

DEVELOPMENT REVIEW ORDINANCE

CHAPTER 17, PLANNING

INDEX

<u>Section</u>	<u>Title</u>	<u>Page</u>
ARTICLE I		
PLANNING AND ZONING		
17-1	Purpose	1
17-2	Definitions	1-7
ARTICLE II		
PLANNING BOARD		
17-10	Establishment	8
17-11	Terms	8
17-12	Vacancies	8
17-13	Organization	9
17-14	Planning Board Attorney	9
17-15	Experts and Staff	9
17-16	Powers of the Planning Board	9-10
17-17	Alternate Members	10
17-18	Rules and Regulations	10
17-19	Exceptions in Application for Submission or Site Plan Review	10
ARTICLE III		
ZONING BOARD OF ADJUSTMENT		
17-30	Establishment; Composition	11
17-31	Officers	11
17-32	Board of Adjustment Attorney	11-12
17-33	Experts and Staff	12
17-34	Rules and Regulations	12
17-35	Powers of the Zoning Board of Adjustment	12
17-36	Appeals and Applications for Development	12-13
17-37	Power to Reverse or Modify Decisions	13
17-38	Expiration of Variance	13
17-39	Powers Granted by Law	13-14
17-40	Additional Powers	14-15
17-41	Exception in Application for Subdivision or Site Plan Review	15
17-42	Time for Decision	15
17-43	Appeals from Zoning Board of Adjustment to Governing Body	16
ARTICLE IV		
GENERAL PROVISIONS APPLICABLE TO PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT		
17-50	Conflict of Interest	16
17-51	Regular Meetings	16
17-52	Minutes	16
17-53	Fees	16-17
17-54	Hearings	17
17-55	Notice Requirements for Hearing	17-18
17-56	List of Property Owners Furnished (DELETED SEE SECTION 17-55(D))	18

17-57	Decisions	19
17-58	Publication of Decision	19
17-59	Payment of Taxes	19-20
17-60	Tolling of Running Period of Approval	20
17-61	County Planning Board Approval	20
17-62	Synopsis of Time Periods for Decision	20-21

ARTICLE V

FEES

17-70	Development Review Fees	21-26
17-71	Inspection and Professional Service Fees	26-33
17-72	Inspection Fees and Costs	33-34
17-73	Miscellaneous Additional Fees	34
17-74	Payment of Fees	34-35
17-75	Abatement of Fees	35

ARTICLE VI

DEVELOPMENT REVIEW PROCEDURES FOR PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT

17-80	Scope of Applicability of Article and Procedure for Filing	35
17-81	Jurisdiction	35-36
17-81.1	Informal Review of Concept Plan for Development	36
17-82	Complete Application	36
17-82.1	Check List for Complete Application	36
17-82.1A	RESERVED	36
17-82.1B	Checklist for General Information	37-38
17-82.1C	Checklist for Site Plan Exemption	39
17-82.1D	Planning Board or Board of Adjustment Variance Application	40
17-82.1E	Checklist for Minor Subdivision	41-42
17-82.1F	Checklist for Minor Site Plan	43-45
17-82.1G	Checklist for Preliminary Major Site Plan	45-49
17-82.1H	Checklist for Preliminary Major Subdivision	49-53
17-82.1I	Checklist for Final Major Site Plan	53-57
17-82.1J	Checklist for final Major Subdivision	58-63
17-82.1K	Checklist for Floodplain Encroachment Plan	63-66
17-82.1L	Checklist for Grading Permit	66-69
17-82.1M	Checklist for Soil Removal Plan & Permit	70-73
17-83	Site Plan Exemption Procedure	73-74
17-84	Minor Development Proposals	74-76
17-85	Major Development Proposals	76-77
17-86	Final Major Development Proposals	77-79
17-87	Conditional Uses	79
17-88	Appeals and Applications to the Zoning Board of Adjustment	79
17-89	Appeals from Planning Board to Governing Body	79
17-90	DELETED See Section 17-43	79
17-91	Guarantees Required; Surety, Release	80-83
17-92	Subdivision Certificate	83
17-92A	Zoning Permits	83-84
17-93	Effect of Preliminary and Final Development Approval	84-86
17-94	Use of Construction Equipment on Borough Streets	86
17-95	Developer's Agreements	87

ARTICLE VII

OFF-SITE AND OFF-TRACT IMPROVEMENTS

17-100	Approval Prerequisites	87
17-101	Determination of Nature of Improvements	88
17-102	Assessment of Properties	88-89
17-103	Developer's Share of Cost for Improvements Not Installed By Developer	89

ARTICLE VIII

PLAT DESIGN STANDARD FOR MAJOR SUBDIVISIONS

17-110	Preliminary Plat	89-90
17-111	Final Plat	90-91
17-112	Required Before Final Approval	91-92
17-113	General	92
17-114	Streets – Design Standards	92-94
17-115	Blocks – Design Standards	94
17-116	Lots – Design Standards	94
17-117	Public Use and Service Areas	94-95
17-118	Stormwater Control Standards	95

ARTICLE IX

PLAT DESIGN STANDARDS FOR MAJOR SITE PLANS

17-120	Preliminary Site Plat	96
17-121	Final Site Plat	96-99
17-122	Review Standards	99-100

ARTICLE X

FLOOD DAMAGE PREVENTION

17-130.1	Statutory Authorization	100
17-130.2	Finding of Fact	100-101
17-130.3	Statement of Purpose	101
17-130.4	Methods of Reducing Flood Losses	101
17-131	Definitions	101-103
17-132	General Provisions	103
17-132.1	Lands to Which this Ordinance Applies	103
17-132.2	Basis for Establishing the Areas of Special Flood Hazard	104
17-132.3	Penalties for Noncompliance	104
17-132.4	Abrogation and Greater Restrictions	104
17-132.5	Interpretation	104
17-132.6	Warning and Disclaimer of Liability	104
17-133	Administration	104
17-133.1	Site Plan Approval Requirements	104-105
17-133.2	Duties and Responsibilities of the Planning and Building Department	105-106
17-134	Provisions for Flood Hazard Reduction	107
17-134.1	General Standards	107-108
17-134.2	Specific Standards	108-109
17-134.3	Floodways	109
17-134.4	Variances	109-110
17-134.5	Time Limits	110
17-137	Issuance of Permits	110

ARTICLE X.A.
STORMWATER MANAGEMENT
AVAILABLE AS SEPARATE VOLUME

ARTICLE XI.
SOIL EROSION AND SEDIMENT CONTROL

17-140	Title, Purpose of Article	111
17-141	Grading Permits	111-112
17-142	Design Principles, Development Standards, Etc.	112-114
17-143	Inspection; Enforcement of Article	114
17-144	Permit Application Fees	115
17-145	Penalties	115
17-146	Effective Date	115

ARTICLE XII

SOIL REMOVAL

17-151	Soil Removal Permit – Required; Exceptions	115
17-152	Same – Application; Topographical Maps	115
17-153	Same – Hearing Before Governing Body	116
17-154	Operations Generally	116
17-155	Removal of Topsoil	116
17-156	Bond	116
17-157	Compliance with Article; Responsibility of Municipal Agency	116-117
17-158	Fees	117

ARTICLE XIII

**DESIGN STANDARDS FOR RESIDENTIAL
LOT CLUSTER SUBDIVISIONS**

17-160	Residential Lot Cluster Development Standards	117
17-161	General, Standards	117-118
17-162	Development Review	118
17-163	Special Procedures for Residential Lot Cluster Subdivision Proposals	118
17-164	Design Standards for Common Open Space	118-119
17-165	Dedication of Lands to the Borough	119

ARTICLE XIV

**STANDARDS FOR THE ESTABLISHMENT OF
AN OPEN SPACE ORGANIZATION**

17-170	Establishment of an Open Space Organization	119
17-171	Activation of Open Space Organization	119
17-172	Membership	119
17-173	Disposal of Land	120
17-174	Failure to Maintain Open Space Recreation Areas	120
17-175	Assessment of Maintenance Costs	120
17-176	Adoption of Binding Rules and Regulations	120-121
17-177	Filing Documents	121

ARTICLE XV

PRO, PLANNED RESIDENTIAL DEVELOPMENT

17-180	General Provisions	121
17-181	Pre-Application Procedures	121-122
17-182	Preliminary Application Procedures	122-124
17-183	Final Application Procedures	124-126
17-184	Staged Development	126-127
17-185	Abandonment	127
17-186	Development Standards	127-129
17-187	Common Open Space	129-130
17-188	Common Open Space On-Tract and Off-Tract Improvements and Utilities	130-131

ARTICLE XVI

17-189	Airport Hazard Overlay District, Conformity	131
--------	---	-----

ARTICLE XVII

MISCELLANEOUS

17-190	Adjustment of Definitions	131
17-191	Repeals	131
17-192	Severability of Chapter	131
17-193	Title	131
17-194	Copy to be Filed with County Planning Board	131

ARTICLE XVIII

DEVELOPMENT OF STEEP SLOPES

17-195	Regulations for Steep Slope	132-133
--------	-----------------------------	---------

ARTICLE XIX

GROWTH SHARE REQUIREMENTS

17-196	Definitions	133
17-197	Residential Growth Share Requirements	133-134
17-198	Requirements for Permitted Mechanisms to Address the Growth Share	134-137
17-199	Credits for Overconstruction of Affordable Housing	137

ARTICLE XX

AFFORDABLE HOUSING DEVELOPMENT FEES

17-200	Purpose	137
17-201	Definitions	137-138
17-202	Residential Development Fees	138
17-203	Non-Residential Development Fees	138
17-204	Eligible Exactions, Ineligible Exactions and Exemptions	138-139
17-205	Collection of Fees	139
17-206	Affordable Housing Trust Fund	139
17-207	Use of Funds	139-140
17-208	Penalties	140-141
17-209	Monitoring	141

ARTICLE I

PLANNING AND ZONING

Section 17-1. PURPOSE:

The purpose of this Chapter is to establish a pattern for the use of land and buildings based on the Master Plan and to encourage municipal action to guide the appropriate development of land in a manner which; will promote the public health, safety, morals and general welfare of the people. This Chapter is intended to regulate the use of land within zoning districts; secure safety from fire, flood, panic and other natural man-made disasters, provide adequate light, air and open space; limit and restrict buildings and structures to specified districts and regulate buildings and structures according to their type and nature and extent of their use, and regulate the nature and extent of the use of land for trade, industry, residence, open space or other purposes; regulate the bulk, height, number of stories, and size of buildings and other structures; avoid a conflict with the development and general welfare of neighboring municipalities, the County and the State; establish appropriate population densities and concentrations contributing to the well-being of persons, neighborhoods, communities and regions and the preservation of the environment; provide sufficient space for agricultural, residential, recreational, commercial, and industrial uses and open space; encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging the location of such facilities and routes which result, in congestion or blight; promote a desirable visual environment; promote the conservation of open space and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land.

Section 17-2. DEFINITIONS:

For the purpose of this Chapter, unless the context clearly indicates a different meaning:

The term "**SHALL**" indicates a mandatory requirement, and the term "**MAY**" indicates a permissive action.

ACT means the **Municipal Land Use Law, Chapter 291 Laws of NJ 1975**.

ADMINISTRATIVE OFFICER means the Director of the Department of Planning and Building unless a different Municipal Official or Officials are designated by this Chapter.

ADMINISTRATOR means the Federal Insurance Administrator.

BASE FLOOD means the flood having a one (1%) percent probability of being equaled or exceeded in any given year, as determined by the Federal Insurance Administrator.

BOROUGH means the Borough of Lincoln Park

BUILDING means a combination of material to form a construction adapted to permanent, temporary or continuous occupancy and having a roof

CHANNEL the bed and banks of a river, stream, drainage ditch or other body of water, which conveys the normal flow that occurs most of the time.

CLEARING AND GRUBBING means the removal or disturbance of trees, stumps, and vegetation.

COMMON SPACE means an open space area within or related to a site designated as a development, and designed and intended for use or enjoyment of residents and owners of the development in perpetuity. Common open space may contain such complementary structures, and other improvements as are necessary and appropriate for the use, enjoyment and ownership of residents and owners of the development.

COMMUNITY BUILDING means any building designed and intended for the use of the residents of a Planned Residential Development for cultural, social and recreational purposes.

CONDITIONAL USE means a use permitted in 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 Chapter 28 (Zoning Ordinance) of the Code of the Borough of Lincoln Park, and upon the issuance of an authorization therefore by the Municipal Agency.

CONVENTIONAL SUBDIVISION means any subdivision other than a "lot cluster" subdivision.

DENSITY means the permitted number of dwelling units per gross area of land to be developed.

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

DEVELOPMENT REGULATION means a Zoning Ordinance, Subdivision Ordinance, Site Plan Ordinance, Official Map Ordinance or other municipal regulation of the use and development of land, or amendment thereto Adopted and filed pursuant to this Chapter.

DISTURBED AREA means any area subjected to clearing or grading.

DIVERSION means a channel with or without a supporting ridge on the lower side constructed across or at the bottom of a slope.

DRAINAGE means the removal of surface water or ground water from land by drains grading or other means and includes control or runoff during and after construction or development to minimize erosion and sedimentation, to ensure the adequacy of existing and proposed culverts and bridges, to include water recharge into the ground where practical, to lessen non-point pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage, and the means necessary for water supply preservation or prevention or alleviation of flooding.

EROSION means the wearing away of the land surface by the action of wind, water, ice or gravity.

EXCAVATING means removal of soil from its original location by tools or machinery.

EXPOSED CRITICAL AREA means an area in which erosion, calculated according to the method described in **ARTICLE XXI** of this Chapter, exceeds the allowable erosion as set forth in said **ARTICLE**.

FILING DATE means the date a development proposal shall be deemed to be complete and received for filing by formal action of the Municipal Agency. All time restriction or taking action upon development proposals or other wise rendering a decision provided for in this Chapter shall thereupon commence.

FILLING means man-made depositing of soil, rock or other materials.

FINAL APPROVAL means the official action of the Municipal Agency taken on a preliminary approved major subdivision or site plan after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guaranteed properly posted for their completion, or approval conditioned upon the posting of such guarantee.

FLAT means a one-story apartment unit in buildings not to exceed two and one-half (2 ½) stories, provided that only two (2) stories shall be occupied as living area.

FLOOD ENCROACHMENT PLAN means a plan drawn by a licensed NJ Engineer or Land Surveyor submitted in conformance to **ARTICLE X FLOOD PLAN ENCROACHMENTS** of this Chapter. A separate flood encroachment plan and fee shall not be required if the information required under **ARTICLE X** has been included as part of an application for development.

FLOOD HAZARD AREA means the area of the flood plain subject to flood flow at lesser depths and lower velocities than that which occurs in the flood way and that is otherwise delineated on the Flood Map prepared by the Department of HUD, Federal Insurance Administrator, as areas having special flood hazards.

FLOOD LEVEL means the elevation indicated in the flood map.

FLOOD MAP means the flood map entitled: **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FEDERAL INSURANCE ADMINISTRATION, MAP INDEX, BOROUGH OF LINCOLN PARK, N.J. (MORRIS COUNTY) COMMUNITY #345300 A, FLOOD HAZARD BOUNDARY MAP NO. H-01, H-02, H-03, MAP REVISED AUGUST 6, 1976. FLOOD INSURANCE RATE MAP NO. 1-01, 1-02, 1-03, MAP REVISED AUGUST 6, 1976.**

FLOOD PLAIN means that area composed of the channel, floodway and flood hazard area.

FLOOD PROOFING means any combination of structural and nonstructural additions, changes or adjustments to structures; which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY means that Channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge in the base flood without cumulatively increasing the water surface elevation more than 0.2 feet.

GRADING means any stripping, excavating, filling, stockpiling or any combination thereof.

GRADING PERMIT means a permit issued to authorize work to be performed under **ARTICLE XI** of this Chapter.

GROSS DENSITY means the number of dwelling units per acre of gross usable area, including streets, easements and usable open space of a development.

GROSS USABLE AREA means land area not including bodies of water, watercourse, floodways, flood plains having an existing grade four (4) feet or more below the base flood elevation, steep slopes in excess of fifteen (15%) percent gradient, or land reserved for public use.

HABITABLE FLOOR means any floor usable for living purposes, which included working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "**HABITABLE FLOOR**" except in the case of commercial storage.

HISTORIC SITE means any building, structure, area or property that is significant in the history, architecture, archeology or culture of this municipality, and has been so designated.

IMPERVIOUS SURFACE means certain lot improvements impenetrable by water, including but not limited to, sidewalks, street pavement, driveways, patios and buildings, expressed as a percentage arrived at by dividing the area of **IMPERVIOUS SURFACE** by the gross site area.

LOT CLUSTER SUBDIVISION means a subdivision; which utilizes the provisions of **ARTICLE XIII** of this Chapter.

INTERESTED PARTY means any person, whether residing within or without the municipality whose right to use, acquire, or enjoy property is or may be affected by any action taken under this Chapter.

LAND means 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.

LOT CLUSTER SUBDIVISION means a subdivision; which utilizes the provisions of **ARTICLE XIII** of this Chapter.

MAINTENANCE GUARANTEE means any security, which may be accepted by the Borough for the maintenance of any improvements required by this Ordinance, including but not limited to surety bonds, letters of credit under the circumstances specified in **SECTION 17-91** of this Ordinance.

MAJOR SUBDIVISION means any subdivision not classified as a minor subdivision.

MASTER PLAN means a composite of one or more written or graphic proposals for the development of the municipality as Adopted pursuant to the Act.

MINOR SUBDIVISION means a subdivision of land for the creation of no more than three (3) lots, provided that such subdivision does not involve (1) a planned development, (2) any new street or the extension of any off-tract improvement the cost of which is to be prorated pursuant to **ARTICLE VII** of this Chapter.

MULCHING means the application of plant or other suitable materials on the soil surface to conserve moisture; hold soil in place and aid in establishing plant cover.

MUNICIPAL AGENCY means the Municipal Planning Board, Board of Adjustment, or Governing Body of the Borough when acting pursuant to this Chapter.

NET RESIDENTIAL DENSITY means the number of dwelling units per acre in connection with any **LOT CLUSTER** or **PLANNED RESIDENTIAL DEVELOPMENT**, excluding in such calculation any areas designated for common open space.

OFFICIAL COUNTY MAP means the map, with changes and additions thereto, Adopted and established from time to time, by Resolution of the Board of Chosen Freeholders.

OFFICIAL MAP means a map Adopted in accordance with **SECTION 40:55D-32 et seq.**, of the revised Statutes or any prior act authorizing such Adoption. Such map shall be deemed to be conclusive with respect to the location and width of the streets, drainage ways and the location and extent of flood control basins and public areas.

OFF-SITE means 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 means not located on the property which is the subject of a development application or on a contiguous portion of a street or right-of-way.

ON-SITE means located on the lot in question.

ON-TRACT means 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 means any parcel or area of land or water essentially unimproved and set aside, dedicated, designed or reserved for public or private use of 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, street and off-street parking and other improvements that are designated to be incidental to the natural openness of the land.

OWNER means any individual, family group, firm, association, syndicate, co-partnership or corporation having sufficient proprietary interest in land.

PERFORMANCE GUARANTEE means any security, which may be accepted by the Borough, including but not limited to surety bonds letters of credit under the circumstances specified in **SECTION 17-91** of this Ordinance and cash.

PERIOD OF EXPOSURE means a period of time between the date of commencement of clearing, grading or any other activity by the developer, which may cause an increase in erosion on the site and the date of effective control of such erosion.

PLANNED DEVELOPMENT means planned unit development, planned unit residential development, residential cluster, planned commercial development or planned industrial development, all as more defined by **N.J.S.A. 40:55D-6**.

PLANNED RESIDENTIAL DEVELOPER means any developer of a proposed **PLANNED RESIDENTIAL DEVELOPMENT**.

PLANNED RESIDENTIAL DEVELOPMENT means an area with a specified contiguous area of fifty (50) acres or more to be developed as a single entity according to a plan containing one (1) or more residential clusters, which may include appropriate public or quasi-public uses all primarily for the benefit of the residential development.

PLANNING BOARD means the Borough Planning Board established pursuant to this Chapter.

PLAT means a map or maps of a subdivision or site plan.

PRELIMINARY APPROVAL means the conferral of certain rights pursuant to SECTIONS 34, 36 and 37 of the Act, prior to final approval after specified elements of a development plan have been agreed upon by the Municipal Agency and the applicant.

PROFESSIONAL ENGINEER means an engineer duly registered to otherwise authorized by the State to practice in, the field of Civil Engineering.

PUBLIC AREA means (1) public park, playgrounds, trails, paths and other recreation areas; (2) other public open spaces; (3) scenic and historic sites; and (4) sites for schools and other public buildings or structures.

PUBLIC DRAINAGE WAY means the land reserved or dedicated for the installation of storm water sewers or drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water to safe-guard the public against flood damage, sedimentation and erosion.

PUBLIC OPEN SPACE means an open space area conveyed or otherwise dedicated to a Municipality, Municipal Agency, Board of Education, State or County agency, or other public body for recreational or conservational uses.

RESIDENTIAL DENSITY means the number of dwelling units per acre of gross area including streets, easements and open space portions of a development.

RESIDENTIAL LOT CLUSTER DEVELOPMENT means any development established pursuant to **ARTICLE XI of Chapter 28** (Zoning Ordinance) of the Code of the Borough of Lincoln Park.

RESIDENTIAL RE-LANDSCAPING means the replacement or rearrangement of existing cultivated plant material on property containing a one (1) or two (2) family dwelling. Such plant material to include grass, ground cover, flowers, trees and shrubs. This definition does not include landscaping done by the builder or owner at the time of or closely following original construction of the dwelling and does not include replacement of wild or uncultivated areas such as meadow or wood lawn with cultivated plant material.

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

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

SEDIMENT BASIN means a natural or man-made hollow to retain rock, sand, gravel, silt or other material.

SITE means any plot or parcel of land or combination of contiguous lots or parcels of land where clearing or grading is performed or permitted.

SITE PLAN means a development plan of one or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways, (2) 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, screening devices, and (3) any other information that may be reasonably required in order to make an informed determination pursuant to the Act.

¹**SITE PLAN EXEMPTION** shall apply to the following activities which shall be subject to administrative review but otherwise exempt from Planning Board review unless the Board elects to exercise jurisdiction following notice of proposed action by the Administrative Officer: 1) the use or re-occupancy of any other land, building or structure without a change of use or a substantial alteration or reconstruction thereof following an affirmative finding by the Municipal Agency of compliance with the following standards:

- A. Compliance with the provisions of Chapter 28 (Zoning Ordinance);
- B. There shall be no adverse effect of such use or alteration thereof upon parking, traffic, drainage, fencing, exterior lighting sidewalks, paving;
- C. Adequate sanitary disposal and drainage facilities;
- D. There shall be no adverse effect upon surrounding properties.

SITE PLAN EXEMPTION PROCEDURE shall apply to the use or re-occupancy of any land, building or structure without change of permitted use or without any interior or exterior alteration or reconstruction as otherwise provided in this Chapter.

SITE PLAN MAJOR shall mean all site plans that do not fall within the definition of "**SITE PLAN MINOR**" or "**SITE PLAN EXEMPTION**".

SITE PLAN MINOR shall mean any interior or exterior alteration, reconstruction or improvement of not more than five hundred (500') square feet provided that landscape, fence, lighting or building facade improvements in excess of five hundred (500') square feet may be processed as a Site Plan Minor in the discretion of the Administrative Officer.

SITE PLAN REVIEW shall be a development review procedure required prior to the issuance of any Building Permit or Certificate of Occupancy for any use, occupancy or re-occupancy or for the construction, re-construction, enlargement, improvement or alteration of any land, building, structure, recreational facility, roadway or parking area, except as provided under "**SITE PLAN EXEMPTION**".

SOIL means an unconsolidated mineral and organic material or whatever origin that overlies bedrock.

SOIL EROSION AND SEDIMENT CONTROL PLAN means a plan designed to prevent soil erosion and sedimentation and developed in accordance with the general and specific standards and specifications of **ARTICLE XI** of this Chapter.

¹ Amended by Ordinance 845, Adopted June 9, 1986 Effective July 1, 1986

STREET means any street, avenue, boulevard, road, parkway, viaduct, drive or other way (1) which is an existing State, County or Municipal roadway, or (2) which is shown upon a plat heretofore approved pursuant to law; or (3) which is approved by official action provided by law, or (4) which is shown on a plat duly filed and recorded in the Office of the County Recording Officer prior to the appointment of a Planning Board and the grant to such Board the power to review plats; and includes the land between the street lines, whether improved or un-improved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

STRIPPING means any activity; which removes or significantly disturbs the vegetative surface cover including clearing and grubbing operations.

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

SUBDIVISION means the division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this Chapter if no new streets are created; 1) divisions of land found by the Planning Board or Subdivision Committee are created; 1) divisions of land found by the Planning Board or Subdivision Committee thereof appointed by the Chairman to be for agricultural purposes where all resulting parcels are 5 acres or larger in size, 2) divisions of property by testamentary or interstate provisions, 3) divisions of property upon court order including but not limited to judgments of foreclosure, 4) consolidation of existing lots by deed or other recorded instrument, and 5) the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the Administrative Officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the Borough. The term "**SUBDIVISION**" shall also include the term "**RESUBDIVISION**".

SUBSTANTIAL IMPROVEMENT means any repair, re-construction, or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure either:

- 1) before the improvement or repair is started, or
- 2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "**SUBSTANTIAL IMPROVEMENT**" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
 - a. any project for improvement of a structure to comply with existing State or local health, Sanitary, or safety code specifications which are solely necessary to assure safe living condition, or
 - b. any alteration of a structure listed on the National Register of Historic Places or a State Inventory for Historic Places.

TRANSCRIPT means a typed or printed verbatim record of the proceedings or reproduction thereof.

ZONING PERMIT shall mean a document signed by the Administrative Officer 1) which is required by Ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of structure or building complies with the provisions of the Municipal Zoning Ordinance or variance therefrom duly authorized by a Municipal Agency pursuant to **N.J.S.A. 40:55D-70**.

ARTICLE II

PLANNING BOARD

Section 17-10. ESTABLISHMENT:

There is hereby established pursuant to the Act in the Borough of Lincoln Park, a Planning Board of nine (9) members consisting of the following four (4) classes:

- A. Class I The Mayor
- B. Class II One of the Officials of the Municipality other than a Member of the Governing Body to be appointed by the Mayor
- C. Class III A member of the Governing Body to be appointed by it
- D. Class IV Six (6) other citizens of the Municipality to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, except that one member may be a member of the Zoning Board of Adjustment and one may be a member of the Board of Education.

Section 17-11. TERMS:

The term of the member composing of Class I shall correspond with his official tenure. The term of the member composing Class II and Class III shall be for one (1) year or terminate at the completion of their respective terms of office whichever occurs first.

The term of a Class IV member who is also a member of the Board of Adjustment or the 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 pursuant to this Chapter shall be so determined that to the greatest practical extent the expiration of such term shall be evenly distributed over the first four (4) years after their appointment as determined by Resolution of the Governing Body, provided however that no term of any member shall exceed four (4) years and further provided that nothing herein shall affect the term of any present member of the Planning Board, all of whom shall continue in office until the completion of the term for which they are appointed. Thereafter all Class IV members shall be appointed for terms of four (4) years except as otherwise herein provided. All terms shall run from January 1 of the year in which the appointment was made.

SECTION 17-12. VACANCIES:

- A. If a vacancy of any Class shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for the un-expired term.
- B. If the Planning Board lacks a quorum because of its Regular or Alternate Members is prohibited by Subsection b of **N.J.S.A. 40:55D-23** or **N.J.S.A. 40:55D-23.1** from acting on a matter do to the member's personal or financial interest therein, Regular Members personal or financial interests therein, Regular Members of the Board of Adjustment shall be called upon to serve, for that matter only, as temporary members to the Board of Adjustment until there are the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest therein, whether direct or indirect. If a choice has to be made between Regular Members of equal seniority, the Chairman of the Board of Adjustment shall make the choice.

SECTION 17-13. ORGANIZATION:

The Planning Board shall annually elect a Chairman and Vice Chairman from the members of Class IV and select a Secretary who may or may not be either a member of the Planning Board or a municipal employee designated by it.

SECTION 17-14. PLANNING BOARD ATTORNEY:

There is hereby created the Office of Planning Board Attorney. The Planning Board may annually appoint, fix the compensation of or agree upon the rate of compensation of the Planning Board Attorney who shall be an Attorney other than the Municipal Attorney.

SECTION 17-15. EXPERTS AND STAFF:

The Planning Board may also employ or contract for the services of experts and other staff and services as it may deem necessary. The Board shall not however, exceed, exclusive of gifts or grants, the amount appropriated by the Governing Body its use.

SECTION 17-16. POWERS OF THE PLANNING BOARD:

The Planning Board is authorized to Adopt by-laws governing its procedural operation. It shall also have the following powers and duties:

- A. To make and Adopt and from time to time re-examine and/or amend a Master Plan for the physical development of the Borough in accordance with the provisions of **C.40:55D-28** and **C.40:55D-89**.
- B. To administer the provisions of **ARTICLE IV, V, VI, VII, VIII, IX, X, XI, XLII, XIV, and XV** of this Chapter and pursuant to the Act.
- C. To participate in the preparation and review of programs or plans required by State of Federal Law or Regulations.
- D. To assemble data on a continuing basis as part of a continuous planning process.
- E. When authorized by Resolution of the Governing Body, to prepare a program of Municipal Capital Improvement Projects projected over a term of six (6) years, and amendments thereto, and recommend same to the Governing Body.
- F. To consider and make report to the Governing Body within thirty-five (35) days after referral to any proposed development regulation submitted to it pursuant to the provisions of **C.45:55D-26(a)**, and also pass upon other matters specifically referred to the Planning Board by the Governing Body, pursuant to the provisions of **C.40:55D-26(b)**.
- G. To approve conditional uses in accordance with the provisions of Chapter 28 (Zoning Ordinance) of the Code of the Borough of Lincoln Park pursuant to **N.J.S.A. C.40:55D-67**.
- H. When reviewing applications for approval of subdivision plats, site plans, conditional uses, to grant to the same extent and subject to the same restrictions as the Zoning Board of Adjustment:
 - 1. Variances pursuant to Section 17-39C of this Chapter
 - 2. Direction pursuant to Section 17-40A of this Chapter, for issuance of permit for building of structure in the bed of a street or public drainage way, flood control basin or public area reserved pursuant to this Chapter.

3. Direction whenever pursuant to the Act for issuance of a permit for a building or structure not related to a street.

Whenever relief is requested pursuant to this subsection, notice of a hearing on the application for development shall include reference to the request for a variance or direction for issuance of a permit as the case may be.

The Developer may elect to submit a separate application requesting approval of the variance or direction of the issuance of a permit and a subsequent application for any required approval of a subdivision, the site plan or conditional uses. The separate approval of the variance or direction of the issuance of a permit shall be conditioned upon grant of all required subsequent approvals by the Planning Board. No such subsequent approval shall be granted unless the approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and Zoning Ordinance.

- I. To perform such other advisory duties as are assigned to it by Ordinance or Resolution of the Governing Body for the aid and assistance of the Governing Body or other agencies or Officers.
- J. Review and make recommendation as to location, character and content of capital projects in conjunction with the Master Plan, upon reference from the Governing Body or other public agency having jurisdiction thereof pursuant to **N.J.S.A. 40:55D-31**.

SECTION 17-17. ALTERNATE MEMBERS:

Pursuant to the provisions of **N.J.,S.A. 40:55D-23.1**, the Mayor shall appoint two (2) Alternate Members to the Planning Board, who shall meet the qualifications of Class IV members.

Alternate Members shall be designated at the time of appointment by the Mayor as "**ALTERNATE NO. 1**" and "**ALTERNATE NO. 2**". The terms of the Alternate Members shall be for two (2) years, except that the terms of the Alternate Members shall be such that the term of not more than one (1) Alternate shall expire in any one (1) year; provided, however, that in no instance shall the terms of the Alternate Members first appointed exceed two (2) years. A vacancy occurring otherwise than by expiration of term shall be filled by the Mayor for the unexpired term only.

Alternate Members may participate in discussion 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.

SECTION 17-18. RULES AND REGULATIONS:

The Board shall Adopt such Rules and Regulations as may be necessary to carry into effect the provisions and purposes of this Chapter. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (**N.J.S.A. 2A:67A-1 et seq.**) shall apply.

SECTION 17-19. EXCEPTIONS IN APPLICATION FOR SUBDIVISION OR SITE PLAN REVIEW:

If the literal enforcement of one or more provisions of this Chapter is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question, the Planning Board, when acting upon applications for major or minor subdivision approval, shall have the power to grant such exceptions from the requirements for subdivision approval, and to the same extent, when acting upon major or minor site plan or conditional use approval, shall have the power to grant such exceptions from the respective applicable requirements thereof, all as may be reasonable and within the general purpose and intent of the provisions of this Chapter.

ARTICLE III

ZONING BOARD OF ADJUSTMENT

SECTION 17-30. ESTABLISHMENT; COMPOSITION:

²A Zoning Board of Adjustment is hereby established pursuant to N.J.S.A. 40:55D-69 et seq. consisting of seven (7) Regular Members and two (2) Alternate Members appointed by the Governing Body to serve for terms of four (4) years from January 1 of the year of their appointment, provided that the term of any Alternate Member shall not exceed two (2) years. Alternate Members shall be designated at the time of appointment as ALTERNATE NO. 1 and ALTERNATE NO. 2. The terms of the members first appointed shall be so determined that to the greatest practical extent the expiration of such terms shall be distributed evenly over the first four (4) years, and in the case of Alternate Members, evenly over the first two (2) years, provided that the initial term of no Regular Member shall exceed four (4) years and that the initial term of no Alternate Member shall exceed two (2) years. Thereafter, the term of each Regular Member shall be for four (4) years and the term of each Alternate Member shall be for two (2) years. Nothing in this Chapter shall, however, be construed to effect the term of any present member of the Zoning Board of Adjustment, all of whom shall continue in office until completion of the term for which they were appointed.

- A. Alternate Members may participate in discussion 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.
- B. No member of the Zoning Board of Adjustment may hold an elected office or position under the Borough.
- C. A vacancy occurring otherwise than by expiration of term shall be filled for the un-expired term only. No member of the Board of Adjustment shall be permitted to act on any matter in which he has, either directly or indirectly and personal or financial interest. A member may, after public hearing if he requests it, be removed by the Governing Body for cause.

If the Board of Adjustment lacks a quorum because any of its Regular or Alternate Members is prohibited from acting on a matter do to the member's personal or financial interest therein, Class IV Members of the Planning Board shall be called upon to serve, for that matter only, as temporary members of the Board of Adjustment. The Class IV members of the Planning Board shall be called upon to serve in order of seniority of continuous service to the Planning Board until there are the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest therein, whether direct or indirect. If a choice has to be made between Class IC Members of equal seniority, the Chairman of the Planning Board shall make the choice.

SECTION 17-31. OFFICERS:

The Board of Adjustment shall annually elect a Chairman and Vice Chairman from its members and shall also select a secretary who may or may not be either a Board Member of a municipal employee.

SECTION 17-32. BOARD OF ADJUSTMENT ATTORNEY:

There is hereby created the Office of Attorney to the Zoning Board of Adjustment. The Zoning Board of Adjustment may annually appoint, fix the compensation of or agree upon the rate

² Amended by Ordinance 1,048 Adopted June 22, 1992 Effective July 12, 1992

of compensation of the Zoning Board of Adjustment Attorney, who shall be an Attorney other than the Municipal Attorney.

SECTION 17-33. EXPERTS AND STAFF:

The Zoning Board of Adjustment may also employ or contract for the services of experts and other staff and services, as it may deem necessary. The Board shall not exceed, exclusive of gifts or grants, the amount appropriated by the Governing Body for its use.

SECTION 17-34. RULES AND REGULATIONS:

The Board shall Adopt such Rules and Regulations as may be necessary to carry into effect the provisions and purposes of this Chapter. In the issuance of subpoenas, administration of oaths and taking testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply.

SECTION 17-35. POWERS OF THE ZONING BOARD OF ADJUSTMENT:

The Board of Adjustment is authorized to Adopt By-Laws governing its procedural operation. It shall also have the following duties and powers:

- A. The powers of the Zoning Board of Adjustment shall be in accordance with **C.40:55D-69 et seq.** and amendments and supplements thereto, and with the provisions of this Chapter.
- B. It is further the intent of this Chapter to confer upon the Zoning Board of Adjustment as full and complete powers as may lawfully be conferred upon such Board, including not by way of limitation, the authority, in connection with any case, action or proceeding before the Board, to interpret and construe the provisions of Chapter 28 (Zoning Ordinance) of the Code of the Borough of Lincoln Park, or any term, clause, sentence or word hereof, and the Zoning Map, in accordance with the general rules of construction, applicable to legislative enactments.
- C. The Board may, in appropriate cases and subject to any appropriate conditions and safeguards grant variances from the terms of Chapter 28 (Zoning Ordinance) in accordance with the general or specific rules contained herein, and with the general rules hereby laid down that equity, shall be done in cases where the strict construction of the provisions of that Chapter would work undue hardship. The powers and duties of the Board having been delegated to and imposed upon it by statute, the Board shall in all cases follow the provisions applicable to it by the act or subsequent statutes in such cases made and provided, and it shall from time to time furnish to any person requesting the same a copy of its rules and information as to how appeals or applications may properly be filed with the Board for its decision thereon.

SECTION 17-36. APPEALS AND APPLICATIONS FOR DEVELOPMENT:

- A. **APPEALS:** Appeals to the Board of Adjustment may be taken by any person aggrieved, or by an Officer, Department, Board or Bureau of the Borough affected by any decision of the Administrative officer or Building Inspector. Each appeal shall be taken within twenty (20) days by filing a Notice of Appeal with the Officer from whom the appeal was taken, together with three (3) copies of said notice with the Secretary of the Board of Adjustment. Said notice of appeal shall specify the grounds of said appeal. The Officer from whom the appeal was taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- B. **APPLICATION FOR DEVELOPMENT:** A Developer may file an application for development with the Board of Adjustment for action under any of its powers without prior application to an Administrative Officer or Building Inspector.

Development review procedures shall be in accordance with **ARTICLE IV, VI, VII, VIII, IX, X, XI, XIII, XIV** and **XV** of this Chapter. The Developer shall obtain all necessary forms from the Administrative Officer.

- C. An appeal stays all proceedings in furtherance of the action in respect of which the decision appealed from was made, unless the Officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by an order of the Superior Court.

SECTION 17-37. POWER TO REVERSE OR MODIFY DECISIONS:

In exercising the above mentioned power, the Board of Adjustment may, in conformity with the provisions of the Act or amendments thereto or subsequent statute applying reverse or affirm wholly or partly or may modify the action, order, requirement, decision, interpretation 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.

SECTION 17-38. EXPIRATION OF VARIANCE:

Any variance from the terms of the Zoning Ordinance hereafter granted by the Board of Adjustment permitting the erection or alteration of any structure or structures, or permitting a specified use of any premises shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance, or unless such permitted use has actually been commenced within one year from the date of entry of the judgment or determination of the Board of Adjustment; except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Board of Adjustment to the Governing Body, or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding; except further in the case of a variance which also involves a subdivision or site plan approval, the variance shall extend for the full period of preliminary or final approval or any extensions thereof pursuant to the Act.

SECTION 17-39. POWERS GRANTED BY LAW:

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

Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, or refusal made by an Administrative Official or agency based on or made in the enforcement of Chapter 28 (Zoning Ordinance) of the Borough of Lincoln Park.

- A. Hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, decision, or refusal made by an Administrative Official or agency based on or made in the enforcement of Chapter 28 (Zoning Ordinance) of the Borough of Lincoln Park.
- B. Hear and decide requests for interpretation of the Zoning Map or Zoning Ordinance, or for decisions upon other special questions upon which such Board is authorized by the Zoning Ordinance to pass.
- C. (1) Where a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structure lawfully existing thereon, the strict application of any regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the Developer of such property, a variance from such strict application of such regulation so as to relieve such difficulties of hardship; (2) where in an application or appeal relating to a specific piece of

property the purposes of this Act would be advanced by a deviation from the Zoning Ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure enumerated in Subsection d of this Section shall be granted under this Subsection; and provided further that the proposed development does not require approval by the Planning Board of a Subdivision, site plan or conditional use, in conjunction with which the Planning Board has power to review a request for a variance pursuant to Subsection 47a of this Act. (3) Where in an application or appeal relating to a specific piece of property the purposes of this Act would be advanced by a deviation from the Zoning Ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance from those departures enumerated in Subsection D of this Section shall be granted under this Subsection; and provided further that the proposed development does not require approval by the Planning Board of Subdivision, site plan or conditional use in conjunction with which the Planning Board has power to review a request for a variance pursuant to **N.J.S.A. 40:55D-60A**.

- D. In particular cases and for special reasons, grant a variance to allow departure from regulations to permit (1) a use or principal structure in a district restricted against such use of principal structure, (2) an expansion of a non-conforming use, (3) deviation from a specification or standard pursuant to 40:55D-67 pertaining solely to a conditional use, (4) an increase in the permitted floor area ratio as defined in 40:55D-4, (5) an increase in the permitted density as defined in Section 40:55D-4 except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings which lot or lots are either an isolated undersized, lot or lots resulting from a minor sub-division or, (6) a height of a principal 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 an affirmative vote of at least five (5) members of the Board of Adjustment.
- E. If an application for development request one or more variances but not a variance for a purpose enumerated in Subsection D of this Section, the decision on the requested variance or variances shall be rendered under Subsection C of this Section.
- F. No variance or other relief may be granted under the terms of this Section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. In respect of any Airport Hazard areas delineated under the "**Air Safety and Hazardous Zoning Act of 1983**", **P.L. 1983, c.260 (C.6.1-80 et seq.)** no variance or other relief may be granted under the terms of this Section permitting the creation or establishment of a non-conforming use which would be prohibited under the standards promulgated pursuant to the Act except upon issuance of a permit by the Commissioner of Transportation. An application under this Section may be referred to any appropriate person or agency for its report; provided that such references shall not extend the period of time within which the Zoning Board of Adjustment shall act.
- G. **Votes Required:** All actions shall be taken by a majority vote of the members of the Board present, except that five (5) affirmative votes shall be necessary to approve a variance pursuant to **Section 17-39D (N.J.S.A. 40:55D-70)**. Failure of a motion to receive the number of votes required pursuant to **Section 17-39D** shall be deemed an action denying the application.

SECTION 17-40. ADDITIONAL POWERS:

The Zoning Board of Adjustment shall in addition to the powers specified in **Section 17-35** of this Article have power given by law to:

- A. Direct, by an affirmative vote of a majority of the fully authorized members, issuance of a permit pursuant to **N.J.S.A. 40:55D-34** for a building or structure in the bed of an mapped street or public drainage-way, flood control basin or public area reserved on the Official Map.
- B. Direct issuance of a permit pursuant to **N.J.S.A. 40:55D-36** for a building or structure not related to a street.
- C. The Board of Adjustment shall not exceed the power otherwise granted by Paragraph A and B above if the proposed development requires approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board has power to direct the issuance of a permit pursuant to **N.J.S.A. 40:55D-60**, Subsection "b" and "c".
- D. Grant to the same extent and subject to the same restrictions as the Planning Board subdivision or site plan approval pursuant to Section 56 of the Act whenever the proposed development requires approval by the Board of Adjustment of a variance pursuant to Subsection (D) of Section 17-39 of this Chapter. The Developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals by the Board of Adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the Zone Plan and Zoning Ordinance. The number of votes of Board members required to grant such subsequent approval shall be as otherwise provided in the Act for the approval in question and the special vote pursuant to the aforesaid **Subsection (D) of Section 17-39** of this Chapter shall not be required.

SECTION 17-41. EXCEPTION IN APPLICATION FOR SUBDIVISION OR SITE PLAN REVIEW:

If the literal enforcement of one or more provisions of this Chapter is impracticable or will exact undue hardship because of peculiar conditions pertaining to impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question, the Zoning Board of Adjustment, when acting upon applications for major or minor subdivision approval, shall have the power to grant such exemptions from the requirements for subdivision approval, and to the same extent, when acting upon major or minor site plan or conditional use approval, shall have the power to grant such exceptions from the respective applicable requirements hereof, all as may be reasonable and within the general purpose and intent of the provisions of this Chapter.

SECTION 17-42. TIME FOR DECISION:

The Board of Adjustment shall render a decision not later than one hundred twenty (120) days after: (1) the date an appeal is taken from the decision of the Administrative Officer or Building Inspector; or (2) the filing date or date a development proposal is received for filing by formal action of the Board of Adjustment, thereafter, whenever an application for development requests relief pursuant to Section 17-40 c) of this Chapter, the Board of Adjustment shall grant or deny approval of the application within one hundred twenty (120) days after submission by a developer of a complete application to the Administrative Officer or within such further time as may be consented to by the applicant. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be otherwise provided in this Chapter. Failure of the Board of Adjustment to act within the period prescribed shall constitute approval of the application and a certificate of the Administrative Officer as to the failure of the Board of Adjustment to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats.

SECTION 17-43. APPEALS FROM ZONING BOARD OF ADJUSTMENT TO GOVERNING BODY

Any interested party may appeal to the Governing Body any final decision of the Board of Adjustment approving an application for development pursuant to **Section 17-39D (N.J.S.A. 40:5570 d.)**. Appeals shall be taken in accordance with the procedures established by **N.J.S.A. 40:55D-17**.

ARTICLE IV

GENERAL PROVISIONS APPLICABLE TO PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT

SECTION 17-50. CONFLICT OF INTEREST:

No member of the Planning Board or Zoning Board of Adjustment shall act on any matter in which he has either directly or indirectly and personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the Board on the hearing of such matter nor participate in any discussion or decision relating thereto.

SECTION 17-51. REGULAR MEETINGS:

- A. Regular meetings of both the Planning Board and Zoning Board of Adjustment shall be scheduled no less often than once a month and any meeting so scheduled shall be held as scheduled unless canceled for lack of quorum or lack of applications for development to process.
- B. Special meetings may be provided for at the call of the chairman or on the written request by two (2) 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 those members present at the meeting except as otherwise required by any provision of this Chapter.
- E. All Regular meetings and all Special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Law, **Ch. 321, Laws of N.J. 1975**. An Executive Session for the purpose of discussing and studying any matters to come before either Board shall not be deemed a Regular or Special meeting in accordance with the provisions of **C.40:55D-9.20**.

SECTION 17-52. MINUTES:

Minutes of every Regular or Special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by Attorney the action taken by the Board, the findings, if any, made by it and reasons therefore. The minutes shall thereafter be made available for public inspection during normal business hours at the Office of the Administrative Officer. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party shall be charged a fee for reproduction of the minutes for his use as provided for in the Rules of the Board.

SECTION 17-53. FEES:

Fees for applications or for the rendering of any service by the Planning Board or Zoning Board of Adjustment or any member of their Administrative staffs which is not otherwise provided

by **ARTICLE V** of this Chapter may be provided for and Adopted as part of the Rules of the Board and copies of said Rules or of the separate fee schedule shall be available to the public.

SECTION 17-54. HEARINGS:

The Municipal Agency shall hold a hearing on each application for development.

- A. **RULES:** The Planning Board and Zoning Board of Adjustment may make rules governing the conduct of hearings before such bodies which rules shall not be inconsistent with the provisions of **C. 40:55D-1 et seq.** or 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 witnesses and documents presented by the parties, and the provisions of the "**County and Municipal Investigations Law**" **P.L. 1953, C.1938 (c.2A67A-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 rights of cross examination shall be permitted to all interested parties through their Attorney, 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 or evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
- E. **RECORDS:** Each Board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his expense. The Municipal Agency in furnishing a transcript of the proceedings to an interested party at his expense shall not charge such interested party more than the maximum permitted in **N.J.S.A. 2A:11-15**. Said transcript shall be certified in writing by the transcriber to be accurate.

SECTION 17-55. NOTICE REQUIREMENTS FOR HEARING:

- A. Public Notice shall be given on the following applications for development 1) major development proposals, preliminary and final, except as specifically provided for in this Chapter, 2) applications involving appeals or variances of any kind, 3) applications for conditional use, and 4) applications involving a permit pursuant to **C.40:55D-34** through **36** inclusive.
- B. Public Notice shall be given by publication in the Official Newspaper of the municipality at least ten (10) days prior to the date of the hearing.
- C. Notice of a hearing requiring public notice pursuant to Subsection A of the Section shall be given to the owners of all real property as shown on the current tax duplicate located in the State and within 200 feet in all directions of the property which is the subject of such hearing; provided that this requirement shall be deemed satisfied by notice to the 1) Condominium Association, in the case of any unit owner whose unit has a unit above or below it, or 2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by: 1) serving a copy thereof on the property owner as shown on the said current tax duplicate, or his agent in charge of the property, or 2) mailing a copy thereof by certified mail to the property owner at his address as shown on the said current tax duplicate.

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, Vice President,

Secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a Condominium Association, horizontal property regime, community trust or Homeowner's Association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

- D. Upon the written request of an applicant, the Borough Assessor shall, within seven (7) days, make and certify a list from said current tax duplicates of names and addresses of owners to whom the applicant is required to give notice pursuant to Subsection C of this Section. The applicant shall be entitled to rely upon the information contained in such list and failure to give notice to any owner not on the list shall not invalidate any hearing or proceeding. A sum not to exceed \$0.25 per name, or \$10.00, whichever is greater, may be charged for such list.
- E. Notice of 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.
- F. 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.
- G. 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.
- H. Notice shall be given by personal service or certified mail to the State Planning Commission of a hearing on an application for development of property; which exceeds 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Municipal Clerk pursuant to Subsection 6b **40:55D-10**.
- I. Form of Notice. All notices required to be given pursuant to the terms of this Chapter. Shall state the date, time and place of the hearing, the nature of the matters to be considered and identification of the property proposed for development by street address, if any, or by reference to lot and block number as shown on the current tax duplicate in the Municipal Tax Assessor's Office and the location and times at which any maps or documents for which approval is sought are available as required by law.
- J. The applicant shall file an affidavit of proof of service with the Municipal Agency holding the hearing on the application for development in the event that the applicant is required to give notice pursuant to this Section.
- K. Notice pursuant to Subsection E), F), G) and H) of this Section shall not be deemed to be required, unless public notice pursuant to Subsection c) of this Section is required.

SECTION 17-56. LIST OF PROPERTY OWNERS FURNISHED:

DELETED. SEE SECTION 17-55 (D)

SECTION 17-57. DECISIONS:

- A. The Municipal Agency shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. The Municipal Agency shall provide the findings and conclusions through: 1) A Resolution Adopted at a meeting held within the time period provided in the Act for action by the Municipal Agency on the application for development; or 2) A memorializing Resolution Adopted at a meeting held not later than 45 days after the date of the meeting at which the Municipal Agency voted to grant or deny approval. Only the members of the Municipal Agency who voted for the action taken may vote on the memorializing Resolution, and the vote of a majority of such members present at the meeting at which the Resolution is presented for Adoption shall be sufficient to Adopt the Resolution. An action pursuant to Section 5 of the Act (C.40:55D-9) (resulting from the failing of a motion to approve an application) shall be memorialized by Resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing Resolution.

The vote on any such Resolution shall be deemed to be a memorializing of the action of the Municipal Agency and not be an action of the Municipal Agency; however, the date of the Adoption of the Resolution shall constitute the date of the decision for purposes of the mailings, filings and publications required by **Paragraph C** of this **Section**, and **Section 17-58** of this Chapter. If the Municipal Agency fails to Adopt a Resolution or memorializing Resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary manner for an order compelling the Municipal Agency to reduce its findings and conclusions to writing within a stated time and the cost of the application, including Attorney's fees, shall be assessed against the municipality.

- B. A member of a Municipal Agency who was absent for one or more of the meetings at which a hearing was held, shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his absence from one or more of the meetings, provided, however, that such Board member has available to him the transcript or recording of all of the hearing from which he was absent, and certifies in writing to the Board that he has read such transcript or listened to such recording.
- C. A copy of the decision shall be mailed by the Board within ten (10) days of the date of the decision to the applicant, or if represented, then to his 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 Administrative Officer, 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 instruments in the Borough.

SECTION 17-58. PUBLICATION OF DECISION:

A brief notice of every final decision shall be published each month in the Official Newspaper of the municipality as required by law. Such publication shall be arranged by the Secretary of the Planning Board or Zoning Board of Adjustment as the case may be. The period of time in which an appeal of the decision may be made, shall run from the date of publication.

SECTION 17-59. PAYMENT OF TAXES:

Pursuant to the provisions of C.40:55D-39 and C.40:55D-65 every application for development submitted to the Planning Board or to the Zoning Board of Adjustment, shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on said property which is the subject of such applications; or, if it is shown that taxes or assessments are delinquent on said property, any approvals or other relief granted by either

Board shall be conditioned upon either the prompt provision for the payment thereof in such manner than the municipality will be adequately protected.

SECTION 17-60. TOLLING OF RUNNING PERIOD OF APPROVAL:

In the event that, during the period of approval heretofore or hereafter granted, should the developer be barred or prevented, directly or indirectly, from proceeding with the development otherwise permitted under such approval by a legal action instituted by any State agency, political subdivision or other party to protect the public health and welfare or by a directive or order issued by any State agency, political subdivision or court of competent jurisdiction to protect the public health or welfare and the developer is otherwise ready, willing and able to proceed with said development, the running of the period of approval under this Chapter shall be suspended for the period of time said legal action is pending or such directive or order is in effect.

SECTION 17-61. COUNTY PLANNING BOARD APPROVAL:

Whenever review or approval of the application by the County Planning Board is required by **Section 4 of P.L. 1968, C.285 (C.40,25-6.3)**, in the case of a subdivision, or **Section 8 of P.L.1968, C.285 (C.40, 27-6.6)** in the case of a site plan, the Municipal Agency shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

SECTION 17-62. SYNOPSIS OF TIME PERIODS FOR DECISION:

The time periods within which a Municipal Agency shall arrive at a decision is set forth at length in the various provisions of this Ordinance. Failure of the reviewing Municipal Agency to render a decision within the time periods prescribed below or within such further time as may be consented to by the Developer shall constitute a decision favorable to the Developer.

Unless the Developer agrees to an extension of time, a municipal Agency must grant or deny approval of the development application within the following number of days after the filing date or date such application shall be deemed filed pursuant to **Section 17-82** of this Chapter. In the case of appeals however to the Board of Adjustment, the days shall be counted from the date a decision is rendered by the Administrative Officer or Building Inspector.

- A. In the case of the Planning Board:
 - 1. For minor subdivision: 45 days
 - 2. For a preliminary major subdivision:
 - a. For 10 lots or less 45 days
 - b. For more than 10 lots 95 days
 - 3. For final major subdivision 45 days
 - 4. For preliminary site plan
 - a. For 10 acres of land or less and for 10 Dwelling units or less 45 days
 - b. For more than 10 acres of land or for more Than 10 dwelling units 95 days
 - 5. For final site plan 45 days
 - 6. For conditional use permit 95 days

7. For direction, pursuant to **Section 17-16 H.2 and 3**, for issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area, pursuant to **N.J.S.A. 40:55D-34 and 35** – 120 days
 8. For a combined application:
 - a. For a conditional use permit and site plan 95 days
 - b. For a subdivision plat and a conditional use permit or site plan – the largest time period for action by the Planning Board, whether it be for subdivision, conditional use or site plan approval.
 - c. For (1) a subdivision plat, site plan or conditional use permit and (2) certain single lot zoning variance or direction of issuance of a permit for a building, not related to a street or in an area designated on the Official Map for public acquisition or use - 120 days
 - d. Separate and consecutive applications pursuant to **Section 17-16 H** of this Chapter. In the event the developer elects to submit aforesaid provisions shall apply to the application for approval of the variance or direction for issuance of a permit. The period for granting subsequent approval shall be as otherwise provided in this Chapter.
- B. In the case of Zoning Board of Adjustment.
1. For an appeal taken from a decision of the Administrative Officer or Building Inspector 120 days
 2. For a combined application involving the submission of an application for development 120 days

ARTICLE V.

FEES

³SECTION 17-70. DEVELOPMENT REVIEW FEES:

The Developer shall, at the time of filing an application, pay the following non-refundable fee to the Clerk of the Municipal Agency by certified check or money order. Proposals involving more than one shall pay a fee equaling the sum of the fees for the component elements of the plat. Proposals requiring a combination of approvals such as subdivision, site plan and/or variance shall pay a fee equal to the sum of the fee for each element:

Application Category	Application/Component Types	Computation Methodology	Development Review Fee
Minor Subdivision	Concept Review	Application	\$100
	Application	Application	\$300
	Amendment	Base Application	(Follow new application process)
Major Subdivision	Concept Review	Lump Sum	\$100
	Preliminary	Base Application	\$250

³ Amended by Ordinance 1,356 Adopted on 8/21/06 Effective on 9/10/06

	Application/Plat		
		Additional: Per Lot	\$100
	Amendment to Preliminary Plat, prior to submission of an <i>Administratively Complete</i> Final Plat	Application	(Follow new Preliminary application process)
	Request time extension for an approved Preliminary Plat, prior to submission of an <i>Administratively Complete</i> Final Plat	Application	\$250
	Final Plat/Application	Base Application	\$200
		Additional: Per Lot	\$75
	Amendment to an approved Final Plat	Application	(Follow new application process)
	Request time extension for Final Approval	Application	\$200
Site Plan Exemption	Request time extension for Final Approval	Application	\$150
Minor Site Plan	Minor Site Plan	Concept Review	\$150
		Application	\$250
Major Site Plan	Major Site Plan – Non-Residential	Concept Review	\$200
	Major Site Plan – Non-Residential – Preliminary	Base Application	\$250
		Additional/1,000 Square Foot increment (or portion thereof) of proposed building floor area	\$50
		Additional/1,000 Square Foot increment (or portion thereof) of proposed impervious cover, other than building	\$50
		Additional/1,000 Square Foot increment (or portion thereof) of existing building floor area or existing impervious cover that is to be altered, modified and/or be converted in any way	\$25
	Amendment to an approved Preliminary Plan, prior to the submission of an <i>Administratively Complete</i> Final Plan	Application	(Follow new application process)
	Request time extension for an approved	Application	\$250

	Preliminary Plan, prior to the submission of an <i>Administratively Complete</i> Final Plan		
	Major Site Plan – Residential – Preliminary	Concept Review	\$250
		Application	500 + \$50/Dwelling Unit
	Amendment to an approved Preliminary Plan, prior to submission of an <i>Administratively Complete</i> , Final Plat	Application	(Follow new application process)
	Request time extensions for an approved Preliminary Plan, prior to the submission of an <i>Administratively Complete</i> Final Plan	Application	\$250
	Major Site Plan – Non-Residential – Final	Base Application	\$200
		Additional/1,000 Square Foot increment (or portion thereof) of existing building floor area	\$50
		Additional/1,000 Square Foot increment (or portion thereof) of existing building floor area or existing impervious cover, other than building	\$50
		Additional/1,000 Square Foot increment (or portion thereof) of existing building floor area or existing impervious cover that is to be altered, modified and/or be converted, in any way	\$25
	Amendment to an approved Final Plan	Application	(Follow new final application process)
	Request time extensions for an approved Final approval	Application	\$150
	Major Site Plan – Residential – Final	Application	\$500
	Amendments to an approved Final Plan	Application	(follow new final application process)
	Request time extension for an approved Final approval	Application	\$150
Conditional Use	Same as for “ Site Plan ”	(See above for the respective category	(See above for and follow the respective

		of the proposed activity)	category of the proposed activity)
		Subdivision	See " Subdivision " above
		Site Plan	See " Site Plan " above
Flood Damage Prevention/flood Plain Encroachment	Application	1 & 2 Family Detached dwellings	\$100
		All other uses	\$250
	Variances from requirements	1 & 2 Family detached dwellings	\$75
		All other uses	\$250
Grading Permit	1 & 2 Family detached dwellings	Up to 5,000 Square Feet of disturbance	\$50
		Over 5,000 Square Feet of disturbance	\$100
	All other uses	Up to 5,000 Square Feet of disturbance	\$200
		Over 5,000 Square Feet of disturbance	\$250
	Amendment to an approved plan, prior to project completion or receipt of a <i>Certificate of Occupancy</i>	Based on one-half of the above-described categories, respectively	(follow new application process, for the respective category)
Soil Removal	Application	Application	\$300
	Issuance of permit after Municipal Approval	Per Acre (or portion thereof) of land disturbance	\$500
Zoning Permit	Application	1 & 2 Family Detached Dwellings	\$50
		All other uses	\$100
Variances	Appeal of administrative decision	1 & 2 Family Detached Dwellings	\$75
		All other uses	\$200
	Interpretation of Zoning Ordinance	1 & 2 Family Detached Dwellings	\$75
		All other uses	\$200
	Hardship/bulk variance	1 & 2 family Detached Dwellings	\$100
		All other uses	\$300
	Use Variance	1 & 2 Family Detached Dwellings	\$100
		All other uses	\$500

	File an appeal with the Governing Body	Per appeal	\$200
	Developer's Agreement – After Board approval, upon application to the Governing Body for the approval/permit issuance		\$250
	Rezoning Request Submission to the Governing Body		\$500
Signs	Application	Per use, occupant or individual facility	\$100
Impact Statements	Traffic Study	Required for applications creating more than 50 dwelling units or more than 40,000 square feet of non-residential floor area. Or more than 20 seats for a food establishment, or pro-rata combination of the three	\$250
	Environmental	Required for applications creating more than 50 dwelling units or more than 40,000 square feet of non-residential floor area, or more than 20 seats for a food establishment, or pro-rata combination of the three OR within the NJDEP Flood Hazard Area	\$250
	Fiscal	Required for applications creating more than 100 dwelling units or more than 80,000 square feet of non-residential floor area, or more than 40 seats for a food establishment, or pre-rata combination of the three	\$250
Special Meetings	Application	When requested by Applicant & agreed to by Borough	\$100

NOTES/COMMENTS:

1. All indicated "Application Fees" are to be calculated in the aggregate, as applications falling into multiple categories are to pay the combination of all incremental "Application Fees".

SECTION 17-71. INSPECTION AND PROFESSIONAL SERVICE FEES:

A. INSPECTION FEES:

The Developer shall reimburse the borough for all reasonable inspection fees paid to the Municipal Agency Engineer for the inspection of improvements covered by performance guarantees; provided that the Borough may require of the developer a deposit for the inspection fees in an amount not to exceed, except for extraordinary circumstances, the greater of \$500.00 or 5% of the cost of improvements. In the event that final approval is between stages or sections of development, the provisions of this Section shall be applied by stage or section.

B. PROFESSIONAL SERVICE FEES:

The Developer shall also make all of the payments to the Municipal Agency Attorney, Planner, Engineer and any other professionals for service rendered to the Borough for review of applications for development, review and preparation of documents, inspection of improvements or other purposes under the provisions of 40:5D-1 et seq. The Borough may require of the Developer a deposit toward anticipated municipal expenses for those professional services; which shall be placed in an escrow account. The amount of the deposit required shall be reasonable in regard to the scale and complexity of the development. All payments charged to the deposit shall be pursuant to vouchers from the professional stating the hours spent to ¼ hour increments, for each date that the service is performed, the hourly rate and the expenses incurred. The professional shall send an information copy simultaneously to the Developer. The Borough shall render a written final accounting to the Developer on the uses to which the deposit was put. The Chief Financial Officer shall prepare and send to the Developer a statement which shall include an accounting of funds listing all deposits, interest earnings, disbursements and the cumulative balance of the escrow account. This information shall be prepared on a quarterly basis if monthly charges are \$1,000.00 or less or on a monthly basis if monthly charges exceed \$1,000.00. To the extent that salary, staff support and overhead for a professional are provided by the Borough, the charge to the deposit shall not exceed 200% of the sum of the products resulting from multiplying (1) the hourly base salary of each of the professionals by (2) the number of hours spent by the respective professional on review of the application for development for the Developer's improvements, as the case may be. For other work of the same nature by the professional for the Borough. Inspection and professional service fees shall be escrowed in accordance with the following schedule:

^{4,5}**C. FEE SCHEDULE:**

<u>Application Category</u>	<u>Application/Component Type</u>	<u>Computation Methodology</u>	<u>Escrow Fee Deposit</u>
Minor Subdivision	Concept Review	Application	\$1,000
	Application	Application	\$2,000
	Inspection & professional Services Fee	5% of Borough approved estimate for all required improvements	5% of Improvement costs - \$1,500 minimum
	Amendment	Base Application	(Follow new application process)

⁴ Amended by Ordinance 1,041 Adopted 4/13/92 Effective 5/3/92

⁵ Amended by Ordinance 1,356 Adopted 8/21/06 Effective 9/10/06

Major Subdivision	Concept Review	Lump Sum	\$1,000
	Preliminary Application/Plat	Base Application	\$2,000
		Additional: Per Lot	\$250
	Inspection & Professional Service Fee	5% of Borough approved estimate for all required improvements	5% of improvement costs - \$1,500 minimum
	Amendment to Preliminary Plat, prior to submission of an <i>Administratively Complete</i> Final Plat	Application	(Follow new preliminary application process)
	Request time extension for an approved Preliminary Plat, prior to submission of an <i>Administratively Complete</i> Final Plat	Application	\$1,000
	Final Plat/Application	Base Application	\$1,000
		Additional: Per Lot	\$150
	Amended to an approved Final Plat	Application	(follow new final application process)
	Request time extension for an approved Final approval	Application	\$1,000
	Inspection & Professional Services Fee	5% of Borough approved estimate for all required improvements	5% of Improvement costs - \$1,500 minimum
Site Plan Exemption	Site Plan Exemption	Application	\$750
Minor Site Plan	Minor Site Plan	Concept Review	\$750
		Application	\$1,500
Major Site Plan	Major Site Plan – Non-Residential	Concept Review	\$1,500
	Major Site Plan – Non-Residential – Preliminary	Base Application	\$2,500
		Additional/1,000 Square Foot increments (or portion thereof) of proposed building floor area	\$100
		Additional/1,000 Square Foot increments (or portion thereof) of proposed impervious cover, other than building	\$100
		Additional/1,000	\$50

		Square Foot increments (or portion thereof) of existing building floor area or existing impervious cover that is to be altered, modified and/or be converted in any way	
	Amendment to an approved Preliminary Plan, prior to the submission of an <i>Administratively Complete</i> Final Plan	Application	(Follow new preliminary application process)
	Request time extension for an approved Preliminary Plan, prior to the submission of an <i>Administratively Complete</i> final Plan	Application	\$1,500
	Major Site Plan – Residential – Preliminary	Concept Review	\$1,500
		Application	\$2,000 + \$100/Dwelling Unit
	Amendment to an approved Preliminary Plan, prior to the submission of an <i>Administratively Complete</i> Final Plat	Application	(follow new application process)
	Request time extension for an approved Preliminary Plan, prior to the submission of an <i>Administratively Complete</i> Final Plat	Application	50% of Preliminary Fee – Minimum \$1,500
	Inspection & Professional Services Fee	5% of Borough approved estimate for all required improvements	5% of Improvement costs - \$1,500 minimum
	Major Site Plan – Non-Residential – Final	Base Application	\$2,000
		Additional/1,000 Square Foot increment (or portion thereof) of proposed building floor area	\$100
		Additional/1,000 Square Foot increment (or portion thereof) of proposed impervious cover, other than building	\$100
		Additional/1,000 Square Foot increment (or portion thereof) of existing building floor area or existing impervious	\$50

		cover that is to be altered, modified and/or be converted, in any way	
	Inspection & Professional Services Fees	5% of Borough approved estimate for all required improvements	5% of Improvement costs - \$1,500 minimum
	Amendment to an approved Final Plan	Application	(Follow new final application process)
	Request time extension for an approved Final approval	Application	\$1,000
	Major Site Plan – Residential	Application	\$1,500 + \$25/Dwelling Unit
	Amendment to an approved Final Plan	Application	(Follow new final application process)
	Request time extension for an approved Final approval	Application	\$1,250
	Inspection & Professional Services Fees	5% of borough approved estimate for all required improvements	5% of improvement costs - \$1,500
Conditional Use	Same as for “Site Plan”	(See above for the respective category of the proposed activity)	(See above for and follow the respective category of the proposed activity)
		Subdivision	See “Subdivision” above
		Site Plan	See “Site Plan” above
Flood Damage	Application	1 & 2 Family detached dwellings	\$750
		All other uses	\$1,500
	Variances from requirements	1 & 2 Family detached dwellings	\$500
		All other uses	\$1,000
Grading Permit	1 & 2 Family detached dwellings	Up to 5,000 Square Feet of disturbance	\$375
		Over 5,000 Square Feet of disturbance	\$750
	All other uses	Up to 5,000 Square Feet of disturbance	\$1,500
		Over 5,000 Square Feet of disturbance	
	Amendment to an approved plan, prior to project completion or receipt of a <i>Certificate of Occupancy</i>	Based on one-half of the above-described categories, respectively	(Follow new application process, for the respective category)

Soil Removal	Application	Application	\$2,000
	Inspection & Professional Service Fee	5% of Borough approved estimate for all required work	5% of Improvement costs - \$1,500 minimum
Zoning Permit	Application	1 & 2 Family Detached Dwellings	\$100
		All other uses	\$300
Variances	Appeal of Administrative decision	1 & 2 Family Detached Dwellings	\$500
		All other uses	\$1,500
	Interpretation of Zoning Ordinance	1 & 2 Family Detached Dwellings	\$500
		All other uses	
	Hardship/bulk variance	1 & 2 Family Detached Dwellings	\$750 (Per application)
		All other uses	\$1,500 (Per application)
	Use Variance	1 & 2 Family Detached Dwellings	\$1,000
		All other uses	\$2,000
	File an appeal with the Governing Body	Per appeal	\$1,500
Developer's Agreement – After Board approval, upon application to the Governing Body for approval/permit issuance			\$1,000
Resubmission on an incomplete review			50% of Original Fee if the current balance has dropped to or below 50% of the original escrow fee deposit
Rezoning Request Submission to the Governing Body			\$3,000
Signs	Application	Per use, occupant or individual facility	\$500
Impact Statements	Traffic Study	Required for applications creating more than 50 dwelling units or more than 40,000 square feet of non-residential floor area, or more than 20 seats for a food	\$1,500

		established, or pro-rata combination of the three	
	Environmental	Required for applications creating more than 50 dwelling units or more than 40,000 square feet of non-residential floor area, or more than 20 seats for a food establishment, or pro-rata combination of the three OR within the NJDEP Flood Hazard Area	\$2,500
	Fiscal	Required for applications creating more than 100 dwelling units or more than 80,000 square feet of non-residential floor area, or more than 40 seats for a food establishment, or pro-rata combination of the three	\$1,500
Special Meetings	Application	When requested by Applicant & agreed to by Borough	\$1,000
Meeting Minutes Transcription	Per meeting		Actual charge by outside agency
	Minor subdivision		\$250 Deposit
	Preliminary Major Subdivision		\$750 Deposit
	Final Major Subdivision		\$500 Deposit
	Preliminary Minor Site Plan		\$250 Deposit
	Final Minor Site Plan		\$500 Deposit
	Preliminary Major Site Plan		\$750 Deposit
	Final Major Site Plan		\$500 Deposit

NOTES/COMMENTS:

1. All indicated “Escrow Fee Deposits” are to be calculated in the aggregate, as applications falling into multiple categories are to pay the combination of all incremental “Escrow Fee Deposits”.
2. All fees of Borough Professionals in connection with *Special Meetings*, including attendance, shall be charged to the “Escrow Fee Deposit” account.
3. Fees of Borough Professionals, including meeting attendance, shall be charged to the “Escrow Fee Deposit” account.

D. DEPOSITS:

1. Whenever an amount of money in excess of \$5,000.00 shall be deposited by a Developer, the money, until repaid, shall continue to be the property of the Developer and shall be held in escrow by the Borough. The Borough shall deposit such funds in a banking institution or Savings and Loan Association in this State insured by an agency of the Federal Government, or in any other fund or depository approved for such deposits by the State, in an account bearing interest at the minimum rate currently paid by the institution or depository on time or savings deposits. The Borough shall notify the Developer in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit. The Borough shall not be required to refund an amount of interest paid on a deposit; which does not exceed \$100.00 for the year. If the amount of interest exceeds \$100.00, that entire amount shall belong to the Developer and shall be refunded to him by the Borough annually or at the time the deposit is repaid or applied to the purposes for which it was deposited, as the case may be; except that the Borough may retain for administrative expenses a sum equivalent to no more than 33 1/3% of that entire amount, which shall be in lieu of all other administrative and custodial expenses.
2. If an escrow or deposit contains insufficient funds to enable the Borough or Review Agency to perform required application reviews, or improvement inspections, the Chief Financial Officer of the Borough shall provide the Developer with a notice of the insufficient escrow or deposit balance. In order for work to continue on the development or the application, the Developer shall, within a reasonable time period, but not less than ten (10) days in advance of the expiration of the Review Agency's required date of decision in connection with the pending application, post a deposit to the account in an amount to be agreed upon by the Borough or Review Agency and the Developer. In the interim, any required health and safety inspections shall be made and charged back against the replenishment of funds. If the Developer fails to post such a deposit within the above time period, the Review Agency may deny the application without prejudice. The Review Agency may permit such application to be resubmitted or reactivated within a period of ninety (90) days from the date of such denial without the payment of new application fees provided that the required escrow deficiency together with re-submission escrow funds have been posted.

E. CLOSE-OUT PROCEDURES:

The following close-out procedure shall apply to all deposits and escrow accounts established under the provisions of **P.L. 1975, c.291 (C.40:55D et seq.)** and shall commence after the Review Agency has granted final approval and signed the subdivision plat or site plan drawings in the case of application review escrows and deposits, or after the improvements have been approved as provided in **Section 41 of P.L. 1975, c.291 (C.40:55D-53)**, in the case of improvement inspection escrows and deposits. The Developer shall send written notice by certified mail to the Chief Financial Officer of the Borough and the Review Agency and to the relevant Borough Professional, that the application or the improvements, as the case may be, are completed. After receipt of such notice, the professional shall render a final bill to the Chief Financial Officer of the Borough or Review Agency within thirty (30) days, and shall send a copy simultaneously to the Developer. The Chief Financial Officer of the Borough or Review Agency shall render a written final accounting to the Developer on the uses to which the deposit was put within forty-five (45) days of receipt of the final bill. Any balances remaining in the deposit or escrow account, in accordance with this Ordinance, shall be refunded to the Developer along with the final accounting.

F. DISPUTES:

1. A Developer shall notify in writing the Borough with copies to the Chief Financial Officer and the Review Agency and the professional whenever the Developer disputes the charged made by a professional for service rendered in reviewing application for development, review and preparation of documents, inspection of improvements or other charges made pursuant to this Ordinance. The Borough Administrator shall, within a reasonable time period, attempt to remediate any disputed charges. if the matter is not resolved to the satisfaction of the Developer, the Developer may appeal to the County Construction Board of Appeals established under **Section 9 of P.L. 1975, c.217 (C.52:27D-127)** any charge to an escrow account or a deposit by any Borough professional or consultant, or the cost of the installation of improvements estimated by the Borough Engineer pursuant to **Section 15 of P.L. 1991, c.256 (C.4.0:55D-53)**.
2. During the pendency of any appeal, the Review Agency shall continue to process, hear, and decide the application for the development, and to inspect the development in the normal course, and shall not withhold, delay or deny reviews, inspections, signing of subdivision plats to or site plans the reduction or the release of performance or maintenance guarantees, the issuance of construction permits or certificates of occupancy, or any other approval or permit because an appeal has been filed or is pending under this subsection. The Chief Financial officer of the Borough may pay charges out of the appropriate escrow account or deposit for which an appeal has been filed. If a charge is disallowed after payment, the Chief Financial officer of the Borough shall reimburse the deposit or escrow account in the amount of any such disallowed charge or refund the amount to the Developer. If a charge is disallowed after payment to a professional or consultant who is not an employee of the Borough, the professional or consultant shall reimburse the Borough in the amount of any such, disallowed charge.

⁶SECTION 17-72. INSPECTION FEES AND COSTS:

- A. Fees submitted to the Borough for inspection will include but may not be limited to the following:
 1. The inspection by the Borough Engineer of on-site, on-tract, off-site and off-track improvements constructed or installed by the Developer.
 2. The reasonable cost of testing materials or construction work performed by the Developer, as may be required.
 3. Analysis or tests to determine compliance by the Developer with any monitoring standards.
 4. The inspection of improvements constructed or installed by the Developer for purposes of determining compliance with the two year maintenance obligation of the Developer.
- B. Inspection Fees and costs shall be administered in the following manner:
 1. At the time of the grant of final development approval (and preliminary subdivision approval in the instances where the Developer proposes to install improvements pursuant to such preliminary approval), the Developer shall pay to the Borough an amount equal to five (5%) percent of the cost of all improvements as estimated by the Borough Engineer.

⁶ Amended by Ordinance 1,048 Adopted 6/22/92 Effective 7/12/92

Such amount shall be held by the Borough in an interest bearing trust account separate from the general funds of the Borough.

2. Upon the issuance by the Borough Engineer of a certification that all improvements have been maintained during the required two-year maintenance period following acceptance by the Borough, the Borough shall a) pay any outstanding vouchers for inspection fees and costs b) terminate the account and c) refund to the Developer any monies remaining in the account at the time of the termination, including all interest earned during the life of the account.
3. Upon the issuance by the Borough Engineer of a certification that all improvements have been maintained during the required two-year maintenance period following acceptance by the Borough, the Borough shall a) pay any outstanding vouchers for inspection fees and costs b) pay to the Borough for administrative expenses an amount equal to five (5%) percent of the total inspection fees and costs paid from the account c) terminate the account and d) refund to the Developer any monies remaining in the account at the time of the termination, including all interest earned during the life of the account.

SECTION 17-73. MISCELLANEOUS ADDITIONAL FEES:

- A. Circumstances may occur during the development review process in which expenses necessary for processing are not otherwise provided for and covered by the fees set forth in the preceding articles of this Ordinance. Such expenses may involve extensive studies of applications and testimony by experts, consultants or other individuals, including Engineering, land use, Planning and Environmental Consultants, or expenses incurred in connection with holding Special Meetings, including Attorney's fees. In the event that any such situations shall occur, the Governing Body or the Review Agency, before rendering a decision, may require that the Developer pay such additional fees as may be required for reimbursement of such additional expenses not otherwise provided for by this Ordinance.
- B. In addition to all other fees specified in this Ordinance, a Developer shall pay the actual cost incurred by the Governing Body or the Review Agency, for recording verbatim, by use of a shorthand reporter or stenographer, a public hearing, upon any application for development or appeal to the Governing Body, as well as the furnishing of copies of transcripts of any such hearing required by the Governing Body or the Review Agency, in consideration of the application or appeal.
- C. Copy of decision of Governing Body to interested party in connection with an appeal - \$10.00.
- D. Publication in newspaper of decision of Governing Body on an appeal of publication.

SECTION 17-74. PAYMENT OF FEES:

- A. All fees required by this Ordinance shall be paid by check drawn to the order of the Borough. Any check for fees in excess of \$500.00 shall be in the form of a Certified Check or Bank Cashier's Check.
- B. All permits, determinations, Resolutions, decisions or Certifications of approval are subject to the payment of all fees provided for in this Ordinance, and no approvals shall be given or decisions rendered by the Planning Board, Zoning Board of Adjustment or Governing Body, as the case may be, until proof has been submitted that all requisite fees have been paid.

- C. The payment of fees under this Ordinance shall not relieve a Developer from the payment of other fees required by applicable Ordinances of the Borough.

⁷SECTION 17-75. ABATEMENT OF FEES:

- A. Upon request of the applicant, the Governing Body may, by Resolution, exempt any charitable, philanthropic, fraternal or religious nonprofit organization holding a tax exempt status under the **Federal Internal Revenue Code of 1954 (26 U.S.C. §501 (c or d))** from the payment of any fee charged under this Chapter.
- B. Upon request of the applicant, the Governing Body may, by Resolution, exempt a disabled person, as defined by **N.J.S.A. 40:55D-8.e**, or a parent or sibling of a disabled person, from the payment of any fee charged under this Chapter for any development; which promotes accessibility to the disabled persons' own living unit.
- C. Upon request of the applicant, and with the approval of the Borough Engineer, the Governing Body may, by Resolution, abate, reduce or exempt an applicant from the payment of any fee charged under this Chapter, upon a showing that the fee, as calculated under this Chapter, is unreasonable, and exceeds the Borough's estimated cost of review, as determined by the Borough Engineer.

ARTICLE VI.

**DEVELOPMENT REVIEW PROCEDURES FOR
PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT**

SECTION 17-80. SCOPE OF APPLICABILITY OF ARTICLE AND PROCEDURE FOR FILING:

No building or structure shall hereinafter be used, occupied, constructed, moved, altered or repaired nor shall any land be filled, cleared or graded, nor shall any water course be diverted, unless in conformity with the regulations of Chapter 17, Planning and Chapter 28 Zoning of the Code of the Borough of Lincoln Park. The provisions of this Article shall be applicable to all major, minor, preliminary and final subdivision, site plan, conditional use applications, approvals or permits granted by the Planning Board, Board of Adjustment or Governing Body or Zoning Permits issued by the Administrative Officer.

Except as elsewhere specifically provided in the Code of the Borough of Lincoln Park, all violations and penalties of Chapter 17 and Chapter 28 shall be governed by the provisions of **SECTION 1-16** of the Code.

All Development Review Filing Procedures shall be in accordance with the provisions of this Article.

SECTION 17-81. JURISDICTION:

- A. The Planning Board shall have exclusive jurisdiction over subdivisions, site plans or conditional uses except as hereinafter provided.
- B. When reviewing applications for subdivision, site plan or conditional uses, the Planning Board shall also be authorized to grant variances and approve issuance of permits for buildings or structures pursuant to **SECTION 17-16H** of this Chapter.
- C. The Board of Adjustment shall have exclusive jurisdiction over the grant of a variance from the terms and provisions of Chapter 28 (Zoning Ordinance) of the Code of the Borough of Lincoln Park except as set forth above.

⁷ Amended by Ordinance 1,284 Adopted May 20, 2002, Effective June 9, 2002

- D. When acting upon a use variance, the Board of Adjustment shall have the power to grant subdivision, site plan or conditional use approval, pursuant to the provisions of this Chapter.
- E. The Municipal Agency shall have the power to review and approve or deny conditional uses or site plans simultaneously with a review for subdivision approval without the Developer required to make further application, or the Municipal Agency required to hold further hearings. The longest time period for action by the Municipal Agency (beyond which a development proposal shall be deemed approved), whether for subdivision, conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the Developer in conjunction with a site plan or subdivision, notice of the hearing on the plat shall include reference to the request for such conditional use.

SECTION 17-81.1 INFORMAL REVIEW OF CONCEPT PLAN FOR DEVELOPMENT:

At the request of the Developer, the Planning Board shall grant an informal review of a concept plan for a development for which the Developer intends to prepare and submit an application for development. The amount of any fees for such an informal review shall be a credit toward fees for review of the application for development. The Developer shall not be bound by any concept plan for which review is requested, and the Planning Board shall not be bound by any such review.

SECTION 17-82. COMPLETE APPLICATION:

An application for development shall be complete for purposes of commencing the applicable time period for action by a Municipal Agency when so certified by the Municipal Agency or its authorized committee or designee. In the event that the Agency, committee or designee does not certify the application to be complete within 45 days of the date of its submission, the application shall be deemed complete upon the expiration of the 45 days period for purposes of commencing the applicable time period unless a) the application lacks information indicated on a checklist Adopted by Ordinance and provided to the applicant and b) the Municipal Agency or its authorized committee or designee 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 agency or its authorized committee shall grant or deny the request within 45 days. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that he is entitled to approval of the application. The Municipal Agency may subsequently require correction of any information found to be in error and submission of additional information not specified in the Ordinance and further may require revisions in the accompanying documents, as are reasonably necessary for approval of the application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the Municipal Agency.

⁸SECTION 17-82.1 CHECK LIST FOR COMPLETE APPLICATION:

In accordance with Section 5 of Chapter 20 of the Laws of 1984, Adopted on March 22, 1984, (**N.J.S.A. 40:55D-10.3**) for the purpose of determining a completed application for development, the following checklists are Adopted for applications before the Planning Board and Zoning Board of Adjustment.

SECTION 17-82.1A. RESERVED

⁸ Amended by Ordinance 1,367 Adopted December 18, 2006 Effective January 7, 2007

SECTION 17-82.1B: Checklist for General Information (to be submitted with every application)

Case # _____ (To be Filled in by Borough)

Sheet 1 of 2

Date _____ Review Date _____ Status _____

Property Address _____

Applicant _____

Owner _____

PAPER DOCUMENTATION	PROVIDED			REMARKS
	Yes	No	N/A	
1. Three (3) copies of <i>Standard Development Application</i> form, fully and properly filled out. (NOTE: 15 copies are due to the Board Secretary at the time the application is deemed <i>Complete</i> , and same are to be provided not less than 10 days prior to the date of the scheduled Board Meeting).				
2. Certification of taxes & borough Water/Sewer paid to date from Tax Collector (dated not more than 30 days from date of submission)				
3. Three (3) copies of Morris County Planning Board applications (all development except: Site Plans of less than 1 acre and properties not located on a County Road)				
4. Fees:				
A) Application				
B) Escrow				
5. Ownership interest Disclosure Statement, per N.J.S.A. 40:55D if the Corp. or Partnership is applying to a Planning Board, Board of Adjustment or to the Governing Body if they:				
A) Subdivide a parcel of land into 6 or more lots				
B) Apply for a variance to construct a multiple dwelling of 25 or more family units				
C) Seek approval for a site to be used for commercial purposes				
6. Statement as to whether the premises in question are or are not serviced by municipal water and sewer systems				
7. Certificate from health Department approving Sanitary Facilities, if property is not serviced by Public Water and/or Sewer System				
8. Certified list, as provided by the Borough <i>Tax Assessor</i> , of property owners within 200 feet (dated not more than 30 days from date of submission)				

<p>9. Three (3) copies of all plans, surveys, architectural drawings and/or support documents, as hereinafter required, properly signed/sealed as appropriate. All such "plans, surveys, architectural drawings and/or support documents" shall be no larger in dimension than 24" x 36".</p> <p>(NOTE: 15 copies are due to the Board Secretary at the time the application is deemed <i>Complete</i>, and same are to be provided not less than 10 days prior to the date of the scheduled Board meeting. Further, three (3) copies of such "plans, surveys, architectural drawings and/or support documents" shall be "full size" while the remaining twelve (12) sets of such "plans, surveys, architectural drawings and/or support documents" shall be reduced – if required – so as to be no larger than 11"x17" & shall contain a <i>Graphic Scale</i> on each sheet/page).</p>				
<p>10. Completed TBSA application form</p>				
<p>11. Owner's consent (if Applicant not an Owner)</p>				
<p>12. Three (3) copies of a "slope map" as required pursuant to the requirements and parameters of Borough Ordinance; Section 17-195 Regulations For Steep Slope Areas: Such "slopes map" shall be no larger in dimension than 24"x36".</p> <p>(NOTE: 15 copies are due to the Board Secretary at the time the application is deemed <i>Complete</i>, and same are to be provided not less than 10 days prior to the date of the scheduled Board meeting. Further, three (3) copies of such "slopes map" shall be "full size" while the remaining twelve (12) sets of such "slopes map" shall be reduced – if required – so as to be no larger than 11"x17" & shall contain a <i>Graphic Scale</i> on each sheet/page).</p>				

SECTION 17-82.1-C. Checklist for Site Plan Exemption

Sheet 1 of 1

Case # _____ (To be Filled in by Borough)
 Date _____ Review Date _____ Status _____

Property Address _____

Applicant _____

Owner _____

PAPER DOCUMENTATION PROVIDED
 Yes No N/A REMARKS

PAPER DOCUMENTATION	Yes	No	N/A	REMARKS
1. One (1) copy of fully and properly completed " Checklist For General Information ", including compliance with all items contained therein.				
2. Survey/Map/Site Plan – signed & sealed – of subject property:				
A) Survey/map of existing conditions by L.S.				
B) Area Map by P.E., L.S or R.A.				
C) Parking spaces provided				
D) Whether or not there is any exterior storage of vehicles, machinery or other equipment				
E) Names and quantities of any chemicals stored on site, including a legible floor plan not to exceed 11"x17" depicting location of same.				
4. Description of Proposed :				
A) Occupant and use				
B) Number of employees				
C) Parking spaces provided				
D) Whether or not there will be any exterior storage of vehicles, machinery or other equipment				
E. Names and quantities of any chemicals that are to be stored on site, including a legible floor plan not to exceed 11"x17" depicting location of same. A Material Data Sheet (MDS) shall be provided for any such chemical.				
5. Zone schedule verifying compliance with all applicable zone requirements				

SECTION 17-82.1-D Planning Board or Board of Adjustment Variance Application

Case # _____ (To be Filled in by Borough)

Sheet 1 of 1

Date _____ Review Date _____ Status _____

Property Address _____

Applicant _____

Owner _____

PAPER DOCUMENTATION	PROVIDED			REMARKS
	Yes	No	N/A	
1. Submit the following documents with the <i>“Checklist for General Information”</i> , including compliance with all items:				
A) Copy of an “area map” showing all lots within two hundred (200) feet of the property.				
B) The prevailing front yard setbacks of adjoining lots shall be shown on a copy of the “area map”.				
C) List of names, addresses, lot and block numbers, as they appear on the official tax records of the Borough, of all owners of property within two hundred (200) feet of the property that is the subject of the application and upon whom the notice must be served in the manner provided by law. Such list shall be as prepared by the Tax Assessor.				
D) Original survey – signed & sealed by a Licensed Land Surveyor – at a scale not smaller than 1”=50’ nor larger than 1”=20’; clearly and accurately indicating the buildings and improvements thereon with all front, side and rear yard dimensions and setbacks from the property lines.				
E) Preliminary architectural plans and building façade elevations shall be shown. Building height shall be indicated.				
2. If the survey is more than one (1) year old, attach certification of the applicant or owner that the survey accurately represents the status of the premises and all improvements at the time of filing for the variance.				
3. A statement containing the following information:				
A) Date of acquisition of property, and from whom.				
B) If “Applicant” is different from “Owner” state whether the “Applicant” is the “contract purchaser” of the subject property.				
C) State whether the applicant or owners own or are under contract to purchase any adjoining lands. Set forth lot and block number(s).				

Section 17-82.1-E Checklist for Minor Subdivision

Case # _____ (To be Filled in by Borough)

Sheet 1 of 2

Date _____ Review Date _____ Status _____

Property Address _____

Applicant _____

Owner _____

PAPER DOCUMENTATION	PROVIDED			REMARKS
	Yes	No	N/A	
1. One (1) copy of fully and properly completed " Checklist For General Information " form, including compliance with all items contained therein.				
2. MINOR SUBDIVISION MAP:				
A) Scale 1"=20' Minimum, 1"=50' Maximum				
B) Sheet size: 24"x36" Maximum				
C) Date of Plan/Survey				
D) Information Block:				
i. Track Name				
ii. Tax Map sheet no.				
iii. Block and Lot Numbers				
iv. Date of Plan/Survey must be within 90 days of date of submission				
E) Owner and Applicant name and address				
F) Key Map				
G) North Arrow				
H) Graphic Scale				
i. Name				
ii. Signature				
iii. Raised Seal				
I) Existing lot lines and dimensions				
J) Proposed lot lines and dimensions				
K) Location of existing streets within 100 feet of site				
L) Location of existing buildings:				
i. On-Site				
ii. within 100 feet of site				
M) uses of existing buildings:				
i. On-site				
ii. Within 100 feet of site				
N) Zone schedule showing level of compliance with all applicable zoning requirements				
O) Location and description of existing utilities				
P) Location & description of proposed utilities				

Q) Topography at 2' intervals for slopes $\leq 10\%$, 5' intervals between 10% & 20% and 10' intervals in steeper locations				
R) Spot elevation at building corners and other critical locations throughout the site				
S) Show NJDEP Flood Hazard Area elevation and elevation of 100-Year Flood boundary within Property – Including providing a copy of the NJDEP approved Stream Encroachment Permit application & map				
T) LOI – Including providing a copy of the NJDEP approved delineation map & permit of wetlands and buffers				
U) Existing vehicular and pedestrian ingress and egress				
V) Location, description and dimension setbacks of all existing buildings, parking areas, driveways and other structures				
W) Location, description and proposed dimension setbacks of all proposed buildings, parking areas, driveways and other structures				

Section 17-82 – 1-F. Checklist for Minor Site Plan

Case # _____ (To be Filled in by Borough)

Sheet 1 of 3

Date _____ Review Date _____ Status _____

Property Address _____

Applicant _____

Owner _____

PAPER DOCUMENTATION	PROVIDED			REMARKS
	Yes	No	N/A	
1. One (1) copy of fully and properly completed " Checklist For General Information " form, including compliance with all items contained therein.				
2. MINOR SITE PLAN MAP:				
A. Scale 1"=20' Minimum, 1"=50' Maximum				
B. sheet size: 24"x36" Maximum				
C. Information Block:				
i. Tract Name				
ii. Tax Map sheet no.				
iii. Block and Lot Numbers				
iv. Date				
D. Owner and Applicant name and address				
E. North Arrow				
F. Graphic Scale				
G. Key map				
H. Name, signature and seal of licensed Engineer, Land Surveyor or Architect preparing map. (NOTE: At least 1 copy of a Licensed Surveyor or signed and sealed survey must accompany this submission).				
I. Existing lot lines and dimensions				
J. Location of existing streets within 100 feet of site				
K. Location of existing buildings within 100 feet of site				
L. Zone schedule showing level of compliance with all applicable requirements				
M. Existing topography at 2' intervals for slopes \neq to 10%, 5' intervals between 10% & 20% and 10' intervals in steeper locations				
N. Proposed topography at 2' intervals for slopes \neq to 10%, 5' intervals between 10% & 20% and 10' intervals in steeper locations				

O. Spot elevations at building corners and other critical locations throughout the site				
P. Show NJDEP Flood Hazard Area elevation and elevation of 100-Year Flood boundary within property				
Q. LOI – Including providing a copy of the NJDEP approved delineation map/permit of wetlands and buffers				
R. compliance with Flood Damage Prevention regulations (chapter 17, Article X), including providing a copy of the NJDEP approved Stream Encroachment Permit & map				
S. Existing vehicular and pedestrian ingress and egress				
T. Proposed vehicular and pedestrian ingress and egress				
U. Existing lighting & landscaping plan				
V. Proposed lighting & landscaping plan				
W. Existing solid waste enclosure/facilities, including screening of same				
X. Proposed solid waste enclosure/facilities, including screening of same				
Y. Existing recyclable enclosure/facilities, including screening of same				
Z. Proposed recyclable enclosure/facilities, including screening of same				
AA. Location, description and dimension setbacks of all existing buildings, parking areas, driveways and other structures				
BB. Location, description and dimension setbacks of all proposed buildings, parking areas, driveways and other structures				
CC. Locations of all existing (building & non-building mounted) signs, along with details of same				
DD. Locations of all proposed (building & non-building mounted) signs, along with details of same				
EE. Existing utilities:				
i. Water				
ii. Sanitary Sewer				
iii. Storm Drainage System				
iv. Electric				

v. Telephone				
vi. Cable TV				
vii. Other				
FF. Proposed Utilities:				
i. Water				
ii. Sanitary Sewer				
iii. Storm Drainage System				
iv. Electric				
v. Telephone				
vi. Cable TV				
vii. Other				
GG. Stormwater management analysis and design, confirming compliance with applicable Borough, County, State and/or Federal requirements				
HH. Construction details for all proposed improvements				
3. ARCHITECTURAL PLANS:				
A. Scale 1"=20' Minimum, 1"=50' Maximum				
B. Sheet size: 24" x 36" Maximum				
C. Floor Plans				
D. Building façade elevations				
4. Sample of all exterior finishes				

Section 17-82-1-G. Checklist for Preliminary Major Site Plan

Case # _____ (To be Filled in by Borough) Sheet 1 of 5

Date _____ Review Date _____ Status _____

Property Address _____

Applicant _____

Owner _____

PAPER DOCUMENTATION	PROVIDED			REMARKS
	Yes	No	N/A	
1. One (1) Copy of fully and properly completed " Checklist For General Information ", including compliance with all items contained therein				
2. Affidavit of intent to service from utility co. having jurisdiction (electric, telephone, gas, sewer TBSA)				
3. List of any other Federal, State, County or Special District approvals which will be required				
4. Compliance with requirements of Flood Damage Prevention regulations (Chapter 17, Article X), including				
5. Provide a copy of the NJDEP approved Stream Encroachment Permit & map				

6. Proof of submission to/receipt of approval for wetlands LOI and any required permits and/or buffer approvals from the NJDEP				
7. Proof of application to Soil Conservation District for Soil Erosion & Sediment Control Certificate				
8. MAJOR SITE PLAN MAP:				
A. Scale 1"=20' Minimum, 1"=50' Maximum				
B. Sheet size: 24" x 36" Maximum				
C. Information Block:				
i. Tract Name				
ii. Tax Map sheet no.				
iii. Block and Lot Numbers				
iv. Date				
D. Owner and Applicant name and address				
E. North Arrow				
F. Graphic Scale				
G. Key Map				
H. Name, signature and seal of licensed Engineer, Land Surveyor or Architect preparing map. (NOTE: At least 1 copy of a Licensed Surveyor signed and sealed survey must accompany this submission)				
I. Existing lot lines and dimensions				
J. Zone schedule showing level of compliance with all applicable zoning requirements, as it relates to existing and proposed conditions				
K. Location of existing buildings within 100 feet of site				
L. Location of existing buildings within 100 feet of site				
M. Location and description of existing utilities, within 200' of the subject property:				
i. Sanitary Sewer				
ii. Storm drains/systems				
iii. Water mains/systems				
iv. Gas				
v. Underground utility services				
vi. Overhead utility services				
vii. Other				
N. Location and description of proposed utilities: all on-site and off-site to the extent that they are to be changed:				
i. Sanitary sewers				
ii. Storm drains/systems				
iii. Water mains/systems				
iv. Gas				
v. Underground utility services				
vi. Overhead utility services				
vii. Other				

O. Existing topography at 2' intervals for slopes, \leq to 10%, 5' intervals between 10% & 20% and 10' intervals in sleeper locations				
i. High points				
ii. Low points				
P. Proposed topography at 2' intervals for slopes \leq to 10%, 5' intervals between 10% & 20% and 10' intervals in steeper locations				
i. High points				
ii. Low points				
Q. Existing spot elevations at building corners and other critical locations throughout the site				
R. Proposed spot elevations at building corners and other critical locations throughout the site				
S. Show limits & elevation of NJDEP Flood Hazard Area and elevation of 100-Year Flood boundary within property				
U. Show limits of NJDEP approved LOI – including delineation of wetlands and buffers				
V. Provide depiction of the NJDEP approved Stream Encroachment Line				
W. Existing vehicular and pedestrian ingress and egress				
X. Proposed vehicular & pedestrian ingress and egress				
Y. Existing lighting & landscaping plan				
Z. Proposed lighting & landscaping plan				
AA. Existing solid waste enclosure/facilities				
BB. Proposed solid waste enclosure/facilities including screening of same				
CC. Existing recyclable enclosure/facilities				
DD. Proposed recyclable enclosure/facilities, including screening of same				
EE. Location, description and dimension setbacks of all existing buildings, parking areas, driveways and other structures				
FF. Location, description and dimension setbacks of all proposed buildings, parking areas, driveways and other structures				
GG. Locations of any existing non-binding mounted signs, along with details of same				

HH. Locations of all proposed non-binding mounted signs, along with details of same				
II. Location of any building mounted signs (existing and proposed), along with details of same				
JJ. Locations of all non-binding mounted signs (existing and proposed) along with details of same				
KK. Construction details for all proposed improvements				
LL. Acreage of tract				
MM. Municipality				
NN. County				
OO. Existing information within 200' of the subject property that is to be provided:				
i. right-of-way widths and improvements contained therein				
ii. Watercourse				
iii. Railroads				
iv. Bridges				
v. Culverts and drainage pipes/systems				
vi. Rock out-croppings				
vii. Any other natural features that provide information relative to the subject site (i.e.: woods, swamps, etc.)				
PP. Existing building finished floor elevations				
QQ. Proposed building finished floor elevations				
9. Provide stormwater management analysis and design, confirming compliance with applicable Borough, County, State and/or Federal requirements				
10. Show existing site lighting				
11. Show proposed site lighting				
12. Proposed on-site subsurface sewerage disposal system, for areas not served by the Municipal sewerage collection system, including requisite approvals by the Municipal, County and/or State Agencies as appropriate				
13. Proposed on-site well/portable water system, for areas not served by the Municipal potable water distribution system, including requisite approvals by the Municipal, County and/or State Agencies as appropriate				
14. Traffic Impact Study: Required for applications creating more than 50 dwelling units or more than 40,000 square feet of non-residential building floor area or more than 20 seats for a food establishment, or pro-rata combination of the three				

15. Environmental Impact Study: Required for applications creating more than 50 dwelling units or more than 40,000 square feet of non-residential building floor area or more than 20 seats for a food establishment, or pro-rata combination of the three or for development within the NJDEP Flood Hazard Area .				
16. Fiscal Impact Study: Required for applications creating more than 50 dwelling units or more than 40,000 square feet of non-residential building floor area or more than 20 seats for a food establishment, or pro-rata combination of the three.				
17. Fee: Contribution fixture rate payment for lighting @ \$269.00/light fixture				
18. Applications that are subject to requirements of a Low-Moderate Set-Aside Development, must provide an affordability control plan and marketing program pursuant to the requirements of CHAPTER 28, ARTICLE VI-D of the Borough's Zoning Ordinance				
19. ARCHIECTURAL PLANS:				
A. Scale 1"=20' Minimum, 1"=50' Maximum				
B. Sheet Size: 24"x36" Maximum				
C. Floor Plans				
D. Building façade elevations				
20. Samples of all exterior finishes				

Section 17-82-1-H. Checklist for Preliminary Major Subdivision

Case # _____ (To be Filled in by Borough) Sheet 1 of 5

Date _____ Review Date _____ Status _____

Property Address _____

Applicant _____

Owner _____

PAPER DOCUMENTATION	PROVIDED			REMARKS
	Yes	No	N/A	
1. One (1) copy of fully and properly completed " Checklist For General Information ", including compliance with all items contained therein				
2. Affidavit of intent to service from utility co. having jurisdiction (electric, telephone, gas, sewer TBSA)				
3. List of any other Federal, State, County or Special District approvals which will be required				

4. Compliance with requirements of the Flood Damage Prevention regulations (Chapter 17, Article X), including a copy of the NJDEP approved Stream Encroachment Permit & map				
5. Proof of submission to/receipt of approval for wetlands LOI and any required permits and/or buffer approvals from the NJDEP				
6. Proof of application to Soil Conservation District for Soil Erosion & Sediment Control Certificates				
7. MAJOR SUBDIVISION IMPROVEMENT PLAN/MAP:				
A. Scale 1"=20' Minimum, 1"=50' Maximum				
B. Sheet size: 24"x36" Maximum				
C. Information Block:				
i. Tract Name				
ii. Tax Map sheet no.				
iii. Block and Lot numbers				
iv. Date				
D. Owner and Applicant name and address				
E. North Arrow				
F. Graphic Scale				
G. Key Map				
H. Name, signature and seal of licensed Engineer, Land Surveyor or Architect preparing map. (NOTE: At least 1 copy of a Licensed Surveyor signed and sealed survey must accompany this submission.)				
I. Existing lot lines and dimensions				
J. Zone schedule showing level of compliance with all applicable zoning requirements, as it relates to existing and proposed conditions				
K. Location of existing streets within 100 feet of site				
L. Location of existing buildings within 100 feet of site				
M. Location and description of existing utilities, within 200' of the subject property:				
i. Sanitary Sewers				
ii. Storm drains/systems				
iii. Water mains/systems				
iv. Gas				
v. Underground utility services				
vi. Overhead utility services				
vii. Other				
N. Location and description of proposed utilities; all onsite and off-site to the extent that they are to be changed:				
i. Sanitary sewers				
ii. Storm drains/systems				
iii. Water mains/systems				
iv. Gas				

v. Underground utility services				
vi. Overhead utility services				
vii. Other				
O. Existing topography at 2' intervals for slopes <= to 10%, 5' intervals between 10% & 20% and 10' intervals in steeper locations				
i. High points				
ii. Low points				
P. Proposed topography at 2' intervals for slopes <= to 10%, 5' intervals between 10% & 20% and 10' intervals in steeper locations				
i. High points				
ii. Low points				
Q. Existing spot elevations at building corners and other critical locations throughout the site				
R. Existing buildings floor elevations at:				
i. Basement				
ii. First Floor				
iii. Garages				
S. Show NJDEP Flood Hazard Area elevation and elevation of 100-Year Flood boundary within property				
T. Municipality				
U. County				
V. Existing vehicular and pedestrian ingress and egress				
W. Proposed vehicular & pedestrian ingress and egress				
X. Existing lighting & landscaping plan				
Y. Proposed lighting & Landscaping plan				
Z. Existing solid waste enclosure/facilities				
AA. Existing recyclable enclosure/facilities				
BB. Location, description and existing dimension setbacks of all existing buildings, parking areas, driveways and other structures				
CC. Location, description and proposed dimension setbacks of all existing buildings, parking areas, driveways and other structures				
DD. Locations of any existing non-binding mounted signs, along with details of same				
FF. Location of any existing building mounted signs, along with details of same				
GG. Construction details for all proposed improvements				
HH. Acreage of Tract				
II. Existing information within 200' of the subject property that is to be provided:				
i. Right-of-way widths and improvements contained therein				

ii. Watercourse				
iii. Railroads				
iv. Bridges				
v. Culverts and drainage pipes/systems				
vi. Rock out-croppings				
vii. Any other natural features that provide information relative to the subject site (i.e.: woods, swamps, etc.)				
JJ. Notation as to the planting of two (2) shade trees per proposed lot				
KK. Show existing site lighting				
8. <i>Cross Sections</i> – no more than 50' on-center at the following minimum locations:				
A. Along proposed roadways				
B. Along proposed rights-of-way				
C. Along proposed easements				
9. <i>Profile Drawings</i> of proposed:				
A. Roadways				
B. Storm drain lines				
C. Sanitary sewer lines				
D. Water mains				
10. Preliminary layout of Final Plat, depicting all proposed:				
A. Lot line locations				
B. Lot line bearings				
C. Lot line dimensions				
D. Right-of-way Locations				
E. Right-of-way line bearings				
F. right-of-way dimensions				
G. Easement locations				
H. Easement descriptions				
I. Easement dimensions				
J. Miscellaneous dedication area locations, dimensions & description				
11. Proposed on-site subsurface sewerage disposal system, for areas not served by the Municipal Sewerage Collection System, including requisite approvals by the Municipal, County and/or State Agencies, as appropriate.				
12. Proposed on-site well/potable water system, for areas not served by the Municipal potable water distribution system, including requisite approvals by Municipal, County and/or State Agencies, as appropriate				
13. Fee: Contribution fixture rate payment for lighting @\$269.00/light fixture				
14. Applications that are subject to requirements of a Low-Moderate Set-Aside Development, must provide an affordability control plan and marketing program pursuant to the requirements of CHAPTER 28, ARTICLE VI-D of the Borough's Zoning Ordinance				

15. Copy of proposed narrative description and document format for any proposed deed restriction for any proposed deed restriction or property covenants				
16. ARCHITECTURAL PLANS:				
A. Scale 1"=20' Minimum, 1"=50' Maximum				
B. Sheet size: 24"x36" Maximum				
C. Floor Plans				
17. Samples of all exterior finishes				

Section 17-82-1.1. Checklist for Final Major Site Plan

Case # _____ (To be Filled in by Borough)

Sheet 1 of 5

Date _____ Review Date _____ Status _____

Property Address _____

Applicant _____

Owner _____

PAPER DOCUMENTATION PROVIDED Yes No N/A REMARKS

PAPER DOCUMENTATION	Yes	No	N/A	REMARKS
1. One (1) copy of fully and properly completed " Checklist For General Information ," including compliance with all items contained therein				
2. Affidavit of intent to service from utility co. having jurisdiction (electric, telephone, gas, sewer TBSA)				
3. List of any other Federal, State, County or Special District approvals which will be required				
4. Compliance with requirements of Flood Damage Prevention regulations (Chapter 17, Article X)				
5. Provide a copy of the NJDEP approved Stream Encroachment Permit & map				
6. Proof of submission to/receipt of approval for wetlands LOI and any required permits and/or buffer approvals from the NJDEP				
7. Proof of application to Soil Conservation District for Soil Erosion & Sediment Control Certificate				
8. MAJOR SITE PLAN MAP:				
A. Scale 1"=20' Minimum, 1"=50' Maximum				
B. Sheet size: 24"x36" Maximum				
C. Information Block:				
i. Tract Name				
ii. Tax Map sheet no.				
iii. Block and Lot numbers				

iv. Date				
D. Owner and Applicant name and address				
E. North Arrow				
F. Graphic Scale				
G. Key Map				
H. Name, signature and seal of licensed Engineer, Land Surveyor or Architect preparing map. (NOTE: At least 1 copy of a Licensed Surveyor signed and sealed survey must accompany this submission.)				
I. Existing lot lines and dimensions				
J. Zone schedule showing level of compliance with all applicable zoning requirements, as it relates to existing and proposed conditions				
K. Location of existing streets within 100 feet of site				
L. Location of existing buildings within 100 feet of site				
M. Location and description of existing utilities, within 200' of the subject property				
i. Sanitary Sewers				
ii. Storm drains/systems				
iii. Water mains/systems				
iv. Gas				
v. Underground utility services				
vi. Overhead utility services				
vii. Other				
P. Existing topography at 2' intervals for slopes <= to 10%, 5' intervals between 10% & 20% and 10' intervals in steeper locations				
i. High points				
ii. Low points				
Q. Proposed topography at 2' intervals for slopes <+ to 10%, 5' intervals between 10% & 20% and 10' intervals in steeper locations				
i. High points				
ii. Low points				
R. Existing spot elevations at building corners and other critical locations throughout the site				
S. Proposed spot elevations at building corners and other critical locations throughout the site				
T. Show NJDEP Flood Hazard Area elevation and elevation of 100-Year Flood boundary within Property				
U. Show limits of the NJDEP approved LOI – including delineation of wetlands and buffers				
V. Provide depiction of the NJDEP approved Stream Encroachment map conditions				
W. Existing vehicular and pedestrian ingress and egress				

X. Proposed vehicular & Pedestrian ingress and egress				
Y. Existing lighting & landscaping plan				
Z. Proposed lighting & landscaping plan				
AA. Existing solid waste enclosure/facilities				
BB. Proposed solid waste enclosure/facilities, including screening of same				
CC. Existing recyclable enclosure/facilities				
DD. Proposed recyclable enclosure/facilities, including screening of same				
EE. Location, description and dimension setbacks of all existing buildings, parking areas, driveways and other structures				
FF. Location, description and dimension setbacks of all proposed buildings, parking areas, driveways and other structures				
GG. Locations of any existing non-building mounted signs, along with details of same				
HH. Location of all proposed non-building mounted signs, along with details of same				
II. Locations of any building mounted signs (existing and proposed), along with details of same				
JJ. Location of all non-binding mounted signs (existing and proposed), along with details of same				
KK. Existing site lighting				
LL. Proposed site lighting				
MM. Construction details for all proposed improvements				
NN. Acreage of Tract				
OO. Municipality				
PP. County				
QQ. Existing information within 200' of the subject property that is to be provided:				
i. Right-of-way widths and improvements contained therein				
ii. Watercourse				
iii. Railroads				
iv. Bridges				
v. Culverts and drainage pipes/systems				
vi. Rock out-croppings				
vii. Any other natural features that provide information relative to the subject site (i.e.: woods, swamps, etc.)				
RR. Existing building finished floor elevations				

SS. Proposed building finished floor elevations				
9. Show existing site lighting				
10. Show proposed site lighting				
11. Provide stormwater management analysis and design, confirming compliance with applicable Borough, County, State and/or Federal requirements				
12. Proposed on-site subsurface sewerage disposal system, for areas not served by the Municipal sewerage collection system, including requisite approvals by the Municipal, County and/or State Agencies, as appropriate				
13. Proposed on-site well/potable water system, for areas not served by the Municipal potable water distribution system, including requisite approvals by the Municipal, County and/or State Agencies, as appropriate				
14. Traffic Impact Study: Required for applications creating more than 50 dwelling units or more than 40,000 square feet of non-residential building floor area or more than 20 seats for a food establishment, or pro-rata combination of the three				
15. Environmental Impact Study: Required for applications creating more than 50 dwelling units or more than 40,000 square feet of non-residential building floor area or more than 20 seats for a food establishment, or pro-rata combination of the three or for development within the NJDEP Flood Hazard Area.				
16. Fiscal Impact Study: Required for applications creating more than 50 dwelling units or more than 40,000 square feet of non-residential building floor area or more than 20 seats for a food establishment, or pro-rata combination of the three				
17. Fee: Contribution fixture rate payment for lighting @ \$269.00/light fixture				
18. Applications that are subject to requirements of a <i>Low-Moderate Set-A-side Development</i> , must provide an affordability control plan and marketing program pursuant to the requirements of CHAPTER 28, Article VI-D of the borough's Zoning Ordinance				
19. ARCHITECTURAL PLANS: A. Scale 1"=20' Minimum, 1"=50' Maximum				
B. Sheet size: 24" x 36" Maximum				
C. Floor plans				
D. building façade elevations				

Section 17-82-1.J Checklist for Final Major Subdivision

Case # _____ (To be Filled in by Borough)

Sheet 1 of 6

Date _____ Review Date _____ Status _____

Property Address _____

Applicant _____

Owner _____

PAPER DOCUMENTATION	PROVIDED			REMARKS
	Yes	No	N/A	
1. One (1) copy of fully and properly completed " Checklist For General Information " including compliance with all items contained therein				
2. Affidavit of intent to service from utility co. having jurisdiction (electric, telephone, gas, sewer TBSA)				
3. List of any other Federal, State, County or Special District approvals which will be required				
4. Compliance with requirements of Flood Damage Prevention regulations (Chapter 17, Article X), including a copy of the NJDEP approved Stream Encroachment Permit & map				
5. Proof of submission to/receipt of approval for wetlands LOI and any required permits and/or buffer approvals from the NJDEP				
6. Proof of application to Soil Conservation District for Soil Erosion & Sediment Control Certificates				
7. MAJOR SUBDIVISION IMPROVEMENT PLAN/MAP:				
A. Scale 1"=20' Minimum, 1"=50" Maximum				
B. Sheet size: 24"x36" Maximum				
C. Information Block: i. Tract Name ii. Tax Map sheet no. iii. Block and Lot Numbers iv. Date				
D. Owner and Applicant name and address				
E. North Arrow				
F. Graphic Scale				
G. Key Map				
H. Name, signature and seal of licensed Engineer, Land Surveyor or Architect preparing map. (NOTE: At least 1 copy of a Licensed Surveyor signed and sealed survey must accompany this submission)				
I. Existing lot lines and dimensions				

J. Zone schedule showing level of compliance with all applicable zoning requirements, as it relates to existing and proposed conditions				
K. Location of existing streets within 100 feet of site				
L. Location of existing buildings within 100 feet of site				
M. Location and description of existing utilities, within 200' of the subject property:				
i. Sanitary sewers				
ii. Storm drains/systems				
iii. Water mains/systems				
iv. Gas				
v. Underground electric service				
vi. Electric/cable/telephone				
vii. Other				
N. Location and description of proposed utilities: all onsite and off-site to the extent that they are to be changed:				
i. Sanitary sewers				
ii. Storm drains/systems				
iii. Water mains/systems				
iv. Gas				
v. Underground utility services				
vi. Overhead utility services				
vii. Other				
P. Existing topography at 2' intervals for slopes <= to 10%, 5' intervals between 10% & 20% and 10' intervals in steeper locations				
i. High points				
ii. Low points				
Q. Proposed topography at 2' intervals for slopes <= to 10%, 5' intervals between 10% & 20% and 10' intervals in steeper locations				
i. High points				
ii. Low points				
R. Existing spot elevations at building corners and other critical locations throughout site				
S. Existing buildings floor elevations at:				
i. Basement				
ii. First floor				
iii. Garages				
T. Show limits of & NJDEP Flood Hazard Area elevation and elevation of 100-year flood boundary within property				
U. Municipality				
V. County				
W. Existing vehicular and pedestrian ingress and egress				
X. Proposed vehicular & pedestrian ingress and egress				
Y. Existing lighting & landscaping plan				

Z. Existing solid waste enclosure/facilities, including screening of same				
AA. Existing recyclable enclosure/facilities, including screening of same				
BB. Location, description and dimension setbacks, of all existing buildings, parking areas, driveways and other structures				
CC. Location, description and dimension setbacks of all proposed buildings, parking areas, driveways and other structures				
DD. Locations of any existing non-building mounted signs, along with details of same				
EE. Locations of any existing building mounted signs, along with details of same				
FF. Construction details for all proposed improvements				
GG. Acreage of Tract				
HH. Existing information within 200' of subject property that is to be provided:				
i. Right-of-way widths and improvements contained therein				
ii. Watercourses				
iii. Railroads				
iv. Bridges				
v. Culverts and drainage pipes/systems				
vi. Rock out-croppings				
vii. Any other natural features that provide information relative to the subject site (i.e. woods, swamps, etc.)				
II. Notation as to the planting of two (2) shade trees per processed lot				
9. <i>Cross Sections</i> – no more than 50' on-center at the following minimum locations				
A. Along proposed roadways				
B. Along proposed rights-of-way				
C. Along proposed easements				
10. <i>Profile Drawings</i> of proposed:				
A. Roadways				
B. Storm drain lines				
C. Sanitary sewer lines				
D. Water mains				

11. Proposed on-site subsurface sewerage disposal system, for areas not served by the Municipal sewerage collection system, including requisite approvals by the Municipal, County and/or State Agencies, as appropriate				
12. Proposed on-site well/potable water system, for areas not served by the Municipal potable water distribution system, including requisite approvals by the Municipal, County and/or State Agencies, as appropriate				
13. <i>Final Plat</i> , depicting all proposed:				
A. Lot line locations				
B. Lot line bearings				
C. Lot line dimensions				
D. Right-of-way locations				
E. Right-of-way line bearings				
F. Right-of-way dimensions				
G. Easement locations				
H. Easement descriptions				
I. Easement dimensions				
J. Key map				
K. Graphic scale				
L. Monuments: Locations & descriptions				
M. Building setback lines				
N. Easements, reservation or dedications, indicating their purpose, size & location				
O. Name & location of subdivision				
P. name, address & signature of Owner				
Q. Name, address & signature of applicant				
R. Name, address & signature of authorized agent				
S. Names of owners of adjoining lands & subdivision name & where recorded				
T. Certification of preparing Surveyor				
U. Approval block for Board Chairperson				
V. Approval block for Board Secretary				
W. Approval block for Borough Engineer				

X. Approval block for Borough Clerk				
14. Grading Plan depicting				
A. Proposed building locations				
B. Proposed finished grade spot elevations around proposed structures				
C. Proposed spot grades at critical points where abrupt changes in grade, such as top & bottom of walls, etc. are proposed				
D. Proposed finished floor (basement, first, second) elevations				
E. Proposed garage floor elevation				
15. Show existing site lighting				
16. Show proposed site lighting				
17. Fee: Contribution fixture rate payment for lighting @ \$269.00/light fixture				
18. Applications that are subject to requirements of a <i>Low-Moderate Set-A-side Development</i> , must provide an affordability control plan and marketing program pursuant to the requirements of CHAPTER 28, ARTICLE VI-D, of the Borough's Zoning Ordinance				
19. Traffic Impact Study: Required for applications creating more than 50 dwelling units or more than 40,000 square feet of non-residential building floor area or more than 20 seats for a food establishment, or pro-rata combination of the three				
20. Environmental Impact Study: Required for applications creating more than 50 dwelling units or more than 40,000 square feet of non-residential building floor area or more than 20 seats for a food establishment, or pro-rata combination of the three or for development within the NJDEP Flood Hazard Area				
21. Fiscal Impact Study: Required for applications creating more than 50 dwelling units or more than 40,000 square feet of non-residential building floor area or more than 20 seats for a food establishment, or pro-rata combination of the three				
22. ARCHITECTURAL PLANS:				
A. Scale 1"=20' Minimum, 1"=50' Maximum				
B. Sheet size: 24"x36" Maximum				
C. Floor plans				
D. Building façade elevator				
23. Samples of all exterior finishes				
24. Compliance with all <i>Preliminary Major Subdivision</i> approval conditions				

iii. Block and Lot Numbers				
iv. Date				
D. Owner and Applicant name and address				
E. North Arrow				
F. Graphic Scale				
G. Key Map				
H. Name, signature and seal of licensed Engineer, Land Surveyor or Architect preparing map. (NOTE: At least 1 copy of a Licensed Surveyor signed and sealed survey must accompany this submission)				
I. Existing lot lines and dimensions				
J. Zone schedule showing level of compliance with all applicable zoning requirements, as it relates to existing and proposed conditions				
K. Location of existing streets within 100 feet of site				
L. Location of existing buildings within 100 feet of site				
M. Location and description of existing utilities, within 200' of the subject property				
i. Sanitary sewers				
ii. Storm drains/systems				
iii. Water mains/systems				
iv. Gas				
v. Underground utility services				
vi. Overhead utility services				
vii. Other				
N. Location and description of proposed utilities: all on-site and off-site to the extent that they are to be changed				
i. Sanitary sewers				
ii. Storm drains/systems				
iii. Water mains/systems				
iv. Gas				
v. Underground electric service				
vi. Electric/telephone				
vii. Other				
O. Existing topography at 2' intervals for slopes <= to 10%, 5' intervals between 10% & 20% and 10' intervals in steeper locations				
i. High points				
ii. Low points				
P. Proposed topography at 2' intervals for slopes <= to 10%, 5' intervals between 10% & 20% and 10' intervals in steeper locations				
i. High points				
ii. Low points				
Q. Existing spot elevations at building corners and other critical locations throughout the site				

R. Proposed spot elevations at building corners and other critical locations throughout the site				
S. Show NJDEP Flood Hazard Area Elevation and elevation of 100-year flood boundary within property				
T. Show limits of NJDEP approved LOI – including delineation of wetlands and buffers				
U. Provide depiction of the NJDEP approved Stream Encroachment line				
V. Existing vehicular and pedestrian ingress and egress				
W. Proposed vehicular & pedestrian ingress and egress				
X. Existing lighting & landscaping plan				
Y. Proposed lighting & landscaping plan				
Z. Location, description and dimension setbacks of all existing buildings, parking areas, driveways and other structures				
AA. Location, description and dimension setbacks of all proposed buildings, parking areas, driveways and other structures				
BB. Construction details for all proposed improvements				
CC. Acreage of Tract				
DD. Municipality				
EE. County				
FF. Existing information within 200' of the subject property that is to be provided				
i. Right-of-way widths and improvements contained therein				
ii. Watercourse				
iii. Railroads				
iv. Bridges				
v. Culverts and drainage pipes/systems				
vi. Rock out-croppings				
vii. Any other natural features that provide information relative to the subject site (i.e.: woods, swamps, etc.)				
GG. Existing building finished floor elevations				
HH. Proposed building finished floor elevations				

7. Provide stormwater management analysis and design, confirming compliance with applicable Borough, County, State and/or Federal requirements				
8. Proposed on-site subsurface sewerage disposal system, for areas not served by the Municipal sewerage collection system, including requisite approvals by the Municipal, County and/or State Agencies as appropriate				
9. Proposed on-site well/potable water system, for areas not served by the Municipal potable water distribution system, including requisite approvals by the Municipal, County and/or State Agencies as appropriate				
10. ARCHITECTURAL PLANS:				
A. Scale 1"=20' Minimum, 1"=50' Maximum				
B. Sheet Size: 24"x36." Maximum				
C. Floor Plans				
D. Building façade elevations				
11. Samples of all exterior finishes				

Section 17-82-1-L. Checklist for Grading Permit (Chapter 17, Art. XI)

Case # _____ (To be Filled in by Borough) Sheet 1 of 4

Date _____ Review Date _____ Status _____

Property Address _____

Applicant _____

Owner _____

PAPER DOCUMENTATION	PROVIDED			REMARKS
	Yes	No	N/A	
1. One (1) copy of fully and properly completed " Checklist For General Information ," including compliance with all items contained therein				
2. List of any other Federal, State, County or Special District approvals which will be required				
3. Compliance with requirements of Flood Damage Prevention Regulations (Chapter 17, Article X)				
4. Provide a copy of the NJDEP approved Stream Encroachment Permit & map				

5. Proof of submission to/receipt of approval for wetlands LOI and any required permits and/or buffer approvals from the NJDEP				
6. SITE PLAN MAP:				
A. Scale 1"=20' Minimum, 1"=50' Maximum				
B. Sheet size: 24"x 36" Maximum				
C. Information Block:				
i. Tract name				
ii. Tax map sheet no.				
iii. Block and Lot Numbers				
iv. Date				
D. Owner and Applicant name and address				
E. North Arrow				
F. Graphic Scale				
G. Key Map				
H. Name, signature and seal of licensed Engineer, Land Surveyor or Architect preparing map. (NOTE: At least 1 copy of a Licensed Surveyor signed and sealed survey must accompany this submission)				
I. Existing lot lines and dimensions				
J. Zone schedule showing level of compliance with all applicable zoning requirements, as it relates to existing and proposed conditions				
K. Location of existing streets within 100 feet of site				
L. Location of existing buildings within 100 feet of site				
M. Location and description of existing utilities within 200' of the subject property:				
i. Sanitary sewer				
ii. Storm drains/systems				
iii. Water mains/systems				
iv. Gas				
v. Underground utility services				
vi. Overhead utility services				
vii. Other				
N. Location and description of proposed utilities: all on-site and off-site to the extent that they are to be charged:				

i. Sanitary Sewers				
ii. Storm drains/systems				
iii. Water mains/systems				
iv. Gas				
v. Underground electric service				
vi. Electric/cable/telephone				
vii. Other				
O. Existing topography at 2' intervals for slopes <= to 10%, 5' intervals between 10% & 20% and 10' intervals in steeper locations				
i. High points				
ii. Low points				
P. Proposed topography at 2' intervals for slopes <= to 10%, 5' intervals between 10% slopes <= to 10%, 5' intervals between 10% & 20% and 10' intervals in steeper locations				
i. High points				
ii. Low points				
Q. Existing spot elevations at building corners and other critical locations throughout the site				
R. Proposed spot elevations at building corners and other critical locations throughout the site				
S. Show NJDEP Flood Hazard Area Elevation and elevation of 100-Year Flood Boundary within property				
T. Show limits of NJDEP approved LOI – including delineation of wetlands and buffers				
U. Provide depiction of the NJDEP approved Stream Encroachment Line				
V. Existing vehicular and pedestrian ingress and egress				
W. Proposed vehicular & pedestrian ingress and egress				
X. Existing lighting & landscaping plan				
Y. Proposed lighting & landscaping plan				
Z. Location, description and dimension setbacks of all existing buildings, parking areas, driveways and other structures				
AA. Location, description and dimension setbacks of all proposed buildings, parking areas, driveways and other structures				
BB. Construction details for all proposed improvements				
CC. Acreage of Tract				
DD. Municipality				
EE. County				

FF. Existing information within 200' of the subject property that is to be provided:				
i. Right-of-way widths and improvements contained therein				
ii. Watercourses				
iii. Railroads				
iv. Bridges				
v. Culverts and drainage pipes/systems				
vi. Rock out-croppings				
vii. Any other natural features that provide information relative to the subject site (i.e.: woods, swamps, etc.)				
GG. Existing building finished floor elevations				
HH. Proposed building finished floor elevators				
II. Delineation of areas to be seeded or planted				
JJ. Installation of "disturbance limit fencing" around the limits of all areas proposed to be disturbed				
KK. Silt fence and/or hey bales downstream of all areas of disturbance				
7. Provide stormwater management analysis and design, confirming compliance with applicable Borough, County, State and/or Federal requirements				
8. Proposed on-site subsurface sewerage disposal system, for areas not served by the Municipal sewerage collection system, including requisite approvals by the Municipal. County and/or State Agencies, as appropriate				
9. Proposed on-site well/potable water system, for areas not served by the Municipal potable water distribution system, including requisite approvals by the Municipal, County and/or State Agencies, as appropriate				
10. ARCHITECTURAL PLANS:				
A. Scale 1"=20' Minimum, 1"=50' Maximum				
B. Sheet size: 24"x36" Maximum				
C. Floor Plans				
D. Building façade elevations				
11. Samples of all exterior finishes				

Section 17-82-1-M. Checklist for Soil Removal Plan & Permit (Chapter 17, Art. XII)

Case # _____ (To be Filled in by Borough)

Sheet 1 of 4

Date _____ Review Date _____ Status _____

Property Address _____

Applicant _____

Owner _____

PAPER DOCUMENTATION	PROVIDED			REMARKS
	Yes	No	N/A	
1. One (1) copy of fully and properly completed " Checklist For General Information ," including compliance with all items contained therein				
2. List of any other Federal, State, County or Special District approvals which will be required				
3. Compliance with requirements of Flood Damage Prevention regulations (Chapter 17, Article X)				
4. Provide, including a copy of the NJDEP approved Stream Encroachment Permit & map				
5. Proof of submission to/receive of approval for wetlands LOI and any required permits and/or buffer approvals from the NJDEP				
6. SITE PLAN MAP:				
A. Scale 1"=50' Maximum				
B. Sheet size: 24"x36" Maximum				
C. Information block:				
i. Tract Name				
ii. Tax Map sheet no.				
iii. Block and Lot Numbers				
iv. Date				
D. Owner and Applicant name and address				
E. North Arrow				
F. Graphic Scale				
G. Key map				
H. Name, signature and seal of licensed Engineer, Land Surveyor or Architect preparing map. (NOTE: At least 1 copy of a Licensed Survey or signed and sealed survey must accompany this submission)				
I. Existing lot lines and dimensions				
J. Zone schedule showing level of compliance with all applicable zoning requirements, as it relates to existing and proposed conditions				
K. Location of existing streets within 100 feet of site				
L. Location of existing buildings within 100 feet of site				

M. Location and description of existing utilities, within 200' of the subject property:				
i. Sanitary Sewer				
ii. Storm drains/systems				
iii. Water mains/systems				
iv. Gas				
v. Underground utility services				
vi. Overhead utility services				
vii. Other				
N. Location and description of proposed utilities: all on-site and off-site to the extent that they are to be changed:				
i. Sanitary sewer				
ii. Storm drains/systems				
iii. Water mains/systems				
iv. Gas				
v. Underground electric service				
vi. electric/cable/telephone				
vii. Other				
O. Existing topography at 2' intervals for slopes <= to 10%, 5' intervals between 10% & 20% and 10' intervals in steeper locations				
i. High points				
ii. Low points				
P. Proposed topography at 2' intervals for slopes <= to 10%, 5' intervals between 10% & 20% and 10' intervals in steeper locations				
i. High points				
ii. Low points				
Q. Existing spot elevations at building corners and other critical locations throughout the site				
R. Proposed spot elevations at building corners and other critical locations throughout the site				
S. Show NJDEP Flood Hazard Area Elevation and elevation of 100-year Flood boundary within property				
T. Show limits of NJDEP approved LOI – including delineation of wetlands and buffers				
U. Provide depiction of the NJDEP approved Stream Encroachment Line				
V. Existing vehicular and pedestrian ingress and egress				
W. Proposed vehicular & pedestrian ingress and egress				
X. Existing lighting & landscaping plan				

Y. Proposed lighting & landscaping plan				
Z. Location, description and dimension setbacks of all existing buildings, parking areas, driveways and other structures				
AA. Location, description and dimension setbacks of all proposed buildings, parking areas, driveways and other structures				
BB. Construction details for all proposed improvements				
CC. Acreage of Tract				
DD. Municipality				
EE. County				
FF. Existing information within 200' of the subject property that is to be provided:				
i. Right-of-way widths and improvements contained therein				
ii. Watercourses				
iii. Railroads				
iv. Bridges				
v. Culverts and drainage pipes/systems				
vi. Rock out-croppings				
vii. Any other natural features that provide information relative to the subject site (i.e.: woods, swamps, etc.)				
GG. Existing building finished floor elevations				
HH. Proposed building finished floor elevations				
II. Delineation of areas to be seeded or planted				
JJ. Installation of "disturbance limit fencing" around the limits of all areas proposed to be disturbed				
KK. Silt fence and/or hay bales downstream of all areas of disturbance				
LL. Soil Erosion & Sediment Control Plan				
MM. Traffic Circulation/Travel Plan				
7. Provide stormwater management analysis and design, confirming compliance with applicable Borough, County, State and/or Federal requirements				

8. Project Schedule, Including:				
A. Total duration of activity				
B. total number of vehicular trips				
C. Hours of trucking operation				
D. Hours of operation for on-site excavation/stockpiling/mining activity				
9. Analysis of soil removal:				
A. Quantity of material to be removed				
B. Advisement of material destination				
C. Borrow areas pre-removal cross-sections				
D. Borrow areas post-removal cross sections				

81. Applications involving low-moderate set-aside development must provide an affordability control plan pursuant to **ARTICLE VI-C, SECTION 28-53C**. Affordability Control Ordinance and Marketing Program pursuant to **SECTION 28-55C(A)**.

Section 17-83. SITE PLAN EXEMPTION PROCEDURE:

Site Plan Exemption Procedure shall authorize the use or re-occupancy of any land, building, or structure without a change of permitted use or without any interior or exterior alteration or re-construction upon an affirmative determination by the Administrative Officer that the proposed use satisfies the following criteria:

- A. Compliance with Chapter 28 – Zoning Ordinance;
- B. No adverse effect on parking, traffic or access;
- C. Compliance with all health and sanitary Ordinances and regulations

In the event the Administrative Officer determines that the application fails to satisfy the foregoing criteria, then application shall not be presented as a Site Plan Exemption.

Application for Site Plan Exemption shall be executed by the owner and tenant and shall be made on prescribed forms that include the following information:

- A. Name, address and telephone number of owner and tenant;
- B. Address or property including Lot and Block number;
- C. Zoning designation;
- D. Total square feet of parking area to be occupied;
- E. Parking spaces provided;
- F. Number of employees;
- G. Exterior storage of vehicles, machinery or other equipment;
- H. Present occupant and use;
- I. Description of proposed new use;

- J. Storage chemicals:
 - 1. List chemical names;
 - 2. Quantities to be stored on site along with a legible floor plan drawn to scale not to exceed 11"x13" depicting location of same.

Section 17-84. MINOR DEVELOPMENT PROPOSALS:

- A. **Filing Procedure.** The Developer shall file with the Administrative Officer, 12 black and white copies of the minor plat, 12 completed copies of the application form, 1 completed copy of the minor plat check-list, 3 complete copies of the County Planning Board application form, and the applicable fee.
- B. The minor plat shall be clearly and legibly drawn by a licensed New Jersey Engineer, Land Surveyor or Architect, and shall be at a scale of 01 not less than one inch equals 30 feet. The minor plat shall contain the following:
 - 1. The location of that portion which is to be developed in relation to the entire tract;
 - 2. The tract name, tax map sheet, block and lot number, date, reference, meridian, graphic scale and the following names and addresses:
 - a. Name and address of record owner or owners.
 - b. Name and address of Developer.
 - 3. Existing and proposed lot lines and dimensions.
 - 4. The location of existing streets and buildings within one hundred (100') feet thereof.
 - 5. A copy of any protective covenants or deed restrictions applying to the land being developed.
 - 6. Certification by the Collector of Taxes that all taxes are paid to date.
 - 7. Compliance with all zoning requirements.
 - 8. Availability of existing utilities; if pertinent.
 - 9. Spot elevations on building site.
 - 10. Compliance with flood regulations.
 - 11. Vehicular and pedestrian ingress and egress.
 - 12. Architectural plans and elevations.
 - 13. Lighting and landscaping plans.
- C. Should, the Municipal Agency determine that any proposed development may create, either directly or indirectly, an adverse effect on either the remainder of the property being developed or nearby property, the Municipal Agency may require the Developer to revise the plat. Where the remaining portion of the original tract is sufficient size to be developed or subdivided further, the developer may be required to submit a plat of the entire remaining portion of the tract to indicate a feasible plan whereby the design of the proposed development, together with subsequent subdivision or development, will not create, impose aggravate or lead to any such adverse effect.

D. In the event the Municipal Agency shall grant conditional development approval, a notation to such effect, including the date of the Municipal Agency's action, shall be made on all copies of the plat and shall be signed by the Chairman or Secretary of the Municipal Agency (or Vice Chairman or Assistant Secretary in their absence, respectively), except that all plats shall not be signed until all conditions or minor development approval shall be complied with within one hundred sixty (160) days of the meeting at which conditional approval was granted, otherwise the conditional approval shall lapse.

E. **MINOR SUBDIVISION:**

1. Minor subdivision approval shall be granted or denied within forty-five (45) days of the date of submission of a complete application to the Administrative Officer, or within such further time as may be consented to be the applicant. Failure of the Planning Board to act within the period prescribed shall constitute minor subdivision approval and a certificate of the Administrative Officer as to the failure of the Planning Board to act shall be issued on request of the applicant; and it shall be sufficient in lieu of the written endorsement of other evidence of approval, herein required, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats.
2. Whenever review or approval of the application by the County Planning Board is required by **N.J.S.A. 40:27-6.3**, the Municipal Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.
3. Except as provided in Subparagraph 4 of this Section approval of a minor subdivision shall expire one hundred ninety (190) day from the date on which the Resolution of Municipal approval is Adopted unless within such period a plat in conformity with such approval and the provisions of the "**MAP FILING LAW**" (**N.J.S.A. 46:23-9.9 et seq.**), or a deed clearly describing the approved minor subdivision is filed by the Developer with the County Recording Officer, the Borough Planning Department, the Municipal Engineer and the Municipal Tax Assessor. Any such plat or deed accepted for such filing shall have been signed by the Chairman and Secretary of the Planning Board. In reviewing the application for development for a proposed minor subdivision the Planning Board may be permitted by Ordinance to accept a plat not in conformity with the "**MAP FILING ACT N.J.S.A. 46:23-9.9 et seq.**" provided that if the Developer chooses to file the minor subdivision as provided herein by plat rather than deed such plat shall conform with the provisions of said **ACT**.
4. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision approval was granted, shall not be changed for a period of two (2) years after the date on which the Resolution of minor subdivision shall have been duly recorded as provided in this Section 5.
5. The Planning Board may extend the one hundred ninety (190) day period for filing a minor subdivision plat or deed pursuant to Subparagraph 3 of this Section, if the Developer proves to the reasonable satisfaction of the Planning Board (i) that the Developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and (ii) that the Developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as

determined by the Planning Board. The Developer may apply for the extension either before or after what would otherwise be the expiration date.

6. The Planning Board shall grant an extension of minor subdivision approval, for a period determined by the Board but not exceeding one year from what would otherwise be the expiration date, if the Developer proves to the reasonable satisfaction of the Board that the Developer was barred or prevented, directly or indirectly from proceeding with the development because of delays in obtaining legally required approval from other governmental entities and that the Developer applied promptly for and diligently pursued the required approvals. A Developer shall apply for the extension before (i) what would otherwise be the expiration date of the minor subdivision approval or (ii) the 91st day after the Developer received the last legally required approval from the governmental entities, whichever occurs later.

F. MINOR SITE PLANS:

1. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor site plan approval was granted, shall not be changed for a period of two (2) years after the date of minor site plan approval. The Planning Board shall grant an extension of this period for a period determined by the Board but not exceeding one (1) year from what would otherwise be the expiration date, if the Developer proves to the reasonable satisfaction of the Board that the Developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the Developer applied promptly for and diligently pursued the approvals. A Developer shall apply for this extension before (i) what would otherwise be the expiration date, or (ii) the 91st day after the date on which the Developer receives the last of the legally required approvals from the other governmental entities, whichever occurs later.

⁹**Section 17-85. MAJOR DEVELOPMENT PROPOSALS:**

Preliminary plats are required for all major site plans and major subdivisions.

- A. Filing Procedures: A Developer shall file with the Administrative Officer 12 black and white copies of the preliminary plat, 12 completed copies of the application form for preliminary approval, 1 completed copy of the preliminary plat checklist, 3 completed copies of the County Planning Board application, 3 copies of any protective covenants, deed restrictions and easements, applying to the land being developed, 12 copies of the drainage calculations, Environmental Impact Report, and Soil Erosion and Sediment Control data, if required.
- B. The Municipal Agency shall submit one (1) copy of the plat and supporting data to the County Planning Board, borough Engineer, Department of Health, School Board, Environmental Committee, Planning Board, fire Department and other officials or departments, for review and recommendation. Upon mutual agreement between the County Planning Board and the Municipal Agency, with approval of the applicant, the thirty (3) day period for a County Planning Board report may be extended for an additional thirty (30) days and any extension shall so extend the time within which the Municipal Agency is required to act.
- C. If the submission is accepted as a subdivision, the Municipal Agency shall grant or deny preliminary approval of a subdivision of ten (10) or fewer lots within forty five (45) days of the **FILING DATE** or within such further time as may be consented to by the Developer. For a subdivision of more than ten (10) lots, the Municipal Agency

⁹ Section 17-85G 1,2,3 & 4 Repealed as per Ordinance 1,048 Adopted 6/22/92 Effective 7/12/92

shall grant or deny preliminary approval within ninety-five (95) days of the **FILING DATE** or within such further time as may be consented to by the Developer.

D. If the submission is accepted as a site plan, the Municipal Agency shall grant or deny preliminary site plan approval within the following time periods unless some further time has been consented to by the Developer:

1. A site plan for ten (1) acres of land or less: within forty-five (45) days of the **FILING DATE**.
2. A site plan of more than ten (10) acres: within ninety-five (95) days of the **FILING DATE**.

Action may be taken on a preliminary site plan for ten (10) acres of land or less without a Public Hearing unless, in the opinion of the Municipal Agency, the proposed use, proposed intensity of development, location of the tract, traffic conditions, or environmental concerns are of sufficient concern that the Municipal Agency desires to receive public comment.

Where a Public Hearing is scheduled for a site plan, no action shall be taken until completion of the Public Hearing and the scheduling and notifications for the hearing shall be in accordance with this Chapter.

E. If the Approving Authority requires any substantial amendment in the layout of improvements in either a site plan or subdivision as proposed by the Developer and that plan had been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development. The Municipal Agency shall, if the proposed development complies with this Chapter, grant preliminary approval.

F. Following required Public Hearing, the Municipal Agency may approve, disapprove, or approve with conditions, the application. The decision shall be in writing and shall be sent to the applicant. If the Municipal Agency grants preliminary approval, its Chairman and Secretary (or the Vice Chairman or Assistant Secretary in their absence, respectively) and Borough Engineer shall sign each page of the plat provided, however, that the Borough engineer shall not sign the preliminary or final site plan plat. If the plat is conditionally approved, it shall not be signed until all conditions are satisfied. If all conditions are not met, the conditional approval shall lapse.

Section 17-86. FINAL MAJOR DEVELOPMENT PROPOSALS:

A. Procedure:

1. The Developer shall file with the Administrative Officer the following for a major subdivision: One (1) Mylar, two (2) cloth, and twelve (12) black on white paper prints of the plat; for all other major developments, one (1) reverse line sepia and one (1) black on white paper prints. The Developer shall also file twelve (12) completed copies of the application form for final approval, one (1) completed copy of the final plat check list, three (3) completed copies of the County Planning Board application form, the performance guarantee, including off-tract improvements, if any, any maintenance guarantees and the applicable fee.
2. The final plat shall be accompanied by letters directed to the Chairman of the Municipal Agency and signed by a responsible Officer of the Sewer Authority and utility which provided water, gas, telephone and electricity, having jurisdiction in the area. Such letters shall review each proposed utility installation design and state the adequacy of the facility.

3. The final plat shall be accompanied by a statement by the Borough Engineer that he is in receipt of a map showing all utilities and other improvements (both in the development and off-tract improvements) in exact location and elevation, that he has examined the drainage, erosion, storm water control, and evacuation plans and found that the interest of the Borough and of nearby properties are fully protected and identifying those portions of any improvements already installed and that the sub-divider has either:
 - a. Installed all improvements, in accordance with the requirements of this Chapter and the preliminary plat approval, with a maintenance guarantee accompanying the final plat; or
 - b. Posted a performance guarantee, in accordance with this Chapter and the preliminary plat approval, for all partially completed improvements or improvements not yet initiated.

B. Action by the Municipal Agency:

1. The Municipal Agency shall grant final approval if the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by Ordinance for final approval, the conditions of preliminary approval and, in the case of a major subdivision, the standards prescribed by the "**MAP FILING LAW**", **N.J.S.A. 46:2-9.9 et seq.**
2. Final approval shall be granted or denied within forty-five (45) days of the **FILING DATE**, or within such further time as may be consented to by the applicant. An approval final plat shall be signed by the Chairman and Secretary of the Municipal Agency (or the Vice Chairman or Assistant Secretary in their absence, respectively). Failure of the Municipal Agency to act within the period prescribed shall constitute final approval and a certificate of the Secretary as to the failure of the Municipal Agency to act shall be issued on request of the applicant and it shall be sufficient in lieu of the written endorsement or other evidence or approval, herein required, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats.
3. Whenever review or approval of the applications by the County Planning Board is required by **40:27-6.3** or **40:27-6.6**, the Municipal Agency shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board by its failure to report thereon within the required time period.
4. The Developer shall supply sufficient copies of the approved final plat so the Administrative Officer can distribute one copy to each of the following: Borough Clerk, Borough Engineer, Tax Assessor and Planning Board, and any other agency or person directed by the Municipal Agency.
- ¹⁰5. Final approval of a major subdivision shall expire ninety-five (95) days from date of signing of the plat unless within such period the plat shall have been duly filed by the Developer with the County Recording Officer. The Municipal Agency may, for good cause shown, extend the period for recording for an additional period not to exceed one hundred and ninety (190) days from the date of signing of the plat. The Municipal Agency may extend the ninety-five (95) day or one hundred ninety (190) day period if the Developer proves to the reasonable satisfaction of the Municipal Agency (1) that the Developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and (2) that the Developer applied promptly for and diligently pursued the required approvals. The length of the extension shall

¹⁰ Amended by Ordinance 1,048 Adopted on 6/22/92 Effective 7/12/92

be equal to the period of delay caused by the wait for the required approvals, as determined by the Municipal Agency. The Developer may apply for an extension either before or after the original expiration date. In order for subdivision plat to be accepted for filing by the County Recording Office, such plat shall first have been approved by the Municipal Agency as indicated on the instrument by the signature of the Chairman and Secretary of the Planning Board or a certificate has been issued as to the failure of the Municipal Agency to act within the required time. The signatures of the Chairman and Secretary shall not be affixed until the Developer has posted the required guarantees. If the County Recording Officer records any plat without such approval, such recording shall be deemed null and void, upon the request of the Borough, the plat shall be expunged from the official record.

Section 17-87. CONDITIONAL USES:

Before any permit shall be issued for a conditional use, applications shall be made to the Planning Board, where such Board shall have primary jurisdiction thereat, or the Board of Adjustment in all other cases. The Planning Board shall grant or deny the application after Public Hearing, within ninety-five (95) days of the FILING DATE, or within such further time as may be consented to by the applicant. Where a conditional use application involves a site plan or subdivision, notice of the hearing shall include reference to all matters being heard and the Planning Board shall review and approve or deny the subdivision or site plan simultaneously with the conditional use application. Failure of the Planning Board to act within the required time period shall constitute approval of the application.

- A. In reviewing the conditional use application, the Planning Board shall review the number of employees or users of the property, the requirements set forth in this Chapter, and shall give due consideration to all reasonable elements which would effect the public health, welfare, safety comfort and convenience, such as, but not limited to the proposed uses, the character of the area, vehicular travel patterns and access, pedestrian ways, landscaping, lighting signs, drainage, sewage treatment, potable water supply, utilities, and structural locations, and orientations, and shall conduct a Public Hearing on the application.

- B. The use for which conditional uses are granted shall be deemed to be permitted uses in their respective districts and each conditional use shall be considered as an individual case. In all requests for approval of conditional uses, the burden of proof shall be on the applicant. All conditional uses shall require site plan review and approval by the Planning Board. Prior to making its decision, the Planning Board shall be satisfied that the conditional use is reasonably necessary for the convenience of the public in the location proposed. In the granting of conditional uses, a time limit of one (1) year from the date of the approval, shall be set within which time the owner shall secure a building permit, otherwise, the approval granted shall be null and void.

Section 17-88. APPEALS AND APPLICATIONS TO THE ZONING BOARD OF ADJUSTMENT:

Procedures for appeals to the Board of Adjustment shall be governed by the provisions of **ARTICLE III**, and see in particular **Section 17-36(A)**. Applications for development before the Board of Adjustment shall be governed by the provisions of **Section 17-36(B)** and **Articles VI, VII and VIII** of this Chapter.

Section 17-89. APPEALS FROM PLANNING BOARD TO GOVERNING BODY:

There shall be no appeals taken from the Planning Board to the Governing Body

Section 17-90. DELETED. SEE SECTION 17-43.

Section 17-91.

GUARANTEES REQUIRED; SURETY, RELEASE:

- A. Before recording of final subdivision plats or as a condition of final site plan approval, the Municipal Agency may require and shall accept in accordance with the standards Adopted by Ordinance for the purpose of assuring the installation and maintenance of on-tract improvements.
1. The furnishing of a performance guarantee in favor of the Borough in an amount not to exceed one hundred twenty (120%) percent of the cost of installation, which cost shall be determined by the Borough Engineer according to the method of calculation set forth in this Section of the Ordinance, for improvements which the Municipal Agency may deem necessary or appropriate including streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyor's monuments, as shown on the final map and required by the "Map Filing Law", N.J.S.A. 46:23-9.9 et seq., water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, erosion control and sedimentation control devices, public improvements of open space and, in the case of site plan only, other on-site improvements and landscaping. The Borough Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost estimate shall be appended to each performance guarantee posted by the obligor.
 - a. The cost estimated by the Borough Engineer shall be based on documented construction costs for public improvements prevailing in the general area of the Borough. The Developer may appeal the Borough Engineer's estimate to the Governing Body. The Governing Body shall decide the appeal within 45 days of receipt of the appeal in writing to the Borough Clerk. After the Developer posts a guarantee with the Borough based on the cost of the installation of improvements as determined by the Governing Body, he may institute legal action within one year of the posting in order to preserve the right to a judicial determination as to the fairness and reasonableness of the amount of the guarantee.
 2. Provision for a maintenance guarantee to be posted with the Governing Body for a period not to exceed two (2) years after final acceptance of the improvement, in an amount not to exceed fifteen (15%) percent of the cost of the improvement, which cost shall be determined by the Borough Engineer according to the method of calculation set forth in this Section of the Ordinance. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee, as the case may be, shall be required by the Borough to such utilities or improvements.
 3. The Borough shall not require that a Maintenance Guarantee be in cash or more than ten (10%) percent of the Performance Guarantee be in cash. A Developer may, however, provide at his option some or all of the Maintenance Guarantee in cash, or more than ten (10%) percent of a Performance Guarantee in cash.
 4. The Borough shall accept a Performance Guarantee or Maintenance Guarantee which is an Irrevocable Letter of Credit if it:
 - a. Constitutes an unconditional payment obligation of the issuer running solely to the Borough for an express initial period of time in the amount determined pursuant to **N.J.S.A. 40:55D-53**;
 - b. Is issued by a banking or savings institution authorized to do and doing business in this State;

- c. Is for a period of time of at least one (1) year; and
 - d. Permits the Borough to draw upon the Letter of Credit if the obligor fails to furnish another Letter of Credit; which complies with the provisions of this Section 30 days or more in advance thereof as is stated in the Letter of Credit.
- B. The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the Governing Body by Resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed one hundred twenty (120%) percent of the installation, which cost shall be determined by the Borough Engineer according to the method of calculation set forth in this Section of the Ordinance, as of the time of the passage of the Resolution.
- C. If the required improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the Borough for the reasonable cost of the improvements not completed or corrected and the Borough may either, prior to or after the receipt of the proceeds thereof, complete such improvements. Such completion or correction improvements shall be subject to the public bidding requirements of the Local Public Contracts Law provided that the completion or correction by the Borough of improvements for which a performance guarantee has been provided shall be made, negotiated or awarded by the Governing Body without public advertising for bids or bidding therefore as long as no public moneys are expended pursuant to **40A:11-5(u)**.
- D. Upon substantial completion of all required street improvements except for the top course and appurtenant utility improvements, and the connection if same to the public system, the obligor may request of the Governing Body in writing, by Certified Mail addressed in care of the Borough Clerk and that the Borough Engineer prepare, in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee pursuant to Subsection A of this Section, a list of all uncompleted or unsatisfactory completed improvements. If such a request is made, the Developer shall send a copy of the request to the Borough Engineer. The request shall indicate which improvements have been completed and which improvements remain uncompleted in the judgment of the Developer. Thereupon the Borough Engineer shall inspect all improvements covered by the Developer's request and shall file a detailed list and report in writing, with the Governing Body and shall simultaneously send a copy thereof to the Developer not later than forty-five (45) days after receipt of the Developer's request.
- E. The list prepared by the Borough Engineer shall state, in detail, with respect to each improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and estimate prepared by the Borough Engineer and appended to the performance guarantee pursuant to this Ordinance.
- F. The Governing Body, by Resolution, shall either approve the improvements determined to be complete and satisfactory by the Borough Engineer, or reject any or all of the improvements upon the establishment in the Resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared to this Ordinance. This

Resolution shall be Adopted not later than 45 days after receipt of the list and report prepared by the Borough Engineer. Upon Adoption of the Resolution by the Governing Body, the Developer shall be released from all liability pursuant to its performance guarantee, with respect to those approved improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that thirty (30%) percent of the amount of the performance guarantee posted may be retained to ensure completion and acceptability of all improvements.

- G. If the Borough Engineer fails to send or provide the list and report as requested by the Developer within 45 days from receipt of the request, the Developer may apply to the court in a summary manner for an order compelling the Borough Engineer to provide the list and report within a stated time and the cost of applying to the court, including reasonable Attorney's fees, may be awarded to the prevailing party.

If the Governing Body fails to approve or reject the improvements determined by the Borough Engineer to be completed and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within 445 days from the receipt of the Borough Engineer's list and report the Developer may apply to the court in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approved complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee pursuant to this Ordinance and the cost of applying to the court, including reasonable Attorney's fees, may be awarded to the prevailing party.

- H. In the event that the Developer has made a cash deposit with the Borough as part of the performance guarantee, then any partial reduction granted in the performance guarantee pursuant to this Subsection shall be applied to the cash deposit in the same proportion as the original cash deposits bears to the full amount of the performance guarantee.
- I. If any portion of the required improvements is rejected, the Governing Body may require the Developer to complete or correct such improvements and, upon completion or correction, the same procedure of notification, as set forth in this Section shall be followed.
- J. Nothing herein, however, shall be construed to limit the right of the Developer to contest by legal proceedings any determination of the Governing Body or the Borough Engineer.
- K. The Developer shall reimburse the Borough for all reasonable inspection fees paid to the Borough Engineer for the foregoing inspection of improvements; provided that the Borough may require of the Developer a deposit for the inspection fees in an amount not to exceed, except for extraordinary circumstances, the greater of \$500 or 5% of the cost of improvements, which cost shall be determined pursuant to this Section of the Ordinance.
- L. In the event that final approval is by stages or sections of development pursuant to N.J.S.A. 40:55D-38, the provisions of this Section shall be applied by stage or section.
- M. If the Municipal Agency includes as a condition of approval of an application for development the installation of street lighting on a dedicated public street connected to a public utility, then upon notification in writing by the Developer to the Municipal Agency and Governing Body that 1) the street lighting on a dedicated public street has been installed and accepted for service by the public utility and 2) certificates of occupancy have been issued for at least 50% of the dwelling units and 50% of the floor area of the non-residential uses on the

dedicated public street or portions thereof, the Governing Body shall, within 30 days following receipt of the notification, make appropriate arrangements with the public utility for, and assume the payment of, the costs of the street lighting on the dedicated public street on a continuing basis. Compliance by the Borough with the provisions of this Section shall not be deemed to constitute acceptance of the street.

Section 17-92. SUBDIVISION CERTIFICATE:

The prospective purchaser, prospective mortgagee, or any other person interested in any land which forms part of a subdivision 3 years preceding the effective date of the Act, may apply in writing to the Administrative Officer, for the issuance of a Certificate certifying whether or not such subdivision has been approved by the Planning Board. Such application shall contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof.

The Administrative Officer shall make and issue such certificate within fifteen (15) days after the receipt of such written application and the fees therefore. Said Officer shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fee charged, in a binder as a permanent record of his office.

Each such certificate shall be designated a "**Certificate As To Approval of Subdivision Of Land**", and shall certify:

- a. Whether there exists a duly established Planning Board in the Borough and that there is an Ordinance controlling subdivision of land Adopted under the authority of the Act.
- b. Whether the subdivision, as it relates to the land shown in said application, has been approved by the Planning Board, and, if so, the date of such approval and any extensions and terms thereof, showing that subdivision of which the lands are a part is a validly existing subdivision.
- c. Whether such subdivision, if the same has not been approved, is statutorily exempt from the requirement of approval as provided in the Act.

The Administrative Officer shall be entitled to demand and receive for such certificate issued by him a reasonable fee not in excess of those provided in **N.J.S.A. 54:5-14** and **54:5-15**. The fees so collected by such Officials shall be paid by him to the Borough.

Section 17-92A. ZONING PERMITS:

The purpose of the Zoning Permit is to assure that the proposed use construction or alteration will be in accordance with the provisions of the Zoning Ordinance. The Zoning Permit looks to the location and use is 1) permitted or 2) that it exists as a non-conforming and use and/or non-conforming structure or 3) is permitted by the terms of a variance. The Zoning Permit shall be issued by the Administrative Officer within a period of twenty (20) working days following submission of a completed application specifying the following information:

1. Name of applicant;
2. Address of applicant;
3. Name and address of owner if different from that of applicant;
4. Block and Lot number and street address of premises for which Zoning Permit is desired;
5. State dimensions of principal building;
6. State dimensions of all accessory buildings;

7. Describe in detail the activity or activities to be conducted in the principal building and any accessory activities to be conducted in any of the accessory buildings;
8. State whether any of the activities described in number n7 above are conducted as a non-conforming use: (if so, state facts supporting this contention);
9. Has the above premises been subject of any prior application to the Zoning Board of Adjustment or Planning Board to applicant's knowledge?

Section 17-93. EFFECT OF PRELIMINARY AND FINAL DEVELOPMENT APPROVAL:

- A. Preliminary approval of major subdivision or of a site plan shall, except as provided in **Section 17-93A 4** confer upon the applicant the following rights for a 3 year period from the date on which the Resolution of preliminary approvals is Adopted.
 1. That the general terms and conditions of which preliminary approval was granted shall not be changed, including but not limited to use requirements; layout design standards for streets, curbs and sidewalks; lot size, yard dimensions and off-tract improvements; and, in the case of site plan, any requirements peculiar to site plan approval except that nothing herein shall be construed to prevent the Borough from modifying by Ordinance such general terms and conditions of preliminary approval as it relates to public health and safety;
 2. That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary subdivision plat or site plan, as the case may be; and
 3. That the applicant may apply for and the Planning Board may grant extensions on such preliminary approval for additional periods of at least one (1) year not to exceed a total extension of two (2) years, provided that if the design standards have been revised by Ordinance, such revised standards may govern.
 4. In the case of a subdivision of or site plan for an area of 50 acres or more, the Planning Board may grant the rights referred to in Sections 17-93A2 and 3 of this Section for such period of time, longer than 3 years, as shall be determined by the Planning Board to be reasonable taking into consideration: the number of dwelling units and non-residential floor area permissible under preliminary approval, economic conditions and the comprehensiveness of the development. The applicant may apply for thereafter and the Planning Board may thereafter grant an extension to preliminary approval for such additional period of time as shall be determined by the Planning Board to be reasonable taking into consideration: the number of dwelling units and non-residential floor area permissible under preliminary approval and the potential number of dwelling units and non-residential floor area of the section or sections awaiting final approval, economic conditions and the comprehensiveness of the development; provided that if the design standards have been revised, such revised standards may govern.
 5. Whenever the Planning Board grants an extension of preliminary approval pursuant to **Section 3** or **4** and preliminary approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The

Developer may apply for the extension either before or after what would otherwise be the expiration date.

6. The Planning Board shall grant an extension of preliminary approval for a period determined by the Board but not exceeding one (1) year from what would otherwise be the expiration date, if the Developer proves to the reasonable satisfaction of the Board that the Developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the Developer applied promptly for and diligently pursued the required approvals. A Developer shall apply for the extension before what would otherwise be the expiration date preliminary approval or the 91st day after the Developer receives the last legally required approval from other governmental entities, whichever occurs later. An extension granted pursuant to **Subsection 3** or **4** of this Section.

B. Effect of final approval of a site plan or major subdivision.

1. The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the Developer, whether conditionally or otherwise, shall not be changed for a period of two years after the date on which the Resolution of final approval is Adopted; provided that in the case of a major subdivision, the rights conferred by this Section shall expire if the plat has not been duly recorded within the time period provided in **Section 17-86B-7** of this Ordinance. If the Developer has followed the standards prescribed for final approval and, in the case of a subdivision, has duly recorded the plat as required, the Planning Board may extend such period or protection for extensions of one year but not to exceed three extensions. The granting of final approval terminates the time period of preliminary approval.
2. In the case of a subdivision or site plan for a planned development of 50 acres or more, conventional subdivision or site plan for 150 acres or more, or site plan for development of a non-residential floor area of 200,000 square feet or more, the Planning Board may grant the rights referred to in **Subsection 1** of this Section for such period of time, longer than two years, as shall be determined by the Planning Board to be reasonable taking into consideration: the number of dwelling units and non-residential floor area permissible under final approval, economic conditions and the comprehensiveness of the development. The Developer may apply for thereafter, and the Planning Board may thereafter grant, an extension of final approval for such additional period of time as shall be determined by the Planning Board to be reasonable taking into consideration: the number of dwelling units and non-residential floor area permissible under final approval, the number of dwelling units and non-residential floor area remaining to be developed, economic conditions and the comprehensiveness of the development.
3. Whenever the Planning Board grants an extension of final approval pursuant to **Section 17-93B1** or **2** and final approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The Developer may apply for the extension either before or after what would otherwise be the expiration date.
4. The Planning Board shall grant an extension of final approval for a period determined by the Board but not exceeding one year from what would otherwise be the expiration date, if the Developer proves to the reasonable satisfaction of the Board that the Developer was barred or prevented, directly or indirectly, from proceeding with the development

because of delays in obtaining legally required approval from other governmental entities and that the Developer applied promptly for an diligently pursued these approvals. A Developer shall apply for the extension before what would otherwise be the expiration date of final approval or the 91st day after the Developer receives the last legally required approval from other governmental entities, whichever occurs later. An extension granted pursuant to this Subsection shall not preclude the Planning Board from granting an extension pursuant to **Section 17-93B1** or **2**.

¹¹C. Expiration of Preliminary Approval

Preliminary approval of a major subdivision or site plan shall expire simultaneously with expiration of the rights conferred on the applicant by **Section 17-93.A.1** and **2** above (as such rights may be extended under **Section 17-93.A.3, 4, or 6** above) unless a) prior to expiration of those rights, the applicant has submitted an application for final approval, and b) final approval is granted within six (6) months after the date on which the application for final approval is submitted; provided, however, that the board with which the application for final approval is filed may extend the six (6) month period for good cause shown, either before or after the date on which the six (6) month period would otherwise have expired.

D. Expiration of Final Approval

Final approval of a major subdivision or site plan shall expire simultaneously with expiration of the rights conferred on the developer by **Section 17-93.B.1** above (as such rights may be extended under **Section 17-93.B.1 2 or 4** above) unless, prior to expiration of those rights, construction of the project has substantially commenced pursuant to a validly issued construction permit or other necessary approval. In the event of a dispute as to whether any construction has substantially commenced, the Zoning Officer or Construction Official may refer the matter to the Board that granted the underlying approval for a determination.

Section 17-94. USE OF CONSTRUCTION EQUIPMENT ON BOROUGH STREETS:

- A. As a condition of Development Approval, the Planning Board or Zoning Board of Adjustment, as the case may be, may restrict the use of certain streets of the Borough to construction equipment used on or for the project subject to said approval.
- B. As part of its application for Development Approval, the applicant shall submit to the appropriate Board a list indicating the size, type and intended use of all heavy equipment, vehicles or construction machinery to be used for the project.
- C. The Borough Engineer and Director of Development shall submit to the appropriate Board their recommendations concerning any possible restrictions upon the use or movement of said equipment within the Borough and/or upon Borough streets.
- D. If the applicant, its agents, servants or employees are found to be using, transporting, or allowing to be used or transported any heavy equipment, vehicles, or construction machinery in violation of the approval granted by the appropriate Board, the municipality may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent such violation or violations and said Court may proceed in a summary manner.

¹¹ Added by Ordinance 1,355 Adopted 8/21/06 Effective immediately by Resolution R06-209 Adopted 7/24/06

Section 17-95. DEVELOPER'S AGREEMENTS:

The Municipal Agency, or the Planning Board or Zoning Board of Adjustment, may condition the Adoption of a Memorializing Resolution or a decision authorized by Section 17-57 hereof or the issuance of preliminary or final development approval upon the requirement that the applicant enter into a Developer's Agreement with the Borough of Lincoln Park prior to the commencement of any land disturbance or construction relating to such matters as:

1. Implementing compliance with the terms and conditions of the Approval Resolution and with applicable Municipal Ordinances;
2. Itemizing the improvements; which are required to be installed as well as establishing off tract improvements which shall be constructed;
3. Providing for the extension of public facilities to service the development as well as the inspection, approval and acceptance of such facilities.
4. Providing for the inspection, approval, acceptance and maintenance of easements and stormwater detention facilities in private communities and in other projects.
5. Providing the calculation of Developer's fair share of improvement costs;
6. Providing for the type of performance and maintenance guarantee to be supplied;
7. Providing for payment of escrow reserves for Engineering inspection;
8. Providing for the amount and timing of payment of inspection fees;
9. Establishing a phasing schedule if required;
10. Providing for Stormwater Management contributions as may be required;
11. Providing for escrow for public road cleaning as may be required;
12. Providing for insurance and indemnity requirements;
13. Providing for the receipt of other governmental or agency approvals or permits as a condition for commencement of work;
14. Providing for other matters appropriate to the development review and approval process and otherwise authorized by the Development Review Ordinance and Municipal Land Use Law.

ARTICLE VII

OFF-SITE AND OFF-TRACT IMPROVEMENTS

Section 17-100. APPROVAL PREREQUISITES:

For the purposes of the Article the definition of "Off-Site" shall also include "Off-Tract". Prior to the grant of final approval of any major development (or) the grant of approval of any minor development proposal (or) proposal prior to the issuance of any building permits for any land use, including any residence or other use of property on an unimproved street, the Developer shall pay his pro-rata share of the cost of providing any reasonable and necessary street improvements and water, sewerage and drainage facilities, and easements therefore, located outside the property limits of the development. All payments shall be in the manner provided herein, it being the intent of this Article, that the Developer bear that portion of the cost which bears a rational nexus to the needs created by the development and benefits conferred upon such development.

Section 17-101. DETERMINATION OF NATURE OF IMPROVEMENT:

- A. Consistent with the provisions of this Article, the Governing Body, with the assistance of the Municipal Agency and other appropriate Borough departments, shall, prior to the imposition of any conditions on an applicant for the development, determine whether the off-site improvements is to be construed, 1) by the Borough as a general improvement or 2) as a local improvement or 3) whether such development is to be construed by the Developer with a formula providing for partial reimbursement if the improvement specially benefits properties other than the development.
- B. One the foregoing determination has been made, the Municipal Agency shall estimate, with the aid of the Borough Engineer and such other persons having pertinent information or expertise: 1) the cost of the improvement and 2) the amount by which all properties to be serviced thereby, including the development property, will be specially benefited therefrom.
- C. The following aforesaid determinations by the Municipal Agency, the Developer may be required to provide as a condition for approval, a bond or cash deposit to insure payment to the Borough of one of the following amounts:
 - 1. if the improvement is to be constructed by the borough 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 Developer's property, will be specially benefitted by the improvement;
 - 2. if the improvement is to be constructed by the Borough as a local improvement, then in addition to the amount referred to in 1) above, the estimated amount by which the development property will be specifically benefitted by the improvement; or
 - 3. If the improvement is to be construction by the applicant, an amount equal to the estimated cost of the improvement.
- D. The amounts of money required pursuant to this Article shall be estimated sums and such amounts shall be re-determined by the Borough following the completion of the improvement to insure that the Developer shall pay only his appropriate share of the cost thereof.
- E. Should a Developer pay under protest the amount; which has been determined as his pro-rata share, legal action shall be instituted within one (1) year of such payment in order to preserve the right to judicial determination as to the fairness and reasonableness of such amount.

Section 17-102. ASSESSMENT OF PROPERTIES:

- A. The Borough shall assess all properties other than the property of the applicant, benefitting from the installation of any off-site improvements, based upon the actual cost thereof. However, principal amounts received by the Borough from such assessments, together with interest from property owners who have elected to pay for said assessments over a period of years, shall, in the case where the Developer is the installer of the off-site improvements, be credited to the real estate account of the Developer's property. In the case where there has been an apportionment of cost against the Borough for the required off-site improvements, then the Borough shall pay its portion of the cost to the Developer no more than three (3) months after the completed installations have been approved by the Borough Engineer.
- B. In the event of any default in payment of an assessment levied by the Borough pursuant to subsection (A) above, then the Borough shall exercise its remedies

elsewhere provided, and if thereafter the balance of principal and interest due upon the subject assessment has not been fully satisfied by the payment to the Borough and credit hereof given to the real estate account of the Developer's property, then the Borough shall forthwith pay said balance to the Developer or his then successor in interest.

Section 17-103. DEVELOPER'S SHARE OF COST FOR IMPROVEMENTS NOT INSTALLED BY DEVELOPER:

In the event that the Developer shall not be required to install off-site improvements by virtue of the provisions of this Article, then there shall be paid to the Borough Treasurer the amount of the Developer's share of the finally determined cost of the off-site improvement. All moneys received by the Borough in accordance with the provisions of this Article shall be deposited in an interest bearing account, and such funds shall be used only for the improvements for which they are deposited or improvements serving the same purpose. If the improvements are not initiated for a period of fifteen (15) years from the date of payment, or other mutually agreeable period of time, all deposited funds shall be returned to the Developer, together with accumulated interest.

ARTICLE VIII.

PLAT DESIGN STANDARD FOR MAJOR SUBDIVISIONS

Section 17-110. PRELIMINARY PLAT:

The preliminary plat shall be clearly and legibly drawn or reproduced at a scale of not less than one inch equals one hundred feet. Preliminary plats shall be designed and drawn by a licensed state land surveyor. The plat shall be designed in compliance with the provisions of this Article and shall show or be accompanied by the following information:

- A. A key map showing the entire subdivision and its relation to surrounding areas.
- B. The tract name, tax map sheet, block and lot number, date, reference meridian, graphic scale and the following names and addresses:
 1. Name and address of the record owner.
 2. Name and address of subscriber.
 3. Name and address of person who prepared map.
 4. Names and addresses of owners of adjoining properties within two hundred (200) feet of the extreme limits of the subdivision.
- C. Acreage of tract to be subdivided to nearest tenth of an acre.
- D. Lot lines and appropriate distances of proposed lots.
- E. Sufficient elevations or contours to determine the general slope and natural drainage of the land and the high and low points and tentative cross-sections and center line profiles for all proposed new streets.
- F. The location of existing and proposed property lines, streets, buildings, watercourses, railroads, bridges, culverts, drain pipes and any significant natural features such as wooded areas and rock formations.
- G. Plans of proposed utility layouts (sewers, storm drains, water, gas and electricity) showing feasible connections to existing or any proposed utility systems. When an individual water supply or sewage disposal system is proposed, the plan for such system shall be approved by the appropriate local, county or state health agency. When a public sewage disposal system is not available, the Developer shall have

percolation tests or soil log made and submit the results with the preliminary plat. Any subdivision or part thereof, which does not meet with the established requirements of this Article or other applicable regulations, shall not be approved by the appropriate local, county or State Health Agency.

- H. A lot grading plan shall be prepared showing existing and final contours at five (5) foot intervals for slopes averaging ten (10%) percent or greater and at two (2') foot intervals for land of lesser slope. There shall be indicated on the plan, final elevations proposed for the corners of each building on the lot and at the setback line on the lot sidelines. The proposed first floor and garage floor elevations must also be shown. Lots in the elevation at zone must show, in addition to the above, the proposed elevation of the lowest opening, such as a basement window.
- I. A Stormwater Control Plan shall be prepared to include sufficient information to effectuate the intent and standards set forth in **ARTICLE IX, SECTION 17-121(21)**.
 - 1. For all major subdivisions, the Developer shall arrange with the serving utility for the underground installation of the utilities distribution supply lines and service connection in accordance with the provisions of the applicable standard terms and conditions incorporated a part of its tariff as the same are now on file with the State Board of Public Utility Commissioners and shall submit to the Municipal Agency prior to the granting of final approval a written instrument from each serving utility which shall evidence full compliance with the provisions of this paragraph; provided, that lots in such subdivisions which abut existing streets where overhead electric and telephone distribution supply lines have theretofore been installed on any portion of the streets involved may be supplied with electric and telephone service from such overhead lines as existing extensions thereof, but the service connections from the utilities overhead lines shall be installed underground.
 - 2. All minor subdivisions shall be presented to the Municipal Agency in order to determine the necessity for, or the advisability of, installing underground utility services; if the Municipal Agency determines that the utility services shall be installed underground, then the Developer shall comply with all requirements as set forth in paragraph 1 of this sub-section.
 - 3. Wherever the utility is not installed in the public right-of-way, an appropriate utility easement not less than fifteen (15') feet in width shall be provided.
 - a. A copy of any protective covenants or deed restrictions applying to the land being subdivided shall be stated on the preliminary plat.

Section 17-111. FINAL PLAT:

The final plat shall be drawn in ink on tracing cloth at a scale of not less than one inch (1") equals one hundred (100') feet and in compliance with all the provisions of **Section 45:23-9.9** of the Revised Statutes. The final plat shall show or be accompanied by the following:

- A. Date, name and location of the subdivision, name of owner, graphic scale and reference meridian.
- B. Tract boundary lines, right-of-way lines of streets, street names, easements and other right-of-way, land to be reserved or dedicated to public use, all lot lines and other site lines, with dimensions and bearings. The length of each tangent lot lines shall be shown to the nearest hundredth of a foot and it's bearing to the nearest ten (10) seconds. The plat shall carry a notation as to whether the bearings are referred to true or to magnetic north, and if the latter, the year in which they were taken. The radius, length of arc and central angle of each curved lot line shall be shown.

- C. 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.
- D. Minimum building setback line on all lots and other sites.
- E. Location and description of all monuments, which monuments shall be referenced to permanent coordinated monuments if such exists within reasonable distance.
- F. Names of owners of adjoining un-subdivided land and names of adjoining subdivisions, if any, and the case and number were recorded.
- G. Certification by surveyor making such plat, to the effect that the plat is correct and accurate.
- H. Certification that the Developer his agent or owner of the land, or that the owner has given consent under an option agreement.
- I. When approval of a plat is required by any officer or body of the Borough, County or State, approval shall be certified on the plat.
- J. Cross sections and profiles of streets, approved by the Borough Engineer, shall be required to accompany the final plat.
- K. Contours at five (5') foot intervals for slopes averaging ten (10%) percent or greater and at two (2') foot intervals for land or lesser slope.
- L. Plans and profiles of storm and sanitary sewers and water mains.
- M. Certification from Tax Collector that all taxes are paid to date.

Section 17-112. REQUIRED BEFORE FINAL APPROVAL:

Prior to the granting of final approval, the Developer shall have installed or shall have furnished performance guarantees for the ultimate installation of the following:

- A. Streets and curbs conforming to the conditions laid down in the provisions of this Code relating to the acceptance of streets, roads, highways and thoroughfares and the construction thereof.
- B. No top soil shall be removed from the site or used as spoil. Topsoil moved during the course of construction shall be re-distributed so as to cover the cleared areas of the subdivision and shall be stabilized by seeding or planting.
- C. Monuments shall be of the size and shape required by Section 46:23-9.11 of the Revised Statutes, and shall be placed in accordance with the Statutes.
- D. Water mains, fire hydrants, culverts, storm sewers and sanitary sewers or systems shall be properly connected with an approved system and shall be adequate to handle all present and probably future development.
- E. Street signs shall conform with already existing street signs in the Borough and shall be placed at each street intersection.
- F. Street lights are to be installed by the utility company at each street intersection and at such other points so that the distance between lights shall not exceed five hundred (500') feet. The cost of such installation shall be borne by the Developer.

- G. Where required by the Municipal Agency, not less than two (2) new shade trees shall be installed on each lot no closer than twenty-five (25') feet from any existing or proposed street light or street intersection and installed in the front of the lot between the building and the street right-of-way area, and in a line with other trees planted on the same side of the same street and be installed so as not to interfere with utilities, roadways, school-ways, or sidewalks. Trees shall be nursery grown stock not less than 2 ½ inches in diameter, planted and stalked in a manner approved by the Shade Tree Committee. Trees shall be of the following species: Sugar Maple, Willow Oak, Road Oak, Scarlet Oak, Pin Oak, Sweet Gum, Ginko (maple only), Japanese Pagoda Tree, thornless Sunburst Honey Locust, Norway Maple, Norway Red, and Columnar Maple. All trees not surviving after one growing season shall be replaced by the Developer. Other species may be proposed in writing to the Municipal Agency for its approval.
- H. Underground gas, electric, telephone and television cable lines.
- I. Soil erosion and sediment control devices of a permanent or temporary nature.
- J. The Developer shall be required to install and place adequate sidewalks along all or some of the proposed streets, and, if the subdivision is on an existing street, to install such adequate sidewalks along such street, as recommended by the Municipal Agency and approved by the Governing Body, having regard for the traffic problems and the safety of the residents, it may deem necessary.

Section 17-113. GENERAL:

The subdivision plat shall conform to design standards that will encourage good development patterns within the municipality. Where either or both an official map or master plan has or have been Adopted, the subdivision shall conform to the proposals and conditions shown thereon. The streets, drainage rights-of-way, school sites, public parks and playgrounds shown on an officially Adopted Master Plan or Official Map shall be considered an approval of subdivision plats, where no Master Plan or Official Map exists streets and drainage rights-of-way shall be shown on the final plat in accordance with **Section 40:55-1.20** of the Revised Statutes, and shall be such as to lend themselves to the harmonious development of the Borough and enhance the public welfare in accordance with the design standards established in this Chapter.

Section 17-114. STREETS – DESIGN STANDARDS:

- A. The arrangement of streets not shown on the Master Plan or Official Map shall be such as to provide for the appropriate extension of existing streets.
- B. Specifications for street right-of-way curb and pavement shall be as follows:
 - 1. The right-of-way width of any street shall be measured from lot line to lot line and the right-of-way width and pavement width shall conform to the following:

	<u>Right-of-Way Width</u>	<u>Pavement Width</u>
Major Street	66 ft.	46 ft.
Secondary Street (Residential)	50 ft.	30 ft.
Secondary Street (Non-residential)	60 ft.	40 ft.
Minor Street	50 ft.	30 ft.

Marginal Access

Road

50 ft.

30 ft.

2. Each street or road shall be improved with pavement consisting of not less than four (4") inches bituminous concrete stabilized base, topped with a two (2") inch bituminous concrete surface course **FABC**.
 3. Each street or road shall be improved with concrete curb not less than six (6") inches by none (9") inches by twenty (20") inches.
- C. No subdivision showing reserve strips controlling access to streets shall be approved except where the control and disposal of land comprising such strips has been placed by the Mayor and Council under conditions approved by the Municipal Agency.
 - D. Subdivision that adjoin or include existing streets that do not conform to widths as shown on the master plan or official map or the street width requirements of this Code shall dedicate additional width along either one or both sides of the road. If the subdivision is along one side only, one-half (1/2) of the required extra width shall be dedicated.
 - E. Grades of major and secondary streets (non-residential) shall not exceed four (4%) percent. Grades of all other streets shall not exceed ten (10%) percent. No street shall have a minimum grade of less than one-half of one percent. No street shall have a grade of more than three (3%) percent within fifty (50') feet of any intersection.
 - F. Street intersections shall be as nearly at right angles as is possible, and in no case shall be less than sixty (60°) degrees. The block corners at intersections shall be rounded at the curb line with a curve having a radius of not less than twenty (20') feet.
 - G. Street jogs with center line off-sets of less than one hundred twenty-five (125') feet shall be prohibited.
 - H. A tangent at least one hundred (100') feet long shall be introduced between reverse curves on major streets and on secondary streets, where possible.
 - I. When connecting street lines deflect from each other at any one point by more than ten (10°) degrees and not more than forty-five (45°) degrees, they shall be connected by a curve with a radius of not less than one hundred (100') feet for minor streets and three hundred (300') feet for major and secondary streets.
 - J. All changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and minimum sight distance of two hundred (200') feet measured between two points each four feet six inches (4' 6" above the surface of the pavement.
 - K. **DEAD END STREETS.** Dead-end streets (cul-de-sacs) shall not be longer than six hundred (600') feet and shall provide a turn-around at the end with a radius of not less than fifty (50') feet and tangent whenever possible to the right side of the street. If a dead-end street is of a temporary nature, a similar turnaround shall be provided, and provisions made for future extension of the street and reversion of the excess right-of-way to the adjoining properties. Whenever a temporary or permanent turn-around is proposed on any street, the front yard set-back shall be measured from the right-of-way lines of these turn-arounds.

When a proposed subdivision adjoins undeveloped land capable of being subdivided, outlet streets shall be provided from the streets in the proposed subdivision to the adjoining properly locations acceptable to the Municipal Agency and the Borough Engineer. Where it is possible for a street in a

proposed subdivision or to an unimproved street in an existing subdivision left for future improvements as an outlet street to adjoining property, the plans shall show, and the application for final approval shall include all work required to connect and complete the improvements and utilities between the proposed and the existing subdivisions.

1. No street shall have a name which will duplicate or so nearly duplicate as to be confused with the names of existing streets. The continuation of an existing street shall have the same name.

Section 17-115. BLOCKS – DESIGN STANDARDS:

- A. Block length and width or acreage within bounding roads shall be such as to accommodate the size of lot required in the area by the zoning regulations and to provide for convenient access, circulation control and safety of street traffic. Blocks shall be of such sizes and shapes as considerations of topography and street lay-out shall dictate but the Municipal Agency shall not approve blocks that are either unreasonable large or small. The corners of blocks at road intersections shall be cut back on an arc concentric with the arc of the curb lines or on the chord of such concentric arc.
- B. For commercial, group housing or industrial use, block size shall be sufficient to meet all area and yard requirements for such use.

Section 17-116. LOTS – DESIGN STANDARDS:

- A. Lot dimensions and area shall not be less than the requirements of the zoning regulations.
- B. Insofar as is practical, side lot lines shall be at right angles to straight streets, and radial to curved streets.
- C. Each lot shall front upon an approved street at least fifty (50') feet in width, except lots fronting on approved private rights-of-way or reserve strips.
- D. Where an extra width has been dedicated for widening of existing streets, lots shall begin at such extra width line, and all set-backs shall be measured from such line.
- E. Where there is a question as to the suitability of a lot for its intended use due to factors such as rock formations, flood conditions or similar circumstances, the Municipal Agency may, after adequate investigation, withhold approval of such lot.
- F. In the case of lots designed for business or industrial use, off-street parking space shall be provided for as required by then zoning regulations.

Section 17-117. PUBLIC USE AND SERVICE AREAS:

- A. In a large scale development, easements along rear property lines or elsewhere for utility installations may be required. Such easements shall be at least fifteen (15') feet wide and located in consultation with the companies or Borough departments concerned.
- B. Where a subdivision is traversed by a water course, drainage way, channel or street, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose.
- C. Natural features such as trees, brooks, hill-tops and views shall be preserved whenever possible in designating any subdivision containing such features.

- D. During construction the site shall be maintained and left each day in a safe and sanitary manner. Any conditions which could lead to personal injury or property damage shall be immediately corrected by order of the Building Inspector or Zoning Officer or other authorized personnel.
- E. Stumps, litter, rubbish, brush, weeds, roots, debris, excess or scrap building materials shall be removed from the site immediately upon request of the Building Inspector or other designated personnel. None of the same shall be buried on site without permission of the Building Inspector in writing. Burning of such is **PROHIBITED**.

Section 17-118. STORMWATER CONTROL STANDARDS:

A Stormwater Control Plan shall be prepared to include sufficient information to effectuate the intent of this Section and the standards set forth therein.

STATEMENT OF INTENT:

1. It is found that the rivers and streams within the Borough of Lincoln Park are subject to recurrent flooding, that such flooding endangers life and damages public and private property, that this condition is aggravated by encroachments in the flood plain, that all development within the flood plain contributes to the condition by decreasing flood storage volume and that the most appropriate method of alleviating such condition is through regulation of such development and encroachments. It is therefore determined that the special and paramount public interest in the flood plain justifies the regulation of land use located in the flood plain and regulation of storm drainage for the entire municipal area.
2. The areas of special flood hazard identified by the Federal Emergency Management Administration in the Flood Hazard Boundary Map and Flood Insurance Rate Map for the Borough of Lincoln Park are available in the Department of Planning and Building for use in determining status of the flood zone relative to particular properties. The New Jersey Department of Environmental Protection provides additional flood plain information and grants permits pursuant to appropriate State Statutes.

STORMWATER CONTROL AND RUNOFF CONTROL STANDARDS SHALL BE AS FOLLOWS:

1. The rate and/or velocity of stormwater runoff from said area shall not be increased over that which occurs under existing conditions.
2. The drainage of adjacent areas shall not be adversely affected.
3. Soil erosion during or after development shall not increase over that which, naturally occurs.
4. If applicable, soil absorption and groundwater recharge capacity of the area shall not be decreased below that which occurs under existing conditions.
5. The natural drainage pattern of the area is not significantly altered.
6. In order to duplicate as nearly as possible natural drainage conditions, regulation and control of stormwater runoff for any land area to be developed shall be through absorption systems; and the total of the detained water and absorbed water shall as nearly as possible; equal existing conditions.
7. The design storm required to meet the specific conditions of various areas of the Borough may vary; therefore site specific facility design acceptable to the municipality should be prepared.

ARTICLE IX.

PLAT DESIGN STANDARDS FOR MAJOR SITE PLANS

Section 17-120. PRELIMINARY SITE PLAT:

Preliminary Site Plat shall include the same data as required for a Final Plat in preliminary form but with sufficient detail to indicate the following:

- A. Compliance with all zoning requirements
- B. Availability of existing utilities
- C. Spot elevations on building site
- D. Building compliance with flood regulations and stormwater control standards as set forth in **Article IX, Section 17-121 (21)**.
- E. Vehicular and pedestrian ingress and egress and circulation within the site
- F. Preliminary architectural plans and elevations
- G. Preliminary lighting and landscaping plans
- H. Facilities for the collection or storage or recyclable materials in multi-family

Section 17-121. FINAL SITE PLAT:

Plan requirements.

All site plans shall comply with the requirements hereinafter set forth and shall contain the following information and data:

1. Such site plan shall be an accurate and true plot plan drawn to scale of one (1") inch equals fifty (50') feet on a sheet twenty-four (24") inches by thirty-six (36") inches as measured from the cutting edge. If one sheet is not of sufficient size to contain the entire territory, the map may be divided into sections to be shown on separate sheets of equal sizes with reference on each sheet to the sheets. Said plan shall be clearly and legibly drawn and presented either as an original drawing in black ink or translucent tracing cloth or its equivalent of good quality with signatures in ink or as an equivalent reproduction on translucent cloth or its equivalent and shall be accompanied by a cloth print duplicate thereof.
2. All distances shall be in feet and decimals of a foot, and all bearings shall be given to the nearest ten (10) seconds. The error of closure shall not exceed one (1) to ten (10) thousand.
3. The names of all owners of records of all property within two hundred (200') feet and the block and parcel number of the property.
4. Existing school zoning and any special district boundaries. Such features shall be shown on a separate map or as a key map on the detail map itself.
5. Boundaries of the property, building or set-back lines of existing streets, lots, reservations, easements and areas dedicated to public use.
6. A copy of any covenants or deed restrictions that are intended to cover all or any part of the tract.
7. The site plan shall show the principal structure or building use proposed, the front, rear and all side elevations, together with an artist's rendering of such building,

including the type and samples of exterior finishing materials. The site plan shall also show the proposed height of such building, the location of specific parking spaces, the flow of circulation and driveway, the proposed and existing grades, the proposed sewer connections, proposed screening and landscaping and such other information as may be required by the Municipal Agency.

8. Location of existing buildings which shall remain and all other structures such as wells, fences, culverts, bridges, roadways, etc. with spot elevations of such structures.
9. Location of all storm drainage structures and utility lines whether publicly or privately owned with pipe sizes, grades and direction of flow, and if any existing utility lines are underground an estimates location of said already underground utility lines shall be shown.
10. Existing contours with intervals of one (1') foot where slopes are more than three (3%) percent but less than fifteen (15%) percent and five (5') feet when fifteen (15%) percent or more, referred to a datum as provided by the Borough Engineer to be indicated by a dashed line. Where any changes in contours are proposed, finished grades should be shown as solid lines.
11. Location of existing rock outcrops, high points, watercourses, depressions, ponds, marshes, wooded areas, single trees not in wooded areas with a diameter of eight (8") inches or more as measured three (3') feet above the base of the trunk and other significant existing features, including previous flood elevations of water courses, ponds and marsh areas as determined by survey.
12. Title of development, north point, scale, name and address of record owner, Engineer, Architect or Surveyor preparing the site plan.
13. The site plan shall be prepared by a licensed Engineer or licensed Architect of the State of New Jersey 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. The site plan shall be accompanied by such other exhibits of architectural or engineering or planning nature submitted by the Developer or as may be required by the Municipal Agency, pursuant to the Borough of Lincoln Park Ordinance.
14. All proposed easements and public and community areas. All proposed streets with a) profiles indicating grading and b) cross-section showing width of roadway location and width of sidewalk, and location and size of utility lines according to the standards and specifications of all Borough of Lincoln Park Ordinances.
15. The proposed use or uses of land and buildings and proposed locations of buildings, including proposed grades. Such features should be indicated on a separate drawing where deemed desirable by the Borough Engineer.
16. All means of vehicular access and egress to and from the site into public streets, showing size and location of driveways and curb cuts.
17. The location and design of any off-street parking areas or loading areas, showing size and location of bays, aisles and barriers.
18. The location of all proposed water lines, valves and hydrants and all sewer lines or alternative means of water supply or sewage disposal and treatment in conformance with the applicable standards in the Borough of Lincoln Park Ordinances. The approval of the Borough Engineer for any sewage disposal system shall be submitted with all site plan applications and such approval shall be a condition precedent to approval of any site plan under this Chapter.
19. The proposed locations, direction of illumination power and time of proposed outdoor lighting in conformance with the applicable standards of the Borough of Lincoln Park.

20. Landscaping shall be provided as part of the over-all site plan design and shall be integrated into the building arrangement, included existing and new trees, bushes, shrubbery, ground area cover, perennial, annuals, plants, sculpture, art and the use of building and paving materials in an imaginative manner, subject to review and approval of the Shade Tree Committee.
21. A Stormwater Control Plan shall be prepared to include sufficient information to effectuate the intent and standards of **Section 17-118** of the Ordinance.
22. Such other information or data as may be required by the Municipal Agency in order to determine that the details of the site plan are in accordance with the standards of **CHAPTER 28 (ZONING ORDINANCE)** of the Code of the Borough of Lincoln Park and all other Ordinances of the Borough of Lincoln Park and further that the building or use will not offend the public interest.
- ¹²23. Facilities for the collection or storage of recyclable materials in multi-family housing development.

A) As used in this Ordinance:

“Multi-family housing development” means any building or structure, or complex of buildings in which three or more dwelling units are owner-occupied or rented or leased, or offered for rent or lease, for residential purposes (see N.J.S.A. 13:1E-99.13a.) and shall include hotels, motels, or other guest houses serving transient or seasonal guests as those terms are defined under **Subsection (j) of Section 3** of the “**Hotel and Multiple Dwelling Law,**” P.L. 1967, c.76 (C.55:13A-1 et seq.).

“Recycling area” means space allocated for collection and storage of source separated recyclable materials.

- B) Any application to the Borough of Lincoln Park Planning Board for subdivision or site plan approval for the construction of multi-family dwellings of three or more units, single family developments or 50 or more units or any commercial, institutional or industrial development for the utilization of 1,000 square feet or more of land, shall submit a recycling plan that must contain, at a minimum, the following:
- 1) A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development; and
 - 2) Locations documented on the applicant's site plan that provide for convenient recycling opportunities for all owners, tenants and occupants. The recycling area shall be of sufficient size, convenient location and contain other attributes (signage, lighting, fencing, etc.) as may be determined by the Municipal Recycling Coordinator.
- C) Prior to the issuance of a Certificate of Occupancy by the Borough of Lincoln Park, the owner of any new multi-family housing or commercial, institutional, or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials. The applicant shall make provisions for the indoor, or enclosed outdoor, storage and pickup of solid waste. Said provisions shall be approved by the Borough of Lincoln Park Engineer.

¹² Amended by Ordinance 1,395 Adopted 4/7/08 Effective 4/20/08, Art. IX, Sec. 23 A-C Amended to read and Art. IX, Sec. 23 B through G renumbered D-1

- D) The site plan for any new multi-family housing development shall include 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. The dimensions of the recycling area and the bins or containers shall be determined in consultation with the Municipal Recycling Coordinator and shall be consistent with Borough Ordinance Chapter 181 "Recycling".
- E) 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.
- F) 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 or recyclable materials, bins or containers.
- G) 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.
- H) 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.
- I) Landscaping and/or fencing shall be provided around any outdoor recycling area and shall be developed in an aesthetically pleasing manner.

Section 17-122. REVIEW STANDARDS:

The Municipal Agency, before approval, shall determine that the proposed site plan will compare favorably with community standards, other neighborhood improvements and the properly intended and planned appearance throughout any street or neighborhood. In making such determination, the Municipal Agency shall consider:

- A. **PROPOSED STRUCTURE:** The proposed structure shall be harmoniously related to the terrain and to existing buildings and thoroughfares in the vicinity that have a visual relationship to the proposed building. The achievement of such relationship shall include consideration of the following:
 - 1. The height, bulk and area of buildings.
 - 2. The architectural design.
 - 3. The type, color and quality of exterior materials.
- B. **PRESERVATION OF LANDSCAPE:** The landscape shall be preserved in its natural state, insofar as is practical, by minimizing tree and soil removal. If the development of the site necessitates removal of established trees, special attention shall be given to the planting of replacement trees. Any grade changes shall be in keeping with the general appearance of the neighboring developed

areas. The applicant shall submit proof of compliance with **ARTICLE XI (SOIL EROSION AND SEDIMENT CONTROL)** of this Chapter in connection with grade changes and tree removal. However, no grading or tree removal shall take place until such time as the Site Plan is approved by the Municipal Agency.

- C. **LANDSCAPING:** Adequate provisions for landscaping and screening shall provided as part of the over-all site plan design and shall be integrated into the building arrangement, topography, parking and buffering requirements. Landscaping shall include trees, bushes, shrubbery, ground area cover, perennial, annuals, plants, sculpture, art and the use of building and paving materials in an imaginative manner.
- D. The setback distance from all property lines.
- E. The size, location, construction and screening of automobile parking areas, general service areas, and recreation areas.
- F. The adequacy of all utilities, including water, sewerage, gas, electric, telephone, and television; which shall be installed underground.
- G. The size, location, design, color, texture, lighting and material of all permanent signs and advertising fixtures shall not detract from the design of the proposed building, structures, roads and the surrounding properties.
- H. The lighting of buildings and grounds.
- I. All parking and traffic problems that will develop as a result of construction pursuant to the plan.
- J. Adequate provision made for the drainage of the site by means of sub-surface pipes and drainage structures.
- K. The adequacy of fire protection and lighting facilities.
- L. All provisions of **CHAPTER 28 (ZONING ORDINANCE)** of the Code of the Borough of Lincoln Park not mentioned specifically above and the relationship of the proposed project to the health, safety and general welfare of the community, specifically its relationship to the comprehensive plan of the Borough as it is developed.
- M. The final plat shall include all data required on the preliminary site plan drawn to incorporate all changes required as a condition of preliminary approval.

ARTICLE X

FLOOD DAMAGE PREVENTION

Section 17-130.1 STATUTORY AUTHORIZATION:

The Legislature of the State of New Jersey has in New Jersey Statutes delegated the responsibility to local Governmental units to Adopt regulations designed to promote the public health, safety and general welfare of its citizenry and conform to Federal Emergency Management Agency criteria established for the National Flood Insurance Program. Therefore, the Mayor and Council of the Borough of Lincoln Park, in the County of Morris and State of New Jersey does ordain as follows:

Section 17-130.2 FINDING OF FACT:

- 1. The flood hazard areas of the Borough of Lincoln Park are subject to periodic inundation which causes loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public

expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

2. These flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by occupancy in flood hazard areas by uses vulnerable to floods or hazards or otherwise protected from flood damages.

Section 17-130.3 STATEMENT OF PURPOSE:

It is the purpose of this Ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. To protect human life and health;
2. To minimize the expenditure of public money for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruption;
5. To minimize damage to public facilities and utilities such as water and gas mains, telephone and sewer lines, streets and bridges located in flood plains;
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
7. To insure that potential homebuyers are notified that property is in a flood area.

Section 17-130.4 METHODS OF REDUCING FLOOD LOSSES:

In order to accomplish its purpose, this Ordinance uses the following methods:

1. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or flood heights or velocities.
2. Require that uses vulnerable to floods, including facilities; which serve such uses, be protected against flood damage at the time of initial construction.
3. control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.
4. Control filling, grading, dredging and other development; which may increase flood damage.
5. Prevent or regulate the construction of flood barriers which will unnaturally dive floodwaters or which may increase flood, hazards to other lands.

Section 17-131. DEFINITIONS:

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

"AREA OF SHALLOW FLOODING" means a designated **AO** or **VO** Zone on a communities Flood Insurance Rate Map (**FIRM**) with base flood depths from one (1') to three (3') feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"AREA OF SPECIAL FLOOD HAZARD" is the land in the flood plain within a community subject to a one (1%) percent or greater chance of flooding in any given year (100 year flood plain).

"BASE FLOOD" means the flood having a one (1%) percent chance of being equaled or exceeded in any given year (100 year flood plain).

"BASEMENT" means any area of the building having its floor sub-grade (below ground level on all sides).

"BREAKAWAY WALL" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

"DEVELOPMENT" means any man-made change to improve or un-improve real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of **SPECIAL FLOOD HAZARD**.

"ELEVATED BUILDING" means a non-basement building (i) built in the case of a building in an **AREA OF SPECIAL FLOOD HAZARD** to have the top of the elevated floor or in the case of a building in a Coastal High Hazard Area to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair structural integrity of the building during a flood of up to the magnitude of the **BASE FLOOD**. In an **AREA OF SPECIAL FLOOD HAZARD** **"ELEVATED BUILDING"** also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In Areas of Coastal High Hazard **"ELEVATED BUILDING"** also includes a building otherwise meeting the definition of **"ELEVATED BUILDING"** even though the lower area is enclosed by means of **"BREAKAWAY WALLS."**

"FLOOD" or "FLOODING" means a general and temporary condition of partial or complete inundation of normal dry land areas from:

- (1) The overflow or inland or tidal waters;
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

"FLOOD INSURANCE RATE MAP" (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of **SPECIAL FLOOD HAZARDS** and the risk premium zones applicable to the community.

"FLOOD INSURANCE STUDY" means the official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

"FLOODWAY" means 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 feet.

"LOWEST FLOOR" means the lowest floor of the lowest enclosed area (including basement). An unfinished or floor resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not built so to render the structure in violation of other applicable non-elevated design requirements.

“MANUFACTURED HOME” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term **“MANUFACTURED HOME”** also included park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term **“MANUFACTURED HOME”** does not include trailers, travel trailer and other similar vehicles.

“MANUFACTURED HOME PARK OR MANUFACTURED HOME SUB-DIVISION” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“NEW CONSTRUCTION” means structures for which the **“START OF CONSTRUCTION”** commenced on or after the effective date of this Ordinance.

“NEW JERSEY FLOOD HAZARD AREA” means the area flooded by the 100-year storm plus 25 percent in delineated areas.

“START OF CONSTRUCTION” (for other than new construction or substantial improvements under the Coastal Barrier Resources Act {P.L. 97-348}) includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means whether the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filing nor does it include the installation of street and/or walkways; 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.

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

“SUBSTANTIAL IMPROVEMENT” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds: 50 percent of the market value is of the structure either:

1. Before the improvement or repair is started, or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this **“SUBSTANTIAL IMPROVEMENT”** is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
 - a) Any protect for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
 - b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic places.

Section 17-132. GENERAL PROVISIONS:

Section 17-132.1 LANDS TO WHICH THIS ORDINANCE APPLIES:

This Ordinance shall apply to all areas of Special Flood Hazards within the jurisdiction of the Borough of Lincoln Park.

Section 17-132.2. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD:

The areas of Special Flood Hazard identified by the Federal Emergency Management Agency through a scientific and engineering report entitled "**THE FLOOD INSURANCE STUDY FOR THE BOROUGH OF LINCOLN PARK**" dated August 19, 1986, with accompanying Flood Insurance Rate Maps and Flood Boundary Maps and any revision thereto are hereby Adopted by reference and declared to be a part of this Ordinance.

Section 17-132.3 PENALTIES FOR NONCOMPLIANCE:

No structure or land shall hereinafter be construed, located, expended, converted or altered unless in full compliance with the terms of the Article and any other applicable regulations. Violation of the provisions of this Article, or failure to comply with any requirements, including violation of any conditions, safeguards or regulations established in connection with these requirements shall constitute a misdemeanor. Any person, firm, corporation, partnership or association violating this Article or failing to comply with any of its requirements shall upon conviction thereof, be subject to a fine not to exceed \$1,000.00 or up to ninety (90) days imprisonment, or both, for each violation. Each and every day that a violation continues shall constitute a separate offense. Nothing herein contained shall prevent the Borough of Lincoln Park from taking such other lawful action it deems necessary to prevent or remedy any violation hereof.

Section 17-132.4 ABROGATION AND GREATER RESTRICTIONS:

This Ordinance is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another Ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. The provisions of this Ordinance shall apply to such development as is permitted by the Lincoln park Development Regulations and Zoning Ordinance.

Section 17-132.5 INTERPRETATION:

In the interpretation and application of this Ordinance, all provisions shall be:

- 1) Considered as minimum requirements;
- 2) Liberally construed in favor of the Governing Body;
- 3) Deemed neither to limit nor repeal any other powers granted under State Statutes.

Section 17-132.6 WARNING AND DISCLAIMER OF LIABILITY:

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Ordinance does not imply any outside areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the Borough of Lincoln Park or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

Section 17-133 ADMINISTRATION:

Section 17-133.1 SITE PLAN APPROVAL REQUIREMENTS:

A site plan approval shall be obtained before construction or development begins within any area of Special Flood Hazard established in **Section 17-132.2** and the **NJDEP Flood Hazard Area** and must conform to **ARTICLE VI, Section 17-84**. A single family dwelling unit enlargement or expansion not constituting a substantial improvement may be exempt from Site

Plan review and approval upon the recommendation of the Administrative Officer with the concurrence of the Borough Engineer; provided that such enlargement or expansion or other improvement shall be substantially consistent with the standards set forth in Section 17-134 of this Article. Application for a Site Plan Review or Exemption shall be made to the Planning and Building Department on forms furnished by said Department and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically the following information is required:

- 1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
- 2) Elevation in relation to mean sea level to which any non-residential structure has been flood-proofed.
- 3) Plans showing how many residential **FLOOD PROOFING** structure will meet the **FLOOD PROOFING** criteria of **Section 17-134.2** and after the structure is built, a certification by a registered professional Engineer, or Architect that the structure as-built meets the criteria of **Section 17-134.2**.
- 4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- 5) The existing and proposed contours at a contour interval of two (2') feet.
- 6) The proposed elevations of the lands involved at the corners of the foundation of any structure or structures.
- 7) The lowest elevation of the lowest proposed area within any proposed structure after its completion.
- 8) The layout of existing and proposed public streets and the nature, extent and location of existing and proposed utilities servicing the premises in question.
- 9) The elevation of any existing or proposed pumping facilities and overflow elevations of vents or entrance ways, if underground. Overflow elevations of sewage treatment plant units.
- 10) The nature and extent of the construction, alterations, or repairs.
- 11) Proof of application for Stream Encroachment Permit, obtained from the New Jersey Department of Environmental Protection, except in the case of single family building additions of less than 200 sq. ft.
- 12) Proof of application and approval from other State and Federal agencies having jurisdiction therefore.
- 13) Base flood elevation data as supplied by the Flood Map.
- 14) The extent of filling of land, if any.
- 15) Surrounding structures within two hundred (200') feet radius.

Section 17-133.2 DUTIES AND RESPONSIBILITIES OF THE PLANNING AND BUILDING DEPARTMENT:

Duties of the Construction Code Official shall include, but are not limited to:

- A. Permit Review II

- 1) Review all development applications to determine that the requirements of this Ordinance have been satisfied.
- 2) Review all development applications to require that all necessary permits have been obtained from those Federal, State or Local Governmental Agencies from which prior approval is required.

B. Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with **Section 17-132.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**, then the Borough Engineer shall obtain, review and reasonably utilize any base flood elevation data available from a Federal, State or other source, in order to administer **Section 17-134.2.A, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION**, and **Section 17-134.2.B., SPECIFIC STANDARDS, NON-RESIDENTIAL CONSTRUCTION**.

C. Information To Be Obtained and Maintained

- 1) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- 2) For all new or substantially improved flood-proof structures:
 - i) Verify and record the actual elevation (in relation or mean sea level), and
 - ii) Maintain the **FLOOD PROOFING** certifications required in **Section 17-133.1.(3)**.
- 3) Maintain for public inspection all records pertaining to the provisions of this Ordinance
- 4) Preparation and certification of minimum first floor elevations and flood plain location shall be supplied by the Municipal Agency at a fee of \$3.00.

D. Alteration of Watercourse

- 1) Notify adjacent communities, the New Jersey Department of Environmental Protection and the U.S. Army Corps of Engineers prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency and the Borough.
- 2) Require that maintenance if provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Interpretation of **FIRM** Boundaries.

Make interpretations where needed, as to the exact location of the boundaries of the area of **SPECIAL FLOOD HAZARDS** (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Article.

Section 17-134. PROVISIONS FOR FLOOD HAZARD REDUCTION:

Section 17-134.1 GENERAL STANDARDS:

When permitted by the Lincoln Park Development and Regulation Ordinance, construction and development shall be in compliance with the following provisions. In all areas of **SPECIAL FLOOD HAZARDS** the following provisions are required:

A. Anchoring

- 1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- 2) All manufactured homes shall be anchored to resist floatation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

B. Construction Materials and Methods

New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

All flood-proofed structures shall conform to the standards published in **FLOOD PROOFING REGULATIONS**, drafted for the Office of the Chief of Engineers by the Army Corps., of Engineers District, Pittsburgh, Pennsylvania, June 1972, and be certified by a Registered Professional Engineer or Architect in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the Official set forth in **Section 17-133.3.C(b)**.

C. Utilities

- 1) All new and replacement water supply systems shall be minimized or eliminate infiltration of flood water into the system;
- 2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges, from the systems into flood waters; and
- 3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- 4) Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. Subdivision and Site Plan Proposals

- 1) All subdivision and site plan proposals shall be consistent with the need to minimize flood damage.

- 2) All subdivision and site plan proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- 3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- 4) Base flood elevation data shall be provided for all subdivision and site plan proposals.

E. Enclosure Openings

For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a Registered Professional Engineer or Architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1") square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1') foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Section 17-134.2 SPECIFIC STANDARDS:

In all areas of special flood hazards and the NJDEP FLOOD HAZARD AREA, the following standards are required:

A. Residential Construction

New construction or a substantial improvement of any residential structure shall have the lowest floor including basement elevated one above the base flood elevation or elevated to the **NJDEP FLOOD HAZARD AREA DESIGN FLOOD ELEVATION** which ever is more restrictive. Garage floors may be built below the base flood elevation. All structures built below the base flood elevation shall have openings to allow free flow of floodwaters. One square foot of opening shall be provided for every one hundred fifty (150') square feet of building floor area and shall conform to the standards published in **ELEVATED RESIDENTIAL STRUCTURES**, Federal Insurance Administration, Department of Housing and Urban Development, September, 1976.

B. Non-Residential Construction

New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated one (1') foot above the base flood elevation or together with attendant utility and sanitary facilities, be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water with structural component having the capability of resisting hydrostatic and hydrodynamic loads, and effects of buoyancy. All flood-proofed structures shall conform with the standards published in **FLOOD PROOFING REGULATIONS**, drafted for the Office of the Chief of Engineers by the Army Corps. of Engineers District, Pittsburgh, Pennsylvania, June 1972. A Registered Professional Engineer or Architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Official as set forth in **Section 17-133.3.C(2)**.

C. Mobile Homes

- 1) Mobile homes shall be anchored in accordance with **Section 17-134.1A(2)**.
- 2) All manufactured homes to be placed or substantially improved within an area of **SPECIAL FLOOD HAZARD** shall be elevated on a permanent foundation so that the top of the lowest floor is at or above the **BASE FLOOD ELEVATION**.

Section 17-134.3 FLOODWAYS:

Located within areas of **SPECIAL FLOOD HAZARDS** established in Section 17-132.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters; which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- 1) Prohibited encroachments include fill, substantial improvements, and any other development unless a technical evaluation certified by a qualified professional demonstrates that the encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- 2) Any new construction within the floodway is prohibited.
- 3) The placement of any mobile homes, except in an existing mobile home park or existing mobile home subdivision is prohibited.
- 4) Permitted encroachments include the elevation of existing prohibited encroachments provided that the structures are elevated on pilings or the foundation is completely open on three sides to permit the free flow of floodwaters.
- 5) On streams and swales having a tributary drainage area of 50 acres or more. The cumulative effect on any proposed development on said watercourse, when combined with all other existing and anticipated development; shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point. It shall be the responsibility of the Developer to establish a floodway on said watercourse for which a floodway has not been established by the State.

Section 17-134.4 VARIANCES:

The Municipal Agency of the Borough of Lincoln Park, shall issue variances with regard to the above regulations in accordance with the following guidelines:

- A. Variances may be issued by the Municipal Agency for new construction and substantial improvements to be erected on any lot contiguous to, and surrounded by lot with existing structure construed below the base flood level, provided that:
 1. Variances shall be issued by the Municipal Agency only upon a determination that:
 - a. Failure to grant the variance would result in exceptional hardship to the applicants, and
 - b. The granting of a variance will not result in increased flood heights, additional threats to public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
 - c. The variance is the minimum necessary, considering the flood hazard, to afford relief.

- d) The granting of the variances will not violate or conflict with any applicable regulations, or provisions of the National Flood Insurance Program.
2. The Municipal Agency shall notify the applicant in writing 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 \$25.00 for \$100.00 of insurance coverage and such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in the following Section.
 3. The Municipal Agency shall:
 - a. Maintain a record of all variance actions, including justifications for their issuance; and
 - b. Report such variances issued in its annual report submitted to the Administrator.
 4. Evidence of the relief granted shall be incorporated in the record title to the premises by the appropriate execution and recordation of a deed in the Morris County Clerk's Office and submission of a copy thereof together with a notice of the relief granted to the Federal Emergency Management Agency.

Section 17-134.5 TIME LIMITS:

The Municipal Agency shall act upon any flood encroachment plan provided for in **Section 17-133** within ninety (90) days of the date of filing thereof or the date of approval by the State Department of Environmental Protection, whichever is later; provided, that such time may be extended with the written consent of the Developer. Failure of the Municipal Agency to act within the time limits shall be deemed an approval of any site plan submitted under this Article, Municipal Agency disapproval shall include written findings.

Section 17-137. ISSUANCE OF PERMITS:

No building permit shall be issued by the Building Inspector for any proposed structure to be located within any flood plain area unless the Municipal Agency shall have approved a flood encroachment plan submitted in accordance with Section 17-133 of this Article. No certificate of Occupancy shall be issued by the Building Inspector unless proof has been submitted to him that all conditions of flood encroachment plan approval have been fully complied with.

If any person shall be aggrieved by the action of the Municipal Agency or building Inspector, appeal may be made to the Borough Council, within ten (10) days after the date of such action. The Borough Council shall fix and notify appellant of time and place for a hearing on such appeal and the Developer shall cause notice of such hearing to be published in the Official Newspaper of the Borough at least ten (10) days prior to the hearing. All parties in interest shall be afforded an opportunity to be heard.

The Borough Council may grant relief from the actions of the Municipal Agency, Building Inspector and Administrative Official if such relief can be granted without substantial detriment to the purpose and policy set forth in Section 17-130.3 of this Article. Evidence of the relief granted shall be incorporated in the record title to the premises by the appropriate execution and recordation of a deed in the Morris County Clerk's Office and submission of a copy thereof together with a notice of the relief granted to the Federal Emergency Management Agency.

ARTICLE X.A.

STORMWATER MANAGEMENT

Available as Separate Volume

ARTICLE XI.

SOIL EROSION AND SEDIMENT CONTROL

Section 17-140. TITLE; PURPOSE OF ARTICLE:

This Article will be known as the "**BOROUGH OF LINCOLN PARK SOIL EROSION AND SEDIMENT CONTROL**".

- A. This Article will be known as the "**BOROUGH OF LINCOLN PARK SOIL EROSION AND SEDIMENT CONTROL**".
- B. Excessive quantities of soil are eroding from areas undergoing development. Site clearance, land filling, single and multiple family housing, industrial and commercial development and highway and utility construction sites all produce off site sediment damages.
- C. The word "**DEVELOPER**" or the word "**APPLICANT**" shall be taken synonymously in the context of this Article and shall mean any person or entity that shall be subject to the regulations imposed, pursuant to this Ordinance. The purpose of this Article is to control soil erosion and the resulting sedimentation from occurring on developing areas by requiring proper provisions for water disposal and the protection of soil surfaces during and after construction in order to promote the safety, public health, convenience and general welfare of the community.

Section 17-141. GRADING PERMITS:

- A. When required.
 - 1. No land shall be cleared, graded, disturbed or filled, and no soil shall be transported or stored for any purpose including, but not limited to, the construction of buildings, the mining of minerals, the development of golf courses and the construction of roads and streets and in addition no site plan or preliminary plat for a major subdivision shall be approved unless there has been a valid grading permit granted or except otherwise in compliance with the provisions of the Article.
 - a. A separate application shall be required for each grading permit. The application shall be submitted in triplicate on forms approved by the Municipal Agency and provided by the Administrative Officer. Where a soil erosion and sediment control plan is required, it shall be submitted in triplicate, with the application, to the Secretary of the Municipal Agency by the applicant. In any case in which duration of exposure of a disturbed area lasts longer than set forth in the erosion control plan, an amended plan shall be submitted.
 - b. The Developer must submit a soil erosion and sediment control plan for the entire parcel to be developed. The Soil erosion and sediment control plan shall contain:
 - i. Plans and specifications of soil erosion and sediment control measures in accordance with the soil erosion and sediment control standards;

- ii. A timing schedule indicating the anticipated starting and completion dates of the development sequence and the anticipated dates of duration of exposure of each area prior to the completion of effective erosion and sediment control measures.
 - iii. Calculation of the expected soil erosion from the site during the period of exposure.
 - iv. The Plans shall be prepared or approved and signed by a Professional Engineer
 - c. The soil erosion and sediment control plan hereafter referred to as "**THE PLAN**", shall be approved or disapproved by, the Municipal Agency in accordance with the principles and standards set forth in this Article.
- B. When not required.
- 1. A grading permit shall not be required upon a written determination by the Borough Official hereinafter designated that an erosion and sedimentation control plan is not necessary because the calculated expected land disturbance area is less than five thousand (5,000') square feet from the site and does not exceed the standards set forth in this Article and is not expected to cause damage to adjacent property.
 - a. The Borough Official designated to make the determination that an erosion and sedimentation control plan is not necessary shall be the Building Inspector in the case of residentially zoned lots having an area of twenty thousand (20,000') square feet or less.
 - b. The Borough Engineer shall be the Borough Official designated to make the determination that an erosion and sedimentation control plan is not necessary in all other instances.
 - 2. No grading permit shall be required for:
 - a. Grading as defined by this Article where the area to be disturbed measures less than one hundred (100') square feet, provided that stockpiling of excavated or fill material shall not exceed the period of thirty (30) days.
 - b. Plowing, clearing or cultivation of land for the purpose of residential landscaping and for the purpose of growing flowers, trees, shrubs, or farm products where the land has been previously used for such activity.

Section 17-142. DESIGN PRINCIPLES, DEVELOPMENT STANDARDS, ETC.:

The Municipal Agency shall act to approve or disapprove the plan within thirty (30) days of submission of a complete application unless, by mutual agreement, in writing between the Municipal Agency and the applicant, this period is extended for an additional thirty (30) days. Failure of the Municipal Agency to make a decision within such period of such extension thereof shall constitute certification. The Municipal Agency may refer any such plan to the Borough Engineer, the County Soil conservation District or such other local, County, State or Federal Agency as may be particularly qualified to review such plan.

The applicant shall be provided with written notice of such decision by the Municipal Agency. A copy of such decision, including the name of the applicant, site location, by street, address, and block and lot number, and proposed land use shall be sent to the Morris County Soil Conservation District. The Municipal Agency shall also make available such other information as

may be required by the district. If the Municipal Agency approves the plan, the Chairman and the Secretary of the board shall endorse a written statement of such approval on the plan.

The Municipal Agency shall thereupon forward a copy of the approved plan to the Building Inspector who shall thereupon issue the grading permit upon payment of the prescribed fee. If the Municipal Agency disapproves the plan, the reasons therefore shall be stated to the applicant in writing.

A. General design principles.

The following principles are effective in minimizing soil erosion and sedimentation and shall be adhered to, where applicable in the soil erosion and sediment control plan.

1. Land clearing, stripping of vegetation, land filling, re-grading or other development shall be done in such a way that will minimize soil erosion.
2. Whenever feasible, natural vegetation shall be retained, protected and supplemented.
3. This disturbed area and the duration of exposure of such area shall be kept to a practical minimum, the duration of exposure to be established by the Municipal Agency or designated Borough Official. Permanent improvements, such as roads, catch basins, curbs, etc., shall be installed as quickly as possible.
4. Temporary seedings or mulching shall be used to protect exposed critical areas during development.
5. Provisions shall be made to accommodate the increased water runoff caused by changed soil and surface conditions during and after development.
6. Sediment in the runoff water shall be trapped to the maximum extent possible, by the use of sediment basins, or other methods, in accordance with the Soil Erosion and Sediment Control Standards stabilized.
7. Diversions, sediment basins and other erosion and sedimentation control measures, where required, shall be constructed prior to any one site grading or disturbance of existing surface material.

B. Development Standards:

The detailed plans and specifications in any soil erosion and sedimentation control plan shall be dictated by the characteristics of the site to be developed and the nature of the development. Erosion and sediment control measures shall be required wherever the estimated average annual soil loss as calculated according to the regulations set forth by **ARTICLE IV, SEC. Q** of the Land Development Standards of the County exceeds the allowable soil loss according to the regulations set forth by the above **ARTICLE IV, SEC. Q**, or wherever the Borough Engineer finds that the estimated soil loss will cause damage to adjacent property or to property within five hundred (500') feet of the development.

In determining allowable soil loss, the Borough Engineer shall rule as to whether the damaged area is high or low value.

Standards and specifications for measures used in the soil erosion and sediment control plan shall be in accordance with the standards and specifications for soil erosion and sediment control of the County Soil Conservation District and the County Development Standards. The requirement for erosion and sediment

control measures shall apply to all features of the construction site, including street and utility installations as well as to the protection of individual lots. Measures shall be instituted to prevent or control soil erosion and sedimentation during the various stages of development, as well as on the completion of development where necessary.

C. Performance and Maintenance Bonds

The Municipal Agency may require the posting of performance bonds and maintenance bonds in the same manner as provided in **Section 17-91**.

D. Maintenance

Developers carrying out soil erosion and sediment control measures under this Article and all subsequent owners of property on which such measures have been installed shall adequately maintain all temporary and permanent soil erosion control measures, devices and planting in effective working condition.

Section 17-143. INSPECTION; ENFORCEMENT OF ARTICLE:

A. Inspection:

The applicant shall keep a certified plan on the site of the construction during the period of construction.

B. Enforcement:

Except in the case of residentially zoned lots having an area of twenty thousand (20,000') square feet or less, the requirements of this Article shall be enforced by the Borough Engineer who shall inspect or require adequate inspection of the work. If the Borough Engineer finds any existing conditions not as state in any application, he may refuse to approve further work. Upon satisfactory completion of the work, the Borough Engineer shall file with the Municipal Agency and the Building Inspector a signed written statement certifying that specific constructions, inspections or tests, where required, have been performed and that such comply with the applicable requirements of this Article or regulations Adopted hereunder. The requirements of this Article shall be enforced by the Building Inspector in the case of applications involving residentially zoned lots having an area of twenty thousand (20,000') square feet or less. The Building Inspector shall also inspect or require adequate inspection of the work and if he shall find any existing condition not as stated in any application, he may refuse to approve further work. No Certificate of Occupancy for any building will be granted unless there has been compliance with the provisions of the approved plan for permanent measures to control soil erosion and sedimentation. A formal report of such compliance must be filed with the Building Inspector. A copy of this report shall be sent to the Morris County Soil Conservation District.

C. Failure to Maintain:

In then event of a failure to maintain any temporary or permanent erosion and sedimentation control measures in effective working condition, the Borough Engineer or the Building Inspector, as the case may be, shall issue a stop work order, revoke the Certificate of Occupancy or take such other steps to obtain compliance with the soil erosion and sedimentation control plan as may be lawful.

Section 17-144. PERMIT APPLICATION FEES:

Any application for a grading permit shall be accompanied by a fee as follows:

- A. Where no erosion and sedimentation control plan is necessary:
 - 1. Upon determination by the Building Inspector: NONE
 - 2. Upon determination by the Borough Engineer: \$25.00
- B. Where an erosion and sedimentation control plan is necessary, the fee shall be such fee as required by the Subdivision Ordinance in the case of major subdivisions and in all other cases, two and one-half (2 ½ %) percent of the amount of the bond posted, or if no bond is filed, the fee shall be equal to two and one-half (2 ½ %) of the amount certified by the Borough Engineer to be the cost of the work to be performed. The fee shall cover the cost of the advice, time and full inspection of the work to be performed by the Borough Engineer to enable him to advise the Municipal Agency in connection with its evaluation of the application and progress and development of the work.

Section 17-145 PENALTIES:

If any person violates any of the provisions of this Article, or fails to comply with the provisions of a certified plan, the municipality may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent such violation or violations and said court may proceed in a summary manner. Any person who violates any of the provisions of this act, and standard promulgated pursuant to this Act or fails to comply with the provisions of a certified plan, shall be liable to a penalty of not less than \$25.00 nor more than \$3,000.00 to be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N.J.S.A. 2A:58-1 et seq.). The Superior County Court, County District Court and Municipal Court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional separate and distinct offense.

Section 17-146 EFFECTIVE DATE:

THIS Article shall take effect following municipal Adoption and publication according to law and upon subsequent and final approval by the State Soil Conservation Committee.

ARTICLE XII

SOIL REMOVAL

Section 17-151 SOIL REMOVAL PERMIT – REQUIRED; EXCEPTIONS:

No Developer shall excavate or otherwise remove solid for sale or for use other than on the premises from which the soil shall be taken, except in connection with the construction or alteration of a building on such premises, and excavation or grading incidental thereto, without first having procured permission therefrom from the Governing Body.

Section 17-152 SAME – APPLICATION; TOPOGRAPHICAL MAPS:

The Governing Body shall not consider any application for the removal of soil from the premises for sale or otherwise unless and until the owner of the premises shall first file with the Borough Clerk an application requesting such permission, together with a map on the premises showing the contour lines and proposed contour grades resulting from such intended removal of soil in relation to the topography of the premises, and the proposed contour lines and proposed grades shall be subject to the inspection and approval of the Governing Body. No such permission for soil removal shall be issued until such map has been filed, and until the proposed contour lines and grades have been approved by the Governing Body.

Section 17-153 SAME – HEARING BEFORE GOVERNING BODY:

Upon written request for a hearing made by the Developer for a permit under this Article to the Governing Body, an opportunity to be heard shall be granted within thirty (30) days thereafter and the Governing Body in considering and reviewing the application and in arriving at its decision shall be guided and take into consideration the public health, safety and general welfare and particular consideration shall be given to the following factors:

- A. Soil erosion by water and wind
- B. Drainage
- C. Soil Fertility
- D. Lateral support slopes and grades of abutting streets and lands
- E. Land value and uses
- F. Such other factors as may bear upon or relate to highway safety and street maintenance and to the coordinated, adjusted and harmonious physical development of the Borough.

If after examining the application and the map provided for in Section 17-152, and after the hearing in the event a hearing is requested by the Developers the Governing Body shall be of the opinion that the proposed soil removal will not create conditions inimical to the public health, welfare and safety, and will not result in the creation of any sharp declivities, pits or depressions, soil erosion or fertility problems, depressed land values, nor create any drainage, sewerage problems or other conditions of danger, permission to remove the soil shall be granted.

Section 17-154 OPERATIONS GENERALLY:

If permission to remove the soil shall be granted, the owner or person in charge shall so conduct the operations that there shall be no sharp declivities, pits, or depressions, and in such a manner that the area shall be properly leveled off, cleared of debris and graded to conform with the contour lines and grades as approved by the Governing Body.

Section 17-155 REMOVAL OF TOPSOIL:

The owner of the premises or the person in charge of the removal of soil, when permission has been duly granted, shall not take away the top layer of arable soil for a depth of six (6") inches, but such layer of arable soil to a depth of six (6") inches shall be set aside for retention on the premises, and shall be re-spread over the premises when the rest of the soil has been removed, pursuant to levels and contour lines approved by the Governing Body.

Section 17-156 BOND:

Before any permit or permission for soil removal shall be granted or issued, the owner or developer shall file with the Governing Body a bond, in form, and with surety acceptable to the Governing Body, in such amount as in the opinion of the Governing Body shall be sufficient to insure the faithful performance of the work to be undertaken pursuant to the permission granted by the Governing Body pursuant to the provisions of this Article.

Section 17-157 COMPLIANCE WITH ARTICLE; RESPONSIBILITY OF MUNICIPAL AGENCY:

- A. No excavation shall be made and no soil shall be removed under the provisions of this Article, unless a permit therefore shall have been first obtained as provided herein, and no excavation shall be made, and no soil shall be removed, except in conformity with the provisions of this Article.

- B. In cases involving a tract of land which is the subject of a development proposal or which by virtue of the nature of the tract is capable of development, the Governing Body may first refer the application and all accompanying data to the Planning Board or other Municipal Agency. The Municipal Agency shall review the application in light of sound planning consideration, zoning requirements for the area, the master plan of the Borough, the pending development application, if there be one, and the nature of the surrounding terrain and proposed contours and shall thereafter report its findings to the Governing Body with recommendations based upon the foregoing considerations. The Municipal Agency shall file its report and recommendations within forty-five (45) days after receipt by it of the application from the Governing Body.

Section 17-158 FEES:

The following fees and charges are hereby established:

- A. For the filing of an application and plans for permit, **one hundred fifty (\$150.) dollars**
- B. For the issuance of a permit, **two hundred fifty (\$250.) dollars** for the first twenty thousand (20,000') square feet of area to be excavated and **one hundred (\$100.) dollars** for each additional two (2) acres of any part thereof.

ARTICLE XIII

DESIGN STANDARDS FOR RESIDENTIAL LOT CLUSTER SUBDIVISIONS

Section 17-160 RESIDENTIAL LOT CLUSTER DEVELOPMENT STANDARDS:

When a subdivision development is proposed under the provisions of **ARTICLE XI, RESIDENTIAL LOT CLUSTER DEVELOPMENT** of Chapter 28 (Zoning Ordinance) of the Code of the Borough of Lincoln Park, the Municipal Agency, prior to any approval, shall review any such proposal and assure that the standards set out in this Article are complied with. These standards shall be in addition to those required in **ARTICLE VIII PLAT DESIGN STANDARDS FOR SUBDIVISIONS** of this Chapter.

Section 17-161. GENERAL, STANDARDS:

Any proposed **RESIDENTIAL LOT CLUSTER DEVELOPMENT** shall comply with the following standards.

- A. The subdivision development plan shall not result in a greater total gross density than if the property in question were developed conventionally.
- B. The common open space shall be at least equal to the total lot area reductions in lot area requirements.
- C. Any area reserved as common open space shall be suitable for its intended purpose and the location, size and shape thereof shall be subject to the approval of the Municipal Agency.
- D. The common open space shall be reserved in perpetuity by dedication for public use or by private covenant or by deed restriction in conformance with **ARTICLE XIV** of this Chapter for use by the residents of the development for one of the following purposes:
 - 1. Undeveloped open space
 - 2. Recreation areas including but not limited to the following purpose: environmental study areas, parks, playgrounds and ball fields.

3. Conservation of environmentally sensitive features including but not limited to steep slopes, wetlands, floodplains and wooded areas.

Section 17-162 DEVELOPMENT REVIEW:

The Municipal Agency in its review of common open space proposals shall investigate the size of parcels devoted to open space areas, their location within the project, the topography, the uses contemplated upon such common open space, configurations of the parcels under consideration, facilities and improvements to be provided, the provisions made for maintenance of an access to said parcels, traffic flow around said parcels, the ecological aspects, the staging or timing of the common open space development and how various categories of recreation facilities or open space and their location will be proportionally related to the staging of development of housing units if such staging is proposed.

If the Municipal Agency determines that any proposed lot cluster development proposal does not adequately conform to the provisions of this Article, the Municipal Agency shall deny the proposal.

Section 17-163 SPECIAL PROCEDURES FOR RESIDENTIAL LOT CLUSTER SUBDIVISION PROPOSALS:

The following additional requirements shall be complied with for any **RESIDENTIAL LOT CLUSTER SUBDIVISION** proposal.

- A. A sketch plat shall be submitted to the Municipal Agency complying with all the conventional subdivision requirements of the zoned district in which the proposed subdivision is located without regard to the residential lot clustering provisions of the Article. This sketch plat shall be used by the Municipal Agency to the maximum number of homes permissible in the proposed subdivision.
- B. Only the gross usable area shall be used in determining the maximum number of homes that would be feasible if the subject property were developed as a conventional subdivision.
- C. Following a determination by the Municipal Agency of the maximum number of homes permissible in the proposed subdivision, the applicant shall submit an additional sketch plat to the Municipal Agency setting forth the details of the proposed subdivision pursuant to this Article. The applicant shall then submit a preliminary plat and the subdivision shall then be processed by the Municipal Agency in the manner set forth in **Section 17-85 "MAJOR DEVELOPMENT PROPOSALS"** of this Chapter.

Section 17-164 DESIGN STANDARDS FOR COMMON OPEN SPACE:

Provisions for common open space shall be deemed adequate if the Municipal Agency determines that:

- A. Portions of the common open space are readily accessible
- B. The uses designated for common open space are appropriate, reasonably related and sufficient to meet the needs of the community.
- C. The uses designated for common open space shall be functionally related to the development.
- D. The topography of the land is suitable for the uses contemplated.
- E. The uses contemplated, will not be detrimental to the ecology of the area.

- F. The common open space is conveniently and appropriately designed with regards to the projects pedestrian and vehicular traffic patters, to provide adequate access to, in, around and from the uses proposed.
- G. All restrictions, covenants or other dedications of record shall be designed to preserve and maintain common open space areas for the uses initially proposed in perpetuity

Section 17-165 DEDICATION OF LANDS TO THE BOROUGH:

Lands offered to the Borough under **Chapter 28 (Zoning Ordinance) ARTICLE XI**, of the Code of the Borough of Lincoln Park shall meet the following requirements.

- A. Every proposed dedication of land shall be conveyed to the Borough by deed at the time of submission of the canal plan. The deed shall contain such restrictions as may reasonably be required by the Municipal Agency, and shall be subject to the approval of the Borough Attorney.
- B. In the case of a staged development, the Municipal Agency may require that land be donated to the Borough proportionate in area to the particular stage prior to the time such stage is granted final approval. Land so dedicated, may be located in a different section of the overall development.
- C. Any land offered for dedication to the Borough shall be optimally related to the overall plan and design of the development and be improved to best suit the purpose(s) for which it is intended,
- D. The lands offered to the Borough shall be subject to review by the Municipal Agency which, in its review and evaluation of the suitability of such land, shall be guided by the Master Plan, by the Official Map if any, by the ability to assemble and relate such lands to other Borough lands, services and facilities and by the accessibility and potential utility of such lands.

ARTICLE XIV

STANDARDS FOR THE ESTABLISHMENT OF AN OPEN SPACE ORGANIZATION

Section 17-170 ESTABLISHMENT OF AN OPEN SPACE ORGANIZATION:

In the case of a **RESIDENTIAL LOT CLUSTER DEVELOPMENT**, a planned residential development or a townhouse development, where the individual units are to be offered for sale, the Developer shall, not later than ten (10) days following issuance of the first Certificate of Occupancy, but in advance of any conveyance or transfer of title, provide for a non-profit organization for the ownership and maintenance of any common Open Space Organization plan for the benefit of owners or residents of the development unless said common open space is to be dedicated to and accepted by the Borough.

Section 17-171 ACTIVATION OF OPEN SPACE ORGANIZATION:

The non-profit Open Space Organization shall be activated when sixty-one (61%) percent of the lots or units in the development or section thereof shall have been sold. Title of all common open space properly shall be conveyed to such organization at the time such organization is activated.

Section 17-172 MEMBERSHIP:

Membership in such Open Space Organization shall be automatic upon conveyance of title to any property by the Developer.

Section 17-173 DISPOSAL OF LAND:

Such Organization shall not be dissolved and shall not dispose of any common open space area established as part of a residential lot cluster, planned residential or townhouse development by sale or otherwise, except to an organization conceived and established to own and maintain the common open space for the benefit of such development, and any such successor organization shall not be similarly dissolved or disposed of any of its common open space without first offering to dedicate the same to the Borough.

Section 17-174 FAILURE TO MAINTAIN OPEN SPACE RECREATION AREAS:

In the event that such organization shall fail to maintain the common open space area in reasonable order and condition, the Governing Body may serve written notice upon such organization or upon the owners of the development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within thirty-five (35) days thereof, and shall state the date and place of a hearing thereon which shall be held within fifteen (15) days of the notice. At such hearing, the Governing Body may modify the terms of the original notice as to deficiencies and may give a reasonable extension of time not to exceed sixty-five (65) days within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within the prescribed time or any permitted extension thereof, the Governing Body in order to preserve the common open space and maintain the same for a period of one (1) year may enter upon and maintain such land. Said entry and maintenance shall not vest in the public any rights to use the common open space except when the same involuntarily dedicated to the public by the owners. Before the expiration of said year, the Governing Body shall upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon fifteen (15) days written notice to such organization and the owners of the development shall show cause why such maintenance by the Borough shall not, at the election of the Borough, continue for a succeeding year. If the Governing Body shall determine that such organization is ready and able to maintain said common open space in reasonable condition, the Borough shall cease to maintain said common open space at the end of said year. If the Governing Body shall determine such organization is not ready and able to maintain said common open space in a reasonable condition, the Borough may, in its discretion, continue to maintain said common open space during the next succeeding year, subject to its similar hearing and determination, in each year thereafter. The decision of the Governing Body in any such case shall constitute a final Administrative decision subject to judicial review.

Section 17-175 ASSESSMENT OF MAINTENANCE COSTS:

Costs of any maintenance by the Borough, shall be assessed pro-rata against the properties within the development that have a right of enjoyment of the common open space in accordance with assessed value at the time of imposition of the lien, and shall become a lien and tax on said properties and be added to and be made a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officers and in the same manner as other taxes.

Section 17-176 ADOPTION OF BINDING RULES AND REGULATIONS:

The Municipal Agency shall require that any organization chartered for open space management established pursuant to this Article, shall Adopt certain binding Rules and Regulations or by-laws not subject to change without prior approval from the Municipal Agency with respect to insuring the objectives and purposes of reasonable maintenance. Said requirements of the Municipal Agency may vary as to particular applications and the buildings, structures and uses proposed therein; provided however, that any such variations or requirements may not be inconsistent with each other. The following information and/or documents shall be submitted not later than ten (10) days following issuance of the first Certificate of Occupancy⁷, but in advance of any conveyance or transfer of title.

1. The time when the organization is created.

2. The form of organization, whether a corporation, partnership, trust or other.
3. The liability of the organization for the issuance, taxes and maintenance of all facilities.
4. The mandatory or automatic nature of membership in the organization by residents or successors.
5. Provision for sharing of costs and assessments.
6. The capacity of the organization to administer common facilities and preserve the benefits of the common open space.
7. Whether members of the organization are owners or tenants and any distinctions between types of members, if any.
8. Recordable documents evidencing a reservation and/or restrictions on areas allocated for common open space pursuant to the requirements of approval pursuant to this Article. Any such reservation or restriction shall be binding on all successors in interest in the lands in question and subject to the prior approval of the Governing Body.

Section 17-177 FILING DOCUMENTS:

Any organization organized pursuant to this Article shall submit a true copy of its Charter, By-laws and a list of all of its officers, trustees or any person, corporation, firm or association having a vote or power to regulate the affairs of the said organization. Said documents shall be filed in the Office of the Borough Clerk within ten (10) days of their effective date.

ARTICLE XV

PRO, PLANNED RESIDENTIAL DEVELOPMENT

Section 17-180 GENERAL PROVISIONS:

Development Review procedure for Planned Residential Development Option shall be in accordance with **ARTICLE VI**. Development Review Procedures for Planning Board and Zoning Board of Adjustment, of this Chapter except as otherwise provided in this Article. Any Planned Residential Development in which one or more dwelling units shall be conveyed in fee ownership shall comply with the subdivision provisions of **ARTICLE VI**, **ARTICLE VIII** and **ARTICLE XIV** of this Chapter provided that the Municipal Agency may simultaneously conduct subdivision and site plan review.

Section 17-181 PRE-APPLICATION PROCEDURES:

- A. Pre-Application meeting

Any Planned Residential Developer may request a pre-application meeting with the Municipal Agency for the purpose of preliminary discussions to acquaint the Municipal Agency with the proposed development. The Municipal Agency may indicate to the Developer the constraints upon the development contained in this and other Ordinances of the Borough that may bear upon his proposal and discuss the impact of the proposal upon the Borough Master Plan.

- B. Information and Plans.

Any Planned Residential Developer requesting a pre-application meeting shall submit to the Administrative Officer not less than ten (10) days prior to a regularly scheduled meeting of the Municipal Agency the following information and plans:

1. General information to include name or names of owners of record of the property proposed for development, legal description of the property, boundaries, utilities serving the property, easements across the property, type and density of proposed development, relationship of the proposed development to existing adjacent development and public rights-of-way and proposed covenants and restrictions to be placed on the development.
2. A sketch plan showing on a topographic base map, the general conception of the proposed development, indicating the preliminary arrangement of structures and/or lots, location of existing and proposed streets and major utility lines, location of recreational and community facilities and other uses in the development, and the proposed phasing, if any, of the development, showing the boundary for each phase and approximate new residential density in each phase.

Section 17-182 PRELIMINARY APPLICATION PROCEDURES:

A. Plan Requirements.

The application for preliminary approval shall set forth the data that is required for final site plan under **ARTICLE IX, Section 17-121** of this Chapter, and for preliminary subdivision plat under **ARTICLE VII** of this Chapter, in the case of developments where fee conveyances are intended.

The application for preliminary approval shall also set forth:

1. The overall density of the project.
2. The intensity of land use to be allocated to parts to be developed.
3. The location and size of any common open space and the form of organization proposed to own and maintain any common open space.
4. Except for developments of less than twenty (20) acres, an Environmental Impact Statement concerning the effect of the project on the environment. Such statement shall generally include as appropriate for a particular site:
 - a. An inventory of existing environmental conditions at the project site and the surrounding area which shall describe air quality, water quality, water supply, soils topography, vegetation, wildlife, archeology, geology and land use.
 - b. A listing of all licenses, permits or other approvals required bylaw other than those to be obtained from the Municipal Agency and the status of each.
 - c. An assessment of the problems impact of the project upon all topics described in 4a above.
 - d. A listing of adverse environmental impacts which cannot be avoided and steps to be taken to minimize environmental impacts during construction and operation, both at the project site and in the surrounding area.
5. A traffic study assessing the probable impact on the **PLANNED RESIDENTIAL DEVELOPMENT** on existing and proposed roads and traffic circulation within the affected area of the municipality and any adjoining municipality.

6. Disclosure of names, addresses and extent of interest of persons having any interest in the development or ownership of the **PLANNED RESIDENTIAL DEVELOPMENT** are intended to be filed.
7. In the case of plans which call for development over a period of years, a schedule showing the proposed times which applicable for final approval of all sections of the **PLANNED RESIDENTIAL DEVELOPMENT** are intended to be filed.

B. Public Hearing.

Procedures for public hearing on a proposed **PLANNED RESIDENTIAL DEVELOPMENT** shall be in conformance with the requirements of **Article IV** (and **Article VIII** where applicable) of this Chapter. The following supplemental information shall be provided by the applicant:

1. General character and substance of the development.
2. Objectives and purposes to be served by the project.
3. Details of design and organization of elements and plans,
4. Economic feasibility.
5. Time factors and sequential development.
6. Factual evidence and expert opinion shall be submitted by the applicant in the form of maps, charts, reports, models and other tangible materials and in the form of sworn testimony by experts such as lawyers, architects, Engineers, realtors, Professional Planners and economists which clearly state for the record the full nature and extent of the proposed project.

C. Findings.

The grant or denial of preliminary approval by formal written Resolution of the Municipal Agency, shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the denial or for the grant, with or without conditions, and said Resolution shall set forth with particularity in what respects the plan would or would not be in the public interest, including but not limited to findings of fact and conclusions on the following:

1. That the overall density determination is specifically in accordance with standards and criteria set forth in Chapter 28 (Zoning Ordinance) **Article V, Section 28-43** of the Code of the Borough of Lincoln Park.
2. That the proposals for maintenance and conservation of the common open space are reliable and achieve the objectives of Article XIV of this Chapter and the amount, location and purpose of the common open space are adequate.
3. That provision through the physical design of the proposed development for public service, control over vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment are adequate.
4. That the proposed **PLANNED RESIDENTIAL DEVELOPMENT** will not have an unreasonably adverse impact upon the area in which it is proposed to be established.

5. In the case of a proposed development which contemplates construction over a period of years, that the terms and conditions intended to protect the interests of the public and of the residents are adequate and meet the conditions and achieve the objectives of **Section 17-184** of this Article.
6. That were applicable, departures by the proposed development from zoning regulations otherwise affecting the subject property conform to the Zoning Ordinance standards pursuant to Subsection 52c of the Municipal Land Use Law.

D. Filing and Recording.

1. If preliminary approval is granted, with or without conditions, there shall be set forth in the Resolution of approval, the reasons therefore and the time within which an application for final approval of the plan shall be filed or, in the case of a plan which provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed.
2. Preliminary approval of a plan shall not qualify a plat of the **PLANNED RESIDENTIAL DEVELOPMENT** for recording nor authorize development or the issuance of any building permits.

Section 17-183. FINAL APPLICATION PROCEDURES:

A. Plan Requirements

An application for final approval may be made for all the land included in a plan or to the extent set forth in the preliminary approval for one or more sections thereof. Said application shall be made to the Municipal Agency granting preliminary approval. The application shall include information required by **Article IX, Section 17-121** and **Article VIII, Section 17-111**, where applicable, together with such drawings, specifications, covenants, easements, conditions and form of performance bond as were set forth by written Resolution of the Municipal Agency at the time of preliminary approval subject to **Subsection (B)** following, the Municipal Agency may permit minimal deviations from the conditions of preliminary approval necessitated by change of conditions beyond the control of the Developer since the date of preliminary approval (substantial compliance) without the Developer being required to submit another application for development for preliminary approval.

B. Guarantees.

As a condition of any final approval, the **PLANNED RESIDENTIAL DEVELOPER** shall furnish a performance guarantee in a form and amount satisfactory to the Borough Attorney and Borough Engineer in the total sum of one hundred twenty (120%) percent of the cost of all required on-tract and off-tract improvements including: streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, monuments, water mains, culverts, storm sewers, sanitary sewers, pumping stations and force mains, if any, drainage structures, erosion and sedimentation control devices, public improvements of open space and other on-site improvements including the community building, active and passive recreation areas and facilities and landscaping but not to include the dwelling units. All such performance guarantees may require that all improvements be installed within a period of thirty-six (36) months after the issuance of the first building permit and shall otherwise comply with the requirements of **Section 17-100** of this Chapter. All such performance guarantees issued by surety shall be rated not less than B+ by Best's Rating Guide, A.M. Best Co., revised annually.

C. Substantial Compliance with Preliminary Approval.

1. Substantial Compliance.

- a. A plan submitted for final approval shall be deemed to be in substantial compliance with the plan previously given preliminary approval provided any modification by the landowner of the plan as preliminary approved does not:
- i. increase the proposed gross residential density or intensity of use;
 - ii. or decrease the proposed gross residential density or intensity of use by more than ten (10%) percent; or
 - iii. involve a reduction of the area set aside for common open space and/or recreation facilities or the substantial relocation of such area; or
 - iv. increased by more than five (5%) percent the total ground areas covered by buildings or involve a substantial change in the height of buildings; or
 - v. result in a major deviation in on-tract or off-tract improvements.

2. Non-Compliance.

- a. In the event the plan as submitted for final approval is not in substantial compliance with the plan as given preliminary approval, the Municipal Agency, shall within forty-five (45) days of the date the application for final approval is filed, so notify the landowner in writing, setting forth the particular ways in which the plan is not substantial compliance.

The landowner may:

- i. treat said notification as a denial of final approval; or
 - ii. re-file his plan in a form which is in substantial compliance with the plan as preliminarily approved within thirty (30) days; or
 - iii. re-file his application as substantially modified for preliminary approval.
- b. Final approval shall be granted or denied within forty-five (45) days after submission of a complete application to the Administrative Officer, or within such further time as may be consented to by the Developer. Failure of the Municipal Agency to act within the period prescribed shall constitute final approval and a certificate of the Administrative Officer as to the failure of the Municipal Agency to act shall be issued on request of the Developer and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required.

Whenever review or approval of the application by the County Planning Board is required by Section 5 of P.L. 1968, c.285 (C40:27-6.3) in the case of a subdivision or Section 8 of P.L. 1968, c.285 (C40:27-6.6) in the case of a site plan, the Municipal

Agency 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 or its failure to report thereon within the required time period.

Section 17-184. STAGED DEVELOPMENT:

A. Conditions for Staging.

As a condition to preliminary approval of the **PLANNED RESIDENTIAL DEVELOPMENT PLAN**, the Municipal Agency may permit the implementation of the plan in whole or in sections or stages consisting of one (1) or more sections or stages. Each such section or stage shall be:

1. Substantially and functionally self-contained and self-sustaining with regard to access, streets, parking, sanitary sewers, water supply, drainage and other utilities, recreation facilities, open spaces and similar physical features and shall be capable of substantial occupancy, operation and maintenance upon completion of construction and development; and no section shall exceed the over-all maximum density permitted for the entire plan unless such density is offset by a smaller concentration in any completed prior stage.
2. Properly related to other services of the community as a whole and to those facilities and services yet to be provided in the **R-20/Planned Residential Development Zone**.
3. Provided with such temporary or permanent transitional features, buffers or protective areas as the Municipal Agency may require under conditions of ownership and maintenance as will prevent damage or detriment to any completed section or stages and to adjoining properties not in the **Planned Residential Development**.
4. Notwithstanding the foregoing, the following schedule shall be complied with for the completion of all on-tract and off-tract improvements. All such improvements shall be completed within the period of three (3) years after the issuance of the first building permit, subject to the following schedule:
 - a. Prior to the issuance of the first and any subsequent Certificate of Occupancy, except in the case of model units, the **Planned Residential Developer** shall install all streets, grading, pavement (but not finished course), gutters, curbs, sidewalks, street lighting, shade trees, pumping stations and force mains, if any, drainage structures, erosion and sedimentation control devices, commonly necessary to make any such dwelling units for which a Certificate of Occupancy is issued, substantially and functionally self-sustaining.
 - b. Prior to the issuance of the fifty-first (51st) Certificate of Occupancy, the **Planned Residential Developer** shall install all improvements required in subparagraph "a" above, together with the community building and all required off-tract improvements such as but not limited to the widening of any public right-of-way required as a condition of approval.
 - c. Prior to the issuance of the one hundred first (101st) Certificate of Occupancy, the **Planned Residential Developer** shall install all improvements required under subparagraph "a" above, together with all active and passive recreational facilities designed and intended for use by the entire development.

- d. Not more than eight (8) model units shall be permitted provided the use and occupancy thereof shall be strictly limited to a temporary sales office, showroom and display and further provided that adequate provisions is made for water supply and sanitary sewage disposal. No Certificate of Occupancy for residential use of any model unit shall be granted until the improvements required by subparagraph "a" and "b" above have been installed. The foregoing three (3) year time requirement for the installation of improvements shall not commence with the issuance of a building permit for any model unit.

Section 17-185. ABANDONMENT:

- A. Abandonment Before Final Approval.

In the event that a plan is granted preliminary approval and thereafter, but prior to final approval, the owner shall elect to abandon part of all of said plan and shall notify the Municipal Agency, in writing, or in the event the owner shall fail to file an application or applications for final approval within the required period of time, all pursuant to **N.J.S.A. 40:55d-49**, the preliminary approval shall be deemed to be revoked.

- B. Abandoned After Final Approval.

In the event that a plan, or a section thereof, is granted final approval, but prior to the commencement of any construction, and thereafter the Developer shall abandon said plan, or any Section thereof, and shall so notify the Municipal Agency in writing or, in the event the landowner shall fail to commence construction of the **PLANNED RESIDENTIAL DEVELOPMENT** within the periods of time prescribed by **N.J.S.A. 40:55d-52**, then, and in that event, such final approval shall terminate and be deemed null and void.

Section 17-186. DEVELOPMENT STANDARDS:

- A. Review Standards.

The Municipal Agency, prior to any approval, shall make a determination that the applicant complies with the **Review Standards** of **ARTICLE IX, Section 17-122** of this Chapter.

- B. Design Criteria.

1. The uniqueness of each proposal for a **PLANNED RESIDENTIAL DEVELOPMENT** may require that standard subdivision requirements and specifications for curbs, gutters, sidewalks, streetlights, parks and playgrounds, be modified from the specifications contained in other Ordinances of the Borough as Amended and in force. The Municipal Agency, may, therefore, waive or modify such specifications and requirements otherwise applicable and establish others where the Municipal Agency finds that such specifications are not required in the interests of the residents of the **PLANNED RESIDENTIAL DEVELOPMENT** and the modification of such specifications is not inconsistent with the interests of the Borough.
2. Every dwelling unit and/or shall have access to a street, court, walkway or have an easement for access, but this shall not be construed to require that each lot have frontage on a street so long as it has fully protected access.

3. All Open Space between structures shall be protected, where necessary, by fully recorded covenants running with the land, covenants or dedications.
4. The right-of-way and pavement widths for private internal ways, roads, and drives serving the **PLANNED RESIDENTIAL DEVELOPMENT** shall be determined from sound planning and engineering standards in conformity to the established needs of the development proposed and the traffic to be generated thereby, and shall be adequate and sufficient in size, location and design to accommodate traffic, parking and loading needs and the access of fire fighting equipment, police vehicles and other emergency equipment. In evaluating the foregoing, other provisions of **ARTICLE VIII, Section 17-114** (Subdivision of Land) of this Chapter shall apply, where appropriate (for example, road material specifications) and otherwise may serve as general guides to the Municipal Agency in approving development plans. Nevertheless, private internal roads and walks shall have a required minimum pavement width as follows:
 - a. One-way traffic roads: paved width of eighteen (18') feet.
 - b. Two-way traffic roads:
 - i. Auxiliary street: paved width of twenty-five (25') feet.
 - ii. Collector street: paved width of thirty (30') feet.
 - c. The rights-of-way width in addition to paved width of said one and two-way traffic roads shall be a minimum of thirty-three and one-third (33 1/3%) percent of the required pavement width.
 - d. Sidewalks, where required by the Municipal Agency, shall be at least three (3') feet in width.
 - e. Service ways for public service vehicles shall not be less than twelve (12') feet in width.
5. Dedicated streets or highways shall be subject to all other Borough Ordinances and the laws of the State of New Jersey. Private streets may be allowed at the discretion of the Municipal Agency.

C. Site and Structure Regulations.

Plot and lot sizes and dimensions and structure heights and locations thereon, may be freely disposed and arranged in conformity with the overall designated density and with the conditions of comprehensive plans therefore, the general features and design of which shall be subject to the approval of the Municipal Agency. In reviewing such sizes, dimensions and heights, the Municipal Agency shall be guided by the standards set forth in **ARTICLE IX, Section 17-122** of this Chapter. Nevertheless the following requirements shall apply:

1. Not more than eight (8) townhouse dwelling units shall be contained within any one townhouse structure.
2. Each dwelling unit shall have not less than two (2) exposures and two (2) separate entrances.
3. No building or structure for dwelling use shall face the rear of another such building or structure of the rear of buildings or structure on adjoining properties unless separated by a minimum distance of one hundred (100') feet.

4. The maximum height of any townhouse structure shall be thirty-two (32') feet. The maximum height for any community building shall be thirty-five (35') feet.
5. The minimum frontage of a townhouse development upon at least one (1) accepted public street, improved to the standards of the street specifications of the Borough shall be two hundred (200') feet.
6. No townhouse structure shall be closer than twenty-five (25') feet to any boundary of the **PLANNED RESIDENTIAL DEVELOPMENT** except that no townhouse structure shall be any closer than one hundred (100') feet from any pre-existing improved residential property line and no closer than fifty (50') feet from any residential property line and no closer than fifty (50') feet from any residentially zoned property line.
7. If refuse pick-up areas are to be provided, they shall be located for the convenience of the residents and shall be screened with evergreens on at least two (2) sides, planted at a height of at least four (4') feet with a potential growth of at least six (6') feet.
8. The minimum set-back of any townhouse structure from any existing Borough road shall be two hundred (200') feet.
9. All recreation facilities shall be designed and constructed in accordance with the standards set forth in **PLANNED FACILITIES FOR ATHLETICS, PHYSICAL EDUCATION AND RECREATION**, revised 1974, published by the Athletic Institute and American Association for Health, Physical Education, and Recreation or latest revision.
10. No laundering or drying facilities, including but not limited to washing machines and dryers, shall be located outside of any structure.

Section 17-187. COMMON OPEN SPACE:

- A. Reasonable recreation areas shall be provided within the development for the use of its residents. These areas shall consist of active recreation areas such as, but not limited to: tennis courts, swimming facilities, athletic fields, playgrounds, shuffleboard courts, golf courses, and passive recreation area such as, but not limited to: picnic areas, nature areas and gardens. The amount of each type of recreation shall be subject to the approval of the Municipal Agency. Active recreation areas may not be required in the **PRD II ZONE**.
- B. All common open space areas shall be located upon and within a lot or plot of land which shall be fully dimensioned and designated as representing the area of responsibility and extent of such individual or group ownership or management as may be established by ownership in full or partial fee or for lease, under deed, covenant, lease contract or other conditions of usage or occupancy legally established and recorded therefore; and a description or plan of each such lot or plot shall be filed separately or as part of the descriptive maps of a **PLANNED RESIDENTIAL DEVELOPMENT** with the Borough's Tax Assessor. This requirement may be satisfied by a master deed filed in connection with establishing a condominium form of ownership for the **PLANNED RESIDENTIAL DEVELOPMENT** or a part thereof.
- C. Prior to any final approval, an Open Space Organization shall be established pursuant to **Article XIV** of this Chapter and **N.J.S.A. 40:55D-43** dealing with the

ownership and maintenance of any common open space area shall be dedicated to and accepted by the Borough.

Section 17-188. COMMON OPEN SPACE-ON-TRACT AND OFF-TRACT IMPROVEMENTS AND UTILITIES:

- A. The **PLANNED RESIDENTIAL DEVELOPER** shall execute and record an easement dedicating the necessary rights-of-way for water, sanitary sewage and drainage lines and appurtenances, in such instances in which the Developer shall be obligated to construct such improvements, and the Borough shall agree to operate and maintain and repair same.
- B. The Borough shall have the right to charge the **PLANNED RESIDENTIAL DEVELOPER** or its successors and assigns, for water and sanitary sewer service, provided that such charges shall be based on rates uniform throughout the municipality. The **PLANNED RESIDENTIAL DEVELOPER**, for itself, its successors and assigns shall be responsible for the maintenance, repair, replacement, improvement, construction, reconstruction, betterment, protective cleaning and snow removal, as applicable, of all main roads, roadways, emergency roads, parking areas, parkways, located within the properties within the **PLANNED RESIDENTIAL DEVELOPMENT**, provided that the Borough its agents, servants and employees (but not the public in general) shall have the right of ingress and egress on and over all such main roads, roadways, emergency roads, parking areas and parkways.

The **PLANNED RESIDENTIAL DEVELOPER**, for itself, its successors and assigns, shall make provision for the safe and sanitary removal of all garbage and refuse at its sole expense.

- C. The **PLANNED RESIDENTIAL DEVELOPER** shall execute and duly record, in the County Clerk's Office, a declaration approved by the Borough, setting forth inter-alia (1) the property subject to the declaration, (2) membership and voting rights of the common Open Space Organization, (3) property rights, including the resident's easement of enjoyment, title to common properties, extent of owner's easements, (4) covenant of the common Open Space Organization's undertaking and assessments, including assessments for general maintenance and operation of the common properties, including all active and passive recreation areas, grass maintenance, snow removal, sanding and street sweeping of roads and public sidewalks, utility charges for roadway lighting, swimming pool and community building, insurance and bonding, taxes and assessments, and other reasonable and necessary expenses, (5) provisions for effect of non-payment of assessment, provisions for party walls, architectural control committee, exterior maintenance, (6) right of the municipality to maintain common properties and assess the cost against each lot, (7) provision for roadway and utility maintenance, (8) provision for addition and withdrawal of common properties, (9) miscellaneous provisions dealing with covenants of use and enjoyment, including, by way of example but not in limitation of the foregoing, temporary structures, signs, livestock, poultry, garbage and refuse disposal, aerals and loudspeakers.
- D. In addition to the requirements of **paragraph C**, the **PLANNED RESIDENTIAL DEVELOPER** shall retain legal title to the common properties, including all active and passive recreation areas and facilities and the community building until such time as it has completed improvements thereon, but, notwithstanding any provisions herein, the **PLANNED RESIDENTIAL DEVELOPER**, shall convey all such common properties, recreation areas and facilities, including the community, building, to the Open Space Organization, free and clear of all liens, at the time that Certificates of Occupancy shall have been issued for sixty-one (61%) percent of all Planned Residential Units.

- E. The **PLANNED RESIDENTIAL DEVELOPER** shall agree, as part of the Developer's agreement, to post with the Governing Body at the time of the release of the performance guarantee for a period of two (2) years after final acceptance of all improvements covered by the performance guarantee in an amount of fifteen (15%) percent of the cost of such improvements. All such maintenance guarantees shall otherwise comply with the requirements of Section 17-91 and Section 17-100 of this Chapter and maintenance guarantees issued by a surety, shall be rated not less than B+ as established by Best's Key Rating Guide, A.M. Best Co., revised annually.

ARTICLE XVI

Section 17-189. AIRPORT HAZARD OVERLAY DISTRICT, CONFORMITY:

All subdivisions and site plans having any portion lying within the Airport Hazard District shall conform to the use and height regulations set forth in **Section 28-33** of the Zoning Ordinance. For purposes of this Section, public roads are considered to be a fifteen (15') foot vertical development and private roads are considered to be a ten (10') foot vertical development.

ARTICLE XVII

MISCELLANEOUS

Section 17-190. ADJUSTMENT OF DEFINITIONS:

Whenever a term is used in this Chapter which is defined in the Municipal Land Use Law, such term, is intended to have the meaning set forth in the definition of such term found in said statute, unless a contrary intention is clearly expressed from the context of this Chapter.

Section 17-191. REPEALS:

All Sections of the Code of the Borough of Lincoln Park or any other Ordinance of the Borough of Lincoln Park containing provisions contrary to the provisions of this Chapter shall be and are hereby, to the extent of such inconsistency, repealed.

Section 17-192. SEVERABILITY OF CHAPTER:

If any section, paragraph, subdivision, clause or provision of this Chapter shall be adjudged invalid, such adjudication shall apply only to the Section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this Chapter shall be deemed valid and effective.

Section 17-193. TITLE:

This Chapter shall be known and may be cited as the **DEVELOPMENT REVIEW ORDINANCE OF THE BOROUGH OF LINCOLN PARK.**

Section 17-194. COPY TO BE FILED WITH COUNTY PLANNING BOARD:

The Borough Clerk shall file a copy of this Chapter with the County Planning Board as required by law.

Section 2. Pursuant to the provisions of Chapter 396, P.L. 1977, the full text of this Ordinance shall not be published in full; however, in lieu thereof, there shall be a public or abbreviated notice of Introduction in the form hereto, annexed indicating the time and place of the Public Hearing and the place where the proposed Ordinance is on file and available for public inspection. Additionally, this Ordinance and any amendments shall be on file in the Office of the Borough Clerk and available for public inspection, and copies of the within Ordinance published in pamphlet or similar form shall be available in the Office of the Borough Clerk for sale to the public at cost.

Section 3. This Ordinance shall take effect twenty (20) days after Adoption.

¹³ARTICLE XVIII

DEVELOPMENT OF STEEP SLOPES

Section 17-195. REGULATIONS FOR STEEP SLOPE:

- A. It is the purpose of this Article to protect the health, safety and welfare of people and property within the Borough of Lincoln Park from improper construction, building or development on steep slopes. More particularly, but without limitation, it is the purpose of this Article to reduce the peculiar hazards; which exist in steep slope areas by reason of erosion, siltation, soil slippage, surface water runoff, pollution of potable water supplies from non-point sources and the destruction of unique and predominant views. It is a further purpose of this Article to encourage, appropriate planning, design and development within steep slope areas which preserve and maximize the best use of the natural terrain and maintain ridgelines and skylines in tact. The Borough Council of the Borough of Lincoln Park has therefore determined that the special and paramount public interest in these environmentally sensitive steep slope areas justifies the regulation of property affected thereby in the main forth below in this **Section 17-195**.
- B. As used herein “**STEEP SLOPES**” shall mean any portion of the ground surface containing vertical slopes equal to or greater than 15%.
- C. In order to satisfy the purposes of this Article, all subdivisions, site plans, grading plans and other development plans shall comply with the following requirements:
1. The applicant shall prepare and submit to the appropriate reviewing authority a slopes map based on two-foot contour intervals, delineating by category slope classes of 0% to 14.9%, 15% to 19.9%, 20% to 24.9% and 25% and greater. Slope maps shall identify slope classes by color as follows: 0%-14.9% shall be white, 15%-19.9% shall be yellow, 20%-24.9% shall be blue, and 25% and greater shall be red. The slope map shall include a calculation of the area of proposed disturbance within each slope class within all existing and/or proposed lots, as well as within any proposed road right-of-way.
 2. Those areas with slopes ranging from 0% to 14.9% are not restricted against development under this Section.
 3. Within slope areas of 15% to 19.9%, not more than 50% of such areas shall be disturbed for development, regarded or stripped of vegetation.
 4. Within slope areas of 20% to 24.9%, not more than 33 ½% of such areas shall be disturbed for development, regarded or stripped of vegetation.
 5. Within areas having slopes of 25% or greater, no development, regarding or stripping of vegetation shall be permitted unless such activity is essential for the construction of a roadway or driveway crossing, required utility construction, stormwater management control facility or other like necessary improvement. The applicant must demonstrate to the satisfaction of the Reviewing Board or other Official having jurisdiction, that such disturbance activity is necessary to fulfill the essential service requirements of the development and that there is no practical alternative to it.
 6. Whenever disturbance of steep slope is proposed in connection with any application for a grading permit pursuant to **Section 17-141, et seq.**, detailed grading plans and architectural plans must be submitted for

¹³ Added by Ordinance 1,366 Adopted December 18, 2006 Effective January 7, 2007

review. The plans shall be designed to ensure that drainage and/or erosion problems will not result from the proposed development. The architecture of all buildings shall be specifically designed to accommodate the topography. Roads and driveways shall be designed to follow the natural topography to the greatest extent possible in order to minimize disturbance of steep slope areas. Nothing in this **Section** shall be construed to limit the scope or applicability of **Section 17-141**.

7. As a condition of approval of any application for development of any lot containing areas of slope in excess of 14.9%, the applicant shall be required to record in the lands records of the Clerk of Morris County a mapped description of the limits of such steep slope areas, together with a bold print notice that no land disturbance or other activity may be undertaken therein, except in conformance with the requirements of **Section 17-195** of the Code of the Borough of Lincoln Park.
8. Whenever any variance or grading permit is sought for any addition to or modification of an existing single-family detached or two-family detached dwelling and/or the lot on which it is located, the Board of Adjustment, when acting on a variance, may waive the requirements of this Section 17-195 (to the extent they are applicable) when it is reasonably clear to the reviewing authority that there exist no on-site slopes in excess of 14.9%, or that any slopes in excess of 14.9% are remote from the areas of proposed development and/or disturbance. Nothing herein shall authorize or permit any lawful disturbance of or activities within slopes in excess of 14.9%.

¹⁴ARTICLE XIX

GROWTH SHARE REQUIREMENTS

Section 17-196. DEFINITIONS:

COAH's RULES - The Substantive Rules Adopted by the New Jersey Council on Affordable Housing (COAH), as set forth at **N.J.A.C. 5:94-1, et seq.**

DUPLEX - A detached building designed for and containing two dwelling units which are entirely separated from each other by unpierced vertical walls extending from foundation to roof. Unless otherwise specifically listed as a permitted use in a zoning district, duplexes are intended to be used and occupied only by low and moderate income households for the sole purpose of meeting the Borough's affordable housing obligations.

QUADRIPLEX - See "**DUPLEX**", except that the reference to two dwelling units shall be substituted with a reference to four dwelling units.

TRIPLEX - See "**DUPLEX**", except that the reference to two dwelling units shall be substituted with a reference to three dwelling units.

Section 17-197. RESIDENTIAL GROWTH SHARE REQUIREMENTS:

(1) Applicability:

- a) All net residential development in any zoning district shall be required to provide affordable housing at the ratio of at least one affordable unit for every eight (8) new market-rate residential units (i.e. units that will not be affordable as defined by the Fair Housing Act and COAH) proposed. The provision of the affordable unit(s) required shall be through on-tract construction, through the creation of affordable units off-tract but within the Borough of Lincoln Park, or through a payment in lieu of construction,

¹⁴ Added by Ordinance 1,380 Adopted 5/21/07 Effective 6/10/07

subject to the provisions of **Section 17-197(1)(b)** below requiring on-site construction where a density bonus has been granted.

- b) Where a variance has been granted by either the Planning Board or the Zoning Board of Adjustment of the Borough of Lincoln Park that results in either a different use of the land compared to, or additional dwelling units over and above those permitted by, the applicable zoning regulations, the requirement to provide affordable housing shall be increased to a ratio of at least one affordable unit for every four (4) market rate residential units proposed for affordable sales units and to a ratio of at least one affordable unit for every five (5) market rate residential units proposed for affordable rental units and all required affordable housing units shall be provided on site as part of the development and shall comprise apportion of the total number of dwelling units approved to be constructed.
- c) If no use variance or density bonus has been granted as described in Section 17-197(1)(b) above, the affordable housing units may be provided in addition to (over and above) the number of housing units otherwise permitted by the zoning regulations.
- d) Where the calculated obligation generates or includes a fraction of an affordable unit, said fraction may, at the developer's discretion, either be rounded up or addressed through a pro-rated in lieu contribution calculated in accordance with COAH's Rules for the applicable housing region.

(2) Exceptions:

All residential development that does not constitute net new residential development shall be subject to the Development Fee Ordinance of the Borough of Lincoln Park. Inclusionary residential developments in which affordable housing is required to be produced pursuant to a provision of an Ordinance requiring a specific set-aside for affordable housing shall be exempt from the requirements of this Ordinance and the Development Fee Ordinance.

Section 17-198. REQUIREMENTS FOR PERMITTED MECHANISMS TO ADDRESS THE GROWTH SHARE:

(1) Payments in Lieu of Construction:

- a) Payments in lieu of the construction of affordable housing where permitted, shall be based upon COAH's Rules for calculating in lieu contributions within the housing region encompassing the Borough of Lincoln Park and shall represent a proportionate share of the total cost of providing one affordable housing unit within the housing region encompassing the Borough of Lincoln Park.
- b) Regardless of the mechanism selected by the developer for satisfying the required number of affordable housing units, where the calculated obligation generated or includes a fraction of an affordable unit, said fraction may, at the developer's discretion, either be rounded up, or addresses through a pro-rated in lieu contribution calculated in accordance with COAH's Rules for the applicable housing region.

(2) Write Down/Buy Down of Existing Market Units and Creation of New Affordable Housing Units Off-Tract.

- a) Where satisfaction of the growth share obligation generated by a

development is permitted to occur off-tract, but within the Borough of Lincoln Park, the developer may elect to purchase an existing market-priced dwelling unit within the Borough of Lincoln Park, rehabilitate it to Code Standard, place a deed restriction on the unit limiting its affordability to occupancy only by duly qualified low, very low or moderate income household for a period of at least 30 years, affirmatively market the unit, and sell or rent the deed-restricted unit to a duly qualified low, very low or moderate income household, in compliance with all applicable provisions of COAH's Rules (**N.J.A.C. 5:94-1 et seq.**) and the Regulations set forth herein.

- b) Where satisfaction of the growth share obligation generated by a development is permitted to occur off-tract, but within the Borough of Lincoln Park, the developer may elect to create such affordable housing units through new construction of housing consistent with the zoning of the off-tract property, in compliance with all applicable provisions of COAH's Rules (**N.J.A.C. 5:94-1 et seq.**) and the Regulations set forth herein.
- c) Where a unit is rendered affordable to a household earning 30 percent or less of median income, the developer shall be entitled to two credits for the unit against the growth share obligation generated by the development.
- d) All required setbacks, building height and coverage limits for the applicable zone shall be met on any lot proposed for the construction of or conversion of buildings for affordable housing, except that setback deficiencies associated with an existing building to remain and other nonconformities of the lot and/or building may be continued without the need for additional variances.

(3) Construction of Affordable Housing on Tract.

- a) Affordable housing units may be provided within single-family detached buildings, duplex buildings, triplex buildings or quadriplex buildings designed to resemble as nearly as possible the single-family homes otherwise being construed within the development to accommodate the market units. Such buildings shall be deemed to be permitted uses in the underlying zone when created for the purpose of meeting the growth share obligation.
- b) Unless otherwise specified in the Development Review Ordinance, where no density bonus has been granted to the developer by zoning change or variance, the affordable housing unit(s) created on the tract shall not be counted in the calculation of the permitted density, provided that the rate at which the affordable unit(s) are being construed shall be at least one affordable unit for every eight market-priced units.
- c) Where a density bonus has been or will be granted to the developer by virtue of a zoning variance or zoning change, affordable housing units must be constructed on-site, and the rate at which affordable units shall be provided shall be at least 20% of the total number of units constructed, for sales units, and at least 15% of the total number of units constructed, for rental units.
- d) Where a unit is rendered affordable to a household earning 30 percent or less of median income, the developer shall be entitled to two credits for the unit against the affordable housing obligation generated by the development.

- e) The lots within the development may be reduced in area and width to 80 percent of the area and width otherwise required in the applicable zone in order to accommodate the construction of the affordable housing units on one or more lots on the same tract. All required setbacks, building height and coverage limits for the zone shall be met on all lots.

4) Other Requirements.

- a) The use of any of the foregoing mechanisms for providing affordable housing within the Borough of Lincoln Park shall be limited to the provision of non-age-restricted affordable housing units, unless specifically approved to be age-restricted by the Planning Board or Zoning Board of Adjustment as appropriate, and shall be construed, marketed, occupied and maintained in compliance with all of COAH's Rules set forth at **N.J.A.C. 5:94-1 et seq.** As a general rule, newly constructed, reconstructed and converted affordable housing units shall be rental units; existing single or two-family dwellings purchased and deed restricted as affordable housing units shall have the option of being either rented or sold.
- b) The Planning Board or Zoning Board of Adjustment as appropriate shall have the jurisdiction to consider the grant of a waiver from the foregoing requirements of **Section 17-198(4)(a)** above to permit age-restricted or for sale housing not otherwise permitted where the Planning Board or Zoning Board of Adjustment are able to find that granting such a waiver would be more appropriate to the context of the development or to the location and nature of the affordable housing unit(s) being created. The Planning Board or Zoning Board of Adjustment shall consider the Borough-wide impacts of such a deviation upon the Adopted Housing Element and Fair Share Plan before approving any such waiver.
- c) A proposed Affordable Housing Production Plan shall be submitted to the Board at the time application is made for any development requiring the creation of affordable housing pursuant to this Section. This Plan shall be a condition of the "completeness" determination. All Affordable Housing Production Plans shall be the subject of review by the Borough Planning Consultant and Borough Administrator for consistency with COAH's Rules and/or with the Borough's Third Round Housing Element and Fair Share Plan. Compliance with all of the terms of COAH's Rules and with the approved Affordable Housing Production Plan shall be a condition of development plan approval and may be covered by appropriate performance and maintenance guarantees as with any other required improvement.
- d) All affordable units created or constructed within the Borough of Lincoln Park shall comply with COAH's Rules, including but not limited to, those pertaining to the phasing, integration, low/moderate income split, controls on affordability, bedroom distribution, affirmative marketing, heating source and administration of the affordable units, as set forth in **N.J.A.C. 5:94-4.4** and elsewhere in COAH's Rules (**N.J.A.C. 5:94-1 et seq.**).
- e) Where an odd number of low and moderate income housing units are required to be provided, the majority of the units shall be low income units. Where there are an insufficient number of affordable units provided to meet the bedroom distribution requirements of COAH's Rules, the first unit shall be a two bedroom unit, the second unit shall be a three bedroom unit and the third unit shall be a one-bedroom unit. Otherwise, the bedroom distribution shall be in strict accordance with COAH's Rules.

- f) It shall be the developer's responsibility, at its sole cost and expense, to contract with a COAH-approved and Borough-designated experienced entity for the initial and ongoing administration of the controls on affordability so as to ensure full COAH compliance. The designated administrative entity shall, by February 1st of each year, and as needed throughout the year, file with the Borough's designated Affordable Housing Liaison such certifications, reports and/or monitoring forms as may be required by COAH to verify the continuing compliance of each affordable unit with COAH's Rules.

Section 17-199. CREDITS FOR OVERCONSTRUCTION OF AFFORDABLE HOUSING:

Any developer may elect to create or construct, in advance of generating the obligation to construct, additional affordable housing that may be used in satisfaction of a future growth share obligation. When this is proposed, an agreement shall be executed between the developer and the Mayor and Council of the Borough of Lincoln Park quantifying the prospective growth (in number of dwelling units) that will be sheltered from an additional growth share obligation by the extra affordable housing units provided. The agreement shall be maintained on file with the Borough Clerk and shall be recorded with both the deed to the property containing the extra affordable housing units and the deed to the property that has yet to be developed. All such affordable housing units or credit shall comply fully with COAH's Rules in effect at the time of the creation of the units and shall expire, whether used or not, 30 years from the date of the initial Certificate of Occupancy for the applicable unit or at the time of the expiration of the controls on affordability if the controls are extended beyond the initial 30 year period in accordance with the then currently applicable Rules of COAH or its successor agency.

^{15, 16} **ARTICLE XX**

AFFORDABLE HOUSING DEVELOPMENT FEES

Section 17-200. PURPOSE:

The purpose of this Ordinance is to establish standards for the collection, maintenance and expenditure of fees in accordance with the Supreme Court decision Holmdel Builder's Ass'n v Holmdel Township, 21 NJ 550 (1990), and pursuant to the regulations Adopted by the New Jersey Council on Affordable Housing (COAH). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing low and moderate income housing in accordance with the Borough's spending Plan pertaining to the development fees.

Section 17-201. DEFINITIONS:

"Borough" means the Borough of Lincoln Park, in the County of Morris, New Jersey.

"COAH" means the New Jersey Council on Affordable Housing.

"Development Fees" means money paid by an individual, person, partnership, association, company or corporation, pursuant to this Ordinance, for the improvement of property as permitted by COAH's Rules.

"Equalized Assessed Value" means the value of a property determined by the borough's Tax Assessor, using the equalized value pursuant to N.J.S.A. 54:3-19, through a process designed to ensure that all property in the municipality is assessed at the same assessment ration or ratios required by law.

"Judgment of Repose" means a judgment issued by the Superior Court approving a municipality's plan to satisfy its fair share obligation.

¹⁵ Amended by Ordinance 1,420 Adopted 3/16/09 Effective 4/5/09

¹⁶ Amended in its entirety by Ordinance 1,438 Adopted 4/19/10 Effective 5/9/10

“Substantive Certification” means a determination by COAH approving a municipality’s Housing Element and Fair Share Plan in accordance with the provisions of the Fair Housing Act and the Rules and criteria set forth at N.J.A.C.5:93-1 et seq. and N.J.A.C. 5:94-1 et seq.

Section 17-202. RESIDENTIAL DEVELOPMENT FEES

- A. Within the Borough of Lincoln Park, a development fee shall be paid equal to one and one-half percent (1.5%) of the equalized assessed value resulting from any eligible residential construction pursuant to **Section 17-204** of this Ordinance, provided no increase density is permitted.
- B. If Borough of Lincoln Park approves an increase in residential density pursuant to N.J.S.A. 40:55d(5) (known as a “d” variance), a development fee of up to six percent (6%) of the equalized assessed value will be imposed for each additional unity that may be realized. However, if the zoning on a site has changed during the two (2) year period prior to the filing of a “d” variance application, the base density for the purposes of calculating the development fee shall be the highest density permitted by right during the two (2) years preceding the filing of the “d” variance application.

Section 17-203. NON-RESIDENTIAL DEVELOPMENT FEES:

Within the Borough of Lincoln Park, a development fee shall be paid equal to two and one-half percent (2.5%) of the equalized assessed value of any eligible nonresidential construction pursuant to **Section 17-204** of this Ordinance in accordance with P.L. 2008,c.46.

Section 17-204. ELIGIBLE EXACTIONS, INELIGIBLE EXACTIONS AND EXEMPTIONS:

- A. Eligible residential construction, as referred to in this Ordinance, shall be any new construction and any replacement of, additions to or alterations of existing residential buildings, for which a Construction Permit is required, pursuant to N.J. State Uniform Construction Code Act.
- B. Eligible non-residential construction, as referred to in this Ordinance, shall be any new construction or replacement of, additions to or alterations of existing non-residential buildings or conversions of residential buildings to non-residential buildings for which a Construction Permit is required, pursuant to the N.J. State Uniform Construction Code Act.
- C. Developments containing low and moderate income units or making payments in lieu of the construction of low and moderate income units on site shall be exempt from paying development fees.
- D. Fees for new construction shall be based on the equalized assessed value of land and improvements. Fees that result from additions and alterations shall be based on the increase in equalized assessed value that results from the addition or alteration.
- E. The residential development fee specified in **Section 17-202** must be paid in full prior to the issuance of a Certificate of Occupancy regardless of whether fifty percent (50%) of the estimated fee was collected at the time of issuance of the building permit. A final Certificate of Occupancy shall not be issued the residential development fee specified in **Section 17-202** is paid in full. The provisions of this **Section** shall apply to all residential property that did not receive a Certificate of Occupancy prior to the effective date of this Ordinance.

Whenever the developer of a residential development has made or committed itself to make a financial or other contribution relating to the provision of affordable housing prior to the effective date of this Ordinance, the residential

development fee shall be reduced by the amount of the financial contribution and/or the fair market value of any other contribution made by the developer.

- F. If the construction of any net new dwelling unit is subject to the terms of the Borough's Growth Share Ordinance, it shall not be subject to a development fee.
- G. Development associated with the agricultural use of property that is qualified for farmland assessment shall be exempt from paying a development fee.

Section 17-205. COLLECTION OF FEES:

- A. The development fee shall be paid to the Borough as follows:
 - 1. The Tax Assessor shall estimate the amount of the development fee prior to the issuance of building permit.
 - 2. Fifty percent (50%) of the estimated development fee shall be collected at the time of issuance of the building permit; the remaining portion shall be collected at the time of issuance of a Certificate of Occupancy. The Developer shall be responsible for paying the difference between the fee calculated at the building permit and that determined at the issuance of the Certificate of Occupancy.
- B. Imposed and collected development fees that are challenged shall be placed in the interest bearing escrow account established by Lincoln Park borough pursuant to **Section 17-206** and shall remain there until the amount of the payment is resolved. If all or a portion of the contested fees are returned to the developer, the accrued interest on the returned amount shall also be returned.

Section 17-206. AFFORDABLE HOUSING TRUST FUND:

- A. There is hereby created an interest bearing Affordable Housing Trust Fund for the purpose of receiving development fees from residential and non-residential development. All development fees paid pursuant to this Ordinance as well as the borough's Growth Share Ordinance shall be deposited in this Fund. No money shall be expended from the Affordable Housing Trust Fund unless the expenditure conforms to a Spending Plan approved by COAH or the Superior Court of New Jersey. The Affordable Housing Trust Fund shall be deposited in a banking institution or savings and loan association in the State of New Jersey, insured by an agency of the Federal Government or in any other fund or depository approved for deposits by public entities of the State of New Jersey.
- B. If COAH determines that the Borough is not in conformance with COAH's Rules on development fees, or in the event that any of the conditions described in **N.J.A.C. 5:97-8.13(a)** occur, COAH is authorized to direct the manner in which all development fees collected pursuant to this Ordinance shall be expended. Such authorization shall be pursuant to this Ordinance, COAH's rules on development fees, and written authorization from the Governing Body to the bank or other approved depository for the Affordable Housing Trust Fund.

Section 17-207. USE OF FUNDS:

- A. Money deposited in the Affordable Housing Trust Fund may be used for any activity approved by COAH for addressing the borough's low and moderate income housing obligation and identified in the Borough's Spending Plan approved by COAH. Such activities may include, but are not necessarily limited to, housing rehabilitation; new construction; the purchase of land for low and moderate income housing; extensions and/or improvements of roads and infrastructure to low and moderate income housing sites; purchase of existing market rate or affordable housing for the purpose of maintaining or implementing affordability controls; accessory apartment; market to affordable or affordable

partnership programs; ECHO housing and related repair or relocation costs; green building strategies designed to be cost-saving for low-and moderate income households; maintenance and repair of affordable housing units; repayment of bonds issued to finance low-and moderate-income housing activity; and any other activity as specified in the approved Spending Plan. The expenditure of all monies shall conform to a Spending Plan approved by COAH or the Superior Court of New Jersey.

- B. At least thirty percent (30%) of all development fees collected and interest earned shall be used to provide affordability assistance to low-and moderate-income households in affordable units included in the Borough of Lincoln Park's Fair Share Plan. One-third of the affordability assistance portion shall be used to provide affordability assistance to very low income households.
- C. No more than twenty percent (20%) of all affordable housing trust funds shall be expended on administration.
- D. Development fee revenues shall not be expended to reimburse the Borough for housing activities that preceded the grant of Substantive Certification or a judgment of repose.

Section 17-208. PENALTIES:

- A. In the event that any of the conditions set forth in **Section 17-208(B)** below occur, COAH shall be authorized, on behalf of the Borough of Lincoln Park, to direct the manner in which all development fees collected pursuant to this Ordinance shall be expended. Should any such condition occur, such revenues shall immediately become available for expenditure at the direction of COAH upon the Borough Clerk's receipt of a written notification from COAH that such a condition has occurred. In furtherance of the foregoing, the Borough of Lincoln Park shall, in establishing a bank account pursuant to **Section 17-206** of this Ordinance, ensure that the Borough of Lincoln Park has provided whatever express written authorization which may be required by the bank to permit COAH to direct disbursement of such revenues from the account following the delivery to the bank of the aforementioned written notification provided by COAH to the Borough Clerk.
- B. Occurrence of the following may result in COAH taking an action pursuant to **Section 17-208(A)** above.
 - 1. Failure to meet deadline for information required by COAH in its review of this Ordinance, the Borough's Housing Element and Fair Share Plan or Spending Plan;
 - 2. Failure to address COAH's conditions for approval of a plan to spend development fees within the deadline imposed by COAH;
 - 3. Failure to address COAH's condition for substantive certification within the deadline imposed by COAH;
 - 4. Failure to submit accurate monitoring reports within the time limits imposed by COAH;
 - 5. Failure to implement spending for development fees within the time limits imposed by COAH, or within reasonable extensions granted by COAH;
 - 6. Expenditures of development fees on activities not permitted by COAH;
 - 7. Revocation of the Borough of Lincoln Park's substantive certification;

8. Other good cause demonstrating that the revenues are not being used for the intended purpose.

Section 17-209. MONITORING:

The Borough shall complete and return all monitoring forms related to the collection of fees, expenditures of revenues and implementation of the plan certified by COAH. All reports shall be completed on forms designed by COAH as required by COAH.

