and public schools.
- G. Consider, where appropriate, the standards for site review included in Part 4.
- H. Impose such conditions, in addition to those required as are necessary to ensure that the general purpose and intent of the Master Plan and Part 3, Zoning, are complied with and that the use of the property adjacent to the area of the proposed use is adequately safeguarded, which conditions may relate to, but are not limited to, harmonious design of buildings, appearances, plantings and its maintenance as a sight or sound screen, landscaping, hours of operations, lighting, numbers of persons involved, allied activities, ventilation, noise, sanitation, safety, smoke and fume control and minimizing of noxious, offensive or hazardous elements.

§ 130-87. Cluster development.

In order to encourage and allow flexibility in the design and development of land, to facilitate the provision

of streets and utilities, to conserve and protect stream valleys and floodplains and to make provision for the common open space, the lot area and use requirements of the R-1 and R-2 Residence Districts may be modified in the case of a plan which complies with the general requirements for subdivision/site plan review and following additional requirements.

- A. An area of not less than four acres shall be provided for the cluster development.
- B. The following uses shall be permitted: single-family detached, single-family semidetached or single-family detached dwellings or townhouses. No more than eight attached dwellings shall be constructed in any one group.
- C. Minimum lot width at the building line and front, side and rear yards shall be as follows:

Type of Unit	Lot Area (feet)			
	Lot Width	Front Yard	Side Yard	Rear Yard
Single-family, detached	50	25	2, 8 each	20
Single-family, semidetached	30	25	1, 8 each	20
Single-family, attached or townhouse	20	25	10 at each end of group	20

- D. In no case shall the number of dwellings or dwelling lots permitted on a tract of land exceed the number which would have been permitted were the district regulations not modified.
- E. A minimum of 10% of the gross area of the tract shall be designated as open space and shall be reserved for the common use by residents of the proposed development or by residents of the city. Such open space shall be appropriate and in suitable condition for such uses as active recreation and park sites and for the preservation of scenic or historic features so as to contribute to neighborhood attractiveness and further the objectives of this section and the Salem City Plan.

§ 130-88. Elevation of construction.

No building shall hereafter be constructed, reconstructed or moved within the limits of the City of Salem in which the elevation of the first floor or lower floor, other than basement, is less than five feet above mean sea level as referred to in the United States Coastal and Geodetic Survey, except that in areas of special flood hazards as defined in this chapter, the specific standards of floor elevation set forth in § 130-109F shall apply.

ARTICLE XVII

Signs**§ 130-89. General provisions.**

Any sign hereafter erected or maintained shall conform with the provisions of this article and any other ordinance or regulations of the city.

§ 130-90. Use and location regulations.

The following types of signs and no other shall be permitted:

- A. Official traffic signs.
- B. Professional, accessory use or name signs indicating the name, profession or activity of the occupant of a dwelling and trespassing signs or signs indicating the private nature of a driveway or premises, provided that the area on one side of any such sign shall not exceed two square feet.
- C. Identification signs for schools, churches, hospitals, clubs, lodges, estates or similar uses, provided that the area on one side of any such sign shall not exceed 12 square feet.
- D. Real estate signs, including signs advertising the sale or rental of premises, provided that the area on one side of any such sign shall not exceed 12 square feet; and signs indicating the location and direction of premises in the process of development, provided that the area on one side of any such sign shall not exceed 24 square feet.
- E. Temporary signs of contractors, architects, mechanics and artisans, provided that such signs shall be removed promptly upon completion of the work.
- F. Business or industrial signs.
 - (1) In C-1 Retail Commercial Districts, C-2 General Commercial Districts, M-1 and M-2 Manufacturing Districts only, provided that:
 - (a) Such signs, except directional signs, are placed on the premises on which the use to which the sign relates is conducted; and
 - (b) The total area on one side of all such signs, placed on or facing any one street frontage of any one premises, shall not exceed 100 square feet or 15% of the overall surface of the wall facing such frontage, whichever is the greater.
 - (2) The size limitations herein prescribed may be exceeded only when authorized by the Board of Adjustment.
- G. Professional or business signs in RLC Residence - Limited Commercial Districts relating to the use conducted on the premises, not exceeding 12 square feet in area. Such size limitation may be exceeded only when authorized by the Board of Adjustment as a variance. In addition, individual nameplates of not more than 144 square inches in area, indicating the name and profession or business of each of the occupants, may be erected flat against the wall of the building.

§ 130-91. General regulations.

The following regulations shall apply to all permitted sign uses:

- A. No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring the view of traffic or traffic directional or control signs.
- B. No sign other than official traffic signs shall be erected within or shall project over the lines of any street or over a public sidewalk unless specifically authorized by other City ordinances or regulations.
- C. No sign shall be of a flashing type.

ARTICLE XVIII
Administration

§ 130-92. Enforcement. [Amended 10-16-1995 by Ord. No. 95-15]

The City Council shall appoint a Zoning Administrative Officer to enforce the provisions of this chapter. It shall be his duty to examine all applications for permits, issue permits only for construction and uses which are in accordance with the requirements of this chapter, record and file for public record all applications for permits with any accompanying plans and documents and make such reports as the City Council may require. Permits for construction and uses which are a conditional use or which are a variance to requirements of this Part 3 shall be issued only upon order of the Planning Board or the Board of Adjustment, whichever Board has jurisdiction. Nothing herein contained shall require any change in plans or construction of a lawful use for which a building permit has been issued during the time period when such building permit remains valid.

§ 130-93. Permit required.

A permit shall be required prior to the erection or structural alteration of any building, structure or portion thereof and prior to the use or change in use of a building or land and prior to the change or extension of a nonconforming use. Applications for permits shall be made in writing to the Zoning Administrative Officer, on such forms as may be furnished by the city. Such application shall contain all information necessary for the Zoning Administrative Officer to ascertain whether the proposed erection, alteration, use or change in use complies with the provisions of this Part 3. In the case of uses or buildings, which require approval of the New Jersey Department of Labor, copies of the application and plans furnished to such agency shall meet the terms of this section.

§ 130-94. Issuance of permits.

Permits shall be granted or refused within 10 days after the written application has been filed with the Zoning Administrative Officer. Upon completion of the erection or alteration of any building or portion thereof authorized by any permit and prior to occupancy or use, the holder of such permit shall notify the Zoning Administrative Officer of such completion. No permit shall be considered complete or permanently effective until the Zoning Administrative Officer has certified that the work has been inspected and approved as being in conformity with the provisions of this chapter and other applicable ordinances.

§ 130-95. Fees.

Fees for permits shall be paid in accordance with a Fee Schedule to be adopted by the Council, and all such fees shall be paid into the City treasury. Each applicant for an appeal, special exception or variance shall, at the time of making application, pay a fee in accordance with the aforementioned Fee Schedule, for the cost of advertising and mailing notices as required by this chapter and the rules of the Board of Adjustment.

§ 130-96. Wetlands and floodplain areas.

All uses of land defined or included as wetlands, floodplains or other flood-affected areas under the National Flood Insurance Act of 1968, as amended, the New Jersey Coastal Wetlands Act,¹⁴ and the Flood Control Act of 1972, or any other federal or state laws, rules or regulations relating to any such areas shall be in compliance with the appropriate requirements of any such act, law, rule or regulation prior to the issuance of a building or zoning permit.

14. Editor's Note: See N.J.S.A. 13:9A-1 et seq.

ARTICLE XIX
Flood Management
[Added 10-21-2024 by Ord. No. 24-21¹⁵]

§ 130-97. Scope and administration.

- A. Title. These regulations, in combination with the flood provisions of the Uniform Construction Code (UCC) N.J.A.C. 5:23 (hereinafter "Uniform Construction Code," consisting of the Building Code, Residential Code, Rehabilitation Subcode, and related codes, and the New Jersey Flood Hazard Area Control Act (hereinafter "FHACA"), N.J.A.C. 7:13, shall be known as the Floodplain Management Regulations of CITY OF SALEM (hereinafter "these regulations").
- B. Scope. These regulations, in combination with the flood provisions of the Uniform Construction Code and FHACA shall apply to all proposed development in flood hazard areas established in § 130-98 of these regulations.
- C. Purposes and objectives. The purposes and objectives of these regulations are to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas through the establishment of comprehensive regulations for management of flood hazard areas, designed to:
- (1) Protect human life and health.
 - (2) Prevent unnecessary disruption of commerce, access, and public service during times of flooding.
 - (3) Manage the alteration of natural floodplains, stream channels and shorelines;
 - (4) Manage filling, grading, dredging and other development which may increase flood damage or erosion potential.
 - (5) Prevent or regulate the construction of flood barriers which will divert floodwater or increase flood hazards.
 - (6) Contribute to improved construction techniques in the floodplain.
 - (7) Minimize damage to public and private facilities and utilities.
 - (8) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas.
 - (9) Minimize the need for rescue and relief efforts associated with flooding.
 - (10) Ensure that property owners, occupants, and potential owners are aware of property located in flood hazard areas.
 - (11) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events.
 - (12) Meet the requirements of the National Flood Insurance Program for community participation set forth in Title 44 Code of Federal Regulations, Section 59.22.

15. Editor's Note: This ordinance also repealed former Art. XIX, Flood Damage Prevention, as amended 5-16-2016 by Ord. No. 16-07

- D. Coordination with building codes. Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Construction Code, that the CITY OF SALEM administer and enforce the State building codes, the MAYOR AND COUNCIL OF THE CITY OF SALEM does hereby acknowledge that the Uniform Construction Code contains certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, these regulations are intended to be administered and enforced in conjunction with the Uniform Construction Code.
- E. Ordinary building maintenance and minor work. Improvements defined as ordinary building maintenance and minor work projects by the Uniform Construction Code including non-structural replacement-in-kind of windows, doors, cabinets, plumbing fixtures, decks, walls, partitions, new flooring materials, roofing, etc. shall be evaluated by the Floodplain Administrator through the floodplain development permit to ensure compliance with the substantial damage and substantial improvement section, § 130-99N of this article.
- F. Warning. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. Enforcement of these regulations does not imply that land outside the special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage.
- G. Other laws. The provisions of these regulations shall not be deemed to nullify any provisions of local, state, or federal law.
- H. Violations and penalties for noncompliance.
- (1) No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violation of the provisions of this article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation under N.J.S.A. 40:49-5. Any person who violates this article or fails to comply with any of its requirements shall be subject to one or more of the following: a fine of not more than \$1,250, imprisonment for a term not exceeding 90 days or a period of community service not exceeding 90 days.
 - (2) Each day in which a violation of an ordinance exists shall be considered to be a separate and distinct violation subject to the imposition of a separate penalty for each day of the violation as the Court may determine except that the owner will be afforded the opportunity to cure or abate the condition during a thirty-day period and shall be afforded the opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the thirty-day period, a fine greater than \$1,250 may be imposed if the court has not determined otherwise, or if upon reinspection of the property, it is determined that the abatement has not been substantially completed.
 - (3) Any person who is convicted of violating an ordinance within one year of the date of a previous violation of the same ordinance, and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance.
 - (4) Solid waste disposal in a flood hazard area. Any person who has unlawfully disposed of solid waste in a floodway or floodplain who fails to comply with this article or fails to comply with

any of its requirements shall upon conviction thereof be fined not more than \$2,500 or up to a maximum penalty by a fine not exceeding \$10,000 under N.J.S.A. 40:49-5.

- I. Abrogation and greater restrictions. These regulations supersede any ordinance in effect in flood hazard areas. However, these regulations are not intended to repeal or abrogate any existing ordinances including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, code, or regulation, the more restrictive shall govern.

§ 130-98. Applicability.

- A. General. These regulations, in conjunction with the Uniform Construction Code, provide minimum requirements for development located in flood hazard areas, including the subdivision of land and other developments; site improvements and installation of utilities; placement and replacement of manufactured homes; placement of recreational vehicles; new construction and alterations, repair, reconstruction, rehabilitation or additions of existing buildings and structures; substantial improvement of existing buildings and structures, including repair of substantial damage; installation of tanks; temporary structures and temporary or permanent storage; utility and miscellaneous Group U buildings and structures; and certain building work exempt from permit under the Uniform Construction Code; and other buildings and development activities.
- B. Establishment of flood hazard areas.
 - (1) The CITY OF SALEM was accepted for participation in the National Flood Insurance Program on August 2, 1982.
 - (2) The National Flood Insurance Program (NFIP) floodplain management regulations encourage that all federal, state, and local regulations that are more stringent than the minimum NFIP standards take precedence in permitting decisions. The FHACA requires that the effective Flood Insurance Rate Map, most recent preliminary FEMA mapping and flood studies, and Department delineations be compared to determine the most restrictive mapping. The FHACA also regulates unstudied flood hazard areas in watersheds measuring 50 acres or greater in size and most riparian zones in New Jersey. Because of these higher standards, the regulated flood hazard area in New Jersey may be more expansive and more restrictive than the FEMA special flood hazard area. Maps and studies that establish flood hazard areas are on file at the Salem City Municipal Building, CITY OF SALEM, 125 West Broadway, Salem, NJ 08079.
 - (3) The following sources identify flood hazard areas in this jurisdiction and must be considered when determining the Best Available Flood Hazard Data Area:
 - (a) Effective flood insurance study. Special flood hazard areas (SFHAs) identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study, Salem County, New Jersey (All Jurisdictions)", dated June 16, 2016 and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 102.2(1) whose top level document (appendix map) effective date is June 16, 2016 are hereby adopted by reference.

Table 102.2(1)					
Map Panel #	Effective Date	Suffix	Map Panel #	Effective Date	Suffix
34033C0153	6-16-2016	C			
34033C0154	6-16-2016	C			
34033C0161	6-16-2016	C			
34033C0162	6-16-2016	C			

- (b) Federal best available information. CITY OF SALEM shall utilize Federal flood information as listed in the table below that provides more detailed hazard information, higher flood elevations, larger flood hazard areas, and results in more restrictive regulations. This information may include but is not limited to preliminary flood elevation guidance from FEMA (such as Advisory Flood Hazard Area Maps, Work Maps or Preliminary FIS and FIRM). Additional federal best available studies issued after the date of this article must also be considered. These studies are listed on FEMA's Map Service Center. This information shall be used for floodplain regulation purposes only.

Table 102.2(2)			
Map Panel #	Preliminary Date	Map Panel #	Preliminary Date
None as of the date of this article			

- (c) Other best available data. CITY OF SALEM shall utilize high water elevations from flood events, groundwater flooding areas, studies by federal or state agencies, or other information deemed appropriate by the CITY OF SALEM. Other best available information may not be used which results in less restrictive flood elevations, design standards, or smaller flood hazard areas than the sources described in § 130-98B(3)(a) and (b) above. This information shall be used for floodplain regulation purposes only.
- (d) State regulated flood hazard areas. For state regulated waters, the NJ Department of Environmental Protection (NJDEP) identifies the flood hazard area as the land, and the space above that land, which lies below the "Flood Hazard Area Control Act Design Flood Elevation", as defined in § 130-105, and as described in the New Jersey Flood Hazard Area Control Act at N.J.A.C. 7:13. A FHACA flood hazard area exists along every regulated water that has a drainage area of 50 acres or greater. Such area may extend beyond the boundaries of the special flood hazard areas (SFHAs) as identified by FEMA. The following is a list of New Jersey State studied waters in this community under the FHACA, and their respective map identification numbers.

Table 102.2(3) List of State Studied Waters		
Name of Studied Water	File Name	Map Number
None as of the date of this article		

- C. Establishing the local design flood elevation (LDFE). The local design flood elevation (LDFE) is established in the flood hazard areas determined in § 130-98B, above, using the best available flood hazard data sources, and the Flood Hazard Area Control Act minimum statewide elevation requirements for lowest floors in A, Coastal A, and V zones, ASCE 24 requirements for critical facilities as specified by the building code, plus additional freeboard as specified by this article. At a minimum, the local design flood elevation shall be as follows:
- (1) For a delineated watercourse, the elevation associated with the Best Available Flood Hazard Data Area determined in § 130-98B, above plus one foot or as described by N.J.A.C. 7:13 of freeboard; or
 - (2) For any undelineated watercourse (where mapping or studies described in § 130-98B(1) and (2) above are not available) that has a contributory drainage area of 50 acres or more, the applicants must provide one of the following to determine the local design flood elevation:
 - (a) A copy of an unexpired NJDEP Flood Hazard Area Verification plus one foot of freeboard and any additional freeboard as required by ASCE 24; or
 - (b) A determination of the Flood Hazard Area Design Flood Elevation using Method 5 or Method 6 (as described in N.J.A.C. 7:13) plus one foot of freeboard and any additional freeboard as required by ASCE 24. Any determination using these methods must be sealed and submitted according to § 130-101B(3).
 - (3) AO Zones. For Zone AO areas on the municipality's FIRM (or on preliminary flood elevation guidance from FEMA), the local design flood elevation is determined from the FIRM panel as the highest adjacent grade plus the depth number specified plus one foot of freeboard. If no depth number is specified, the local design flood elevation is three feet above the highest adjacent grade.
 - (4) Class IV critical facilities. For any proposed development of new and substantially improved Flood Design Class IV Critical Facilities, the local design flood elevation must be the higher of the 0.2% annual chance (500-year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional two feet of freeboard in accordance with ASCE 24.
 - (5) Class III critical facilities. For proposed development of new and substantially improved Flood Design Class III Critical Facilities in coastal high hazard areas, the local design flood elevation must be the higher of the 0.2% annual chance (500-year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional one foot of freeboard in accordance with ASCE 24.

§ 130-99. Duties and powers of the Floodplain Administrator.

- A. Floodplain Administrator designation. The Zoning Officer is designated the Floodplain Administrator. The Floodplain Administrator shall have the authority to delegate performance of certain duties to other employees.

- B. General. The Floodplain Administrator is authorized and directed to administer the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations and to establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the building code and shall not have the effect of waiving specific requirements without the granting of a variance pursuant to § 130-103 of these regulations.
- C. Coordination. The Floodplain Administrator shall coordinate with the Construction Official to administer and enforce the flood provisions of the Uniform Construction Code.
- D. Duties. The duties of the Floodplain Administrator shall include but are not limited to:
- (1) Review all permit applications to determine whether proposed development is located in flood hazard areas established in § 130-98 of these regulations.
 - (2) Require development in flood hazard areas to be reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage.
 - (3) Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.
 - (4) Determine whether additional flood hazard data shall be obtained or developed.
 - (5) Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are complete.
 - (6) Establish, in coordination with the Construction Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to § 130-99N of these regulations.
 - (7) Coordinate with the Construction Official and others to identify and investigate damaged buildings located in flood hazard areas and inform owners of the requirement to obtain permits for repairs.
 - (8) Review requests submitted to the Construction Official seeking approval to modify the strict application of the flood load and flood resistant construction requirements of the Uniform Construction code to determine whether such requests require consideration as a variance pursuant to § 130-103 of these regulations.
 - (9) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps when the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available.
 - (10) Require applicants who propose alteration of a watercourse to notify adjacent jurisdictions and the NJDEP Bureau of Flood Engineering, and to submit copies of such notifications to the Federal Emergency Management Agency (FEMA).
 - (11) Inspect development in accordance with § 130-102 of these regulations and inspect flood hazard areas to determine if development is undertaken without issuance of permits.
 - (12) Prepare comments and recommendations for consideration when applicants seek variances in

accordance with § 130-103 of these regulations.

- (13) Cite violations in accordance with § 130-104 of these regulations.
 - (14) Notify the Federal Emergency Management Agency when the corporate boundaries of CITY OF SALEM have been modified.
 - (15) Permit ordinary maintenance and minor work in the regulated areas discussed in § 130-98B.
- E. Use of changed technical data. The Floodplain Administrator and the applicant shall not use changed flood hazard area boundaries or base flood elevations for proposed buildings or developments unless the Floodplain Administrator or applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) revision and has received the approval of the Federal Emergency Management Agency. A revision of the effective FIRM does not remove the related feature(s) on a flood hazard area delineation that has been promulgated by the NJDEP. A separate application must be made to the State pursuant to N.J.A.C. 7:13 for revision of a flood hazard design flood elevation, flood hazard area limit, floodway limit, and/or other related feature.
- F. Other permits. It shall be the responsibility of the Floodplain Administrator to assure that approval of a proposed development shall not be given until proof that necessary permits have been granted by federal or state agencies having jurisdiction over such development, including section 404 of the Clean Water Act. In the event of conflicting permit requirements, the Floodplain Administrator must ensure that the most restrictive floodplain management standards are reflected in permit approvals.
- G. Determination of local design flood elevations.
- (1) If design flood elevations are not specified, the Floodplain Administrator is authorized to require the applicant to:
 - (a) Obtain, review, and reasonably utilize data available from a federal, state, or other source, or
 - (b) Determine the design flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Such analyses shall be performed and sealed by a licensed professional engineer. Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator. The accuracy of data submitted for such determination shall be the responsibility of the applicant.
 - (2) It shall be the responsibility of the Floodplain Administrator to verify that the applicant's proposed Best Available Flood Hazard Data Area and the local design flood elevation in any development permit accurately applies the best available flood hazard data and methodologies for determining flood hazard areas and design elevations described in § 130-98B and C respectively. This information shall be provided to the Construction Official and documented according to § 130-99O.
- H. Requirement to submit new technical data. Base flood elevations may increase or decrease resulting from natural changes (e.g. erosion, accretion, channel migration, subsidence, uplift) or man-made physical changes (e.g. dredging, filling, excavation) affecting flooding conditions. As soon as practicable, but not later than six months after the date of a man-made change or when information about a natural change becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon

confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

- I. Activities in riverine flood hazard areas. In riverine flood hazard areas where design flood elevations are specified but floodways have not been designated, the Floodplain Administrator shall not permit any new construction, substantial improvement or other development, including the placement of fill, unless the applicant submits an engineering analysis prepared by a licensed professional engineer that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachment, will not increase the design flood elevation more than 0.2 feet at any point within the community.
- J. Floodway encroachment. Prior to issuing a permit for any floodway encroachment, including fill, new construction, substantial improvements and other development or land-disturbing-activity, the Floodplain Administrator shall require submission of a certification prepared by a licensed professional engineer, along with supporting technical data, that demonstrates that such development will not cause any increase in the base flood level.
 - (1) Floodway revisions. A floodway encroachment that increases the level of the base flood is authorized if the applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) and has received the approval of FEMA.
- K. Watercourse alteration. Prior to issuing a permit for any alteration or relocation of any watercourse, the Floodplain Administrator shall require the applicant to provide notification of the proposal to the appropriate authorities of all adjacent government jurisdictions, as well as the NJDEP Bureau of Flood Engineering and the Division of Land Resource Protection. A copy of the notification shall be maintained in the permit records and submitted to FEMA.
 - (1) Engineering analysis. The Floodplain Administrator shall require submission of an engineering analysis prepared by a licensed professional engineer, demonstrating that the flood-carrying capacity of the altered or relocated portion of the watercourse will be maintained, neither increased nor decreased. Such watercourses shall be maintained in a manner that preserves the channel's flood-carrying capacity.
- L. Alterations in coastal areas. The excavation or alteration of sand dunes is governed by the New Jersey Coastal Zone Management (CZM) rules, N.J.A.C. 7:7. Prior to issuing a flood damage prevention permit for any alteration of sand dunes in coastal high hazard areas and Coastal A Zones, the Floodplain Administrator shall require that a New Jersey CZM permit be obtained and included in the flood damage prevention permit application. The applicant shall also provide documentation of any engineering analysis, prepared by a licensed professional engineer, that demonstrates that the proposed alteration will not increase the potential for flood damage.
- M. Development in riparian zones. All development in Riparian Zones as described in N.J.A.C. 7:13 is prohibited by this article unless the applicant has received an individual or general permit or has complied with the requirements of a permit by rule or permit by certification from NJDEP Division of Land Resource Protection prior to application for a floodplain development permit and the project is compliant with all other Floodplain Development provisions of this article. The width of the riparian zone can range between 50 and 300 feet and is determined by the attributes of the waterbody and designated in the New Jersey Surface Water Quality Standards N.J.A.C. 7:9B. The portion of the riparian zone located outside of a regulated water is measured landward from the top of bank. Applicants can request a verification of the riparian zone limits or a permit applicability determination to determine state permit requirements under N.J.A.C. 7:13 from the NJDEP Division of Land Resource Protection.

- N. Substantial improvement and substantial damage determinations. When buildings and structures are damaged due to any cause including but not limited to man-made, structural, electrical, mechanical, or natural hazard events, or are determined to be unsafe as described in N.J.A.C. 5:23; and for applications for building permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, ordinary maintenance and minor work, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Construction Official, shall:
- (1) Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
 - (2) Determine and include the costs of all ordinary maintenance and minor work, as discussed in § 130-97E, performed in the floodplain regulated by this article in addition to the costs of those improvements regulated by the Construction Official in substantial damage and substantial improvement calculations.
 - (3) Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, where applicable, to the market value of the building or structure.
 - (4) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage.
 - (5) Notify the applicant in writing when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the building code is required and notify the applicant when it is determined that work does not constitute substantial improvement or repair of substantial damage. The Floodplain Administrator shall also provide all letters documenting substantial damage and compliance with flood resistant construction requirements of the building code to the NJDEP Bureau of Flood Engineering.
- O. Department records. In addition to the requirements of the building code and these regulations, and regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood provisions of the Uniform Construction Code, including Flood Insurance Studies, Flood Insurance Rate Maps; documents from FEMA that amend or revise FIRMs; NJDEP delineations, records of issuance of permits and denial of permits; records of ordinary maintenance and minor work, determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required certifications and documentation specified by the Uniform Construction Code and these regulations including as-built elevation certificates; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurance that the flood carrying capacity of altered waterways will be maintained; documentation related to variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to these regulations and the flood resistant provisions of the Uniform Construction Code. The Floodplain Administrator shall also record the required elevation, determination method, and base flood elevation source used to determine the local design flood elevation in the floodplain development permit.

- P. **Liability.** The Floodplain Administrator and any employee charged with the enforcement of these regulations, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by these regulations or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The Floodplain Administrator and any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of these regulations.

§ 130-100. Permits.

- A. **Permits required.** Any person, owner or authorized agent who intends to conduct any development in a flood hazard area shall first make application to the Floodplain Administrator and shall obtain the required permit. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.
- B. **Application for permit.** The applicant shall file an application in writing on a form furnished by the Floodplain Administrator. Such application shall:
- (1) Identify and describe the development to be covered by the permit.
 - (2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
 - (3) Indicate the use and occupancy for which the proposed development is intended.
 - (4) Be accompanied by a site plan and construction documents as specified in § 130-101 of these regulations, grading and filling plans and other information deemed appropriate by the Floodplain Administrator.
 - (5) State the valuation of the proposed work, including the valuation of ordinary maintenance and minor work.
 - (6) Be signed by the applicant or the applicant's authorized agent.
- C. **Validity of permit.** The issuance of a permit under these regulations or the Uniform Construction Code shall not be construed to be a permit for, or approval of, any violation of this appendix or any other ordinance of the jurisdiction. The issuance of a permit based on submitted documents and information shall not prevent the Floodplain Administrator from requiring the correction of errors. The Floodplain Administrator is authorized to prevent occupancy or use of a structure or site which is in violation of these regulations or other ordinances of this jurisdiction.
- D. **Expiration.** A permit shall become invalid when the proposed development is not commenced within 180 days after its issuance, or when the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions shall be requested in writing and justifiable cause demonstrated. The Floodplain Administrator is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each.
- E. **Suspension or revocation.** The Floodplain Administrator is authorized to suspend or revoke a permit issued under these regulations wherever the permit is issued in error or on the basis of incorrect,

inaccurate or incomplete information, or in violation of any ordinance or code of this jurisdiction.

§ 130-101. Site plans and construction documents.

A. Information for development in flood hazard areas.

- (1) The site plan or construction documents for any development subject to the requirements of these regulations shall be drawn to scale and shall include, as applicable to the proposed development:
 - (a) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations when necessary for review of the proposed development. For buildings that are located in more than one flood hazard area, the elevation and provisions associated with the most restrictive flood hazard area shall apply.
 - (b) Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with § 130-101B.
 - (c) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than five acres and base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with § 130-101B(1)(c) of these regulations.
 - (d) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas and Coastal A zones, new buildings shall be located landward of the reach of mean high tide.
 - (e) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
 - (f) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose. The applicant shall provide an engineering certification confirming that the proposal meets the flood storage displacement limitations of N.J.A.C. 7:13.
 - (g) Extent of any proposed alteration of sand dunes.
 - (h) Existing and proposed alignment of any proposed alteration of a watercourse.
 - (i) Floodproofing certifications, V Zone and Breakaway Wall Certifications, Operations and Maintenance Plans, Warning and Evacuation Plans and other documentation required pursuant to FEMA publications.
- (2) The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by these regulations but that are not required to be prepared by a registered design professional when it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance.

B. Information in flood hazard areas without base flood elevations (approximate Zone A).

- (1) Where flood hazard areas are delineated on the effective or preliminary FIRM and base flood elevation data have not been provided, the applicant shall consult with the Floodplain Administrator to determine whether to:

- (a) Use the Approximation Method (Method 5) described in N.J.A.C. 7:13 in conjunction with Appendix 1 of the FHACA to determine the required flood elevation.
 - (b) Obtain, review, and reasonably utilize data available from a Federal, State or other source when those data are deemed acceptable to the Floodplain Administrator to reasonably reflect flooding conditions.
 - (c) Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques according to Method 6 as described in N.J.A.C. 7:13. Such analyses shall be performed and sealed by a licensed professional engineer.
- (2) Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator prior to floodplain development permit issuance. The accuracy of data submitted for such determination shall be the responsibility of the applicant. Where the data are to be used to support a Letter of Map Change (LOMC) from FEMA, the applicant shall be responsible for satisfying the submittal requirements and pay the processing fees.
- C. Analyses and certifications by a Licensed Professional Engineer. As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a licensed professional engineer for submission with the site plan and construction documents:
- (1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in § 130-101D of these regulations and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
 - (2) For development activities proposed to be located in a riverine flood hazard area where base flood elevations are included in the FIS or FIRM but floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments will not increase the base flood elevation more than 0.2 feet at any point within the jurisdiction. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
 - (3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained, neither increasing nor decreasing the channel's flood-carrying capacity. The applicant shall submit the analysis to FEMA as specified in § 130-101D of these regulations. The applicant shall notify the chief executive officer of all affected adjacent jurisdictions, the NJDEP's Bureau of Flood Engineering and the Division of Land Resource Protection; and shall provide documentation of such notifications.
 - (4) For activities that propose to alter sand dunes in coastal high hazard areas (Zone V) and Coastal A Zones, an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage and documentation of the issuance of a New Jersey Coastal Zone Management permit under N.J.A.C. 7:7.

- (5) For analyses performed using Methods 5 and 6 (as described in N.J.A.C. 7:13) in flood hazard zones without base flood elevations (approximate A zones).
- D. Submission of additional data. When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change (LOMC) from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

§ 130-102. Inspections.

- A. General. Development for which a permit is required shall be subject to inspection. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of these regulations or the building code. Inspections presuming to give authority to violate or cancel the provisions of these regulations or the building code or other ordinances shall not be valid.
- B. Inspections of development. The Floodplain Administrator shall inspect all development in flood hazard areas authorized by issuance of permits under these regulations. The Floodplain Administrator shall inspect flood hazard areas from time to time to determine if development is undertaken without issuance of a permit.
- C. Buildings and structures. The Construction Official shall make or cause to be made, inspections for buildings and structures in flood hazard areas authorized by permit in accordance with the Uniform Construction Code, N.J.A.C. 5:23.
- (1) Lowest floor elevation. Upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in § 130-111B shall be submitted to the Construction Official on an elevation certificate.
 - (2) Lowest horizontal structural member. In V zones and Coastal A Zones, upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in § 130-111B shall be submitted to the Construction Official on an elevation certificate.
 - (3) Installation of attendant utilities (electrical, heating, ventilating, air-conditioning, and other service equipment) and sanitary facilities elevated as discussed in § 130-111B.
 - (4) Final inspection. Prior to the final inspection, certification of the elevation required in § 130-111B shall be submitted to the Construction Official on an elevation certificate.
- D. Manufactured homes. The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of these regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted on an elevation certificate to the Floodplain Administrator prior to the final inspection.

§ 130-103. Variances.

- A. General. The SALEM CITY PLANNING BOARD shall hear and decide requests for variances. The SALEM CITY PLANNING BOARD shall base its determination on technical justifications

submitted by applicants, the considerations for issuance in § 130-103E, the conditions of issuance set forth in § 130-103F, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The Salem City Planning Board has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of these regulations.

- B. Historic structures. A variance to the substantial improvement requirements of this article is authorized provided that the repair or rehabilitation of a historic structure is completed according to N.J.A.C. 5:23-6.33, Section 1612 of the International Building Code and R322 of the International Residential Code, the repair or rehabilitation will not preclude the structure's continued designation as a historic structure, the structure meets the definition of the historic structure as described by this article and the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Functionally dependent uses. A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use provided the variance is the minimum necessary to allow the construction or substantial improvement, and that all due consideration has been given to use of methods and materials that minimize flood damage during the base flood and create no additional threats to public safety.
- D. Restrictions in floodways. A variance shall not be issued for any proposed development in a floodway when any increase in flood levels would result during the base flood discharge, as evidenced by the applicable analysis and certification required in § 130-101C(1) of these regulations.
- E. Considerations. In reviewing requests for variances, all technical evaluations, all relevant factors, all other portions of these regulations, and the following shall be considered:
 - (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage.
 - (2) The danger to life and property due to flooding or erosion damage.
 - (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners.
 - (4) The importance of the services provided by the proposed development to the community.
 - (5) The availability of alternate locations for the proposed development that are not subject to flooding or erosion and the necessity of a waterfront location, where applicable.
 - (6) The compatibility of the proposed development with existing and anticipated development.
 - (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for that area.
 - (8) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwater and the effects of wave action, where applicable, expected at the site.
 - (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.

- F. Conditions for issuance. Variances shall only be issued upon:
- (1) Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site limit compliance with any provision of these regulations or renders the elevation standards of the building code inappropriate.
 - (2) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable.
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
 - (4) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (5) Notification to the applicant in writing over the signature of the Floodplain Administrator that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and that such construction below the base flood level increases risks to life and property.

§ 130-104. Violations.

- A. Violations. Any development in any flood hazard area that is being performed without an issued permit or that is in conflict with an issued permit shall be deemed a violation. A building or structure without the documentation of elevation of the lowest floor, the lowest horizontal structural member if in a V or Coastal A Zone, other required design certifications, or other evidence of compliance required by the building code is presumed to be a violation until such time as that documentation is provided.
- B. Authority. The Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of property involved, to the owner's agent, or to the person or persons doing the work for development that is not within the scope of the Uniform Construction Code, but is regulated by these regulations and that is determined to be a violation.
- C. Unlawful continuance. Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by N.J.S.A. 40:49-5 as appropriate.
- D. Review period to correct violations. A thirty-day period shall be given to the property owner as an opportunity to cure or abate the condition. The property owner shall also be afforded an opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the thirty-day period, a fine greater than \$1,250 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

§ 130-105. Definitions.

- A. General. The following words and terms shall, for the purposes of these regulations, have the

meanings shown herein. Other terms are defined in the Uniform Construction Code N.J.A.C. 5:23 and terms are defined where used in the International Residential Code and International Building Code (rather than in the definitions section). Where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies.

B. Definitions.

30-DAY PERIOD — The period of time prescribed by N.J.S.A. 40:49-5 in which a property owner is afforded the opportunity to correct zoning and solid waste disposal after a notice of violation pertaining to this article has been issued.

100-YEAR FLOOD ELEVATION — Elevation of flooding having a 1% annual chance of being equaled or exceeded in a given year which is also referred to as the base flood elevation.

500-YEAR FLOOD ELEVATION — Elevation of flooding having a 0.2% annual chance of being equaled or exceeded in a given year.

A ZONES — Areas of 'Special Flood Hazard in which the elevation of the surface water resulting from a flood that has a 1% annual chance of equaling or exceeding the base flood elevation (BFE) in any given year shown on the Flood Insurance Rate Map (FIRM) zones A, AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/AO. When used in reference to the development of a structure in this article, A Zones are not inclusive of Coastal A Zones because of the higher building code requirements for Coastal A Zones.

AH ZONES — Areas subject to inundation by 1% annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base flood elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone.

AO ZONES — Areas subject to inundation by 1% annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

ACCESSORY STRUCTURE — Accessory structures are also referred to as appurtenant structures. An accessory structure is a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For example, a residential structure may have a detached garage or storage shed for garden tools as accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and similar buildings.

AGRICULTURAL STRUCTURE — A structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Communities must require that new construction or substantial improvements of agricultural structures be elevated or floodproofed to or above the base flood elevation (BFE) as any other nonresidential building. Under some circumstances it may be appropriate to wet-floodproof certain types of agricultural structures when located in wide, expansive floodplains through issuance of a variance. This should only be done for structures used for temporary storage of equipment or crops or temporary shelter for livestock and only in circumstances where it can be demonstrated that agricultural structures can be designed in such a manner that results in minimal damage to the structure and its contents and will create no additional threats to public safety. New construction or substantial improvement of livestock confinement buildings, poultry houses, dairy operations, similar livestock operations and any structure that represents more than a minimal investment must meet the elevation or dry-floodproofing requirements of 44 CFR 60.3(c)(3).

ALTERATION OF A WATERCOURSE — A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction

and/or velocity of the riverine flow of water during conditions of the base flood.

AREA OF SHALLOW FLOODING — A designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community's Flood Insurance Rate Map (FIRM) with a 1% or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD — See "special flood hazard area."

ASCE 7 — The standard for the Minimum Design Loads for Buildings and Other Structures, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. which includes but is not limited to methodology and equations necessary for determining structural and flood-related design requirements and determining the design requirements for structures that may experience a combination of loads including those from natural hazards. Flood related equations include those for determining erosion, scour, lateral, vertical, hydrostatic, hydrodynamic, buoyancy, breaking wave, and debris impact.

ASCE 24 — The standard for Flood Resistant Design and Construction, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. References to ASCE 24 shall mean ASCE 24-14 or the most recent version of ASCE 24 adopted in the UCC Code [N.J.A.C. 5:23].

BASE FLOOD ELEVATION (BFE) — The water surface elevation resulting from a flood that has a 1% or greater chance of being equaled or exceeded in any given year, as shown on a published Flood Insurance Study (FIS), or preliminary flood elevation guidance from FEMA. May also be referred to as the "100-year flood elevation."

BASEMENT — Any area of the building having its floor subgrade (below ground level) on all sides.

BEST AVAILABLE FLOOD HAZARD DATA — The most recent available preliminary flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BEST AVAILABLE FLOOD HAZARD DATA AREA — The areal mapped extent associated with the most recent available preliminary flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BEST AVAILABLE FLOOD HAZARD DATA ELEVATION — The most recent available preliminary flood elevation guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BREAKAWAY WALLS — Any type of wall subject to flooding that is not required to provide structural support to a building or other structure and that is designed and constructed such that, below the local design flood elevation, it will collapse under specific lateral loads such that 1) it allows the free passage of floodwaters, and 2) it does not damage the structure or supporting foundation system. Certification in the V Zone Certificate of the design, plans, and specifications by a licensed design professional that these walls are in accordance with accepted standards of practice is required as part of the permit application for new and substantially improved V Zone and Coastal A Zone structures. A completed certification must be submitted at permit application.

BUILDING — Per the FHACA, "building" means a structure enclosed with exterior walls or fire walls, erected and framed of component structural parts, designed for the housing, shelter, enclosure,

and support of individuals, animals, or property of any kind. A building may have a temporary or permanent foundation. A building that is intended for regular human occupation and/or residence is considered a habitable building.

CONDITIONAL LETTER OF MAP REVISION — A Conditional Letter of Map Revision (CLOMR) is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood hazard area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in the Letter of Map Change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

CONDITIONAL LETTER OF MAP REVISION - FILL — A Conditional Letter of Map Revision - Fill (CLOMR-F) is FEMA's comment on a proposed project involving the placement of fill outside of the regulatory floodway that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood hazard area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in the Letter of Map Change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

CRITICAL BUILDING — Per the FHACA, "critical building" means that:

- (1) It is essential to maintaining continuity of vital government operations and/or supporting emergency response, sheltering, and medical care functions before, during, and after a flood, such as a hospital, medical clinic, police station, fire station, emergency response center, or public shelter; or
- (2) It serves large numbers of people who may be unable to leave the facility through their own efforts, thereby hindering or preventing safe evacuation of the building during a flood event, such as a school, college, dormitory, jail or detention facility, day care center, assisted living facility, or nursing home.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of materials, mining, dredging, filling, grading, paving, excavations, drilling operations and other land-disturbing activities.

DRY FLOODPROOFING — A combination of measures that results in a non-residential structure, including the attendant utilities and equipment as described in the latest version of ASCE 24, being watertight with all elements substantially impermeable and with structural components having the capacity to resist flood loads.

ELEVATED BUILDING — A building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. Solid perimeter foundations walls are not an acceptable means of elevating buildings in V and VE Zones.

ELEVATION CERTIFICATE — An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support an application for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

ENCROACHMENT — The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

FEMA PUBLICATIONS — Any publication authored or referenced by FEMA related to building science, building safety, or floodplain management related to the National Flood Insurance Program. Publications shall include but are not limited to technical bulletins, desk references, and American Society of Civil Engineers Standards documents including ASCE 24.

FLOOD HAZARD AREA DESIGN FLOOD ELEVATION — Per the FHACA, the peak water surface elevation that will occur in a water during the flood hazard area design flood. This elevation is determined via available flood mapping adopted by the state, flood mapping published by FEMA (including effective flood mapping dated on or after January 31, 1980, or any more recent advisory, preliminary, or pending flood mapping; whichever results in higher flood elevations, wider floodway limits, greater flow rates, or indicates a change from an A Zone to a V Zone or Coastal A Zone), approximation, or calculation pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-3.1 through 7:13-3.6 and is typically higher than FEMA's base flood elevation. A water that has a drainage area measuring less than 50 acres does not possess, and is not assigned, a flood hazard area design flood elevation.

FLOOD INSURANCE RATE MAP (FIRM) — The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) — The official report in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

FLOOD or FLOODING —

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) The overflow of inland or tidal waters.
 - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (c) Mudslides (i.e. mudflows) which are proximately caused by flooding as defined in Subsection (1)(b) of this definition and are akin to a river or liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1)(a) of this definition.

FLOODPLAIN MANAGEMENT REGULATIONS — Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPLAIN OR FLOOD PRONE AREA — Any land area susceptible to being inundated by water from any source. See "flood or flooding."

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.

FLOODPROOFING CERTIFICATE — Certification by a licensed design professional that the design and methods of construction for floodproofing a non-residential structure are in accordance with accepted standards of practice to a proposed height above the structure's lowest adjacent grade that meets or exceeds the local design flood elevation. A completed floodproofing certificate is required at permit application.

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

FREEBOARD — A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE — A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities necessary for the loading or unloading of cargo or passengers, and shipbuilding and ship repair facilities. The term does not include long-term storage or related manufacturing facilities.

HABITABLE BUILDING — Pursuant to the FHACA Rules (N.J.A.C. 7:13), means a building that is intended for regular human occupation and/or residence. Examples of a habitable building include a single-family home, duplex, multi-residence building, or critical building; a commercial building such as a retail store, restaurant, office building, or gymnasium; an accessory structure that is regularly occupied, such as a garage, barn, or workshop; mobile and manufactured homes, and trailers intended for human residence, which are set on a foundation and/or connected to utilities, such as in a mobile home park (not including campers and recreational vehicles); and any other building that is regularly occupied, such as a house of worship, community center, or meeting hall, or animal shelter that includes regular human access and occupation. Examples of a non-habitable building include a bus stop shelter, utility building, storage shed, self-storage unit, construction trailer, or an individual shelter for animals such as a doghouse or outdoor kennel.

HARDSHIP — As related to § 130-103 of this article, meaning the exceptional hardship that would result from a failure to grant the requested variance. The Salem City Planning Board requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

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 or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

LAWFULLY EXISTING — Per the FHACA, means an existing fill, structure and/or use, which meets all federal, state, and local laws, and which is not in violation of the FHACA because it was established:

- (1) Prior to January 31, 1980; or
- (2) On or after January 31, 1980, in accordance with the requirements of the FHACA as it existed at the time the fill, structure and/or use was established.

Note: Substantially damaged properties and substantially improved properties that have not been elevated are not considered "lawfully existing" for the purposes of the NFIP. This definition is included in this article to clarify the applicability of any more stringent statewide floodplain management standards required under the FHACA.

LETTER OF MAP AMENDMENT — A Letter of Map Amendment (LOMA) is an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map that is requested through the Letter of Map Change (LOMC) process. A LOMA establishes a property's location in relation to the special flood hazard area (SFHA). LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation. Because a LOMA officially amends the effective NFIP map, it is a public record that the community must maintain. Any LOMA should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP CHANGE — The Letter of Map Change (LOMC) process is a service provided by FEMA for a fee that allows the public to request a change in flood zone designation in an Area of Special Flood Hazard on an Flood Insurance Rate Map (FIRM). Conditional Letters of Map Revision, Conditional Letters of Map Revision — Fill, Letters of Map Revision, Letters of Map Revision-Fill, and Letters of Map Amendment are requested through the Letter of Map Change (LOMC) process.

LETTER OF MAP REVISION — A Letter of Map Revision (LOMR) is FEMA's modification to an effective Flood Insurance Rate Map (FIRM). Letter of Map Revisions are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood hazard area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied

by an annotated copy of the affected portions of the FIRM or FIS report. Because a LOMR officially revises the effective NFIP map, it is a public record that the community must maintain. Any LOMR should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP REVISION - FILL — A Letter of Map Revision Based on Fill (LOMR-F) is FEMA's modification of the special flood hazard area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway may be initiated through the Letter of Map Change (LOMC) Process. Because a LOMR-F officially revises the effective Flood Insurance Rate Map (FIRM) map, it is a public record that the community must maintain. Any LOMR-F should be noted on the community's master flood map and filed by panel number in an accessible location.

LICENSED DESIGN PROFESSIONAL — Licensed design professional shall refer to either a New Jersey Licensed Professional Engineer, licensed by the New Jersey State Board of Professional Engineers and Land Surveyors or a New Jersey Licensed Architect, licensed by the New Jersey State Board of Architects.

LICENSED PROFESSIONAL ENGINEER — A licensed professional engineer shall refer to individuals licensed by the New Jersey State Board of Professional Engineers and Land Surveyors.

LOCAL DESIGN FLOOD ELEVATION (LDFE) — The elevation reflective of the most recent available preliminary flood elevation guidance FEMA has provided as depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM which is also inclusive of freeboard specified by the New Jersey Flood Hazard Area Control Act and Uniform Construction Codes and any additional freeboard specified in a community's ordinance. In no circumstances shall a project's LDFE be lower than a permit-specified Flood Hazard Area Design Flood Elevation or a valid NJDEP Flood Hazard Area Verification Letter plus the freeboard as required in ASCE 24 and the effective FEMA base flood elevation.

LOWEST ADJACENT GRADE — The lowest point of ground, patio, or sidewalk slab immediately next a structure, except in AO Zones where it is the natural grade elevation.

LOWEST FLOOR — In A Zones, the lowest floor is the top surface of the lowest floor of the lowest enclosed area (including basement). In V Zones and coastal A Zones, the bottom of the lowest horizontal structural member of a building is the lowest floor. 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 non-elevation design requirements of these regulations.

MANUFACTURED HOME — A structure that is transportable in one or more sections, eight feet or more in width and greater than 400 square feet, built on a permanent chassis, designed for use with or without a permanent foundation when attached to the required utilities, and constructed to the Federal Manufactured Home Construction and Safety Standards and rules and regulations promulgated by the U.S. Department of Housing and Urban Development. The term also includes mobile homes, park trailers, travel trailers and similar transportable structures that are placed on a site for 180 consecutive days or longer.

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE — The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable

knowledge of relevant facts. As used in these regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value shall be determined by one of the following methods 1) actual cash value (replacement cost depreciated for age and quality of construction), 2) tax assessment value adjusted to approximate market value by a factor provided by the tax assessor's office, or 3) established by a qualified independent appraiser.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of the first floodplain regulation adopted by a community; includes any subsequent improvements to such structures. New construction includes work determined to be a substantial improvement.

NON-RESIDENTIAL — Pursuant to ASCE 24, any building or structure or portion thereof that is not classified as residential.

ORDINARY MAINTENANCE AND MINOR WORK — This term refers to types of work excluded from construction permitting under N.J.A.C. 5:23 in the March 5, 2018 New Jersey Register. Some of these types of work must be considered in determinations of substantial improvement and substantial damage in regulated floodplains under 44 CFR 59.1. These types of work include but are not limited to replacements of roofing, siding, interior finishes, kitchen cabinets, plumbing fixtures and piping, HVAC and air conditioning equipment, exhaust fans, built in appliances, electrical wiring, etc. Improvements necessary to correct existing violations of state or local health, sanitation, or code enforcement officials which are the minimum necessary to assure safe living conditions and improvements of historic structures as discussed in 44 CFR 59.1 shall not be included in the determination of ordinary maintenance and minor work.

RECREATIONAL VEHICLE — A vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, 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. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

RESIDENTIAL — Pursuant to the ASCE 24:

- (1) Buildings and structures and portions thereof where people live or that are used for sleeping purposes on a transient or non-transient basis;
- (2) Structures including but not limited to one- and two-family dwellings, townhouses, condominiums, multi-family dwellings, apartments, congregate residences, boarding houses, lodging houses, rooming houses, hotels, motels, apartment buildings, convents, monasteries, dormitories, fraternity houses, sorority houses, vacation time-share properties; and
- (3) Institutional facilities where people are cared for or live on a twenty-four-hour basis in a supervised environment, including but not limited to board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug centers, convalescent facilities, hospitals, nursing homes, mental hospitals, detoxification facilities, prisons, jails, reformatories, detention centers, correctional centers, and prerelease centers.

SOLID WASTE DISPOSAL — Solid waste disposal shall mean the storage, treatment, utilization, processing or final disposition of solid waste as described in N.J.A.C. 7:26-1.6 or the storage of unsecured materials as described in N.J.A.C. 7:13-2.3 for a period of greater than six months as specified in N.J.A.C. 7:26 which have been discharged, deposited, injected, dumped, spilled, leaked,

or placed into any land or water such that such solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

SPECIAL FLOOD HAZARD AREA — The greater of the following: 1) Land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year, shown on the FIRM as Zone V, VE, V1-3-, A, AO, A1-30, AE, A99, or AH; 2) Land and the space above that land, which lies below the peak water surface elevation of the flood hazard area design flood for a particular water, as determined using the methods set forth in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13; 3) Riparian buffers as determined in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13. Also referred to as the "area of special flood hazard."

START OF CONSTRUCTION — The start of construction is as follows:

- (1) For other than new construction or substantial improvements, under the Coastal Barrier Resources Act (CBRA), this is the date the building permit was issued, provided that the actual start of construction, repair, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a building on site, such as the pouring of a slab or footing, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured (mobile) home on a foundation. For a substantial improvement, 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.
- (2) For the purposes of determining whether proposed construction must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and base flood elevation's (BFEs) increase or zones change, the start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was 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 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.
- (3) 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. Such development must also be permitted and must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and base flood elevation's (BFEs) increase or zones change.
- (4) 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.
- (5) For determining if new construction and substantial improvements within the Coastal Barrier Resources System (CBRS) can obtain flood insurance, a different definition applies.

STRUCTURE — A walled and roofed building, a manufactured home, or a gas or liquid storage tank

that is principally above ground.

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 reconstruction, rehabilitation, addition, or other improvement of a structure taking place, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This 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 correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

UTILITY AND MISCELLANEOUS GROUP U BUILDINGS AND STRUCTURES — Buildings and structures of an accessory character and miscellaneous structures not classified in any special occupancy, as described in ASCE 24.

VARIANCE — A grant of relief from the requirements of this section which permits construction in a manner otherwise prohibited by this section where specific enforcement would result in unnecessary hardship.

VIOLATION — A development that is not fully compliant with these regulations or the flood provisions of the building code. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this article is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION — The height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

WATERCOURSE — A river, creek, stream, channel, or other topographic feature in, on, through, or over which water flows at least periodically.

WET FLOODPROOFING — Floodproofing method that relies on the use of flood damage resistant materials and construction techniques in areas of a structure that are below the local design flood elevation by intentionally allowing them to flood. The application of wet floodproofing as a flood protection technique under the National Flood Insurance Program (NFIP) is limited to enclosures below elevated residential and non-residential structures and to accessory and agricultural structures that have been issued variances by the community.

§ 130-106. Subdivisions and other developments.

A. General. Any subdivision proposal, including proposals for manufactured home parks and subdivisions, or other proposed new development in a flood hazard area shall be reviewed to assure that:

- (1) All such proposals are consistent with the need to minimize flood damage.

- (2) All public utilities and facilities, such as sewer, gas, electric and water systems are located and constructed to minimize or eliminate flood damage.
 - (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwater around and away from structures.
- B. Subdivision requirements. Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:
- (1) The flood hazard area, including floodways, coastal high hazard areas, and Coastal A Zones, and base flood elevations, as appropriate, shall be delineated on tentative subdivision plats.
 - (2) Residential building lots shall be provided with adequate buildable area outside the floodway.
 - (3) The design criteria for utilities and facilities set forth in these regulations and appropriate codes shall be met.

§ 130-107. Site improvement.

- A. Encroachment in floodways. Development, land disturbing activity, and encroachments in floodways shall not be authorized unless it has been demonstrated through hydrologic and hydraulic analyses required in accordance with § 130-101C(1) of these regulations, that the proposed encroachment will not result in any increase in the base flood level during occurrence of the base flood discharge. If § 130-101C(1) is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also be in accordance with § 130-111B of this article and the floodway requirements of N.J.A.C. 7:13.
- (1) Prohibited in floodways. The following are prohibited activities:
 - (a) The storage of unsecured materials is prohibited within a floodway pursuant to N.J.A.C. 7:13.
 - (b) Fill and new structures are prohibited in floodways per N.J.A.C. 7:13.
- B. Sewer facilities. All new and replaced sanitary sewer facilities, private sewage treatment plants (including all pumping stations and collector systems) and on-site waste disposal systems shall be designed in accordance with the New Jersey septic system regulations contained in N.J.A.C. 14A and N.J.A.C. 7:9A, the UCC Plumbing Subcode (N.J.A.C. 5:23) and Chapter 7, ASCE 24, to minimize or eliminate infiltration of floodwater into the facilities and discharge from the facilities into flood waters, or impairment of the facilities and systems.
- C. Water facilities. All new and replacement water facilities shall be designed in accordance with the New Jersey Safe Drinking Water Act (N.J.A.C. 7:10) and the provisions of Chapter 7 ASCE 24, to minimize or eliminate infiltration of floodwater into the systems.
- D. Storm drainage. Storm drainage shall be designed to convey the flow of surface waters to minimize or eliminate damage to persons or property.
- E. Streets and sidewalks. Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels.
- F. Limitations on placement of fill. Subject to the limitations of these regulations, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwater, prolonged inundation, and protection against flood-related erosion and scour. In addition to these

requirements, when intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the UCC (N.J.A.C. 5:23). Proposed fill and encroachments in flood hazard areas shall comply with the flood storage displacement limitations of N.J.A.C. 7:13.

- G. Hazardous materials. The placement or storage of any containers holding hazardous substances in a flood hazard area is prohibited unless the provisions of N.J.A.C. 7:13 which cover the placement of hazardous substances and solid waste is met.

§ 130-108. Manufactured homes.

- A. General. All manufactured homes installed in flood hazard areas shall be installed pursuant to the Nationally Preemptive Manufactured Home Construction and Safety Standards Program (24 CFR 3280).
- B. Elevation. All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be elevated such that the bottom of the frame is elevated to or above the elevation specified in § 130-111B.
- C. Foundations. All new, relocated, and replacement manufactured homes, including substantial improvement of existing manufactured homes, shall be placed on foundations as specified by the manufacturer only if the manufacturer's installation instructions specify that the home has been designed for flood-resistant considerations and provides the conditions of applicability for velocities, depths, or wave action as required by 24 CFR Part 3285-302. The Floodplain Administrator is authorized to determine whether the design meets or exceeds the performance necessary based upon the proposed site location conditions as a precondition of issuing a flood damage prevention permit. If the Floodplain Administrator determines that the home's performance standards will not withstand the flood loads in the proposed location, the applicant must propose a design certified by a New Jersey licensed design professional and in accordance with 24 CFR 3285.301(c) and (d) which conforms with ASCE 24, the accepted standard of engineering practice for flood resistant design and construction.
- D. Anchoring. All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- E. Enclosures. Fully enclosed areas below elevated manufactured homes shall comply with the requirements of § 130-111B.
- F. Protection of mechanical equipment and outside appliances. Mechanical equipment and outside appliances shall be elevated to or above the elevation of the bottom of the frame required in § 130-111B of these regulations.
- (1) Where such equipment and appliances are designed and installed to prevent water from entering or accumulating within their components and the systems are constructed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding up to the elevation required by § 130-111B, the systems and equipment shall be permitted to be located below that elevation. Electrical wiring systems shall be permitted below the design flood elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

§ 130-109. Recreational vehicles.

- A. Placement prohibited. The placement of recreational vehicles shall not be authorized in coastal high hazard areas and in floodways.
- B. Temporary placement. Recreational vehicles in flood hazard areas shall be fully licensed and ready for highway use and shall be placed on a site for less than 180 consecutive days.
- C. Permanent placement. Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of § 130-111B for habitable buildings and § 130-108C.

§ 130-110. Tanks.

- A. Tanks. Underground and above-ground tanks shall be designed, constructed, installed, and anchored in accordance with ASCE 24 and N.J.A.C. 7:13.

§ 130-111. Other development and building work.

- A. General requirements for other development and building work. All development and building work, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in these regulations or the Uniform Construction Code (N.J.A.C. 5:23), shall:
 - (1) Be located and constructed to minimize flood damage;
 - (2) Meet the limitations of § 130-108C(1) of this article when located in a regulated floodway;
 - (3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic and hydrodynamic loads, including the effects of buoyancy, during the conditions of flooding up to the local design flood elevation determined according to § 130-98C;
 - (4) Be constructed of flood damage-resistant materials as described in ASCE 24 Chapter 5;
 - (5) Have mechanical, plumbing, and electrical systems above the local design flood elevation determined according to § 130-98C or meet the requirements of ASCE 24 Chapter 7 which requires that attendant utilities are located above the local design flood elevation unless the attendant utilities and equipment are:
 - (a) Specifically allowed below the local design flood elevation; and
 - (b) Designed, constructed, and installed to prevent floodwaters, including any backflow through the system from entering or accumulating within the components.
 - (6) Not exceed the flood storage displacement limitations in fluvial flood hazard areas in accordance with N.J.A.C. 7:13; and
 - (7) Not exceed the impacts to frequency or depth of offsite flooding as required by N.J.A.C. 7:13 in floodways.
- B. Requirements for habitable buildings and structures.
 - (1) Construction and elevation in A Zones not including Coastal A Zones.
 - (a) No portion of a building is located within a V Zone.

- (b) No portion of a building is located within a Coastal A Zone, unless a licensed design professional certifies that the building's foundation is designed in accordance with ASCE 24, Chapter 4.
- (c) All new construction and substantial improvement of any habitable building (as defined in § 130-105) located in flood hazard areas shall have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the local design flood elevation as determined in § 130-98C, be in conformance with ASCE Chapter 7, and be confirmed by an elevation certificate.
- (d) All new construction and substantial improvements of non-residential structures shall:
 - [1] Have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the local design flood elevation as determined in § 130-98C, be in conformance with ASCE Chapter 7, and be confirmed by an elevation certificate; or
 - [2] Together with the attendant utility and sanitary facilities, be designed so that below the local design flood elevation, the structure:
 - [a] Meets the requirements of ASCE 24 Chapters 2 and 7; and
 - [b] Is constructed according to the design plans and specifications provided at permit application and signed by a licensed design professional, is certified by that individual in a floodproofing certificate, and is confirmed by an elevation certificate.
- (e) All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:
 - [1] For habitable structures, be situated at or above the adjoining exterior grade along at least one entire exterior wall, in order to provide positive drainage of the enclosed area in accordance with N.J.A.C. 7:13; enclosures (including crawlspaces and basements) which are below grade on all sides are prohibited;
 - [2] Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is non-residential and the requirements of § 130-111B(1)(d)[2] are met;
 - [3] Be constructed to meet the requirements of ASCE 24 Chapter 2;
 - [4] Have openings documented on an elevation certificate; and
 - [5] Have documentation that a deed restriction has been obtained for the lot if the enclosure is greater than six feet in height. This deed restriction shall be recorded in the Office of the County Clerk or the Registrar of Deeds and Mortgages in which the building is located, shall conform to the requirements in N.J.A.C.7:13, and shall be recorded within 90 days of receiving a Flood Hazard Area Control Act permit or prior to the start of any site disturbance (including pre-construction earth movement, removal of vegetation and structures, or construction of the project), whichever is

sooner. Deed restrictions must explain and disclose that:

- [a] The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.
 - [b] The depth of flooding that the enclosure would experience to the Flood Hazard Area Design Flood Elevation;
 - [c] The deed restriction prohibits habitation of the enclosure and explains that converting the enclosure into a habitable area may subject the property owner to enforcement;
- C. Garages and accessory storage structures. Garages and accessory storage structures shall be designed and constructed in accordance with the Uniform Construction Code.
- D. Fences. Fences in floodways that have the potential to block the passage of floodwater, such as stockade fences and wire mesh fences, shall meet the requirements of § 130-101C(1) of these regulations. Pursuant to N.J.A.C. 7:13, any fence located in a floodway shall have sufficiently large openings so as not to catch debris during a flood and thereby obstruct floodwaters, such as barbed-wire, split-rail, or strand fence. A fence with little or no open area, such as a chain link, lattice, or picket fence, does not meet this requirement. Foundations for fences greater than six feet in height must conform with the Uniform Construction Code. Fences for pool enclosures having openings not in conformance with this section but in conformance with the Uniform Construction Code to limit climbing require a variance as described in § 130-103 of this article.
- E. Retaining walls, sidewalks, and driveways. Retaining walls, sidewalks and driveways that involve placement of fill in floodways shall meet the requirements of § 130-101C(1) of these regulations and N.J.A.C. 7:13.
- F. Swimming pools. Swimming pools shall be designed and constructed in accordance with the Uniform Construction Code. Above-ground swimming pools and below-ground swimming pools that involve placement of fill in floodways shall also meet the requirements of § 130-101C(1) of these regulations. Above-ground swimming pools are prohibited in floodways by N.J.A.C. 7:13.
- G. Roads and watercourse crossings.
- (1) For any railroad, roadway, or parking area proposed in a flood hazard area, the travel surface shall be constructed at least one foot above the Flood Hazard Area Design Elevation in accordance with N.J.A.C. 7:13.
 - (2) Roads and watercourse crossings that encroach into regulated floodways or riverine waterways with base flood elevations where floodways have not been designated, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, shall meet the requirements of § 130-101C(1) of these regulations.

§ 130-112. Temporary structures and temporary storage.

- A. Temporary structures. Temporary structures shall be erected for a period of less than 180 days. Temporary structures shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood. Fully enclosed temporary structures shall have flood openings that are in accordance with ASCE 24 to allow for the automatic entry and exit of flood waters.

- B. Temporary storage. Temporary storage includes storage of goods and materials for a period of less than 180 days. Stored materials shall not include hazardous materials.
- C. Floodway encroachment. Temporary structures and temporary storage in floodways shall meet the requirements of § 130-101C(1) of these regulations.

§ 130-113. Utility and miscellaneous Group U.

- A. Utility and miscellaneous Group U. In accordance with Section 312 of the International Building Code, Utility and miscellaneous Group U includes buildings and structures that are accessory in character and miscellaneous structures not classified in any specific occupancy in the Building Code, including, but not limited to, agricultural buildings, aircraft hangars (accessory to a one- or two-family residence), barns, carports, communication equipment structures (gross floor area less than 1,500 sq. ft.), fences more than six feet (1,829 mm) high, grain silos (accessory to a residential occupancy), livestock shelters, private garages, retaining walls, sheds, stables, tanks and towers.
- B. Flood loads. Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be anchored to prevent flotation, collapse or lateral movement resulting from flood loads, including the effects of buoyancy, during conditions up to the local design flood elevation as determined in § 130-98C.
- C. Elevation. Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be elevated such that the lowest floor, including basement, is elevated to or above the local design flood elevation as determined in § 130-98C and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.
- D. Enclosures below base flood elevation. Fully enclosed areas below the design flood elevation shall be constructed in accordance with § 130-111B and with ASCE 24 for new construction and substantial improvements. Existing enclosures such as a basement or crawlspace having a floor that is below grade along all adjoining exterior walls shall be abandoned, filled-in, and/or otherwise modified to conform with the requirements of N.J.A.C. 7:13 when the project has been determined to be a substantial improvement by the Floodplain Administrator.
- E. Flood-damage-resistant materials. Flood-damage-resistant materials shall be used below the local design flood elevation determined in § 130-98C.
- F. Protection of mechanical, plumbing, and electrical systems. Mechanical, plumbing, and electrical systems, equipment and components, heating, ventilation, air conditioning, plumbing fixtures, duct systems, and other service equipment, shall be elevated to or above the local design flood elevation determined in § 130-98C.
 - (1) Electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall be permitted to be located below the local design flood elevation provided that they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the local design flood elevation in compliance with the flood-resistant construction requirements of ASCE 24. Electrical wiring systems shall be permitted to be located below the local design flood elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

ARTICLE XX

Amendments; Remedies; Penalties

§ 130-114. Amendments.

The Council reserves the right to amend, change, modify or repeal any regulations, limitations and restrictions of this Part 3, including the Zoning Map, in the manner prescribed by law.

§ 130-115. Remedies.

In case any building or structure is erected, constructed, altered, repaired, converted or maintained or any building or structure is used in violation of this Part 3 or any regulations made pursuant thereto, the proper City authorities shall take such action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

Part 4
Site Plan Review

ARTICLE XXI
General Provisions

§ 130-116. Intent.

The general intent of this Part 4 is to foster the planning objectives of this chapter listed in Part 1. Site plan review is specifically intended to enhance the general appearance of the city, to encourage the harmonious and efficient use of the land, to protect and preserve natural resources, environmental quality and the historic character of the City and to ensure the safe and efficient movement of traffic in the city.

§ 130-117. Applicability. [Amended 11-18-2002 by Ord. No. 02-26]

- A. Site plan review and approval or waiver by resolution of the Planning Board shall be required as a condition for the issuance of a building permit, certificate of occupancy, or any license, permit or approval required for the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change of use of any building or structure or land or extension of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq., including but not limited to change from one permitted use to another, and/or conversions of structures to multiple dwelling units except that:
- (1) Site plan review shall not be required for any single-family detached dwelling or any permitted accessory use thereto, such as a private garage;
 - (2) Site plan review shall not be required for any two-family detached dwelling (provided same is a permitted use in the zone in question) or any permitted accessory use thereto, such as a private garage;
 - (3) Site plan review shall not be required in connection with City property or projects;
 - (4) Site plan review shall not be required in connection with building permits for repair or upgrade work to existing structures in connection with the existing use thereof when the Zoning Officer renders a written determination that said work:
 - (a) Will not result in additional lot coverage;
 - (b) Will conform in all respects to maximum and minimum building standards;
 - (c) Will not increase the number of off street parking spaces; and
 - (d) No other reason exists to require site plan review in connection with the proposed repair/upgrade work.
 - (5) Site plan approval or waiver thereof by the Planning Board shall not be required in connection with the relocation of an existing business located in the City to another location in the same zone district if the Zoning Officer issues a written waiver thereof based on a finding that:
[Added 8-18-2014 by Ord. No. 14-10]
 - (a) The existing business at its present location is in material compliance in all respects with applicable regulations or conditions related thereto;

- (b) The business use involved is clearly and specifically permitted in the zone, and no variance would be necessary in connection with the proposed relocation;
 - (c) The business use associated with the proposed relocation would be solely within an existing structure and no new construction (except interior renovations) would be involved, or the same would be de minimus;
 - (d) The relocation of the business use proposed would not affect in any material way existing circulation, drainage, building arrangement, landscaping, buffering, lighting and other considerations of site plan review; and
 - (e) The existing facilities do not require upgraded or additional site improvements to accommodate the proposed relocation.
- B. The Planning Board, when acting upon an application for site plan approval, shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of this chapter, if the literal enforcement of one or more of the required provisions of site plan approval is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.
- C. The Planning Board may waive site plan review, including the requirement of prior specific notification pursuant to N.J.S.A. 40:55D-12, after review of an application for such relief at a duly advertised public meeting of the Board, when the Board finds that:
- (1) The proposed use is clearly and specifically permitted in the zone, and therefore no use variance, dual use variance or ordinance interpretation is necessary;
 - (2) The proposed use shall be solely within an appropriate existing structure and no (new construction except interior renovations) will be involved, or the same will be de minimus;
 - (3) The proposed use will not affect existing circulation, drainage, building arrangement, landscaping, buffering, lighting and other considerations of site plan review;
 - (4) The proposed use will not have an adverse effect in relation to parking, noise, odor, trash or similar considerations;
 - (5) The existing facilities do not require upgraded or additional site improvements to accommodate the proposed use;
 - (6) The application does not involve: a "planned development" as defined in N.J.S.A. 40:55D-5 or any new street or extension of any off-tract improvement which is to be prorated pursuant to N.J.S.A. 40:55D-42;
 - (7) The application to the Board, including all fees and other requirements thereof, is complete in all respects and contains all of the information the Board needs to reach an informed decision, and there appears to be no cause to require specific public notice of the application for the waiver, nor is such notice legally required.
- D. In granting or waiving site plan approval, the Planning Board may impose such conditions thereon as the Board may deem necessary and proper. All approvals/waivers of site plan shall be subject to the following conditions, whether or not specifically stated in the resolution:
- (1) That the approval/waiver is subject to the approval of any and all other agencies, whether federal, state, county or local, that may have jurisdiction over the application, the site or the

proposed project.

- (2) That the applicant shall comply with all representations made, either personally or through any representative, during the course of the application and in all plans, documents, or other materials filed or presented with the application;
 - (3) That the approval/waiver is subject to the payment of all fees assessed by the Board and all fees for the professional review of the application being paid in full by the applicant.
- E. No certificate of occupancy, business license or other license, permit or approval shall be issued, or remain valid, unless all construction and site utilization/operation conforms to the site plan approval or waiver thereof, including any stipulations, conditions or limitations upon which said approval or waiver was subjected.

ARTICLE XXII
Plan Information Requirements

§ 130-118. Preliminary site plan and environmental impact statement.

In addition to the information required for a zoning permit, all site plans shall fulfill the information requirements of this section prior to review by the approving authority:

- A. Site plans shall be prepared under the supervision of and be signed and sealed by either a New Jersey licensed professional engineer or a registered architect. A plan shall be drawn in black on white, at a scale not less than one inch equals 50 feet.
- B. The site plan shall clearly show the conditions on and adjacent to the site at the time of application, the features of the site which are being incorporated into the proposed use or building and the appearance and function of the proposed use or building. At a minimum, the preliminary site plan shall include the following information, unless waived by the Planning Board:
 - (1) A key map at an appropriate scale, showing the location of the site and its relationship to surrounding areas and to existing street locations.
 - (2) The name and address of owner, developer and the person preparing plan.
 - (3) The Tax Map sheet block, and lot numbers.
 - (4) Certificate from the tax collector that all taxes are paid to date.
 - (5) The names of all adjoining property owners as disclosed by the most recent tax records.
 - (6) The entire property in question, even though only a portion of said property is involved in the site plan; provided, however, that where it is physically impossible to show the entire property on the required sheet, a separate map at an appropriate scale may be submitted.
 - (7) The location, design and dimensions of each new and existing use and building.
 - (8) The building or use setback distances from all property lines.
 - (9) The location, dimensions and arrangement of streets, vehicular accessways and driveways, off-street parking areas, methods of separating land traffic and parking traffic within off-street parking areas and loading and unloading areas.
 - (10) A survey prepared by a land surveyor licensed by the State of New Jersey shall accompany site plans and shall show the boundaries of the parcel and the limits of all proposed streets, recreation areas and other property to be dedicated to public use on to common open space. In the case of new commercial, industrial or public buildings, the site plan shall be accompanied by preliminary architectural floor plans and elevations with the name, address, professional number and seal of the architect involved.
 - (11) The location of all existing trees or tree masses, indicating general sizes and species of trees.
 - (12) The location, design and dimensions of open areas, buffer areas, pedestrian walkways and any recreation areas and facilities proposed by the developer.
 - (13) A landscaping and buffering plan, showing what will remain and what will be planted, indicating names of plants and trees and dimensions, approximate time of planting and method

of planting.

- (14) Contours at two-foot intervals for slopes averaging 5% or greater and one-foot contours for slopes less than 5%, unless determined by the City Engineer to be unnecessary in whole or in part.
 - (15) A grading plan showing existing and proposed spot elevations based upon the United States Coastal and Geodetic Survey datum at all building corners, all floor levels, center lines of abutting roads, top and bottom curbs, property corners, gutters and other pertinent locations.
 - (16) The location, size and direction of flow of all streams, brooks, ditches, lakes and ponds. The boundaries of the floodplains of all watercourses shall also be submitted.
 - (17) Cross sections and center-line profiles of all existing or proposed streets or watercourses.
 - (18) Plans and design data for storm drainage facilities.
 - (19) Preliminary plans and profiles of proposed utility layouts and water and sewer facilities.
 - (20) If on-site sewage disposal is required, the results and location of all percolation tests and test borings.
 - (21) At a minimum, the floor plan and front elevation of all proposed principal buildings and all contemplated accessory buildings and structures.
 - (22) The size, type and location of all proposed signs.
 - (23) The location and design of proposed lighting for buildings, signs and grounds.
 - (24) A written commitment from the City Sewerage Superintendent of sufficient capacity to provide sewerage service for the project when completed.
 - (25) A written commitment from the City Water Superintendent of sufficient capacity to provide water service for the project when completed.
- C. The approving authority may require additional information in order to properly review and take action on a specific application. The approving authority may also rely on the information or design requirements of Part 5, Subdivision of Land, where applicable, or may make reasonable requests for additional information.
- D. Environmental impact statement.
- (1) If the site plan involves the disturbance of more than one acre, the applicant shall also submit 12 copies of an environmental impact statement, signed and sealed by a New Jersey licensed professional planner or New Jersey licensed professional engineer, preferably with experience in environmental studies. As used in this subsection, an "environmental impact statement" means a written description and analysis of all possible direct and indirect effects the development will have upon the development's site as well as upon the surrounding region affected thereby, with particular reference to the effect of the development upon the public health, welfare and safety, the protection of public and private property, existing agricultural activities and preservation and enhancement of the natural environment. Every environmental impact statement shall contain the following:
 - (a) A key map showing the location of the development and how it relates to the surrounding

region affected thereby.

- (b) A description of the development specifying, in the form of maps, drawings, graphs or similar visual aids and also by narrative, what is to be done and how it is to be done during and after construction of the development, including the information and technical data adequate to permit a careful assessment of the environmental impact of the development.
- (c) An inventory of the existing environmental conditions at the development site and in the surrounding region affected thereby, which shall describe the following:
 - [1] Physical characteristics.
 - [a] Air quality.
 - [b] Hydrology, including maps and descriptions of streams, water bodies and floodplains and a discussion of water quality.
 - [c] Geology.
 - [d] Soils and their properties, including capabilities and limitations.
 - [e] Topography and slope.
 - [f] Drainage.
 - [g] Vegetation.
 - [h] Air quality and water quality shall be described with reference to the standards promulgated by the Department of Environmental Protection of the State of New Jersey and soils shall be described with reference to criteria contained in the Northeast Jersey Soil Conservation District Standards and Specifications.
 - [2] Wildlife.
 - [a] Fish and aquatic organisms.
 - [b] Wild animals.
 - [3] Man-made conditions and structures.
 - [a] Sanitary and storm sewer systems, including planned construction.
 - [b] Noise characteristics and levels.
 - [c] Traffic volume.
 - [d] Land use, including maps and descriptions of zoning and Master Plan delineation of the development area.
 - [e] Aesthetics.
 - [4] Community character.
 - [a] History, including maps and descriptions of sites of historic and archaeological significance.

- [b] Demography.
 - [c] Culture.
 - [d] Maps and descriptions of sites reserved or planned for recreational purposes or as wildlife refuges.
- (d) A listing of all licenses, permits or other approvals required by municipal, county or state law, the status of each and proof that the applicant has contacted officials of any federal, state, county or municipal agency affected by the proposed development.
 - (e) An assessment of the probable impact of the development upon all of the topics listed in Subsection D(1)(c) above.
 - (f) A listing and evaluation of adverse environmental impacts which cannot be avoided, with particular emphasis upon air or water pollution, increase in noise during and after construction, damage to plant, tree and wildlife systems, damage to natural resources, displacement of people and businesses, increase in sedimentation and siltation, flooding, potential stormwater runoff damage both on and off site, increase in municipal services and health, safety and well-being of the public. Off-site and off-tract impact shall also be set forth and evaluated.
 - (g) A thorough description of the steps to be taken to minimize adverse environmental impact before, during and after construction of the development, both at the development site and in the surrounding region affected thereby, such description to be accompanied by necessary maps, schedules and other explanatory data as may be needed to clarify and explain the actions to be taken.
 - (h) Identification and description of any irreversible and irretrievable commitment of resources which would be involved in the proposed action.
 - (i) A statement of alternatives to the proposed development which might avoid some or all of the adverse environmental effects, including a no-action alternative, with an objective evaluation of each alternative, including the no-action alternative.
 - (j) A reference list of available pertinent, published information relating to the development, the development site and the surrounding region affected thereby.
- (2) Notwithstanding the foregoing, the reviewing Board may waive the requirement for an environmental impact statement if sufficient evidence is submitted by the applicant to support a conclusion that the proposed development will have a slight or negligible environmental impact. Portions of such requirement may likewise be waived upon a finding by the reviewing Board that a complete statement need not be prepared in order to evaluate adequately the environmental impact of the development.

§ 130-119. Final site plan.

A site plan submitted for final approval in accordance with the provisions of Article IV, Development Review Procedures, shall contain all data and show all details required by the Planning Board in its resolution granting preliminary approval.

ARTICLE XXIII
Standards

§ 130-120. Review criteria.

The following factors shall be considered in the review and development of all site plans:

- A. **Circulation.** Pedestrian and vehicular traffic movement within and adjacent to the site, with particular emphasis on the provision and layout of parking areas, off-street loading and unloading areas and the movement of people, goods and vehicles from access roads and within the site and adjacent to it. The Planning Board shall ensure that all parking spaces are usable and are safely and conveniently arranged. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe entrance and exit to and from the site.
- B. **Site design.** The design and layout of buildings and parking areas shall be reviewed so as to provide an aesthetically pleasing design and efficient arrangement. In the orientation and siting of buildings, the unique characteristics of the site shall be taken into account with consideration given to relating buildings to the natural terrain, creating desirable focal points, preserving natural views and respecting the established character of the neighborhood. The site plan shall provide for a unified design with features that tie principal and accessory structures together and relate site features successfully and harmoniously to similar elements in surrounding buildings.
- C. **Lighting.** Adequate lighting shall be provided to ensure safe movement of persons and vehicles and for security purposes. Lighting standards shall be a type approved by the Planning Board. Directional lights shall be arranged so as to minimize glare and reflection on adjacent properties.
- D. **Buffering.** Buffering shall be located around the perimeter of the site to minimize headlights of vehicles, noise, light from structures and the movement of people and vehicles and to shield activities from adjacent properties when necessary. Buffering may consist of fencing, evergreens, shrubs, bushes, deciduous trees or combinations thereof to achieve the design objectives.
- E. **Landscaping.** Every effort shall be made to preserve the landscape in its natural state or to improve existing site conditions in keeping with adjacent areas. Landscaping shall be provided as part of the overall site plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping shall include trees, bushes, shrubs, ground cover, perennials, annuals and plants.
- F. **Signs.** Signs shall be designed so as to be aesthetically pleasing and harmonious with other signs on the site and located so as to achieve their purpose without constituting hazards to vehicles and pedestrians.
- G. **Utilities.** Storm drainage, sanitary waste disposal, water supply and solid waste disposal shall be reviewed and considered. Particular emphasis shall be given to the adequacy of existing systems and the need for improvements both on-site and off-site. Adequate fire protection shall be ensured in the review of all major developments. Solid waste disposal shall be adequate to ensure freedom from vermin and rodent infestation.
- H. **Environmental considerations.** Environmental elements relating to soil erosion, preservation of trees, protection of watercourses, topography, soil and wildlife shall be reviewed, and the design of the plan shall minimize any adverse impact on these elements. Whenever possible, the natural features of a site are to be preserved, floodplains respected and excessive cut or fill avoided. In reviewing a site

plan, the reviewing authority shall take into consideration the effect of the development upon all aspects of the environment as outlined in the environmental impact statement requirements, as well as the sufficiency of the applicant's proposal in his environmental impact statement for dealing with any immediate or projected adverse environmental effects. The reviewing authority may require, as a condition of approval of the application, that steps be taken to minimize the adverse environmental impact during and after construction, and no final approval shall be issued until all such requirements shall have been complied with or compliance is guaranteed by a performance guaranty meeting the standards, requirements and procedures set forth in § 130-148 of this chapter.

ARTICLE XXIV
Improvements and Design Standards

§ 130-121. General standards.

The approving authority may require the installation of applicable improvements and may rely on the specific design standards listed in Part 5, Subdivision of Land. These improvements shall be installed in accordance with the standards specifications and engineering inspection requirements of that Part 5. In addition to the above-cited required improvement and design standards, the following additional standards shall apply to site plans. For good and sufficient reasons, the Planning Board may vary these design details as they may apply to a specific site plan application.

§ 130-122. Off-street parking.

Adequate off-street parking space, open air or indoor, shall be provided with all new construction, the creation of new uses or the extension or alteration of existing uses.

A. Parking area design standards. All parking areas shall be designed in accordance with the following standards:

- (1) The minimum parking stall dimension shall be nine feet in width and 18 feet in length.
- (2) Access driveways to parking areas shall not be less than 10 feet in width for one-way traffic and not less than 20 feet in width for two-way traffic. The location of entrances and exits shall be in accordance with the access provisions of § 130-124. Access driveways shall be separated from parking areas by a buffer strip for a distance of 50 feet from its intersection with a public road or street. Parking spaces shall not be located along access roads except if the road is designed to be wide enough to prevent vehicles from backing into the travel lane.
- (3) Off-street parking areas providing more than two required spaces shall be designed so that no vehicle would have occasion to back into any public street.
- (4) Aisles and driveways within parking areas shall have the following minimum widths:
 - (a) For parallel parking: 12 feet.
 - (b) For thirty-degree- or less angle parking: 12 feet.
 - (c) For forty-five-degree- or less but greater than thirty-degree-angle parking: 13 feet.
 - (d) For sixty-degree- or less but greater than forty-five-degree-angle parking: 18 feet.
 - (e) For ninety-degree- or less but greater than sixty-degree-angle parking: 25 feet.
- (5) Parking spaces shall be provided in accordance with the minimum requirements specified in the off-street parking schedule (Schedule G).¹⁶ When the computation to determine the number of spaces results in a requirement of a fractional space, any fraction to and including one-half (1/2) shall be disregarded and fractions exceeding one-half (1/2) shall require one space. For any other uses or combination of uses which do not fit one of the categories listed in the schedule, the approving authority should determine the required number of spaces. The specified standards are to be the basis of such a determination.

16. Editor's Note: Schedule G is included at the end of this chapter.

- (6) In parking areas for major commercial development, a one-way internal circulation system is encouraged to facilitate traffic movement and to reduce the number of conflict points.
 - (7) Parking stalls, driveways and aisles shall be clearly marked and delineated. The Planning Board shall require that certain areas be maintained for fire-fighting or other emergency purposes, and these areas shall be properly designated.
 - (8) All off-street parking areas shall be paved according to City specifications listed in Part 5, Subdivision of Land, except if the intensity and frequency of use is limited, in which case the Planning Board may permit a gravel or stone surface.
 - (9) Parking areas shall not be located in the required side or rear yards nor closer than 10 feet to the street's proposed right-of-way line in the front yard. This requirement shall be maintained to permit adequate buffering of the parking area.
 - (10) All parking areas shall be suitably landscaped and buffered from adjacent land uses. At least 5% of the parking area shall be landscaped (along walkways, center islands and at the end of bays) to break up the amount of impervious surfaces. This landscaping requirement shall be in addition to the buffering provisions of § 130-126. All double-loaded parking bays with more than 20 total parking spaces shall provide a park strip at least 10 feet in width between aisles. The park strip shall be suitably landscaped and shall include a four-foot sidewalk except if exclusive walkways are provided elsewhere.
 - (11) Curbing and guttering shall be required for all paved parking areas to ensure adequate drainage, to define the extent of the parking area and to separate parking bays from park strips or access roads.
- B. Existing off-street parking areas shall not be reduced or encroached upon in any way which would make them deficient for the uses served.
- C. The collective provisions of off-street parking by two or more buildings or uses located on adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required for involved buildings or uses computed separately, unless it can be demonstrated to the satisfaction of the approving authority that the periods or need are entirely or partially mutually exclusive.
- D. All off-street parking is to be provided on lot or contiguous to the lot and adjacent to the specified principal use. For nonresidential uses in commercial districts, required parking may be located within 150 feet of such use, said distance to be measured from the nearest point of the parking facility to the nearest point of the building served.

§ 130-123. Off-street loading.

Off-street loading space shall be provided with all new construction or the creation of new uses in accordance with the following standards:

- A. An off-street loading space, as defined in this chapter, shall be required:
- (1) For each 10,000 square feet of gross floor area in a hospital.
 - (2) For each 2,500 square feet of gross floor area in a funeral home. [dimensions of loading space may be reduced to thirty-three by twelve (33 X 12) feet.]
 - (3) For each 12,000 square feet of gross floor area in a commercial use or manufacturing

establishment.

- B. When the computation to determine the number of required loading spaces results in a requirement of a fractional space, any fraction to and including one-half (1/2) shall be disregarded and fractions exceeding one-half (1/2) shall require one space.
- C. Existing required loading areas, together with their accessways, shall not be encroached upon or reduced in any manner or devoted to any other use. The use's certificate of occupancy shall be declared invalid in the event of such occurrence.
- D. All off-street loading spaces shall be surfaced with asphaltic or portland cement concrete. The arrangement of off-street loading space shall be such that no vehicle shall have occasion to back into any public street or an internal access road of a parking area.
- E. Off-street loading areas shall be located or screened so that they cannot be seen from adjacent land uses or from the public street and shall not encroach on any required yards.

§ 130-124. Access.

Access shall be designed in accordance with the driveway regulations in § 130-122 as well as with the following additional standards for all site plans:

- A. Access to a site shall be provided from an improved existing or proposed public street at defined locations. For developments on parcels of land with frontage of less than 150 feet, no more than two one-way driveways or one two-way driveway shall be permitted. The number of driveways provided from a site directly to a road for a parcel of 150 feet or more shall not exceed two two-way driveways or one two-way driveway and two one-way driveways.
- B. All entrance and exit driveways to a road shall be located to afford maximum safety to traffic on the road. Where a site occupies a corner of two intersecting roads, no driveway entrance or exit may be located within 50 feet of the point of tangent of the existing or proposed curb radius of that site.
- C. Whenever a development is proposed at the intersection of an arterial or major collector and a road of lesser importance, access to the development shall be gained from the county or City road of lower functional classification.
- D. The width of a driveway at the right-of-way line shall be a minimum of 20 feet and a maximum of 40 feet for two-way operation and a minimum of 12 feet and a maximum of 20 feet for one-way operation.
- E. No part of any driveway shall be located within a minimum of 10 feet of a side property line. However, the Planning Board may permit a driveway serving two or more adjacent sites to be located on or within 10 feet of a site property line between the adjacent site. The use of marginal access roads or joint driveways may be required by the Planning Board in an area of commercial development to collect the commercial traffic.
- F. Where two or more driveways connect a single site to any one road, a minimum clear distance of 75 feet shall separate the closest edge of any two such driveways for a parcel with less than 150 feet of frontage, and a minimum of 100 feet shall separate any two driveways for a parcel of more than 150 feet.
- G. Deceleration lane. Where a driveway serves as an entrance to a land development providing 50 or more spaces, an acceleration lane shall be provided for traffic turning right into the driveway from

any arterial, major or minor collector road. The deceleration lane shall be at least 200 feet long and at least 13 feet in width. A minimum forty-foot curb radius shall be used from the deceleration lane into the driveway. If a deceleration lane is provided, the driveway angle may be less than 75°.

- H. Acceleration lane. Where a driveway serves right-turning traffic from a parking area providing 200 or more parking spaces and the abutting road has a peak-hour traffic volume exceeding 1,000 vehicles per hours, an acceleration lane shall be provided at least 200 feet in length and at least 13 feet in width. In situations where these criteria are not met, the Planning Board may require acceleration lanes for commercial, residential or industrial development upon the recommendation of the City Engineer to improve traffic merging or sight conditions.

§ 130-125. Exterior lighting.

All site plan applications shall include plans for proposed exterior lighting. These plans shall include the location, type of light, radius of light and intensity in footcandles. All lighting shall be designed in accordance with the following design standards:

- A. The style of the light and the light standard shall be consistent with the architectural style of the principal building. The height of the lighting shall be in scale with the height of the principal building and shall not exceed 15 feet.
- B. All lights shall be properly shielded to restrict the maximum apex of illumination to 150° and to prevent glare or illumination on adjacent land uses.
- C. Lighting shall be located among streets and parking areas and at all intersections. In addition, all building entrances and exits shall be lighted, and all sidewalks shall have low or mushroom-type structures. Freestanding lights shall be located and designed so as not to be easily damaged by vehicles or to be a roadside safety hazard.
- D. Spotlight fixtures attached to buildings shall not be permitted except for security purposes in the rear of buildings.
- E. The appropriate intensity of lighting in footcandles and the type of lighting shall be determined by the Planning Board upon the recommendation of the City Engineer.

§ 130-126. Buffering; screening.

All site plans shall provide sufficient buffering and screening to minimize any adverse impacts or nuisances of the site or from adjacent areas and to improve the physical appearance of the site. The use of buffering, such as adequately space deciduous trees, low hedges, bushes, shrubbery, berms and other landscaping elements, is used to soften the visual impact of the proposed use and to provide a break between adjacent uses of the same type or from the road. Buffering also serves to mitigate certain disharmonies and incompatibilities between adjacent nonagricultural and agricultural uses, such as noise, odor, dust, fumes, drifting chemical spray materials, straying animals, trespassers, pilferage, vandalism and damage to crops. "Screening" is defined as a physical or natural barrier that is required to block an objectionable view or to prevent nuisance characteristics of the proposed use, such as noise or light, from extending beyond the limits of the property. Fences, walls, high hedges, mounds and berms and dense tree plantings (normally evergreens or poplar trees) are examples of effective screening methods. The following general standards are to be utilized in the design of all site plans:

- A. Buffering or screening shall be required along the perimeter of all developments unless waived by the Planning Board. Buffers shall be created along and adjacent to property lines of similar or proposed

uses and along the road. Buffers and/or screening may also be required on the interior of a development to shield parking areas; play or recreational areas; utility installations, such as solid waste receptacles; loading bays, where interior streets run parallel with roads exterior to the site; or other areas requiring privacy, shielding or enhancement of visual appearance. Whenever a nonresidential use abuts existing or proposed residential land use, a dense natural barrier or screen shall be required.

- B. Buffer zones shall be maintained in their natural state when wooded. When natural vegetation is sparse at certain locations, the Planning Board may require additional plantings.
- C. Fences or walls are effective screening devices. However, any proposed fence or wall shall complement the structural type and design of the principal buildings. The use of fences with high transparency, i.e., chain link fence, shall not be considered as an adequate buffer unless complemented by landscaping. High fences or walls with little, if any transparency, shall only be considered in areas appropriate for screening.
- D. The use of landscaping techniques, such as terracing and the creation of berms or mounds, shall be encouraged as part of the landscaping plan and to accomplish adequate buffering or screening.

§ 130-127. Landscaping.

A landscaping plan shall be submitted with each site plan application. The plan shall identify and locate existing and proposed trees, shrubs, bushes, plant material and ground cover. The plan shall also indicate any proposed alterations of the terrain for landscaping purposes. The following principles shall be followed in the development of a landscaping plan:

- A. Landscaping shall be designed to accent and complement buildings and shall be located to assist with interior climate control.
- B. The impact of any proposed landscaping plan shall be considered over time so that shrubs or trees do not grow and eventually block sight distances. This concern is particularly important at driveway entrances and in parking areas.
- C. Factors, such as texture, color, shapes and foliage, shall be considered in the choice of species. In addition, the susceptibility of the species to disease and litter or maintenance problems must be considered.
- D. The preservation of existing trees and vegetation is encouraged. Specimen trees over 15 inches in diameter shall be incorporated in all landscaping plans. Although the alteration of the existing terrain is permitted to accomplish appropriate landscaping objectives, the grade around existing trees may not be varied more than six inches except if properly designed tree wells are to be constructed.
- E. If a submitted plan requires the removal of any existing trees, the Shade Tree Advisory Board shall first be consulted and their input obtained by the approving authority before rendering any decision. The applicant shall specifically be responsible for notifying the Shade Tree Advisory Board prior to any preliminary review. **[Amended 10-16-1995 by Ord. No. 95-15]**

§ 130-128. Provision of off-tract improvements.

The provision of off-tract improvements as set forth in § 130-148 of Part 5, Subdivision of Land, shall apply to site plan review and approval as fully as if it were a part of this Part 5 to ensure a pro rata share allocation of the cost of off-tract improvements necessitated by new development. All provisions of

§ 130-148 of this chapter, as amended, shall apply to site plan review and approval.

§ 130-129. Additional design and improvement requirements.

- A. All site plans shall conform to the design and requirements as deemed applicable by the Planning Board and set forth in the following sections: Planning Board()

§ 130-134	General requirements
§ 130-136	Drainage
§ 130-138	Natural features
§ 130-139	Trees
§ 130-141	Topsoil protection
§ 130-142	Pedestrian circulation
§ 130-143	Streetlighting
§ 130-144	Public utilities

- B. The Planning Board may waive entirely or partially specific requirements set forth in the hereinabove cited sections.

§ 130-130. Recycling areas.

- A. There shall be included in any new multifamily housing development that requires subdivision or site plan approval an indoor or outdoor recycling area for the collection and storage of residentially generated recyclable materials. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located. The dimensions of the recycling area and the bins or containers shall be determined in consultation with the City Recycling Coordinator and shall be consistent with the district recycling plan adopted pursuant to § 3 of P.L. 1987, c. 102 (N.J.S.A. 13:1E-99.13) and any applicable requirements of the municipal master plan, adopted pursuant to § 26 of P.L. 1987, c.102.
- B. The recycling area shall be conveniently located for the residential disposition of source-separated recyclable materials, preferably near but clearly separated from a refuse dumpster.
- C. The recycling area shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling area and the bins or containers placed therein against theft of recyclable materials, bins or containers.
- D. The recycling area or the bins or containers placed therein shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard and which are located in an outdoor recycling area shall be equipped with a lid or otherwise covered so as to keep the paper or cardboard dry.
- E. Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.

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

Part 5
Subdivision Of Land

ARTICLE XXV
Plat Details and Information Requirements

§ 130-131. Minor subdivision and sketch plats.

All minor subdivisions and sketch plats shall fulfill the information requirements of this section prior to review by the approving authority:

- A. The plat for minor subdivision approval shall be prepared under the supervision of and be signed and sealed by a licensed New Jersey land surveyor. A sketch plat for purposes other than for minor subdivision approval shall be prepared under the supervision of and be signed and sealed by a licensed New Jersey land surveyor, professional planner, professional engineer or registered architect.
- B. The plat shall be based on Tax Map information or some other similarly accurate base, at a scale of not more than one inch equals 200 feet to enable the entire tract to be shown on one (1) sheet.
- C. The following information shall be shown or included on the sketch plat unless waived by the Planning Board:
 - (1) A key map at a scale in which one inch equals not more than 1,000 feet, showing the entire subdivision and its relation to all features within one-half (1/2) mile of the limits of the subdivision.
 - (2) The name and address of owner, subdivider and person preparing plat.
 - (3) The names of all adjoining property owners as disclosed by the most recent tax records.
 - (4) The Tax Map sheet, block and lot numbers.
 - (5) The location of that portion which is to be subdivided in relation to the entire tract.
 - (6) All existing and proposed streets within or adjoining the proposed subdivision with the right-of-way widths clearly indicated.
 - (7) The proposed location of any driveways or other entrances onto a public street.
 - (8) All existing structures and wooded areas within the portion to be subdivided and within 200 feet thereof.
 - (9) All proposed lot lines and lot lines to be eliminated by the proposed subdivision shall be clearly indicated.
 - (10) The location, size and direction of flow of all streams, brooks, drainage structures and drainage ditches in the area to be subdivided or within 200 feet of the subdivision.
 - (11) The location and width of all existing and proposed utility easements in the area to be subdivided.
 - (12) The zoning classification of the property and all additional information necessary to show compliance with the applicable zoning requirements.

- (13) Acreage of the entire tract and the area being subdivided and the area of each lot created.
 - (14) Approximate lot dimensions, drawing scale and North arrow.
 - (15) For all applications involving the creation of more than two lots, spot elevations on lot corners, and for any application where found necessary by the Planning Board, sufficient topographic information for a proper determination of requirements but not exceeding the topographic information requirement applicable to preliminary major subdivision applications.
 - (16) For any application where found necessary by the Planning Board to assure that there is no adverse affect upon the development or provision of access to the remainder of tract, a rough indication of an acceptable layout of the remainder of the tract.
 - (17) A written commitment from the City Sewerage Superintendent of sufficient capacity to provide sewerage service to each lot when occupied by a dwelling house.
 - (18) A written commitment from the City Water Superintendent of sufficient capacity to provide water service to each lot when occupied by a dwelling house.
- D. Minor subdivision filing. A plat containing all of the above information which is reviewed and approved as a minor subdivision may be filed as a plat if it is a certified survey that contains the signatures of the Chairman and Planning Board Secretary and meets the requirements of the Map Filing Law.

§ 130-132. Preliminary plat and environmental impact statement.

A development application which is classified as a major subdivision shall not be considered complete until the information requirements of this section have been fulfilled unless waived by the Planning Board:

- A. The preliminary plat shall be clearly and legibly drawn or reproduced in black on white, at a scale of not less than one (1) inch equals 50 feet. It shall be prepared under the supervision of and be signed and sealed by a licensed New Jersey land surveyor, and any engineering design work shall be done by a licensed New Jersey professional engineer.
- B. The plat shall be prepared in compliance with the design standards of this Part 5 and shall show or be accompanied by the following information in addition to all that is required for a sketch plat:
 - (1) Accurate bearings, headings and other boundary details.
 - (2) All required front, side and rear setback lines.
 - (3) Specimen trees having a diameter in excess of 24 inches.
 - (4) Any structures of historic significance within 200 feet of the subdivision and a statement of the impact of the development on the historic structure.
 - (5) Topography contours at two-foot intervals for slopes averaging 5% or greater and one-foot contours for slopes less than 5%. Elevations or contours need not be shown, however, for those portions of any parcel to be retained by the subdivider in an undeveloped state that are more than 200 feet from the lots being created. Contours should show existing ground elevations and proposed elevations in any areas to be regraded.
 - (6) Streets. Cross sections and center-line profiles of proposed streets within the subdivision and existing streets which abut the subdivision.

- (7) Watercourses. All existing and proposed watercourses shall be shown accompanied by the following information:
- (a) When a stream is proposed for alteration, improvement or relocation or when a drainage structure or fill is proposed within the floodway of an existing stream, evidence of submission of the improvement to the Division of Water Resources shall accompany the subdivision.
 - (b) Cross sections of watercourses and/or drainage swales at an approximate scale showing the extent of the floodplain, top of bank, normal water level and bottom elevation at the following locations:
 - [1] At any point where a watercourse crosses the boundary of a subdivision.
 - [2] At fifty-foot intervals for a distance 300 feet upstream and downstream of any proposed culvert or bridge within or adjacent to the subdivision.
 - [3] Immediately upstream and downstream of any point of junction of two or more watercourses.
 - [4] At a maximum of three-hundred-foot intervals along all watercourses which run through or adjacent to the subdivision.
 - (c) When ditches, streams, brooks or watercourses are to be altered, improved or relocated, the method of stabilizing slopes and the measures to control erosion and siltation as well as typical cross sections and profiles shall be shown on the plat or accompany it.
 - (d) The boundaries of the floodplains within or adjacent to the subdivision.
- (8) Drainage.
- (a) Preliminary plans and profiles at a scale of one inch equals 50 feet horizontally and one inch equals five feet vertically of all proposed and existing storm sewers, drainage swales and streams within the subdivision, together with the locations, size, elevations and capacities of any existing storm drain, ditch or stream to which the proposed facility will be connected.
 - (b) The location and extent of any proposed groundwater recharge basins, retention basins or other water conservation devices.
 - (c) All drainage calculations used for the design of the storm drainage system and the documents indicating conformance to the standards in this chapter shall be submitted.
- (9) Utilities. Preliminary plans and profiles of proposed utility layouts shall be at a scale of not more than one inch equals 50 feet horizontally and one inch equals five feet vertically showing connections to existing and proposed utility systems.
- (10) A written commitment from the City Sewerage Superintendent of sufficient capacity to provide sewerage service to each lot when occupied by a dwelling house.
- (11) A written commitment from the City Water Superintendent of sufficient capacity to provide water service to each lot when occupied by a dwelling house.
- (12) A copy of any protective covenants or deed restrictions applying to the land being subdivided.

(13) The location of poles, distance from intersections and illumination factors for all streetlighting.

C. Environmental impact statement.

(1) If the application involves the disturbance of more than one acre, the applicant shall also submit five copies of an environmental impact statement signed and sealed by a New Jersey licensed professional planner or New Jersey licensed professional engineer, preferably with experience in environmental studies. As used in this Part 5, an "environmental impact statement" means a written description and analysis of all possible direct and indirect effects the development will have upon the development's site as well as upon the surrounding region affected thereby, with particular reference to the effect of the development upon the public health, welfare and safety, the protection of public and private property, existing agricultural activities and preservation and enhancement of the natural environment. Every environmental impact statement shall contain the following:

- (a) A key map showing the location of the development and how it relates to the surrounding region affected thereby.
- (b) A description of the development specifying, in the form of maps, drawings, graphs or similar visual aids and also by narrative, what is to be done and how it is to be done during and after construction of the development, including information and technical data adequate to permit a careful assessment of the environmental impact of the development.
- (c) An inventory of the existing environmental conditions at the development site and in the surrounding region affected thereby, which shall describe the following:

[1] Physical characteristics.

- [a] Air quality.
- [b] Hydrology, including maps and descriptions of streams, water bodies and floodplains and a discussion of water quality.
- [c] Geology.
- [d] Soils and their properties, including capabilities and limitations.
- [e] Topography and slope.
- [f] Drainage.
- [g] Vegetation.
- [h] Air quality and water quality shall be described with reference to the standards promulgated by the Department of Environmental Protection of the State of New Jersey and soils shall be described with reference to criteria contained in the Salem County, New Jersey, soil survey standards and specifications, issued by the United States Department of Agriculture Soil Conservation Service.

[2] Wildlife.

- [a] Fish and aquatic organisms.
- [b] Wild animals.

- [3] Man-made conditions and structures.
 - [a] Sanitary and storm sewer systems, including planned construction.
 - [b] Noise characteristics and levels.
 - [c] Traffic volume.
 - [d] Land use, including maps and descriptions of zoning and Master Plan delineation of the development area.
 - [e] Aesthetics.
- [4] Community character.
 - [a] History, including maps and descriptions of sites of historic and archaeological significance.
 - [b] Demography.
 - [c] Culture.
 - [d] Maps and descriptions of sites reserved or planned for recreational purposes or as wildlife refuges.
- (d) A listing of all licenses, permits or other approvals required by municipal, county or state law, the status of each and proof that the applicant has contacted officials of any federal, state, county or municipal agency affected by the proposed development.
- (e) An assessment of the probable impact of the development upon all of the topics listed in Subsection C(1)(c) above.
- (f) A listing and evaluation of adverse environmental impacts which cannot be avoided, with particular emphasis upon air or water pollution, increase in noise during and after construction, damage to plant, tree and wildlife systems, damage to natural resources, displacement of people and businesses, increase in sedimentation and siltation, flooding, potential stormwater runoff damage both on and off site, increase in City services and health, safety and well-being of the public. Off-site and off-tract impact shall also be set forth and evaluated.
- (g) A thorough description of the steps to be taken to minimize adverse environmental impact before, during and after construction of the development, both at the development site and in the surrounding region affected thereby, such description to be accompanied by necessary maps, schedules and other explanatory data as may be needed to clarify and explain the actions to be taken.
- (h) Identification and description of any irreversible and irretrievable commitment of resources which would be involved in the proposed action.
- (i) A statement of alternatives to the proposed development which might avoid some or all of the adverse environmental effects, including a no-action alternative, with an objective evaluation of each alternative, including the no-action alternative.
- (j) A reference list of available pertinent, published information relating to the development, the development site and the surrounding region affected thereby.

- (2) Notwithstanding the foregoing, the reviewing Board may waive the requirement for an environmental impact statement if sufficient evidence is submitted by the applicant to support a conclusion that the proposed development will have a slight or negligible environmental impact. Portions of such requirement may likewise be waived upon a finding by the reviewing Board that a complete statement need not be prepared in order to evaluate adequately the environmental impact of the development.

§ 130-133. Final plat.

- A. The final plat shall be drawn in ink on tracing cloth or its equivalent, at a scale of not less than one inch equals 50 feet and in compliance with all the provisions of the Map Filing Law. The final plat shall be submitted in the following form: the original or equivalent duplicate, one translucent tracing cloth or its equivalent copy, two cloth prints and 10 black-on-white prints.
 - (1) All information listed in § 130-131C(1) through (7).
 - (2) Tract boundary lines, right-of-way lines of streets, street names, easements and other rights-of-way land to be reserved or dedicated to public use, all lot lines and other site lines, with accurate dimensions, bearings or detection angles, and radii arcs and central angles of all curves.
 - (3) The purpose of any easement or land reserved or dedicated to public use shall be designated, and the proposed use of sites other than residential shall be noted.
 - (4) New blocks and lots shall be numbered so as to conform with the City Tax Maps.
 - (5) Minimum building setback line on all lots and other sites.
 - (6) Cross sections, profiles and established grades of all streets as approved by the City Engineer.
 - (7) Plans and profiles of all storm and sanitary sewers and water mains as approved by the City Engineer.
 - (8) A statement by the City Engineer that he is in receipt of a map showing all utilities and exact location and elevation, identifying those portions already installed and those to be installed, and that the subdivider has installed all improvements in accordance with the requirements of these regulations or has filed a corporate surety bond, a certified check, returnable to the subdivider after full compliance, or any other type of surety approved by the Council and approved as to form by the City Attorney, which is in sufficient amount to assure the installation and maintenance of improvements. The provisions of N.J.S.A. 40:55D-53 shall govern said bonds and the completion, inspection and approval of said improvements and the payment of inspection fees.
 - (9) A written commitment from the City Sewerage Superintendent of sufficient capacity to provide sewerage service to each lot when occupied by a dwelling house.
 - (10) A written commitment from the City Water Superintendent of sufficient capacity to provide water service to each lot when occupied by a dwelling house.

ARTICLE XXVI
Improvements and Design Standards

§ 130-134. Compliance required.

A developer shall comply with the following requirements and principles of land subdivision to encourage proper development patterns and the provisions adequate facilities and services to the city.

§ 130-135. General requirements.

- A. No subdivision shall be approved unless all lots abut an improved street as defined by this chapter. Any request for relief from this provision shall conform to the procedures of the N.J.S.A. 40:55D-36 or 40:55D-60.
- B. Any proposed subdivision determined by the Board to be creating, imposing, aggravating or leading to the possibility of an adverse effect upon the property in question or adjacent properties may be required to be revised to remove such adverse effect prior to further review. Where the remaining portion of the tract is of sufficient size to be subdivided further, the applicant may be required to submit a sketch of the entire remaining portion to indicate a feasible plan whereby the proposed subdivision and subsequent subdivisions will not create any such adverse effect.
- C. In reviewing a subdivision, the reviewing authority shall take into consideration the effect of the development upon all aspects of the environment as outlined in the environmental impact statement requirements, as well as the sufficiency of applicant's proposal in his environmental impact statement for dealing with any immediate or projected adverse environmental effects. The reviewing authority may require, as a condition of approval of the application, that steps be taken to minimize the adverse environmental impact during and after construction, and no final approval shall be issued until all such requirements shall have been complied with or compliance is guaranteed by a performance guaranty meeting the requirements of § 130-150 of this chapter.
- D. The proposed name of any development shall not duplicate or too closely approximate the name of any other development in the city; nor shall a proposed name of a development use as part of its name the name of another municipality adjoining or within reasonable distance from the City of Salem. The Planning Board shall have final authority to designate the name of a proposed development. This section shall not apply to any established development which is within the City or proposes to move into the city.

§ 130-136. Streets and roads.

- A. General design considerations.
 - (1) All proposed streets in a subdivision of land shall be classified as either a cul-de-sac street, a loop street or a City collector as defined on Plates 2, 3 and 4.¹⁷ All loop streets and cul-de-sac streets shall be entirely contained within the City of Salem and may not extend across a municipal boundary line so as to be partly in another municipality. All proposed streets in a subdivision, including cul-de-sac streets, loop streets and the portion of collector streets within the city, shall provide access only to lots which meet the area dimension and lot configuration standards for such lots with land entirely within the City of Salem.
 - (2) Loop streets, cul-de-sac streets and other existing minor streets shall be so designed and

17. Editor's Note: These plates are included at the end of this chapter.

- integrated into the circulation pattern of the subdivision and the immediate area so as to discourage through traffic.
- (3) City collectors shall be designed to provide for the extension and connection of existing streets except when such a connection will result in a major diversion of traffic from major collectors or arterials through the subdivision.
 - (4) When a subdivision adjoins land susceptible to being subdivided, suitable provisions shall be made for optimum access of the remaining and/or adjoining tract to existing or proposed streets within the proposed subdivision.
 - (5) Access shall be designed in all major subdivisions according to the following standards:
 - (a) All major subdivisions bounded by arterials, major collectors and minor collectors, as defined by the functional classification system contained within the approved City Master Plan, shall control access to said streets by having all driveways intersect marginal service streets, parallel streets or streets intersecting said arterials, major collectors and county-local roads.
 - (b) When a subdivision of five or more lots borders on an existing City street or county-local road, reverse frontage or a marginal service road may be required.
 - (c) When a proposed street (city collector) will serve more than 50 lots in a fully developed subdivision, all driveways within that subdivision shall intersect loop streets, cul-de-sac streets or marginal service roads.
 - (6) All subdivisions which control access to existing City or county roads by reverse frontage or marginal service roads shall construct an adequate buffer between the development and the existing street. The buffer for reverse frontage shall consist of densely planted nursery-grown trees to a depth of 20 feet as indicated on Plate 5. Plate 6 indicates the required landscaped area for marginal service roads.¹⁸
 - (7) No subdivision showing reserve strips controlling access to streets or another area, either developed or undeveloped, shall be approved except where the control and disposal of land comprising such strips has been given to the Council after recommendation by the Planning Board.
 - (8) A major subdivision that adjoins or includes existing City streets that do not conform to the right-of-way widths specified in the City Master Plan and/or in on the street cross-section requirements of this Part 5 shall dedicate the additional land needed to conform to the right-of-way standards. If the subdivision is along one side of the road, one-half (1/2) of the required extra width shall be dedicated.
 - (9) A cul-de-sac shall provide access to a minimum of six lots and a maximum of 14 lots. No cul-de-sac shall exceed 750 feet in length measured from the intersecting street right-of-way to the end of the turnaround right-of-way. The maximum radius of a cul-de-sac shall be 50 feet in zoning districts with a minimum lot width of 150 feet or more and 60 feet in zoning districts with a lot width requirement of less than 150 feet. The right-of-way radius of the turnaround shall be 60 feet and 70 feet for these respective zoning districts. No cul-de-sac turnaround shall exceed a radius of 70 feet except if an adequate landscaped circle is provided in which two-way

18. Editor's Note: These plates are included at the end of this chapter.

traffic is maintained.

- (10) No street shall have a name which will duplicate or so nearly duplicate in spelling or phonetic sound the names of existing streets in the City or surrounding municipalities so as to be confusing therewith. The continuation of any existing street shall have the same name. The names of new streets must be approved by the Planning Board.

B. Specific design requirements. The following specific design requirements shall be met in the construction of new streets or the improvements of existing streets:

- (1) When connecting street lines deflect from each other at any one point by more than 10°, they shall be connected by a curve with a radius conforming to standard engineering practice so that the minimum sight distance shall be not less than 100 feet for culs-de-sac, 150 feet for loop streets and not less than 300 feet for collectors and arterials.
- (2) A tangent of at least 200 feet long shall be introduced between reverse curves of arterial and collector streets.
- (3) Longitudinal grades on City collector roads or a higher functional classification shall not exceed 4% .The longitudinal grade of any other local street shall not exceed 8%. All changes in grade shall be connected by vertical curves of at least 50 feet for each two-percent (or portion thereof) difference in grade to ensure proper sight distance which will conform to good engineering practice.
- (4) The longitudinal grade of any street shall not be less than one-half of one percent (1/2 of 1%). Grades between one-half of one percent (1/2 of 1%) and 1% may require monolithic curb and gutter construction to ensure adequate drainage.

C. Intersections.

- (1) Street intersections shall be at a minimum angle determined by the road classification. All intersections shall be at 90°, except that cul-de-sac or loop streets which intersect a City collector or county-local road shall have a minimum angle of 75°, and a cul-de-sac which intersects a loop street shall have a minimum angle of 60°.
- (2) No more than two streets shall meet or intersect at any one point, and the center line of both intersecting streets shall pass through a common point. Any two intersections shall be separated by the following distances:

Classification	Minimum Distance Between Intersections (feet)
Arterials; county collectors	350
City collectors; county-locals	250
Loop streets; culs-de-sac	200

- (3) Whenever two roads of different functional classification intersect, the minimum separation standards of the more important road shall be followed.
- (4) The maximum grades of all intersections shall be 3%, except that intersections involving only City collectors or other local streets shall have a maximum grade of 4%.

- (5) The block corners at intersections shall be rounded at the curblines, with the street having the highest radius requirement determining the minimum standard for all curb lines.

Classification	Radius (feet)
Arterials; county collectors	40
City collectors; county-locals	30
Loops, culs-de-sac	20

- (6) Sight triangle easements.

- (a) For both major and minor subdivisions, clear sight triangle easements shall be required at all intersections in addition to the right-of-way requirement described above. Within such triangles, no vision-obstructing object shall be permitted which exceeds a height of 30 inches above the elevation of the intersecting streets except for streetlighting standards. The "sight triangle" is defined as the area of vision which enables a motorist entering a road to perceive oncoming vehicles and which enables oncoming vehicles to perceive the entering vehicle. This area is bounded by the intersecting street lines and the straight line connecting sight points, one each located on the two intersecting street center lines. "Sight points" are defined as being the following distances from the intersection:

Classification	Distance (feet)
Arterials	400
County major collectors	300
County minor collectors	250
City collectors; county-locals	200
Loop streets	150
Culs-de-sac	110

- (b) These points are to be connected to a point 90 feet from the intersection of the street center line. Plates 7 through 10¹⁹ illustrate the required clear sight triangle easements. The sight easement shall describe two overlapping triangles whenever the intersecting roads are of City collector or above functional classification. The easement for intersections involving cul-de-sac or loop streets shall only include the sight triangle needed for the motorist entering the intersection street.

D. Street construction standards. All subdivisions shall be served by paved public streets with an all-weather base and pavement with an adequate crown. All new streets and improvements to existing streets shall adhere to the following standards:

- (1) The minimum pavement width shall be in accordance with the following standards and as illustrated on Plates 11 through 16.²⁰

19. Editor's Note: These plates are included at the end of this chapter.

20. Editor's Note: These plates are included at the end of this chapter.

Type of Street	Lanes		Shoulder		Width (feet)
	Number	Width (feet)	Number	Type ¹	
County major collector	2	12	6	1	86
County minor collector	2	12	6	2	66
County-local ²	2	11	6	2	50
City collector ²	2	11	6	1	50
Loop	2	11	5	1	50
Cul-de-sac	2	11	3	1	50

NOTES:

¹**Shoulder type: paved.**

²In areas proposed for less intense development [minimum lot sizes over (1) acre], the minimum shoulder shall be compacted gravel with oil.

- (2) All new and existing streets shall be constructed or improved to fulfill the above minimum requirements. The subdivider shall be responsible for improving only one-half (1/2) of the street immediately adjacent to the subdivision, except in cases where off-site contributions are required. If off-tract contributions are required, the subdivider may be responsible for improving more than one-half (1/2) of the street and other nearby streets or intersections.
- (3) Deceleration and acceleration lanes shall be constructed outside of the normal cartway as determined necessary by the City Engineer.
- (4) The minimum total asphalt surface thickness for all pavements shall be three and one half (3 1/2) inches of FABC-2, Mix No. 5. Two inches shall be laid and used as running surface until all settlement is completed, then brought to final grade with a one-and-one-half-inch overlay and such additional material as shall be needed to compensate for settlement. The minimum subbase shall be six inches of dense-graded aggregate base (DGAB) or recycled concrete. No bituminous-concrete pavement shall be laid until the existing subbase has been prepared and thoroughly compacted with an approved roller.
- (5) The minimum requirements of any new street shall be in accordance with the specifications and procedures set forth in the latest Jersey State Highway Department Standard Specifications and all addendum or revisions thereto.
- (6) Whenever curbing and guttering are required under this Part 5, it shall be constructed in a manner approved by the City Engineer. If concrete, the curbing and gutters shall meet the following specifications:
 - (a) The concrete to be used for curbs and gutters shall be Class B concrete as specified in the New Jersey State Highway Specifications for Curbs and Gutters.
 - (b) Expansion joints shall be provided at intervals of 20 feet.
 - (c) Concrete curbs shall be eight inches wide at their base and not less than six inches wide

above the roadway pavement. The rear top corner of this curb shall have a radius of one-fourth (1/4) inch, and the front top corner shall have a radius of one and one-half (1 1/2) inches.

- (d) Combination curbs and gutters shall be constructed on a base of sand or other similar pervious material, six inches in depth and extending 12 inches beyond the rear face of the curb and 12 inches beyond the face of the curb. The total width of the curb and gutter shall be 30 inches. The dimensions of the particular parts of the combined curb and gutter shall be as follows: (See Plate 17 as attached.²¹)
- [1] The top of the curb shall be six inches in width.
 - [2] The rear of the curb shall be 12 inches in height.
 - [3] The width of the curb at the gutter elevation shall be seven inches.
 - [4] The height of the curb face at the gutter shall be six inches, and the depth of the gutter at the street face shall also be six inches.
 - [5] All exposed edges shall be rounded with a radius of three-fourths (3/4) inch to one inch.
- (e) Openings for driveway access shall be in such width as shall be determined by the City Engineer but in no case more than 15 feet at the edge of the pavement. The curb at such driveway openings shall be depressed to the extent that one and one-half (1 1/2) inches extend above the finished pavement. The rear top corner of this curb shall have a radius of one-fourth (1/4) inch, and the front top corner shall have a radius of one and one-half (1 1/2) inches.
- (7) All work shall be inspected through the course of construction by the City Engineer or his duly authorized representative, who shall be notified 48 hours in advance before any work is started or completed.

§ 130-137. Drainage.

A. General design considerations.

- (1) The drainage system of a proposed subdivision should be adequate to carry off and/or store the stormwater and natural drainage water which originate not only within the subdivision boundaries but also that which originates from the total natural watershed surrounding the property in question.
- (2) The drainage system shall be designed to control the amount and rate of stormwater runoff. A general principle for major subdivision design shall be to not increase the parcel's amount or rate of stormwater runoff by the use of structural and nonstructural measures.
- (3) Whenever possible, all of a major development's drainage system shall be designed for the recharge of groundwater and the retention of stormwater on-site.
- (4) Provisions shall be made to limit the amount of sedimentation and other pollutants that may enter a natural watercourse as a result of the development.

21. Editor's Note: This plate is included at the end of this chapter.

- (5) Where possible, a subdivision's stormwater management design shall preserve stream channels, floodplains and wetlands in their natural condition to act as buffers against flooding and pollution.
- (6) No stormwater runoff or natural drainage water shall be so diverted as to overload existing drainage systems, create flooding or require the construction of additional drainage facilities in other private or public lands without proper and approved provisions being made for remedying these off-site or off-tract conditions.
- (7) All subdivisions or lands that fall within the City flood hazard area as established by the City Flood Hazard Map shall not be developed without appropriate permits.

B. Specific design considerations

- (1) For all subdivisions where the average elevation of the lot or the elevation of the building site is below the crown of the existing or proposed road, the lot shall be properly graded to ensure proper drainage away from buildings and to prevent the ponding of stormwaters in front, side or rear yards. A grading plan must be submitted for each lot to ensure proper drainage prior to subdivision approval.
- (2) All streets shall be provided with catch basins and pipes where necessary for proper surface drainage. Dry wells are specifically prohibited as alternatives to catch basins or as a method of recharge.
- (3) The materials used for drainage facilities and appurtenances shall be in conformance with the latest edition of the Standard Specifications for Road and Bridge Construction of the New Jersey Department of Transportation and all addenda. The technique for calculations and design parameters shall be by the rational method of drainage sheds less than four acres and the Soil Conservation Service method for drainage sheds above four acres.
 - (a) The following recurrence-interval parameter shall be adhered to:
 - [1] Minor inlets: two years.
 - [2] Low points: five years.
 - [3] Sump inlets: 10 years.
 - [4] Minor stream structure (50 acres or less): 10 years.
 - [5] Major stream structures with no headwaters: 25 years.
 - [6] Major stream structures with maximum headwater: 100 years.
 - (b) Single Type B inlets shall not be designed to catch more than five and one-half (5 1/2) cubic feet per second, regardless of head, but shall not be spaced greater than 500 feet center to center. Discharge and collection systems shall not be designed for inlet head under any circumstances.
- (4) Drainage structures which are located on state or county highway rights-of-way shall be approved by the State or County Highway Engineer's office, and a letter from that office indicating such approval shall be directed to the City Planning Board and shall be received prior to the final plat approval. Drainage structures proposed on a brook or stream with a drainage area of one-half (1/2) square mile 320 acres or greater shall be approved by the New Jersey

Division of Water Policy and Supply, and a letter from the office shall be directed to the Planning Board Chairman.

- (5) All proposed subdivisions or developments abutting a brook or stream whose drainage areas, up to and including the subdivision or development, is greater than 50 acres shall be required to secure a stream encroachment permit from the New Jersey Division of Water Policy and Supply, Bureau of Floodplain Management, prior to the authorization of final approval. Furthermore, a copy of the permit shall be forwarded to the Planning Board and shall be attached to the final engineering plans of the same.
- (6) Road drainage. The use of swales for road drainage purposes may be permitted at the discretion of the City Planning Board, provided that the subdivision is under 20 lots, the minimum lot size is greater than one acre and the grade does not exceed 6% nor is less than one-half of one percent (1/2 of 1%). In subdivisions with more than 20 lots, swales may only be permitted along roads in which reverse frontage has been provided. Where these conditions are not met or where drainage conditions warrant, curbing and guttering shall be required along all existing and proposed streets. In minor subdivisions, curbing and guttering may be required where drainage or traffic condition warrant or when the subdivision is in proximity to existing curbed and guttered areas.
- (7) Land drainage. All surface drainage shall be piped except if the developer demonstrates that the use of swales is a more appropriate form of conveyance to the satisfaction of the City Planning Board. The use of swales shall not be permitted where the adjacent lot sizes on the same tract are 30,000 square feet or less.
- (8) Swales, where permitted, shall be designed according to the following standards:
 - (a) Swales shall have a parabolic or trapezoidal shape.
 - (b) Side slopes of a swale along a road shall not be steeper than four to one (4:1) adjacent to the road and two to one (2:1) on the slope away from the road. Side slopes of swales not along a road shall not exceed three to one (3:1).
 - (c) Trees, brush and stumps, as well as other objectionable material, are to be cleared and disposed of so as not to interfere with construction or proper functioning of the waterway.
 - (d) Separate areas filled are to be compared as needed to prevent unequal settlement that will cause damage in the completed waterway.
 - (e) Waterways and outlets shall be protected against erosion by vegetative means as soon after construction as practical before diversions or other channels are outletted into them. Seeding, fertilizing, mulching and sodding shall be in accordance with the applicable standards as determined by the Soil Conservation Service of the State of New Jersey.
- (9) Storm sewer pipe shall be installed in accordance with proper engineering practices and shall be designed according to the following standards:
 - (a) The pipe shall be concrete or aluminum as required by the City Engineer. Nonreinforced-concrete pipe shall conform to standard specifications by the City Engineer for specified diameter and strength class. Reinforced-concrete pipe shall conform to standard specifications by the City Engineer for specified diameter and strength class. Aluminum-alloy pipe shall conform to standard specifications by the City Engineer for specified diameter and strength.

- (b) All drainage pipes shall have a minimum diameter of 15 inches. The pipe shall be laid in straight alignment, between manholes. All transitions in slope, change of direction or pipe size shall be confined to manholes, catch basins or other accessible structure.
 - (c) The size of the pipe, slope and invert elevations shall be submitted on a final drainage plan.
 - (d) In those areas where the groundwater elevation is such that roadway subbase instability could occur from the same, the City Engineer shall reserve the right to require extra-strength porous concrete pipe in lieu of either reinforced-concrete or corrugated aluminum stormwater conduit for the purpose of adequately underdraining the surrounding soil and stabilizing the affected subbase.
 - (e) Slotted drainpipe shall not be permitted except if approved by the City Engineer.
- (10) Where a subdivision is traversed by a watercourse, surface or subsurface drainageway, channel or stream or a subdivision proposes the creation of such surface or subsurface drainageways, there shall be provided and dedicated a drainage right-of-way easement to the city. The width of the drainage easement required shall be determined by the City Engineer based upon the width needed to accommodate future stormwater runoff and to allow sufficient area for maintenance or construction activities. A minimum width of all drainage easements shall be 40 feet or 20 feet from the edge of the watercourse.
- (11) Detention basins shall be designed in accordance with the following criteria:
- (a) Inflow quotient (Q) shall be designed for a twenty-five-year recurrence interval under full development conditions within the subdivisions.
 - (b) Outflow Q shall be designed based on the capacity of the nearest downstream drainage structure and it shall not be more than the ten-year recurrence interval under full development conditions within the subdivision.
 - (c) All detention basins shall have a minimum freeboard of one foot above the design high-water level and shall likewise have an emergency spillway capable of discharging flow from a design storm with a recurrence interval of 100 years. Where the depth of high water in any basin exceeds two feet, then a fence of minimum height of eight feet and made of approved material shall be required.
 - (d) Detention basins are not permitted where soils have a percolation rate of less than five minutes per inch or more than 60 minutes per inch.
- (12) Retention basins shall be designed in accordance with the following criteria:
- (a) Inflow Q shall be designed as required for detention basins.
 - (b) Outflow Q shall not be considered for any basin whose soil percolation rate is in excess of six minutes per inch.
 - (c) The bottom elevation of all retention basins shall be a minimum of two feet above the seasonal high-water table. Overflow and freeboard design shall be as previously specified for detention basins. Fencing requirements shall likewise be as previously specified for detention basins.
 - (d) The preferred side slope of the banks for either detention or retention basins shall be a five-to-one ratio, with a minimum acceptable ratio of three to one (3:1) if conditions do

not permit.

- (e) Retention basins are not permitted where soils have a percolation rate of less than five minutes per inch or more than 60 minutes per inch.

(13) Collection basins.

- (a) The collection basin shall be designed in accordance with the rational method expressed as the equation:

$$Q = AIR$$

Where

Q = Volume of runoff in cubic feet per second.

A = The contributory drainage area, in acres, both within and outside the boundary of the subdivision.

I = Coefficient of runoff applicable to the drainage area. It shall consider the soil character, slope of area and degree of ultimate development as determined by current zoning. In general, the values of the runoff coefficient will fall within the following range:

Classification	Coefficient
Parklands, golf courses, etc.	0.15 to 0.30
Densities below 1 dwelling per acre	0.30 to 0.50
Densities of 2 dwelling per acre and above	0.50 to 0.70
Commercial and industrial	0.70 to 0.90

NOTE: For composite areas of various classifications, the coefficient for the predominate area shall be used for all calculations.

R = Rainfall intensity. A minimum intensity of 2.75 shall be used.

(14) Flow design criteria.

- (a) Velocity of flow shall be determined by Manning's formula:

$$V = \frac{1.486R^{2/3} S^{1/2}}{n}$$

Where

R = Hydraulic radius of conduit or area of stream divided by wetter perimeter.

S = Slope of hydraulic grade line or, for open channels or ditches, the slope of the water surface.

n = The coefficient of friction.

Acceptable values of "n" are:

0.015 for circular cross-section, nonporous concrete pipe.

0.015 for pipes 18 inches or smaller in diameter and concrete-lined ditches.

0.025 for clear unlined ditches.

0.03 to 0.15 for fair to poor natural streams and watercourses.

- (b) Other cross sections of pipe materials shall have commensurate friction factors as may be approved by the City Engineer.

Permissible Design Velocities for Open-Channel Ditches

Material	Velocity (feet per second)
Fine sand to loam	2.5 to 3.5
Clay to hardpan	3.75 to 6.0
Concrete lined	15
Pipe	*

* NOTE: Minimum design velocity at flowing full condition shall be three feet per second. Pipes shall be considered flowing full at maximum capacity.

§ 130-138. Lot configuration.

- A. Lot dimensions and area shall not be less than the requirements of Part 3, Zoning.
- B. In as far as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
- C. When additional right-of-way has been required to bring existing rights-of-way up to standard, lots shall begin at the proposed right-of-way line, and all setback shall be measured from that line.
- D. For proper development of the land within the city, lots shall have an average length no greater than 250% of the average width, except where the width exceeds three times the zoning requirement.
- E. Where there is a question as to the suitability of a lot or lots for their intended use due to factors, such as poor drainage conditions, the Planning Board may, after adequate investigation, withhold approval of such lots. If approval is withheld, the Planning Board shall specify the reasons for such denial in the minutes.

§ 130-139. Natural features.

The important natural features of a site shall be preserved in the design of all subdivisions. Natural features which shall be protected include the natural terrain, wetlands, wooded areas, vistas, natural drainageways and lakes. A developer shall only be permitted to significantly alter or encroach on the existing natural features if the Planning Board is convinced that the alteration is the minimum necessary to allow the use of the land for the intended purpose and that there are no alternatives to the subdivision design which would eliminate or mitigate any adverse impact on natural features.

§ 130-140. Trees.

- A. The clearing of woodland shall be strictly controlled. The stripping of trees from a lot and the filling or the alteration of the water table in wooded areas shall be prohibited except if an extensive replacement tree planting program has been approved by the City Planning Board. All subdivisions and developments shall be designed to have minimal impact on existing woodland. The siting of structures shall be such as to preserve the maximum number of trees over 15 inches in diameter and all trees over 24 inches in diameter.
- B. Shade trees. In all major subdivisions, shade trees shall be provided along the road frontage. Two trees properly planted, staked and fertilized shall be provided for every 100 feet of road frontage except if an equivalent number of trees are preserved within 50 feet of the right-of-way. All shade trees shall meet the following requirements:
- (1) Trees shall be a deciduous variety (oak, hard maple) native to the area and shall be approved by the Planning Board.
 - (2) Trees shall be nursery grown and shall have a minimum caliper of one and one-half (1 1/2) inches measured three feet above the ground.
 - (3) Trees shall be planted where required by the Planning Board in a planting strip 10 feet from the edge of the shoulder when the road has been designed according to the approved cross sections.

§ 130-141. Topsoil protection.

No topsoil shall be removed from the site or used as spoil. Topsoil moved during the course of construction shall be redistributed within the subdivision so as to provide at least four inches of cover to all areas of the subdivision and shall be stabilized by seeding or planting.

§ 130-142. Pedestrian circulation.

- A. A pedestrian circulation system shall be provided for all major subdivisions over 20 lots and may be required whenever an interior street system is utilized. The system shall include sufficient sidewalks and interior walkways to provide safe pedestrian movement between residential units and to provide access to environmental amenities, recreation areas and other forms of pedestrian attraction within, adjacent to or in close proximity [one-half (1/2) mile] of the site. The circulation system shall connect with any existing or proposed adjacent developments and may or may not be related to the street system. The Planning Board shall review and approve the proposed circulation system.
- B. In all major subdivisions, sidewalks shall be required along both sides of roads classified as City collectors or county-local roads.
- C. Whenever a pedestrian circulation system is not required, the following design standards shall apply:

- (1) Sidewalks may be required by the Planning Board along both sides of culs-de-sac, loop streets and minor collectors.
 - (2) When the subdivision is within one-half (1/2) mile of a pedestrian attractor which includes commercial establishments, municipal or governmental offices, schools, place of worship, post offices and recreation areas, sidewalks shall be required to allow pedestrian movement to such facilities.
 - (3) Sidewalks or interior walkways may be required to provide access to environmental amenities within or adjacent to the subdivision.
 - (4) The Planning Board may require sidewalks on both sides of a street near intersections or at such other locations due to pedestrian safety considerations.
- D. In minor subdivisions, sidewalks shall be required when the subdivision is located immediately adjacent to an area where sidewalks are currently provided, where installation of sidewalks is imminent or where a utility section of the Master Plan indicates the planned development of walkways.
- E. Construction. Where required, sidewalks should be set back three feet from the edge of the improved road and shall be four feet wide and four inches in thickness. Unless required to be brick for historic considerations, sidewalks shall be concrete or an equivalent approved by the Planning Board and shall be constructed in accordance with the specifications of the New Jersey State Highway Department. Walkways within the open space reserved under the cluster option shall be limited in scale and shall be composed of material compatible with the natural character of the area as approved by the Planning Board.

§ 130-143. Streetlighting.

Streetlighting shall be provided in accordance with the recommendations of the City Engineer and as required by the Planning Board. Adequate lighting shall be provided at all intersections and along all roads classified as City collectors. The developer shall pay to the City the costs of operation of said streetlights (as determined by the standard rates of the utility) until the street upon which said streetlights are installed is accepted by the City as a public street.

§ 130-144. Public utilities.

- A. All public services shall be connected to an approved public utilities system, where one exists. Prior to the granting of final approval, the subdivider shall submit three copies of a final plat, showing the installed location of these utilities as well as a written instrument from each serving utility which shall indicate compliance with this section.
- B. For all major subdivisions, the subdivider shall arrange with the serving utility for the underground installation of the utility's distribution supply lines and service connections. Service connections shall be made underground for all major subdivisions whenever the supply lines that serve the lands are underground. Whenever the widening or extension of a street requires the replacement or relocation of utilities, such replacement or relocation shall be underground. Common trenches shall be utilized by utilities where practical.
- C. In large scale development, easements along rear or side property lines may be required. Such easements shall be at least 20 feet wide and, to the extent possible, be centered on or adjacent to rear or side lot lines.

§ 130-145. Street signs.

Street signs shall be metal posts of the type, design and standards utilized elsewhere in the city. The location of the street signs shall be determined by the Planning Board, but there shall be at least two street signs at each intersection. All street signs shall be located free of visual obstruction.

§ 130-146. Monuments.

Monuments shall be installed in compliance with the requirements of N.J.S.A. 46:23-9.11q(9). All lot corners shall be marked with a durable metal-alloy pin.

§ 130-147. Recreation area.

A recreation area shall be dedicated and improved by the developer for each subdivision containing more than 20 lots. Said recreation area shall consist of at least one acre or 1,500 square feet per lot in the subdivision, whichever is greater. All land and recreation area 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 specifications contained in *Lofts, Inc., guide, Seed and Sod in United States and Canada*, current edition, and must be suitable for playing playground games, such as touch football and softball, on an informal basis. The recreation area shall meet all lot configuration design standards as set forth in § 130-138 of this chapter. The recreation area shall not include any wetlands, wetlands transition area, buffer area 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 subdivision and entirely within the City and readily accessible to all lots intended for residential development. The developer shall provide for an organization for the ownership and maintenance of the recreation area for the benefits of owners or residents of the subdivision. Such association shall be in accordance with the standards set forth for the ownership and maintenance of common open space in § 130-58H of this chapter.

§ 130-148. Off-tract improvements.

- A. Before final approval of preliminary plans, the Planning Board may require, in accordance with the standards of this Part 5, the installation of, or the furnishing of a performance guaranty in lieu thereof, any or all of the following off-site and off-tract improvements which are necessary or appropriate for the protection of the public interest by reason of the development's effect on lands other than the development's property:
- (1) Street improvements.
 - (2) Surveyor's monuments.
 - (3) Water system.
 - (4) Storm sewers.
 - (5) Sanitary sewers or other means of sewage disposal.
 - (6) Drainage structures.
 - (7) Erosion control.
 - (8) Other improvements of similar physical character or type.
- B. Where such off-site and off-tract improvements are required, the Planning Board shall, prior to

preliminary approval, refer the requirements to the Council for confirmation. The Council shall confirm or reject the requirements. If the Council does not confirm the off-site and off-tract improvements within the mandatory time period or an extension thereof, the Planning Board shall proceed to act on the application without consideration of the off-site and off-tract improvements.

- C. As part of its confirmation, the Council shall determine as to each required improvement whether the off-site and off-tract improvement is to be constructed by the City as a general improvement or as a local improvement or by the developer with a formula for providing partial reimbursement if the improvement specifically benefits properties other than the subdivision.
- D. If the Council confirms any or all of the off-site and off-tract improvements required, the applicant shall provide an estimate of said improvements. The Planning Board, with the aid of the City Engineer and such other persons having pertinent information or expertise, shall review the cost of the improvement and the amount by which all properties to be serviced thereby, including the development property, will be specially benefited therefrom.
- E. Any performance guaranty required in connection with a development application shall include an amount sufficient to ensure payment to the City of one of the following amounts:
 - (1) If the improvement is to be constructed by the City as a general improvement, an amount equal to the difference between the estimated cost of the improvement and the estimated total amount by which all properties to be serviced thereby, including the development property, will be specifically benefited by the improvement.
 - (2) If the improvement is to be constructed by the City as a local improvement, then, in addition to the amount referred to in Subsection E(1) above, the estimated amount by which the development property will be specifically benefited by the improvements.
 - (3) If the improvement is to be constructed by the developer, an amount equal to the estimated cost of the improvement, plus up to 20% of the estimated cost to allow for inflation.
- F. Upon full completion of any required off-site and off-tract improvement for which the developer has posted a performance guaranty, the estimated amounts used to calculate the amount of the guaranty shall be redetermined to the end that the developer shall be required to pay his appropriate share of the actual cost of the improvement.
- G. All financial obligations and allocations concerning off-site and off-tract improvements shall be resolved prior to final plan approval.

§ 130-149. Additional improvement and design standards.

- A. The following additional improvement and design standards shall be required of any major subdivision application:

§ 130-122	Off-street parking
§ 130-123	Off-street loading
§ 130-124	Access
§ 130-125	Exterior lighting
§ 130-126	Buffering; screening

- § 130-127 Landscaping
- § 130-128 Provision of off-tract improvements

- B. The Planning Board may waive entirely or partially specific standards or parts thereof as found appropriate and relevant to the application before it.

§ 130-150. Performance guaranties.

No final plat or plan shall be approved by the Planning Board until completion of all such required improvements as set forth in the resolution granting preliminary approval shall have been so certified to the Planning Board by the City Engineer, unless the developer shall have filed with the City a sufficient performance guaranty assuring the installation of all required on-tract improvements. The Planning Board may require a performance guaranty in favor of the City in an amount not to exceed 120% of the cost of installation of the improvements it may deem necessary or appropriate.

- A. Form. The performance guaranty shall be in a form approved by the City Attorney.
- B. Procedure. All performance guaranties shall be submitted to the Secretary of the Planning Board, who shall forward a copy to the City Engineer and City Attorney. The City Engineer shall determine that the performance guaranty is in sufficient amount to assure the completion of all required improvements, and the City Attorney shall notify the Planning Board as to the acceptability of the performance guaranty in terms of form and execution. Upon the granting of final plat approval and after receipt of an approved final plat, the Secretary shall forward any performance guaranty posted with and accepted by the Planning Board to the City Clerk for filing. The Planning Board Secretary shall maintain a record of all surety bonds received by the City in connection with subdivisions and shall, within 90 days of the expiration of any surety bond, notify the City Council of said pending bond expiration. Copies of said notice shall be sent to the City Clerk, City Attorney and City Engineer.
- C. Such performance guaranties shall run for a period to be fixed by the Planning Board but in no case for a term of more than three years. However, with the consent of the obligor and the surety, the City Council may, by resolution, extend the term of such performance guaranty for an additional period not to exceed three years. The amount of the performance guaranty may be reduced by the City Council by resolution when portions of the required improvements have been installed. If the required improvements have not been installed in accordance with the performance guaranty, the obligor and surety shall be liable thereon to the City for the reasonable cost of improvements not installed.
- D. Release of any performance guaranty posted in connection with a development shall be in accordance with the provisions of N.J.S.A. 40:55D-53.

§ 130-151. Maintenance guaranties.

All developers shall execute a maintenance guaranty and post said guaranty with the City in a surety for the maintenance and repair of all improvements required to be installed by the developer except when the cost of said improvements is less than \$10,000. The maintenance guaranty shall be for a period of two years from the date of final acceptance of the improvements by resolution of the City Council, and its amount shall not exceed 15% of the City Engineer's estimate of the cost of construction of the required improvements. The maintenance guaranty shall apply to such repairs as may be necessitated by substandard original construction or by damage by the developer in the course of development of the subdivision.

- A. The maintenance guaranty shall be in a form as provided in § 130-150A.

- B. All maintenance guaranties shall be submitted to the City Clerk, who shall forward a copy to the City Engineer and City Attorney. The City Engineer shall determine that the maintenance guaranty is in sufficient amount to assure the completion of all required improvements, and the City Attorney shall notify the City Council as to the acceptability of the maintenance guaranties in terms of their form and execution.
- C. Upon acceptance of the maintenance guaranty, the City Clerk shall notify the Secretary of the Planning Board, who shall maintain a record of all surety bonds received by the City in connection with developments in accordance with the provisions of § 130-150B.
- D. The release of a maintenance guaranty shall be by resolution of the City Council, after recommendation of release by the City Engineer.

§ 130-152. Inspections.

All of the required improvements of a development shall be inspected during the time of their installation by the City Engineer to ensure satisfactory construction.

- A. Notice. The City Engineer shall be notified at least seven days prior to the start of construction and at least two days before each stage of construction. No underground installation of any type shall be covered until inspected and approved by the City Engineer. In no case, shall any paving work be done without permission from the City Engineer's office so that he or a qualified representative may be present at the time work is to be done. The City Engineer's office shall be notified after each phase of work has been completed (i.e., road subgrade, curb forms, curbing, etc.) so that he or a qualified representative may inspect the work.
- B. A final inspection of all improvements and utilities will be started within 10 days' notification by the developer to determine whether the work is in agreement with the approved final plat plans and City specifications. Upon a final inspection report, action will be taken to release or declare in default any performance guaranty concerning such improvements. Inspection by the City of the installation of improvements shall not operate to subject the City to liability, suits and claims of any kind that may at any time arise because of defects or negligence during construction.

Part 6
Penalties

ARTICLE XXVII
Violations and Penalties

§ 130-153. Violations and penalties.

- A. If before final subdivision approval has been granted, any person transfers or sells or agrees to transfer or sell, except pursuant to an agreement expressly conditioned on final subdivision approval, as owner or agent, any land which forms a part of a subdivision for which City approval is required by this chapter pursuant to the Municipal Land Use Law,²² 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 City may institute and maintain a civil action:
- (1) For injunctive relief; and
 - (2) To set aside and invalidate any conveyance made pursuant to such contract of sale if a certificate of compliance has not been issued in accordance with N.J.S.A. 40:55D-56. In any such action the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land, from which the subdivision was made that remains in the possession of the developer or his assigns or successors, to secure the return of any deposits made or purchase prices paid and also a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within two years after the date of the recording of the instrument of transfer, sale or conveyance of said land or within six years, if unrecorded.
- C. Unless otherwise provided in this chapter, any person that shall violate this chapter or do any act or thing prohibited or refuse or fail to do any act or thing required to be done or refuse or fail to comply with an order of the Zoning Administrative Officer or an order of the Board of Adjustment shall, upon conviction thereof, be subject to one or more of the following: a fine not exceeding \$1,000; imprisonment for a term not exceeding 90 days; or a period of community service not exceeding 90 days. Whenever such person shall have been officially notified by the Zoning Administrative Officer or by the service of a summons in a prosecution or in any other official manner that he is committing a violation, each day's continuance of such violation after such notification shall constitute a separate offense punishable by a like fine or penalty.

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

Part 7
Requirements For Alternative Treatment Centers Or Alternative Cannabis Treatment Centers
[Added 10-19-2020 By Ord. No. 20-09]

ARTICLE XXVIII
Requirements

§ 130-154. General regulations.

- A. Limitation on alternative treatment dispensaries within the City.
- (1) The number of dispensaries permitted within the City is based on population. A maximum of one dispensary center shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the NJ State Department of Labor, Bureau of Statistics.
 - (2) Distance between alternative treatment center dispensaries, drug-free school zones. ATCs shall be located at a minimum of 1,000 feet from drug-free school zones as defined in the statute. Measurement to be conducted in a straight line from the nearest property line of the land used for the school to the nearest portion of the building in which the medical marijuana center is located.
 - (a) No marketing or advertisement of the site.
 - (b) No signage other than directional or discrete building identification shall be permitted; unusual odors, smells, fragrances or other olfactory stimulants shall be prohibited; light pollution, glare or brightness resulting from glow lamps must be 0.5 footcandle or less at the property line; noise beyond X decibels from ventilation fans shall be prohibited.
 - (3) Distance between alternative treatment centers. No ATC shall be located within 1,500 feet from any other alternative treatment center, which shall be measured in a straight line from the nearest portion of the building in which the center is proposed to be located to the nearest portion of the building in which the other center or the retail marijuana store is located. Standalone cultivation and manufacturing uses are not included within this prohibition as long as the following conditions are met.
 - (a) There is no dispensary component to the facility.
 - (b) It is a fully secured facility and does not contain a dispensary or have public access.
 - (c) Signage for the facility shall remain innocuous and part of the general directional signage typically found in industrial manufacturing facilities only. Facade signs will be limited to those at the point of entry to the facility and may not be more than six square feet.
 - (4) In the event more than one land use application for an alternative treatment center, cultivation or manufacturing facility of the same classification are submitted to the City in close proximity to one another, and if the applications comply with all the requirements of this chapter and the NJ State Department of Health and the Board of Medical Examiners, the City is not permitted to approve all of the applications because of the limitations set forth in this subsection. The City shall first review for approval the application that was first submitted and determined to be a complete and compliant application by the City Planner, or Zoning Officer.

- (5) The distance restrictions shall not apply to any location where the state previously issued a medical marijuana license under the Act, a licensed dispensary commenced operations at the subject location, and a licensed medical cannabis dispensary or center has existed in continuous operations at the subject location since the time of original licensing.
- B. Permitted locations.
- (1) Alternative treatment center (dispensaries). Alternative treatment center dispensaries only shall be permitted to be located within the following zones in accordance with this chapter and the redevelopment plans where applicable. For all properties, adherence to the site design standards of the Town Land Development Ordinances and redevelopment plans through a review by the Zoning Official and Salem City Council (Redevelopment Agency), where applicable, is required. Issuance of zoning permit and/or site plan approval is required. Permitted areas include areas zoned commercial but not located inside federal, state or local designated historic districts.
 - (2) Stand-alone cultivation, manufacturing, and/or testing facilities. Stand-alone cultivation, manufacturing and/or testing facilities shall be permitted to be located within the following zones in accordance with this chapter and the redevelopment plans where applicable. For all properties, adherence to the site design standards of the Town Land Development Ordinances and redevelopment plans through a review by the Zoning Official and Salem City Council (Redevelopment Agency) where applicable is required. Issuance of zoning permit and/or site plan approval is required. Allowed zones limited to the Waterfront Redevelopment Area.
- C. Restrictions on mobile facilities and delivery of cannabis products to patients. No such services shall be permitted unless expressly permitted by the NJ State Department of Health and the Board of Medical Examiners pursuant to the type of licensure the facility processes.
- D. Operation hours. ATC dispensaries shall limit their hours of operation to 9:00 a.m. to 8:00 p.m., Monday through Friday, and Saturday 9:00 a.m. to 6:00 p.m. ATC dispensaries cannot operate on Sundays. Standalone Cultivation, Manufacturing, and/or Testing Facilities shall limit their hours of operation to 9:00 a.m. to 8:00 p.m., Monday - Friday and Saturday 9:00 a.m. to 6:00 p.m. Stand-alone cultivation, manufacturing, and/or testing facilities cannot operate on Sundays.
- E. Specific requirements for alternative treatment centers.
- (1) The cultivation of medical cannabis plants shall not be permitted on exterior portions of a lot. The cultivation, production or possession of marijuana plants within a building or unit must not be perceptible from the exterior of the building or unit from a street or residential use. Such use shall adhere to the bulk standards of the underlying zoning.
 - (2) Samples of medical cannabis products offered for sale may be displayed on shelves, counters and display cases. All bulk cannabis products shall be locked within a separate vault or safe (with no other items in this safe) which shall be securely fastened to a wall or floor, as approved by the City of Salem Police Department.
 - (3) An alternative treatment center may sell "paraphernalia" as that term is defined pertains to patients only and shall be exempt from the prohibitions contained in any other section of the Zoning Code.
 - (4) Only persons who are authorized to purchase may enter the dispensary alternative treatment center to make a purchase.

- (5) No person without a MMP card is permitted to pick up a prescription.
 - (6) Alternative treatment centers must limit signage to text on external signage/labeling and brochures. Use of graphics shall be limited to the logo for the business so long as it does NOT include a cannabis plant leaf and outward glorification of marijuana/cannabis consumption.
 - (7) Facilities must comply with all sign regulations set forth in this chapter.
 - (8) Alternative treatment center signage shall not display on the exterior of the facility or windows advertisements for medicinal cannabis or a brand name except for purposes of identifying the building by the permitted name.
 - (9) Parking shall be provided as provided for in Chapter 130 (Schedule G). Except that:
 - (a) ATC dispensary. Same as offices, general and professional.
 - (b) Cultivation, manufacturing, testing facilities. Same as industrial manufacturing use.
 - (10) No drive-through dispensing shall be allowed.
- F. Security and reporting. Security systems must be in place, along with a 24/7 recording system that records for a minimum thirty-day archive. This system shall be shared with local law enforcement via web browser. Outside areas of the premises and the perimeter shall be well lit. City law enforcement shall be provided the name and phone number of a staff person to notify during suspicious activity during or after operating hours. Security staff is required on the premises during all hours of operation. Additionally:
- (1) The premises must only be accessed by authorized personnel and free of loitering.
 - (2) Security personnel must be present during times of operation.
- G. Specific requirements for a stand-alone cultivation, manufacturing, and/or testing facilities premises. If co-located with a medical marijuana cultivation premises, the area of the proposed licensed marijuana premises utilized for cultivation shall be physically separated from the area of the premises open to the public or to patients. Walls, barriers, locks, signage and other means shall be employed to prevent the public or patients from entering the area of the licensed marijuana premises utilized for cultivation of marijuana.
- H. For the operation of any state licensed medical cannabis facility within the City of Salem, the following conditions must be satisfied:
- (1) No products to be visible from public places. Marijuana, cannabis plants, products, accessories, and associated paraphernalia contained in any medical cannabis business shall not be visible from a public sidewalk, public street or right-of-way, or any other public place. On-site storage of usable cannabis shall comply with 21 CFR 1301.72.
 - (2) No beer or alcohol on premises. No fermented malt beverages and no alcoholic beverages, shall be kept, served or consumed on the premises of a medical marijuana business.
 - (3) Storage of products. All products and accessories shall be stored completely indoors and on-site.
 - (4) Consumption of cannabis prohibited. No consumption or smoking of any medical marijuana/cannabis products shall be allowed or permitted on the premises or adjacent grounds of a medical cannabis business.

- (5) Storage of currency. All currency over \$1,000 shall be stored within a separate vault or safe (no marijuana in safe), securely fastened to a wall or floor, as approved by the Salem City Police Department.
- (6) Prevention of emissions and disposal of materials.
 - (a) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the business premises shall be provided at all times. In the event that any debris, dust, fluids or other substances shall exit the business premises, the property owner and operator shall be jointly and severally responsible for the full cleanup immediately.
 - (b) Businesses shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with state regulations.
 - (c) As applicable, medical cannabis businesses shall be equipped with ventilation systems with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior of the premises discernible by reasonable persons. The ventilation system must be inspected and approved by the Construction Official. If carbon dioxide will be used in any cultivation area, sufficient physical barriers or a negative air pressure system shall be in place to prevent carbon dioxide from moving into the ambient air, into other units in the same building or into an adjacent building in a concentration that would be harmful to any person, including persons with respiratory disease and shall be inspected and approved by the Construction Official and the Fire Marshall.
 - (d) All state regulations concerning ventilation systems shall be followed.
- I. Compliance with other codes. Any medical cannabis business and the adjacent grounds of the medical cannabis business shall comply with all zoning, health, building, fire, and other codes and ordinances of the City as shown by completed inspections and approvals by the City Planner, Construction Division, Fire Safety Division, and the Salem Health Department, if applicable.
- J. No harm to public health, safety or welfare. The licensed facility and adjacent grounds of a medical cannabis business shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.
- K. Penalty for violation. Any violation of the provisions of this subsection or the conditions of the zoning permit granted by a medical marijuana business shall be punishable by a civil fine of up to \$1,000. Each day that a violation is committed, exists or continues shall be deemed a separate and distinct offense. In addition, any violation of the provisions of this subsection, or any conditions imposed by the zoning permit may result in the revocation of the zoning permit.

§ 130-155. Cannabis retailer and cannabis delivery businesses. [Added 4-17-2023 by Ord. No. 23-06; amended 7-15-2024 by Ord. No. 24-18]

- A. Limitation on cannabis establishments within the City.
 - (1) A maximum of two cannabis retailer and two cannabis delivery businesses shall be permitted to be in the City of Salem.
 - (2) Distance between licensed cannabis establishments and drug-free school zones. Cannabis retailer businesses and cannabis delivery businesses shall be located at a minimum of 1,000 feet from drug-free school zones as defined in the statute. Measurement to be conducted in a straight

line from the nearest property line of the land used for the school to the nearest portion of the building in which the medical marijuana center is located.

- (3) Distance between licensed cannabis establishments. No such cannabis retailer, cannabis delivery business and alternative treatment center shall be located within 1,500 feet from any other, which shall be measured in a straight line from the nearest portion of the building in which the center is proposed to be located to the nearest portion of the building in which the other is located.
 - (4) In the event more than one land use application for cannabis retailer and/or cannabis delivery business of the same classification are submitted to the City in close proximity to one another, and if the applications comply with all the requirements of this chapter and the NJ State Department of Health and the Board of Medical Examiners, the City is not permitted to approve any of the applications that exceed the limitations set forth in this subsection. The City shall first review for approval the application that was first submitted and determined to be a complete and compliant application by the City Planner, or Zoning Officer.
 - (5) The distance restrictions shall not apply to any location where the state previously issued a medical marijuana license under the Act, a licensed dispensary commenced operations at the subject location, and a licensed medical cannabis dispensary or center has existed in continuous operations at the subject location since the time of original licensing.
- B. Permitted locations. Cannabis retail businesses and cannabis delivery businesses shall only be permitted to be located within the following zones in accordance with this chapter and the redevelopment plans, where applicable. For all properties, adherence to the site design standards of the Town Land Development Ordinances and Redevelopment Plans through a review by the Zoning Official and Salem City Council (Redevelopment Agency), where applicable, is required. Issuance of zoning permit and/or site plan approval is required. Permitted areas include:
- (1) Areas zoned Commercial but not located inside federal, state or local designated historic districts.
- C. Operation hours. Cannabis retail and delivery businesses shall limit their hours of operation to 9:00 a.m. to 8:00 p.m., Monday through Friday, and Saturday, 9:00 a.m. to 6:00 p.m. They cannot operate on Sundays.
- D. Specific requirements.
- (1) Cannabis shall not be permitted on exterior portions of a lot. The cultivation, production or possession of cannabis products within a building or unit must not be perceptible from the exterior of the building or unit from a street or residential use. Such use shall adhere to the bulk standards of the underlying zoning.
 - (2) Samples of cannabis products offered for sale may be displayed on shelves, counters and display cases. All bulk cannabis products shall be locked within a separate vault or safe (with no other items in this safe) which shall be securely fastened to a wall or floor, as approved by the City of Salem Police Department.
 - (3) Sale of "cannabis paraphernalia" as that term is defined pertains sales authorized for the licensee and shall be exempt from the prohibitions contained in any other section of the Zoning Code.
 - (4) Only persons who are authorized to purchase may enter the cannabis retail business to make a purchase.

- (5) No signage shall be permitted other than directional or discrete building identification and shall be limited to text on external signage/labeling and brochures. Use of graphics shall be limited to the logo for the business so long as it does NOT include a cannabis plant leaf and outward glorification of cannabis consumption. Signage shall not display window advertisements for cannabis or a brand name except for purposes of identifying the building by the permitted name.
 - (6) Facilities must comply with all sign regulations set forth in this chapter.
 - (7) Parking shall be provided as provided for in Chapter 130, Schedule G, as offices, general and professional.
 - (8) No drive-through dispensing shall be allowed.
 - (9) Unusual odors, smells, fragrances or other olfactory stimulants shall be prohibited. Light pollution, glare or brightness must be 0.5 footcandle or less at the property line; noise from ventilation fans shall be prohibited.
- E. Security and reporting. Security systems must be in place, along with a 24/7 recording system that records for a minimum thirty-day archive. This system shall be shared with local law enforcement via web browser. Outside areas of the premises and the perimeter shall be well lit. City law enforcement shall be provided the name and phone number of a staff person to notify during suspicious activity during or after operating hours. Additionally:
- (1) The premises must only be accessed by authorized personnel and free of loitering.
 - (2) Security personnel must be present during times of operation.
 - (3) Walls, bathers, locks, signage and other means shall be employed to prevent the public or patients from entering the area of the licensed marijuana premises for the storage of marijuana inventory.
- F. The operation of any state-licensed cannabis retail or delivery facility within the City of Salem, must adhere to the following, in addition to all state regulations:
- (1) No products to be visible from public places. Cannabis plants, products, accessories, and associated paraphernalia permitted on any premises pursuant to the state licensing shall not be visible from a public sidewalk, public street or right-of-way, or any other public place. On-site storage of usable cannabis shall comply with all state and federal regulations.
 - (2) No beer or alcohol on premises. No fermented malt beverages and no alcoholic beverages, shall be kept, served or consumed on the premises of a cannabis business.
 - (3) Storage of products. All products and accessories shall be stored completely indoors and on-site.
 - (4) Consumption of cannabis prohibited. No consumption or smoking of any cannabis products shall be allowed or permitted on the premises or adjacent grounds of the business without a consumption endorsement issued by the City.
 - (5) Storage of currency. All currency over \$1,000 shall be stored within a separate vault or safe (no marijuana in safe), securely fastened to a wall or floor, as approved by the Salem City Police Department.
 - (6) Prevention of emissions and disposal of materials.

- (a) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the business premises shall be provided at all times. In the event that any debris, dust, fluids or other substances shall exit the business premises, the property owner and operator shall be jointly and severally responsible for the full cleanup immediately.
 - (b) Businesses shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with State regulations.
 - (c) As applicable, cannabis businesses permitted under § 130-155 shall be equipped with ventilation systems with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior of the premises discernible by reasonable persons. The ventilation system must be inspected and approved by the Construction Official. If carbon dioxide will be used in any cultivation area, sufficient physical barriers or a negative air pressure system shall be in place to prevent carbon dioxide from moving into the ambient air, into other units in the same building or into an adjacent building in a concentration that would be harmful to any person, including persons with respiratory disease and shall be inspected and approved by the Construction Official and the Fire Marshal.
 - (d) All state regulations concerning ventilation systems shall be followed.
- G. Compliance with other codes. Cannabis business permitted under this section and the adjacent grounds of the business shall comply with all zoning, health, building, fire, and other codes and ordinances of the City as shown by completed inspections and approvals by the Town Planner, Construction Division, Fire Safety Division, and the Health Department, if applicable.
- H. No harm to public health, safety or welfare. The licensed facility and adjacent grounds of a business permitted under this section shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.
- I. Violations and penalties. Any violation of the provisions of this subsection or the conditions of the zoning permit granted, shall be punishable by a civil fine of up to \$1,000. Each day that a violation is committed, exists or continues shall be deemed a separate and distinct offense. In addition, any violation of the provisions of this subsection, or any conditions imposed by the zoning permit may result in the revocation of the zoning permit.

§ 130-156. through § 130-161. (Reserved)

Part 8
Stormwater Management

ARTICLE XXIX
Stormwater Control
[Added 4-19-2021 by Ord. No. 21-03]

§ 130-162. Scope and purpose. [Amended 10-21-2024 by Ord. No. 24-22]

- A. Policy statement. Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including green infrastructure best management practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs and low-impact development (LID) should be utilized to meet the goal of maintaining natural hydrology to reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater recharge, and reduce pollution. GI BMPs and LID should be developed based upon physical site conditions and the origin, nature and the anticipated quantity, or amount, of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.
- B. Purpose. The purpose of this article is to establish minimum stormwater management requirements and controls for "major development," as defined below in § 130-163.
- C. Applicability.
- (1) This article shall be applicable to the following major developments:
 - (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 article shall also be applicable to all major developments undertaken by City of Salem.
 - (3) An application required by ordinance pursuant to Subsection C(1) above that has been submitted prior to October 21, 2024, shall be subject to the stormwater management requirements in effect on October 20, 2024.
 - (4) An application required by ordinance for approval pursuant to Subsection C(1) above that has been submitted on or after March 2, 2021, but prior to October 21, 2024, shall be subject to the stormwater management requirements in effect on October 20, 2024.
 - (5) Notwithstanding any rule to the contrary, a major development for any public roadway or railroad project conducted by a public transportation entity that has determined a preferred alternative or reached an equivalent milestone before July 17, 2023, shall be subject to the stormwater management requirements in effect prior to July 17, 2023.
- D. Compatibility with other permit and ordinance requirements. Development approvals issued pursuant to this article are to be considered an integral part of development approvals and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this article shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This article 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 article 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.

§ 130-163. Definitions. [Amended 10-21-2024 by Ord. No. 24-22]

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this article 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. 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 — Those areas with boundaries incorporated by reference or revised by the Department in accordance with N.J.A.C. 7:7-13.16.

CAFRA PLANNING MAP — The map used by the Department to identify the location of Coastal Planning Areas, CAFRA centers, CAFRA cores, and CAFRA nodes. The CAFRA Planning Map is available on the Department's Geographic Information System (GIS).

COMMUNITY BASIN — An infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond, established in accordance with N.J.A.C. 7:8-4.2(c)14, that is designed and constructed in accordance with the New Jersey Stormwater Best Management Practices Manual, or an alternate design, approved in accordance with N.J.A.C. 7:8-5.2(g), for an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond and that complies with the requirements of this article.

COMPACTION — The increase in soil bulk density.

CONTRIBUTORY DRAINAGE AREA — The area from which stormwater runoff drains to a stormwater management measure, not including the area of the stormwater management measure itself.

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 Commissioners 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 Department of Environmental Protection.

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.

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

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, 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 land, 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.

DISTURBANCE — The placement or reconstruction of impervious surface or motor vehicle surface, or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation. Milling and repaving is not considered disturbance for the purposes of this definition.

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.

EMPOWERMENT NEIGHBORHOODS — Neighborhoods 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.

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

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

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

GREEN INFRASTRUCTURE — A stormwater management measure that manages stormwater close to its source by:

- A. Treating stormwater runoff through infiltration into subsoil;
- B. Treating stormwater runoff through filtration by vegetation or soil; or
- C. Storing stormwater runoff for reuse.

HUC 14 or HYDROLOGIC UNIT CODE 14 — An area within which water drains to a particular receiving surface water body, also known as a "subwatershed," which is identified by a fourteen-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

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.

LEAD PLANNING AGENCY — One or more public entities having stormwater management planning authority designated by the regional stormwater management planning committee pursuant to N.J.A.C. 7:8-3.2, that serves as the primary representative of the committee.

MAJOR DEVELOPMENT —

- A. An individual development, as well as multiple developments that individually or collectively result in:
- (1) The disturbance of one or more acres of land since February 2, 2004;
 - (2) The creation of 1/4 acre or more of regulated impervious surface since February 2, 2004; or
 - (3) The creation of 1/4 acre or more of regulated motor vehicle surface since March 2, 2021; or
 - (4) A combination of Subsection A(2) and (3) above that totals an area of 1/4 acre or more. The same surface shall not be counted twice when determining if the combination area equals 1/4 acre or more.
- B. Major development includes all developments that are part of a common plan of development or sale (for example, phased residential development) that collectively or individually meet any one or more of Subsection A(1), (2), (3) and (4) above. Projects undertaken by any government agency that otherwise meet the definition of "major development" but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., are also considered major development.

MOTOR VEHICLE — Land vehicles propelled other than by muscular power, such as automobiles, motorcycles, autocycles, and low-speed vehicles. For the purposes of this definition, motor vehicle does not include farm equipment, snowmobiles, all-terrain vehicles, motorized wheelchairs, go-carts, gas buggies, golf carts, ski-slope grooming machines, or vehicles that run only on rails or tracks.

MOTOR VEHICLE SURFACE — Any pervious or impervious surface that is intended to be used by motor vehicles and/or aircraft, and is directly exposed to precipitation, including, but not limited to, driveways, parking areas, parking garages, roads, racetracks, and runways.

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

NEW JERSEY STORMWATER BEST MANAGEMENT PRACTICES (BMP) MANUAL or BMP MANUAL — The manual maintained by the Department providing, in part, design specifications, removal rates, calculation methods, and soil testing procedures approved by the Department as being capable of contributing to the achievement of the stormwater management standards specified in this article. The BMP Manual is periodically amended by the Department as necessary to provide design specifications on additional best management practices and new information on already included practices reflecting the best available current information regarding the particular practice and the Department's determination as to the ability of that best management practice to contribute to compliance with the standards contained in this article. Alternative stormwater management measures, removal rates, or calculation methods may be utilized, subject to any limitations specified in this article, provided the design engineer demonstrates to the municipality, in accordance with § 130-165F of this article and N.J.A.C. 7:8-5.2(g), that the proposed measure and its design will contribute to achievement of the design and performance standards established by this article.

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, political subdivision of this state and any state, interstate or federal agency.

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.

PUBLIC ROADWAY OR RAILROAD — Means a pathway for use by motor vehicles or trains that is intended for public use and is constructed by, or on behalf of, a public transportation entity. A public roadway or railroad does not include a roadway or railroad constructed as part of a private development, regardless of whether the roadway or railroad is ultimately to be dedicated to and/or maintained by a governmental entity.

PUBLIC TRANSPORTATION ENTITY — Means a federal, state, county, or municipal government, an independent state authority, or a statutorily authorized public-private partnership program pursuant to P.L. 2018, c. 90 (N.J.S.A. 40A:11-52 et seq.) that performs a public roadway or railroad project that includes new construction, expansion, reconstruction, or improvement of a public roadway or railroad.

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

REGULATED IMPERVIOUS SURFACE — Any of the following, alone or in combination:

- A. A net increase of impervious surface;
- B. The total area of impervious surface collected by a new stormwater conveyance system (for the purpose of this definition, a "new stormwater conveyance system" is a stormwater conveyance system that is constructed where one did not exist immediately prior to its construction or an existing system for which a new discharge location is created);
- C. The total area of impervious surface proposed to be newly collected by an existing stormwater conveyance system; and/or
- D. The total area of impervious surface collected by an existing stormwater conveyance system where the capacity of that conveyance system is increased.

REGULATED MOTOR VEHICLE SURFACE — Any of the following, alone or in combination:

- A. The total area of motor vehicle surface that is currently receiving water;
- B. A net increase in motor vehicle surface; and/or
- C. Quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant, where the water quality treatment will be modified or removed.

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

STORMWATER MANAGEMENT MEASURE — Any 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 MANAGEMENT PLANNING AGENCY — A public body authorized by legislation to prepare stormwater management plans.

STORMWATER MANAGEMENT PLANNING AREA — The geographic area for which a stormwater management planning agency is authorized to prepare stormwater management plans, or a specific portion of that area identified in a stormwater management plan prepared by that agency.

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 in which the flood elevation resulting from the two-, ten-, or 100-year storm, as applicable, is governed by tidal flooding from the Atlantic Ocean. Flooding in a tidal flood hazard area may be contributed to, or influenced by, stormwater runoff from inland areas, but the depth of flooding generated by the tidal rise and fall of the Atlantic Ocean is greater than flooding from any fluvial sources. In some situations, depending upon the extent of the storm surge from a particular storm event, a flood hazard area may be tidal in the 100-year storm, but fluvial in more frequent storm events.

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 (PA1), 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.

WATER CONTROL STRUCTURE — A structure within, or adjacent to, a water, which intentionally or

coincidentally alters the hydraulic capacity, the flood elevation resulting from the two-, ten-, or 100-year storm, flood hazard area limit, and/or floodway limit of the water. Examples of a water control structure may include a bridge, culvert, dam, embankment, ford (if above grade), retaining wall, and weir.

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams, wetlands, 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.

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."

§ 130-164. Design and performance standards for stormwater management measures.

- A. Stormwater management measures for major development shall be designed to provide erosion control, groundwater recharge, stormwater runoff quantity control, and stormwater runoff quality treatment as follows:
- (1) The minimum standards for erosion control are those established under the Soil and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules at N.J.A.C. 2:90.
 - (2) The minimum standards for groundwater recharge, stormwater quality, and stormwater runoff quantity shall be met by incorporating green infrastructure.
- B. The standards in this article 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. [Note: Alternative standards shall provide at least as much protection from stormwater-related loss of groundwater recharge, stormwater quantity and water quality impacts of major development projects as would be provided under the standards in N.J.A.C. 7:8-5.]

§ 130-165. Stormwater management requirements for major development. [Amended 10-21-2024 by Ord. No. 24-22]

- A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with § 130-171.
- 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 13:1B-15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergii* (bog turtle).
- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of § 130-165P, Q and R:
- (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 green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of § 130-165O, P, Q and R 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 stormwater management measures, the option selected complies with the requirements of § 130-165O, P, Q and R to the maximum extent practicable;
 - (3) The applicant demonstrates that, in order to meet the requirements of § 130-165O, P, Q and R, 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 § 130-165D(3) above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of § 130-165O, P, Q and R that were not achievable on-site.
- E. Tables 1 through 3 below summarize the ability of stormwater best management practices identified and described in the New Jersey Stormwater Best Management Practices Manual to satisfy the green infrastructure, groundwater recharge, stormwater runoff quality and stormwater runoff quantity standards specified in § 130-165O, P, Q and R. When designed in accordance with the most current version of the New Jersey Stormwater Best Management Practices Manual, the stormwater management measures found at N.J.A.C. 7:8-5.2(f), Tables 5-1, 5-2 and 5-3, and listed below in Tables 1, 2 and 3 are presumed to be capable of providing stormwater controls for the design and performance standards as outlined in the tables below. Upon amendments of the New Jersey Stormwater Best Management Practices to reflect additions or deletions of BMPs meeting these standards, or changes in the presumed performance of BMPs designed in accordance with the New Jersey Stormwater BMP Manual, the Department shall publish in the New Jersey Registers a notice of administrative change revising the applicable table. The most current version of the BMP Manual can be found on the Department's website at: <https://dep.nj.gov/stormwater/bmp-manual/>.
- F. Where the BMP tables in the NJ Stormwater Management Rule are different due to updates or amendments with the tables in this article the BMP Tables in the Stormwater Management Rule at N.J.A.C. 7:8-5.2(f) shall take precedence.

Table 1 Green Infrastructure BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High-Water Table (feet)
Cistern	0%	Yes	No	—
Dry well ^(a)	0%	No	Yes	2
Grass swale	50% or less	No	No	2 ^(e) 1 ^(f)
Green roof	0%	Yes	No	—
Manufactured treatment device ^{(a)(g)}	50% or 80%	No	No	Dependent upon the device
Pervious paving system ^(a)	80%	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)
Small-scale bioretention basin ^(a)	80% or 90%	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)
Small-scale infiltration basin ^(a)	80%	Yes	Yes	2
Small-scale sand filter	80%	Yes	Yes	2
Vegetative filter strip	60% to 80%	No	No	—

(Notes corresponding to annotations ^(a) through ^(g) are found after Table 3.)

Table 2 Green Infrastructure BMPs for Stormwater Runoff Quantity (or for Groundwater Recharge and/or Stormwater Runoff Quality with a Waiver or Variance from N.J.A.C. 7:8-5.3)				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High-Water Table (feet)
Bioretention system	80% or 90%	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)
Infiltration basin	80%	Yes	Yes	2
Sand filter ^(b)	80%	Yes	Yes	2
Standard constructed wetland	90%	Yes	No	N/A
Wet pond ^(d)	50% to 90%	Yes	No	N/A

(Notes corresponding to annotations ^(b) through ^(d) are found after Table 3.)

Table 3 BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity only with a Waiver or Variance from N.J.A.C. 7:8-5.3				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High-Water Table (feet)
Blue roof	0%	Yes	No	N/A
Extended detention basin	40% to 60%	Yes	No	1
Manufactured treatment device ^(h)	50% or 80%	No	No	Dependent upon the device
Sand filter ^(c)	80%	Yes	No	1

Table 3 BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity only with a Waiver or Variance from N.J.A.C. 7:8-5.3				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High-Water Table (feet)
Subsurface gravel wetland	90%	No	No	1
Wet pond	50% to 90%	Yes	No	N/A

Notes to Tables 1, 2, and 3:

- (a) Subject to the applicable contributory drainage area limitation specified at § 130-165O(2);
- (b) Designed to infiltrate into the subsoil;
- (c) Designed with underdrains;
- (d) Designed to maintain at least a ten-foot-wide area of native vegetation along at least 50% of the shoreline and to include a stormwater runoff retention component designed to capture stormwater runoff for beneficial reuse, such as irrigation;
- (e) Designed with a slope of less than 2%;
- (f) Designed with a slope of equal to or greater than 2%;
- (g) Manufactured treatment devices that meet the definition of "green infrastructure" at § 130-163;
- (h) Manufactured treatment devices that do not meet the definition of "green infrastructure" at § 130-163.

G. An alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate may be used if the design engineer demonstrates the capability of the proposed alternative stormwater management measure and/or the validity of the alternative rate or method to the municipality. A copy of any approved alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate shall be provided to the Department in accordance with § 130-167B. Alternative stormwater management measures may be used to satisfy the requirements at § 130-165O only if the measures meet the definition of "green infrastructure" at § 130-163. Alternative stormwater management measures that function in a similar manner to a BMP listed at Subsection O(2) are subject to the contributory drainage area limitation specified at Subsection O(2) for that similarly functioning BMP. Alternative stormwater management measures approved in accordance with this subsection that do not function in a similar manner to any BMP listed at Subsection O(2) shall have a contributory drainage area less than or equal to 2.5 acres, except for alternative stormwater management measures that function similarly to cisterns, grass swales, green roofs, standard constructed wetlands, vegetative filter strips, and wet ponds, which are not subject to a contributory drainage area limitation. Alternative measures that function similarly to

standard constructed wetlands or wet ponds shall not be used for compliance with the stormwater runoff quality standard unless a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with § 130-165D is granted from § 130-165O.

- H. Whenever the stormwater management design includes one or more BMPs that will infiltrate stormwater into subsoil, the design engineer shall assess the hydraulic impact on the groundwater table and design the site, so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high-water table, so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems or other subsurface structures within the zone of influence of the groundwater mound, or interference with the proper functioning of the stormwater management measure itself.
- I. Design standards for stormwater management measures are as follows:
- (1) Stormwater management measures shall be designed to take into account the existing site conditions, including, but not limited to, 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) 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 § 130-169C;
 - (3) 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, 5:21-7.4, and 5:21-7.5 shall be deemed to meet this requirement;
 - (4) Stormwater management BMPs shall be designed to meet the minimum safety standards for stormwater management BMPs at § 130-169; and
 - (5) The size of the orifice at the intake to the outlet from the stormwater management BMP shall be a minimum of 2 1/2 inches in diameter.
- J. Manufactured treatment devices may be used to meet the requirements of this article, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department. Manufactured treatment devices that do not meet the definition of "green infrastructure" at § 130-163 may be used only under the circumstances described at § 130-165O(4).
- K. Any application for a new agricultural development that meets the definition of major development at § 130-163 shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at § 130-165O, P, Q and R and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For purposes of this subsection, "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 manufacture of agriculturally related products.

- L. If there is more than one drainage area, the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at § 130-165P, Q and R shall be met in each drainage area, unless the runoff from the drainage areas converge on-site and no adverse environmental impact would occur as a result of compliance with any one or more of the individual standards being determined utilizing a weighted average of the results achieved for that individual standard across the affected drainage areas.
- M. Any stormwater management measure authorized under the municipal stormwater management plan or ordinance shall be reflected in a deed notice recorded in the Salem County Clerk's office. (A form of deed notice shall be submitted to the municipality for approval prior to filing.) The deed notice shall contain a description of the stormwater management measure(s) used to meet the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at § 130-165O, P, Q and R and shall identify the location of the stormwater management measure(s) in NAD 1983 State Plane New Jersey FIPS 2900 US feet or latitude and longitude in decimal degrees. The deed notice shall also reference the maintenance plan required to be recorded upon the deed pursuant to § 130-171B(5). Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality. Proof that the required information has been recorded on the deed shall be in the form of either a copy of the complete recorded document or a receipt from the Clerk or other proof of recordation provided by the recording office. However, if the initial proof provided to the municipality is not a copy of the complete recorded document, a copy of the complete recorded document shall be provided to the municipality within 180 calendar days of the authorization granted by the municipality.
- N. A stormwater management measure approved under the municipal stormwater management plan or ordinance may be altered or replaced with the approval of the municipality, if the municipality determines that the proposed alteration or replacement meets the design and performance standards pursuant to § 130-165 of this article and provides the same level of stormwater management as the previously approved stormwater management measure that is being altered or replaced. If an alteration or replacement is approved, a revised deed notice shall be submitted to the municipality for approval and subsequently recorded with the Salem County Clerk's office and shall contain a description and location of the stormwater management measure, as well as reference to the maintenance plan, in accordance with Subsection M above. Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality in accordance with Subsection M above.
- O. Green infrastructure standards.
- (1) This subsection specifies the types of green infrastructure BMPs that may be used to satisfy the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards.
 - (2) To satisfy the groundwater recharge and stormwater runoff quality standards at § 130-165P and Q, the design engineer shall utilize green infrastructure BMPs identified in Table 1 at § 130-165F and/or an alternative stormwater management measure approved in accordance with § 130-165G. The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:

Best Management Practice	Maximum Contributory Drainage Area (acres)
Dry well	1
Manufactured treatment device	2.5
Pervious pavement systems	Area of additional inflow cannot exceed 3 times the area occupied by the BMP
Small-scale bioretention systems	2.5
Small-scale infiltration basin	2.5
Small-scale sand filter	2.5

- (3) To satisfy the stormwater runoff quantity standards at § 130-165R, the design engineer shall utilize BMPs from Table 1 or from Table 2 and/or an alternative stormwater management measure approved in accordance with § 130-165G.
- (4) If a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with § 130-165D is granted from the requirements of this subsection, then BMPs from Table 1, 2, or 3, and/or an alternative stormwater management measure approved in accordance with § 130-165G may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at § 130-165P, Q and R.
- (5) For separate or combined storm sewer improvement projects, such as sewer separation, undertaken by a government agency or public utility (for example, a sewerage company), the requirements of this subsection shall only apply to areas owned in fee simple by the government agency or utility, and areas within a right-of-way or easement held or controlled by the government agency or utility; the entity shall not be required to obtain additional property or property rights to fully satisfy the requirements of this subsection. Regardless of the amount of area of a separate or combined storm sewer improvement project subject to the green infrastructure requirements of this subsection, each project shall fully comply with the applicable groundwater recharge, stormwater runoff quality control, and stormwater runoff quantity standards at § 130-165P, Q and R, unless the project is granted a waiver from strict compliance in accordance with § 130-165D.

P. Groundwater recharge standards.

- (1) This subsection contains the minimum design and performance standards for groundwater recharge as follows.
- (2) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at § 130-166, 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 pre-construction to post-construction for the projected two-year storm, as defined and determined pursuant to § 130-166D of this Code, is infiltrated.

- (3) This groundwater recharge requirement does not apply to projects within the urban redevelopment area, or to projects subject to Subsection P(4) below.
- (4) 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 approved pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules, N.J.A.C. 7: 26C, or Department landfill closure plan and areas; 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.

Q. Stormwater runoff quality standards.

- (1) This subsection contains the minimum design and performance standards to control stormwater runoff quality impacts of major development. Stormwater runoff quality standards are applicable when the major development results in an increase of 1/4 acre or more of regulated motor vehicle surface.
- (2) Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff generated from the water quality design storm as follows:
 - (a) Eighty percent TSS removal of the anticipated load, expressed as an annual average shall be achieved for the stormwater runoff from the net increase of motor vehicle surface.
 - (b) If the surface is considered regulated motor vehicle surface because the water quality treatment for an area of motor vehicle surface that is currently receiving water quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant is to be modified or removed, the project shall maintain or increase the existing TSS removal of the anticipated load expressed as an annual average.
- (3) 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 Pollutant Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. Every major development, including any that discharge into a combined sewer system, shall comply with Subsection Q(2) above, unless the major development is itself subject to a NJPDES permit with a numeric effluent limitation for

TSS or the NJPDES permit to which the major development is subject exempts the development from a numeric effluent limitation for TSS.

- (4) 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 4, below. The calculation of the volume of runoff may take into account the implementation of stormwater management measures.

Time (minutes)	Cumulative Rainfall (inches)	Time (minutes)	Cumulative Rainfall (inches)	Time (minutes)	Cumulative Rainfall (inches)
1	0.00166	41	0.1728	81	1.0906
2	0.00332	42	0.1796	82	1.0972
3	0.00498	43	0.1864	83	1.1038
4	0.00664	44	0.1932	84	1.1104
5	0.00830	45	0.2000	85	1.1170
6	0.00996	46	0.2117	86	1.1236
7	0.01162	47	0.2233	87	1.1302
8	0.01328	48	0.2350	88	1.1368
9	0.01494	49	0.2466	89	1.1434
10	0.01660	50	0.2583	90	1.1500
11	0.01828	51	0.2783	91	1.1550
12	0.01996	52	0.2983	92	1.1600
13	0.02164	53	0.3183	93	1.1650
14	0.02332	54	0.3383	94	1.1700
15	0.02500	55	0.3583	95	1.1750
16	0.03000	56	0.4116	96	1.1800
17	0.03500	57	0.4650	97	1.1850
18	0.04000	58	0.5183	98	1.1900
19	0.04500	59	0.5717	99	1.1950
20	0.05000	60	0.6250	100	1.2000
21	0.05500	61	0.6783	101	1.2050
22	0.06000	62	0.7317	102	1.2100
23	0.06500	63	0.7850	103	1.2150
24	0.07000	64	0.8384	104	1.2200

Table 4 Water Quality Design Storm Distribution					
Time (minutes)	Cumulative Rainfall (inches)	Time (minutes)	Cumulative Rainfall (inches)	Time (minutes)	Cumulative Rainfall (inches)
25	0.07500	65	0.8917	105	1.2250
26	0.08000	66	0.9117	106	1.2267
27	0.08500	67	0.9317	107	1.2284
28	0.09000	68	0.9517	108	1.2300
29	0.09500	69	0.9717	109	1.2317
30	0.10000	70	0.9917	110	1.2334
31	0.10660	71	1.0034	111	1.2351
32	0.11320	72	1.0150	112	1.2367
33	0.11980	73	1.0267	113	1.2384
34	0.12640	74	1.0383	114	1.2400
35	0.13300	75	1.0500	115	1.2417
36	0.13960	76	1.0568	116	1.2434
37	0.14620	77	1.0636	117	1.2450
38	0.15280	78	1.0704	118	1.2467
39	0.15940	79	1.0772	119	1.2483
40	0.16600	80	1.0840	120	1.2500

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

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

Where:

- R = total TSS percent load removal from application of both BMPs.
- A = the TSS percent removal rate applicable to the first BMP.
- B = the TSS percent removal rate applicable to the second BMP.

- (6) Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include green infrastructure BMPs that optimize nutrient removal while still achieving the performance standards in § 130-165P, Q and R.

- (7) In accordance with the definition of "FW1" at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
- (8) The Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-4.1(c)1 establish 300-foot riparian zones along Category One waters, as designated in the Surface Water Quality Standards at N.J.A.C. 7:9B, and certain upstream tributaries to Category One waters. A person shall not undertake a major development that is located within or discharges into a 300-foot riparian zone without prior authorization from the Department under N.J.A.C. 7:13.
- (9) Pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-11.2(j)3i, runoff from the water quality design storm that is discharged within a 300-foot riparian zone shall be treated in accordance with this subsection to reduce the post-construction load of total suspended solids by 95% of the anticipated load from the developed site, expressed as an annual average.
- (10) This stormwater runoff quality standards do not apply to the construction of one individual single-family dwelling, provided that it is not part of a larger development or subdivision that has received preliminary or final site plan approval prior to December 3, 2018, and that the motor vehicle surfaces are made of permeable material(s), such as gravel, dirt, and/or shells.

R. Stormwater runoff quantity standards.

- (1) This subsection contains the minimum design and performance standards to control stormwater runoff quantity impacts of major development.
- (2) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § 130-166, complete one of the following:
 - (a) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the current and projected two-, ten-, and 100-year storm events, as defined and determined in § 130-166C and D, respectively, of this article, do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
 - (b) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the current and projected two-, ten-, and 100-year storm events, as defined and determined pursuant to § 130-166C and D, respectively, of this article, 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;
 - (c) Design stormwater management measures so that the post-construction peak runoff rates for the current and projected two-, ten-, and 100-year storm events, as defined and determined in § 130-166C and D, respectively, of this article, are 50%, 75% and 80% respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed; or
 - (d) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with

Subsection R(2)(a), (b) and (c) above is required unless the design engineer demonstrates through hydrologic and hydraulic analysis that the increased volume, change in timing, or increased rate of the stormwater runoff, or any combination of the three will not result in additional flood damage below the point of discharge of the major development. No analysis is required if the stormwater is discharged directly into any ocean, bay, inlet, or the reach of any watercourse between its confluence with an ocean, bay, or inlet and downstream of the first water control structure.

- (3) The stormwater runoff quantity standards shall be applied at the site's boundary to each abutting lot, roadway, watercourse, or receiving storm sewer system.

§ 130-166. Calculation of stormwater runoff and groundwater recharge. [Amended 10-21-2024 by Ord. No. 24-22]

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 Chapters 7, 9, 10, 15 and 16, Part 630, Hydrology National Engineering Handbook, incorporated herein by reference as amended and supplemented. This methodology is additionally described in Technical Release 55 - Urban Hydrology for Small Watersheds (TR-55), dated June 1986, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the Natural Resources Conservation Service website at <https://directives.sc.egov.usda.gov/viewerFS.aspx?hid=21422> or at United States Department of Agriculture Natural Resources Conservation Service, New Jersey State Office.
 - (2) For the purpose of calculating curve numbers and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "curve number" applies to the NRCS methodology above at § 130-166A(1)(a). A curve number 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 has 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 or 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: 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 the New Jersey Geological Survey website at <https://www.nj.gov/dep/njgs/pricelst/greport/gsr32.pdf> or at New Jersey Geological and Water Survey, 29 Arctic Parkway, PO Box 420 Mail Code 29-01, Trenton, New Jersey 08625-0420.
- C. The precipitation depths of the current two-, ten-, and 100-year storm events shall be determined by multiplying the values determined in accordance with Subsection C(1) and (2) below:
 - (1) The applicant shall utilize the National Oceanographic and Atmospheric Administration (NOAA), National Weather Service's Atlas 14 Point Precipitation Frequency Estimates: NJ, in accordance with the location(s) of the drainage area(s) of the site. This data is available at: https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=nj; and
 - (2) The applicant shall utilize Table 5: Current Precipitation Adjustment Factors below, which sets forth the applicable multiplier for the drainage area(s) of the site, in accordance with the county or counties where the drainage area(s) of the site is located. Where the major development lies in more than one county, the precipitation values shall be adjusted according to the percentage of the drainage area in each county. Alternately, separate rainfall totals can be developed for each county using the values in the table below.

Table 5: Current Precipitation Adjustment Factors			
County	Current Precipitation Adjustment Factors		
	2-year Design Storm	10-year Design Storm	100-year Design Storm
Atlantic	1.01	1.02	1.03
Bergen	1.01	1.03	1.06
Burlington	0.99	1.01	1.04
Camden	1.03	1.04	1.05
Cape May	1.03	1.03	1.04
Cumberland	1.03	1.03	1.01
Essex	1.01	1.03	1.06
Gloucester	1.05	1.06	1.06
Hudson	1.03	1.05	1.09
Hunterdon	1.02	1.05	1.13
Mercer	1.01	1.02	1.04

Table 5: Current Precipitation Adjustment Factors			
County	Current Precipitation Adjustment Factors		
	2-year Design Storm	10-year Design Storm	100-year Design Storm
Middlesex	1.00	1.01	1.03
Monmouth	1.00	1.01	1.02
Morris	1.01	1.03	1.06
Ocean	1.00	1.01	1.03
Passaic	1.00	1.02	1.05
Salem	1.02	1.03	1.03
Somerset	1.00	1.03	1.09
Sussex	1.03	1.04	1.07
Union	1.01	1.03	1.06
Warren	1.02	1.07	1.15

- D. Table 6: Future Precipitation Change Factors provided below sets forth the change factors to be used in determining the projected two-, ten-, and 100-year storm events for use in this chapter, which are organized alphabetically by county. The precipitation depth of the projected two-, ten-, and 100-year storm events of a site shall be determined by multiplying the precipitation depth of the two-, ten-, and 100-year storm events determined from the National Weather Service's Atlas 14 Point Precipitation Frequency Estimates pursuant to Subsection C(1) above, by the change factor in the table below, in accordance with the county or counties where the drainage area(s) of the site is located. Where the major development and/or its drainage area lies in more than one county, the precipitation values shall be adjusted according to the percentage of the drainage area in each county. Alternately, separate rainfall totals can be developed for each county using the values in the table below.

Table 6: Future Precipitation Change Factors			
	Future Precipitation Change Factors		
	2-year Design Storm	10-year Design Storm	100-year Design Storm
Atlantic	1.22	1.24	1.39
Bergen	1.20	1.23	1.37
Burlington	1.17	1.18	1.32
Camden	1.18	1.22	1.39
Cape May	1.21	1.24	1.32
Cumberland	1.20	1.21	1.39
Essex	1.19	1.22	1.33
Gloucester	1.19	1.23	1.41

Table 6: Future Precipitation Change Factors			
	Future Precipitation Change Factors		
	2-year Design Storm	10-year Design Storm	10-year Design Storm
Hudson	1.19	1.19	1.23
Hunterdon	1.19	1.23	1.42
Mercer	1.16	1.17	1.36
Middlesex	1.19	1.21	1.33
Monmouth	1.19	1.19	1.26
Morris	1.23	1.28	1.46
Ocean	1.18	1.19	1.24
Passaic	1.21	1.27	1.50
Salem	1.20	1.23	1.32
Somerset	1.19	1.24	1.48
Sussex	1.24	1.29	1.50
Union	1.20	1.23	1.35
Warren	1.20	1.25	1.37

§ 130-167. Sources for technical guidance. [Amended 10-21-2024 by Ord. No. 24-22]

- A. Technical guidance for stormwater management measures can be found in the documents listed below, which are available to download from the Department's website at: <https://dep.nj.gov/stormwater/bmp-manual/>.
 - (1) Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended and supplemented. Information is provided on stormwater management measures such as, but not limited to, those listed in Tables 1, 2, and 3.
 - (2) Additional maintenance guidance is available on the Department's website at: https://www.njstormwater.org/maintenance_guidance.htm.
- B. Submissions required for review by the Department should be mailed to: The Division of Watershed Protection and Restoration, New Jersey Department of Environmental Protection, Mail Code 501-02A, PO Box 420, Trenton, New Jersey 08625-0420.

§ 130-168. Solids and floatable materials control standards.

- A. Site design features identified under § 130-165F above, or alternative designs in accordance with § 130-165G above, to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this subsection, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see § 130-68A(2) below.

- (1) Design engineers shall use one of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - (a) The New Jersey Department of Transportation (NJDOT) bicycle-safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines; or
 - (b) 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 inch across the smallest dimension. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater system floors used to collect stormwater from the surface into a storm drain or surface water body.
 - (c) For curb-opening inlets, including curb-opening inlets in combination inlets, 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.
- (2) The standard in Subsection A(1) above does not apply:
 - (a) Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than 9.0 square inches;
 - (b) Where the municipality agrees that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;
 - (c) Where flows from the water quality design storm as specified in N.J.A.C. 7:8 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 4.625 inches long and 1.5 inches wide (this option does not apply for outfall netting facilities); or
 - [2] A bar screen having a bar spacing of 0.5 inch.
 - [3] Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle-safe grates in new residential development [N.J.A.C. 5:21-4.18(b)2 and 5:21-7.4(b)1].
 - (d) 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 N.J.A.C. 7:8; or
 - (e) 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.

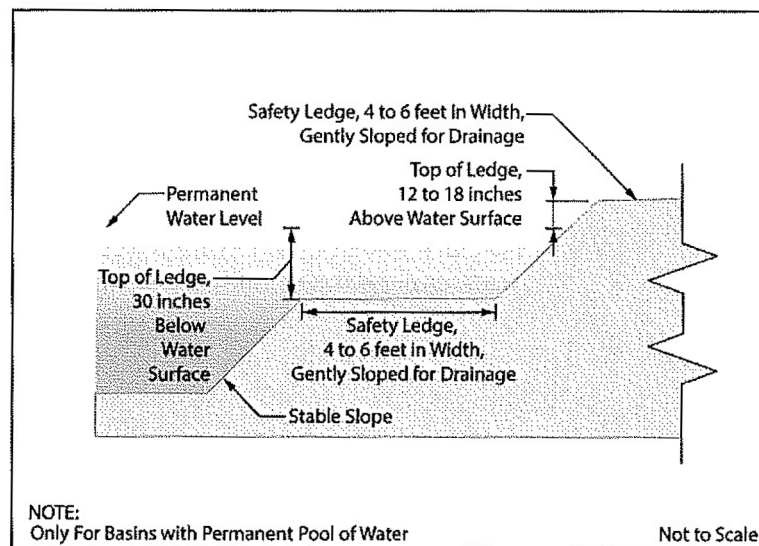
§ 130-169. Safety standards for stormwater management basins. [Amended 10-21-2024 by Ord. No. 24-22]

- A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management BMPs. This section applies to any new stormwater management BMP.
- B. The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management BMPs. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management BMPs to be retrofitted to meet one or more of the safety standards in § 130-169C(1), (2), and (3) for trash racks, overflow grates, and escape provisions at outlet structures.
- C. Requirements for trash racks, overflow grates and escape provisions.
- (1) A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management BMP to ensure proper functioning of the BMP 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; and
 - (d) The trash rack shall be constructed of rigid, durable, and corrosion-resistant material and 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 greater 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) Stormwater management BMPs shall include escape provisions as follows:
- (a) If a stormwater management BMP has an outlet structure, escape provisions shall be incorporated in or on the structure. Escape provisions include the installation of permanent ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management BMPs. With the prior approval of the municipality pursuant to § 130-169C, a freestanding outlet structure may be exempted from this requirement;
 - (b) Safety ledges shall be constructed on the slopes of all new stormwater management BMPs

having a permanent pool of water deeper than 2 1/2 feet. Safety ledges shall be comprised of two steps. Each step shall be four feet to six feet in width. One step shall be located approximately 2 1/2 feet below the permanent water surface, and the second step shall be located one foot to 1 1/2 feet above the permanent water surface. See § 130-169E for an illustration of safety ledges in a stormwater management BMP; and

- (c) In new stormwater management BMPs, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.
- D. Variance or exemption from safety standard. A variance or exemption from the safety standards for stormwater management BMPs may be granted only upon a written finding by the municipality that the variance or exemption will not constitute a threat to public safety.
- E. Safety ledge illustration.

Elevation View - Basin Safety Ledge Configuration



§ 130-170. Requirements for a site development stormwater plan.

- A. Submission of site development stormwater plan.
- (1) Whenever an applicant seeks municipal approval of a development subject to this article, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at § 130-170C below as part of the submission of the application for approval.
 - (2) The applicant shall demonstrate that the project meets the standards set forth in this article.
 - (3) The applicant shall submit [specify number] copies of the materials listed in the Checklist for Site Development Stormwater Plans in accordance with § 130-170C of this article.
- B. Site development stormwater plan approval. The applicant's site development project shall be reviewed as a part of the review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the municipality's review engineer

to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this article.

- C. Submission of site development stormwater plan. 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 surroundings should be submitted. 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 plans. 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 will 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 for proposed changes in natural conditions shall also be provided.
 - (4) Land use planning and source control plan. This plan shall provide a demonstration of how the goals and standards of §§ 130-64 through 130-166 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 disturbed, paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
 - (b) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.
 - (6) Calculations.
 - (a) Comprehensive hydrologic and hydraulic design calculations for the predevelopment and post-development conditions for the design storms specified in § 130-165 of this article.

- (b) When the proposed stormwater management control measures depend on the hydrologic properties of soils or require certain separation from the seasonal high-water table, 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 § 130-171.
- (8) Waiver from submission requirements. The municipal official or board reviewing an application under this article may, in consultation with the municipality's review engineer, waive submission of any of the requirements in § 130-170C(1) through (6) of this article 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.

§ 130-171. Maintenance and repair.

- A. Applicability. Projects subject to review as in § 130-162C of this article shall comply with the requirements of § 130-171B 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). The plan shall contain information on BMP location, design, ownership, maintenance tasks and frequencies, and other details as specified in Chapter 8 of the NJ BMP Manual, as well as the tasks specific to the type of BMP, as described in the applicable chapter containing design specifics.
 - (3) If the maintenance plan identifies a person other than the property owner (for example, a developer, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's or entity's agreement to assume this responsibility, or of the owner's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
 - (4) 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. The individual property owner may be assigned incidental tasks, such as weeding of a green infrastructure BMP, provided the individual agrees to assume these tasks; however, the individual cannot be legally responsible for all of the maintenance required.
 - (5) If the party responsible for maintenance identified under § 130-171B(3) above is not a public agency, the maintenance plan and any future revisions based on § 130-171B(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.

- (6) Preventative and corrective maintenance shall be performed to maintain the functional parameters (storage volume, infiltration rates, inflow/outflow capacity, etc.) of the stormwater management measure, including, but not limited to, 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.
 - (7) The party responsible for maintenance identified under § 130-171B(3) above shall perform all of the following requirements:
 - (a) 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;
 - (b) Evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed; and
 - (c) 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 § 130-171B(6) and (7) above.
 - (8) The requirements of § 130-171B(3) and (4) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department.
 - (9) 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. Nonpayment of such bill may result in a lien on the property.
- C. Nothing in this subsection 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.

§ 130-172. Violations and penalties.

Any person(s) who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this article shall be subject to the following penalties as determined by the City Attorney.

§ 130-173. Severability.

Each section, subsection, sentence, clause and phrase of this article is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this article.

§ 130-174. When effective.

This article shall be in full force and effect from and after its adoption and any publication as required by law.

ARTICLE XXX
Tree Removal-Replacement
[Added 4-15-2024 by Ord. No. 24-08]

§ 130-175. Purpose.

An article to establish requirements for tree removal and replacement in the City of Salem, NJ to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

§ 130-176. Definitions.

For the purpose of this article, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When consistent 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 use of the word "shall" means the requirement is always mandatory and not merely directory.

APPLICANT — Means any person, as defined below, who applies for approval to remove trees regulated under this article.

CRITICAL ROOT RADIUS (CRR) — Means the zone around the base of a tree where the majority of the root system is found. This zone is calculated by multiplying the diameter at breast height (DBH) of the tree by 1.5 feet. For example: a tree with a 6" DBH would have a CRR = 6" x 1.5' = 9'.

DIAMETER AT BREAST HEIGHT (DBH) — Means the diameter of the trunk of a mature tree generally measured at a point four and a half feet above ground level from the uphill side of the tree. For species of trees where the main trunk divides below the 4 1/2-foot height, the DBH shall be measured at the highest point before any division.

HAZARD TREE — Means a tree or limbs thereof that meet one or more of the criteria below. Trees that do not meet any of the criteria below and are proposed to be removed solely for development purposes are not hazard trees.

- A. Has an infectious disease or insect infestation;
- B. Is dead or dying;
- C. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
- D. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
- E. Is determined to be a threat to public health, safety, and/or welfare by the head of the Public Works Department or their designee.

PERSON — Means any individual, resident, corporation, utility, company, partnership, firm, or association.

PLANTING STRIP — Means the part of a street right-of-way between the public right-of-way and the portion of the street reserved for vehicular traffic or between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

RESIDENT — Means an individual who resides on the residential property or contractor hired by the individual who resides on the residential property where a tree(s) regulated by this article is removed or

proposed to be removed.

STREET TREE — Means a tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to (or specified distance from) the portion of the street reserved for vehicular traffic. This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, pedestrian refuges.

TREE — Means a woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground.

TREE CALIPER — Means the diameter of the trunk of a young tree, measured six inches from the soil line. For young trees whose caliper exceeds four inches, the measurement is taken 12 inches above the soil line.

TREE REMOVAL — Means to kill or to cause irreparable damage that leads to the decline and/or death of a tree. This includes, but is not limited to, excessive pruning, application of substances that are toxic to the tree, over-mulching or improper mulching, and improper grading and/or soil compaction within the critical root radius around the base of the tree that leads to the decline and/or death of a tree. Removal does not include responsible pruning and maintenance of a tree, or the application of treatments intended to manage invasive species.

§ 130-177. Regulated activities.

A. Process.

- (1) Any person planning the tree removal of a street tree with DBH of 4" or more or any non-street tree with DBH of 6" or more on their property shall notify the head of the Public Works Department or their designee. No tree shall be removed until City officials have reviewed and approved the removal, unless otherwise exempt per § 130-178 of this article.
- (2) Any land use application for preliminary site plan or subdivision approval shall include a tree location and replacement plan for the area of disturbance. Replacement plan shall include the specified number of replacement trees or the replacement alternative.

B. Tree replacement requirements.

- (1) Any person who removes one or more street tree(s) with a DBH of 4" or more, unless exempt under § 130-178, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- (2) Any person, who removes one or more tree(s), as defined as tree removal, with a DBH of 6" or more per acre, unless otherwise exempt under § 130-178, shall be subject to the requirements of the Tree Replacement Requirements Table.
- (3) The species type and diversity of replacement trees shall be in accordance with Appendix A.²³
- (4) Replacement tree(s) shall:
 - (a) Meet the Tree Replacement Criteria in the table below;
 - (b) Be planted within 12 months of the date of removal of the original tree(s) or at an alternative date specified by the City;

23. Editor's Note: Appendix A: Approved Replacement Trees is included as an attachment to this chapter.

- (c) Be monitored by the applicant for a period of two planting seasons to ensure their survival and shall be replaced as needed within the two seasons; and
- (d) Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

Tree Replacement Requirements Table		
Category	Tree Removed (DBH)	Tree Replacement Criteria (See Appendix A)
1	DBH of 4" (for street trees) or 6" (for non-street trees) to 12.99"	Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed

C. Replacement alternatives.

- (1) If the City determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall do one of the following:
 - (a) Plant replacement trees in a separate area(s) approved by the City.
 - (b) Pay a fee of \$350 per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

§ 130-178. Exemptions.

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the City by all persons claiming an exemption

- A. Residents who remove less than five trees per acre within a five-year period.
- B. Tree farms in active operation, nurseries, fruit orchards, and garden centers;
- C. Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the City;
- D. Any trees removed as part of a municipal or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.
- E. Any trees removed pursuant to a New Jersey Department of Environmental Protection (NJDEP) or U.S. Environmental Protection Agency (EPA) approved environmental clean-up, or NJDEP approved habitat enhancement plan;
- F. Approved game management practices, as recommended by the State of New Jersey Department of

Environmental Protection, Division of Fish, Game and Wildlife;

G. Hazard trees may be removed with no fee or replacement requirement.

§ 130-179. Enforcement.

This article shall be enforced by the head of the Public Works Department or their designee during the course of ordinary enforcement duties.

§ 130-180. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall have 72 hours to complete corrective action. Repeat violations and/or failure to complete corrective action shall result in fines as follows:

- A. For each violation of any provision of the within this article, a fine of up to \$1,200 for each day the violation continues, each day constituting a separate violation.
- B. A term of imprisonment for up to six months.
- C. For any violation of any provision of the within this article, the head of the Public Works Department or their designee may issue a stop-work order.
- D. Failure to comply with any such stop-work order shall be an additional violation of this article and shall subject any violator to an additional fine of up to \$1,200 for each day the violation continues, each day constituting a specific violation.
- E. These fines and penalties are in addition to any fines and/or penalties assessed by any other state, county, or federal agency or authority.

§ 130-181. Severability.

Each section, subsection, sentence, clause, and phrase of this article is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this article.

§ 130-182. When effective.

This article shall be in full force and effect from and after its adoption and any publication as may be required by law.

ARTICLE XXXI
Privately-Owned Salt Storage
[Added 4-15-2024 by Ord. No. 24-07]

§ 130-183. Purpose.

- A. The purpose of this article is to prevent stored salt and other solid de-icing materials from being exposed to stormwater.
- B. This article establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the City (privately-owned), including residences in the City, to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

§ 130-184. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When consistent 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.

DE-ICING MATERIALS — Means any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.

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

PERMANENT STRUCTURE — Means a permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is completely roofed and walled (new structures require a door or other means of sealing the access way from wind driven rainfall).

- A. A fabric frame structure is a permanent structure if it meets the following specifications:
 - (1) Concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;
 - (2) The design shall prevent stormwater run-on and run through, and the fabric cannot leak;
 - (3) The structure shall be erected on an impermeable slab;
 - (4) The structure cannot be open sided; and
 - (5) The structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.

PERSON — Means any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

RESIDENT — Means a person who resides on a residential property where de-icing material is stored.

STORM DRAIN INLET — Means the point of entry into the storm sewer system.

§ 130-185. De-icing material storage requirements.

- A. Temporary outdoor storage of de-icing materials in accordance with the requirements below is allowed between October 15 and April 15:
- (1) Loose materials shall be placed on a flat, impervious surface in a manner that prevents stormwater run-through;
 - (2) Loose materials shall be placed at least 50 feet from surface water bodies, storm drain inlets, ditches and/or other stormwater conveyance channels;
 - (3) Loose materials shall be maintained in a cone-shaped storage pile. If loading or unloading activities alter the cone-shape during daily activities, tracked materials shall be swept back into the storage pile, and the storage pile shall be reshaped into a cone after use;
 - (4) Loose materials shall be covered as follows:
 - (a) The cover shall be waterproof, impermeable, and flexible;
 - (b) The cover shall extend to the base of the pile(s);
 - (c) The cover shall be free from holes or tears;
 - (d) The cover shall be secured and weighed down around the perimeter to prevent removal by wind; and
 - (e) Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile.
 - [1] Sandbags lashed together with rope or cable and placed uniformly over the flexible cover, or poly-cord nets provide a suitable method. Items that can potentially hold water (e.g., old tires) shall not be used;
 - (5) Containers must be sealed when not in use; and
 - (6) The site shall be free of all de-icing materials between April 16 and October 14.
- B. De-icing materials should be stored in a permanent structure if a suitable storage structure is available. For storage of loose de-icing materials in a permanent structure, such storage may be permanent, and thus not restricted to October 15 through April 15.
- C. All such temporary and/or permanent structures must also comply with all other local ordinances, including building and zoning regulations.
- D. The property owner, or owner of the de-icing materials if different, shall designate a person(s) responsible for operations at the site where these materials are stored outdoors and who shall document that weekly inspections are conducted to ensure that the conditions of this article are met. Inspection records shall be kept on-site and made available to the City upon request.
- (1) Residents who operate businesses from their homes that utilize de-icing materials are required to perform weekly inspections.

§ 130-186. Exemptions.

- A. Residents may store de-icing materials outside in a solid-walled, closed container that prevents precipitation from entering and exiting the container, and which prevents the de-icing materials from leaking or spilling out. Under these circumstances, weekly inspections are not necessary, but repair

or replacement of damaged or inadequate containers shall occur within two weeks.

- B. If containerized (in bags or buckets) de-icing materials are stored within a permanent structure, they are not subject to the storage and inspection requirements in § 130-185 above. Piles of de-icing materials are not exempt, even if stored in a permanent structure.
- C. This article does not apply to facilities where the stormwater discharges from de-icing material storage activities are regulated under another NJPDES permit.

§ 130-187. Enforcement.

This article shall be enforced by the head of the Public Works Department or his designee during the course of ordinary enforcement duties.

§ 130-188. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall have 72 hours to complete corrective action. Repeat violations and/or failure to complete corrective action shall result in fines of not less than \$100 and not to exceed \$1,500 for each violation.

§ 130-189. Severability.

Each section, subsection, sentence, clause, and phrase of this article is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this article.

§ 130-190. When effective.

This article shall be in full force and effect from and after its adoption and any publication as may be required by law.

ARTICLE XXXII
Improper Disposal of Waste
[Added 4-15-2024 by Ord. No. 24-13]

§ 130-191. Purpose.

An article to prohibit the spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system (MS4) operated by the City of Salem to protect the environment, public health, safety, and welfare, and to prescribe penalties for failure to comply.

§ 130-192. Regulated activities.

The spilling, dumping, or disposal of materials other than stormwater that causes the discharge of pollutants to the municipal separate storm sewer system operated by the City of Salem is prohibited.

§ 130-193. Exemptions.

- A. Potable water line flushing and discharges from potable water sources, excluding the discharge of filter backwash and first flush water from potable well development/redevelopment activities utilizing chemicals in accordance with N.J.A.C. 7:9D. The volume of first flush water, which is a minimum of three times the volume of the well water column, shall be handled and disposed of properly;
- B. Uncontaminated ground water (e.g., infiltration, crawl space or basement sump pumps, foundation or footing drains, rising groundwaters);
- C. Air conditioning condensate (excluding contact and non-contact cooling water, and industrial refrigerant condensate);
- D. Irrigation water (including landscape and lawn watering runoff);
- E. Flows from springs, riparian habitats, wetlands, water reservoir discharges and diverted stream flows;
- F. Residential car washing water and dechlorinated swimming pool discharges from single family residential homes;
- G. Sidewalk, driveway, and street wash water;
- H. Flows from firefighting activities, including the washing of firefighting vehicles;
- I. Flows from clean water rinsing of beach maintenance equipment immediately following use and only if the equipment is used for its intended purpose;
- J. Rinsing of beach maintenance equipment is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.
- K. Flows from clean water rinsing of equipment and vehicles used in the application of salt and deicing materials. Prior to rinsing, all equipment shall be cleaned using dry methods such as shoveling and sweeping. Recovered materials are to be returned to storage or properly discarded.
- L. Rinsing of deicing equipment is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.

§ 130-194. Enforcement.

This article shall be enforced by the head of the Public Works Department of the City of Salem or their designee.

§ 130-195. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall be subject to a fine no less than \$100 and not to exceed \$500 for each incident.

§ 130-196. through § 130-199. (Reserved)

ARTICLE XXXIII
Illicit Connections
[Added 8-19-2024 by Ord. No. 24-20]

§ 130-200. Purpose.

An article to prohibit illicit connections to the municipal separate storm sewer system(s) operated by the City of Salem to protect the environment, public health, safety, and welfare, and to prescribe penalties for failure to comply.

§ 130-201. Definitions.

For the purpose of this article, the following terms, phrases, words, and their derivations, shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When consistent 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.

DOMESTIC SEWAGE — Means waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

ILLICIT CONNECTION — Means, any physical or non-physical connection that discharges the following to a municipal separate storm sewer system (unless that discharge is authorized under a NJPDES permit other than the NJPDES permit for discharges from that system):

- A. Domestic sewage;
- B. Non-contact cooling water, process wastewater, or other industrial waste (other than stormwater); or
- C. Any category of non-stormwater discharges that a permittee for the MS4 identifies as a source or significant contributor of pollutants pursuant to 40 C.F.R. 122.26(d)(2)(iv)(B)(1) or 122.34(b)(3)(iii).
- D. Non-physical connections may include, but are not limited to, leaks, flows, or overflows into the municipal separate storm sewer system.

INDUSTRIAL WASTE — Means non-domestic waste, including, but not limited to, those pollutants regulated under Section 307(a), (b), or (c) of the Federal Clean Water Act.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — Means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the City of Salem or other public body, and is designed and used for collecting and conveying stormwater.

- A. Note: In municipalities with combined sewer systems, add the following: "MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources."

NJPDES PERMIT — Means a permit issued by the New Jersey Department of Environmental Protection to implement the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A.

NON-CONTACT COOLING WATER — Means water used to reduce temperature for the purpose of cooling. Such waters do not come into direct contact with any raw material, intermediate product (other

than heat) or finished product. Non-contact cooling water may however contain algacides, or biocides to control fouling of equipment such as heat exchangers and/or corrosion inhibitors.

PERSON — Means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

PROCESS WASTEWATER — Means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than non-contact cooling water.

STORMWATER — Means 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 sewage or drainage facilities or is conveyed by snow removal equipment.

§ 130-202. Regulated activities.

No person shall discharge or cause to be discharged through an illicit connection to the municipal separate storm sewer system operated by the City of Salem any domestic sewage, non-contact cooling water, process wastewater, or other industrial waste (other than stormwater).

§ 130-203. Enforcement.

This article shall be enforced by the City Code Enforcement Officials during the course of ordinary enforcement duties.

§ 130-204. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall be subject to a fine of not less than \$100 and not to exceed \$1,500 for each violation.

§ 130-205. Severability.

Each section, subsection, sentence, clause, and phrase of this article is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this article.

§ 130-206. When effective.

This article shall be in full force and effect from and after its adoption and any publication as may be required by law.