

ARTICLE 12 ZONING

12-1 SHORT TITLE.

This Article of the Development Regulations Chapter of the Borough of Bernardsville may be cited and referred to as the Zoning Regulations. (Ord. No. 581 § 12-1)

12-2 ESTABLISHMENT OF ZONE DISTRICTS.

12-2.1 Zone Districts.

For the purpose of this chapter, the Borough is hereby divided into sixteen (16) districts known as:

Editor's Note: For regulations pertaining to the R-10A and R-10B Zone Districts, see Article 13, Affordable Housing.

a.	R-1	Residence District
b.	R-1A	Residence District
c.	R-2	Residence District
d.	R-3	Residence District
e.	R-4	Residence District
f.	R-5	Residence District
g.	R-8	Single-Family Attached Residence District
h.	R-10A	Multi-Family Housing District
i.	R-10B	Multi-Family Housing District
j.	B-1	Business District
k.	O-B	Office Building District
l.	C-1	Commercial District
m.	I	Industrial District
n.	I-2	Light Industrial District
o.	H-D	Highway Development District
p.	R-1-10	Residence District

(Ord. No. 581 § 12-2.1; Ord. No. 801 § 4; Ord. No. 95-1041 § 2; Ord. No. 96-1057 § 1; Ord. No. 2002-1271)

12-2.2 Zoning Map.

Editor's Note: Prior ordinance history includes portions of Ordinance Nos, 581, 801, 95-1041 and 96-1057.

The boundaries of the designated zones and districts are shown upon the map designated "Zoning Map of the Borough of Bernardsville, Version 1.1" prepared by P. David Zimmerman and dated February 14, 2002 which is incorporated herein by reference. The zoning map which is part of this Article shall be filed in the office of the Borough Clerk, and all notations, references and other information shown thereon are a part of this Article and shall have the same force and effect as if the said zoning map and all such notations, references and other information shown thereon were fully set forth or described herein. (Ord. No. 2002-1271 § 2)

a. Zoning Map Amendments.

1. Pursuant to Ordinance No. 2014-1655, the Zoning Map is amended and redrafted according to the attached map section of the Zoning Map. (The map referred to in Ord. No. 2014-1655 is on file in the Borough Offices.) (Ord. No. 2014-1655)
2. The Zoning Map is amended to change the designation of Block 71, Lots 4, 5, 5.01 and 6-11 fronting on Quimby Lane (west side) to AHO-3 Affordable Housing Overlay in addition to its zoning designation of B-1 Business District. (Ord. No. 2018-1772)
3. The Zoning Map is amended to change the destination of Block 100, Lots 2 and 2.23-2.49 and Block 145, Lots 1 and 2, Quarry site to AHO-4 Affordable housing Overlay 4 in addition to its zoning designation of I Industrial District. (Ord. No. 2018-1772)
4. The Zoning Map of the Borough of Bernardsville is amended to change the designation of Block 62, Lot 2 fronting on Childs Road to AH-1 Affordable Housing 1 from OB Office Zone District. (Ord. No. 2018-1772)
5. The Zoning Map of the Borough of Bernardsville is amended to change the zoning designation of Block 125, Lot 25 fronting on North Finley Avenue to AH-2 Affordable Housing District from R-3 Residence District. (Ord. No. 2018-1772)
6. The Zoning Map of the Borough of Bernardsville is amended to change the designation of Block 80, Lot 15.38 municipal property fronting on Mine Brook Road to AH-3 from R-10A Multi-Family Housing District. (Ord. No. 2018-1772)
7. The Zoning Map of the Borough of Bernardsville is amended to change the designation of Block 80, Lot 59 fronting on Mine Brook Rd. to AH-4 Affordable Housing from R-4 Residence District. (Ord. No. 2018-1772)
8. The Zoning Map of the Borough of Bernardsville is amended to change the designation of Block 115, Lots 1 & 2 fronting on Pine Street/Kiwanis Field to AH-5 from R-4 Single-Family Housing District. (Ord. No. 2018-1772)
9. The Zoning Map of the Borough of Bernardsville is amended to change the zoning designation of Block 125, Lot 25 fronting on North Finley Avenue to AH-2 Affordable Housing District from R-3 Residence District. (Ord. No. 2018-1778)

12-2.3 Determination of Boundary Lines of Zone Districts.

- a. The distance or bearing or both shown on the map for any zone district boundary line shall determine and govern the location of such boundary lines.
- b. Where no distance or bearing is expressly stated on the map, the zone district boundary lines are municipal boundary lines, center lines of streets, existing lot and tract lines and other expressly delineated boundary lines, as the same are indicated on the map.

c. Where no express distance is shown nor boundary line indicated in accordance with paragraph b. of this subsection, the depth of zone districts shall be deemed to be the distance from the nearest parallel street right-of-way line as regulated in the following schedule:

R-1	625 feet
R-1A	500 feet
R-2	250 feet
R-3	200 feet
R-4	150 feet
R-5	100 feet
B-1	150 feet
O-B	200 feet
C-1	200 feet

(Ord. No. 581 § 12-2.3)

12-3 BUILDING PERMITS AND BUILDING PLANS.

12-3.1 No building or structure or part thereof shall be placed, erected, constructed, reconstructed, structurally altered, added to, moved, removed or razed, nor any of such works commenced until a permit therefor has been first obtained from the Construction Official upon application made to him.

12-3.2 Before commencing to place, erect, construct, reconstruct, structurally alter, add to, move, remove, or raze any building or structure or any portion thereof, the owner or lessee thereof or the agent of either of them shall file with the Building Subcode Official an application in triplicate for a building permit on forms to be supplied by the Building Subcode Official. Such application shall state the intended use or disposition to be made of the building or structure and contain all pertinent information necessary for the Building Subcode Official to determine whether the proposed use or disposition will be in conformity with the provisions of this chapter. The application shall be accompanied by detailed plans drawn to scale and a plot plan drawn to scale, the established building lines within the block, and such other information as may be necessary or desirable to provide for the enforcement of this chapter. All plans and plot plans shall be signed by a duly licensed architect of the State of New Jersey, or a licensed professional engineer, or the owner, if the owner actually prepared the plans and files an affidavit to that effect in accordance with law.

12-3.3 No building permit shall be issued for the placing, erection, construction, reconstruction, structural alteration, addition to, moving, removal or razing of a building or structure unless the application and plans and intended use or disposition of the building or structure indicate that such building or structure is designed and intended to conform in all respects to the provisions of this chapter. In any case wherein the Building Subcode Official shall deem this chapter violated, he shall not issue such permit except upon the written order of the Board of Adjustment or other lawful authority.

12-3.4 Fees for building permits shall be paid at the time of the filing of the application in accordance with the schedule provided in the Building Ordinance and Building Code of the Borough, and any amendments thereof or supplements thereto.

(Ord. No. 581 § 12-3)

12-3A. ZONING PERMIT.

- a. No construction, reconstruction, alteration, conversion or installation of a structure, building, fence, patio, driveway, or other impervious surface, establishment of or change of use shall be undertaken unless and until a Zoning Permit is obtained from the Zoning Officer. Zoning permits shall hereafter be secured from the Zoning Officer prior to the issuance of a building permit for the construction, erection, moving or alteration of a structure, fence or sign or part of a structure or upon a change in the use as defined by the Uniform Construction Code. No tree removal permit shall be issued pursuant to subsection 13-7.1 of the Borough Code until after a zoning permit is issued, if one is required pursuant to this section. (Ord. No. 2017-1755 § 2)
- b. No Zoning Permit shall be issued until all delinquent and current real property taxes or other Borough assessments for local improvements have been paid in full for the property subject to the Zoning Permit.
- c. Application for Zoning Permits shall be submitted to the Zoning Officer using the standard form provided by the Zoning Officer. The application shall include the appropriate Zoning Permit application fee and two (2) copies of a survey or plot plan. The survey/plot plan must be drawn to scale and must show the entire property; locations and uses of all existing structures; any existing wetlands, floodplain, easements or other restrictions; locations, dimensions and height of all proposed structures/improvements; proposed setback dimensions to property lines and adjacent structures; calculations of existing and proposed lot coverage; and any other information deemed necessary by the Zoning Enforcement Officer in order to determine compliance with the provisions of this chapter. For fences, walls, sheds, signs and other structures, graphic details (e.g. construction plans, sketches, catalog photo or brochure) must accompany the application.
- d. The fee for all Zoning Permit applications shall be (\$100.00) dollars.

(Ord. No. 2015-1695; Ord. No. 2017-1755 § 2)

12-4 CERTIFICATES OF OCCUPANCY.

12-4.1 It shall be unlawful to use or occupy or permit the use or occupancy of any building or structure, in whole or in part, for any purpose whatsoever after placing, erecting, constructing, reconstructing, structurally altering, adding to, or moving the same without first obtaining a Certificate of Occupancy from the Building Subcode Official stating that the premises or building and the use thereof comply with all the provisions of this chapter.

12-4.2 In residential zone districts, any change of residential occupancy in a building or structure consistent with the last issued Certificate of Occupancy shall not require a new Certificate of Occupancy; however, any change in nonresidential occupancy in the zone districts in building or structure shall not be effected unless a new Certificate of Occupancy is secured. In nonresidential zone districts it shall be unlawful to use or occupy, or permit the use or occupancy of any building or structure, in whole or in part, for any purpose whatsoever after the ownership or right of occupancy thereof has changed, without first obtaining a Certificate of Occupancy from the Building Subcode Official, except that changes in occupancy related solely to residential uses consistent with the last issued Certificate of Occupancy shall not require a new Certificate of Occupancy.

12-4.3 A Certificate of Occupancy shall be required for any change of use of any building or structure, land or premises including any change of use under a special exception or variance.

12-4.4 No change, alteration, extension or enlargement of a nonconforming use of any building, structure, land or premises shall be made unless and until a Certificate of Occupancy has been first issued by the Building Subcode Official indicating that such alteration or extension is in conformity with the provisions of this chapter.

12-4.5 The Certificate of Occupancy shall be issued by the Building Subcode Official after application therefore by the owner or his authorized agent in

triplicate, on forms to be supplied by the Building Subcode Official. Such applications shall contain all pertinent information necessary for the Building Subcode Official to determine whether said building or structure or land and use thereof are in conformity with this chapter. Where subdivisions or site plans are involved, no Certificate of Occupancy shall issue unless a fully executed Certificate of Compliance relative to same has been filed with the office of the Building Subcode Official.

12-4.6 The Certificate of Occupancy shall be issued to the owner, who shall be primarily responsible for any violation of this chapter where committed with his knowledge, but all persons who cause a violation or who do not comply with the provisions of this chapter shall be guilty of a violation hereof.

12-4.7 No Certificates of Occupancy shall be issued for any use in violation of this chapter or not in conformity with this chapter, unless and until a variance shall be granted by the Approving Authority.

12-4.8 Fees for Certificates of Occupancy shall be paid at the time of the filing of the application in accordance with the schedule provided in the Building Ordinance and Building Code of the Borough, and any amendments thereof or supplements thereto.
(Ord. No. 581 § 12-4)

12-5 R-1 RESIDENCE DISTRICT.

12-5.1 Primary Intended Use.

This zone district is designed for single family residential use but permits:

- a. Private garages conforming to subsection 12-23.3.
 - b. Local municipal public buildings and uses.
 - c. Farming and truck gardening. No building nor other shelter for keeping of any farm animal or fowl shall be permitted closer to any street than three hundred (300) feet nor closer to any other property line than one hundred (100) feet.
 - d. Parking and facilities in accordance with Section 9-10 of this chapter.
 - e. Signs conforming to subsection 12-23.14 of this chapter.
 - f. Other accessory uses customarily incident to the above uses provided they do not include any activity commonly conducted for gain unless specifically permitted in this Article.
 - g. Conditional Uses pursuant to Section 12-25, limited to the following:
 - 1. Open Space Residential Development;
 - 2. Professional Uses;
 - 3. Institutional Uses;
 - 4. Public Utilities;
 - 5. Caretaker's Accessory Apartments.
 - 6. Accessory Dwelling Unit, Detached.
 - h. Not more than one (1) principal building on a lot.
- (Ord. No. 581 § 12-5.1; Ord. No. 94-944 § 2; Ord. No. 96-1074 § 1; Ord. No. 99-1167 § 2; Ord. No. 2001-1260 § 2)

12-5.2 Prohibited Use.

Any use other than those uses listed in subsection 12-5.1 is prohibited. (Ord. No. 581 § 12-5.2)

12-5.3 Required Conditions.

The following requirements must be complied with in the R-1 Residence District:

- a. *Height.* No building shall exceed a maximum of two and one-half (2 1/2) stories or thirty-five (35) feet in height, whichever is the lesser.
- b. *Front Yard.* There shall be a front yard of not less than one hundred twenty-five (125) feet, except that where the existing buildings on the same side of the street and within seven hundred (700) feet from each side line, exclusive of streets or private roads, form an irregular setback line, new buildings may conform to the average of such irregular setback lines, provided that no new building may project closer than one hundred (100) feet to the street or road property line nor need setback more than one hundred twenty-five (125) feet from the property line. A less than required setback line for an existing principal building may be extended laterally along the line, provided that the front yard toward the street property line is not further encroached upon and that the side line requirements are observed.
- c. *Side Yards.* There shall be two (2) side yards, and no side yard shall be less than seventy-five (75) feet. These requirements shall apply for a new building and for an alteration to an existing building. Additions to dwellings with insufficient sideyard setbacks, existing on April 21, 1997, shall be permitted if the dwelling is set back at least forty (40) feet from the side property line and if the addition is no closer to the side property line than the existing structure.
- d. *Rear Yards.* There shall be a rear yard of at least one hundred (100) feet. This requirement shall apply for a new building and for an alteration to an existing building.
- e. *Access Corridor.* No lot shall have a street frontage of less than fifty (50) feet. The width of any corridor providing access to a street shall be at least fifty (50) feet at all points.
- f. *Driveway Position.* No portion of any driveway hereafter constructed shall be within ten (10) feet of a lot line of an adjacent property.
- g. *Minimum Lot Area.* The minimum lot area is two hundred eighteen thousand seven hundred fifty (218,750) square feet.
- h. *Lot Shape.* It must be possible to fit a circle with a diameter of three hundred fifty (350) feet completely within the lot.
- i. *Building Envelope.* The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.
- j. *Surface Disturbance.* Disturbance of land containing slopes over fifteen (15%) percent shall be limited as per the following table, based on ten (10) foot contour intervals, as shown on a grading plan. The ten (10) foot contour intervals utilized to establish these categories should be those which result in the greatest slope, rather than simply using those contours which are multiples of ten (10).

**Maximum Surface Disturbance per Lot
Shall Not Exceed the Greater of:**

Slope Category	Percent of Category	Square Feet
15 - 24.99%	20%	1,000
25 - 29.99%	None	500
30% or greater	None	250

1. Exemptions. The following are exempt from the above slope disturbance limits:

(a) Septic system repair/alterations: Repairs to malfunctioning septic systems and alterations to septic systems (including the relocation of the field and/or tank and/or other related facilities), on lots which are not subject to a lot development plan for other reasons (such as new buildings, additions, or other significant land disturbance), and which are not for the purpose of expanding in order to accommodate additional bedrooms, subject to the following conditions, to the satisfaction of the Health Department:

(1) Septic system repairs/alterations with no expansion of use (as defined in N.J.A.C. 7:9A), such as to accommodate additional bedrooms; and

(2) The slope area to be disturbed is the minimum amount possible to complete the alteration; and

(3) The design engineer certifies on the plan that there is no practicable alternative for the placement of the system on the property that disturbs no steep slope areas; and

(4) The disturbed area shall be stabilized in accordance with the requirements of the appropriate Soil Conservation District.

(5) The design engineer shall submit photos prior to disturbance and after completion, along with a certification that the limits of disturbance and grading were completed in accordance with the approved plans meeting the above criteria.

(b) Temporary disturbance of land for the installation of underground lines (sewer laterals, water service, other utility lines) servicing existing buildings, subject to the following conditions:

(1) The trench into which the utility line is placed shall be no wider than necessary to comply with the United States Occupational Safety and Health Administration safety standards for excavations, set forth at 29 CFR Part 1926, Subpart P.; and

(2) Temporary disturbance, such as temporary construction clearing or temporary storage of dirt or equipment, shall be the minimum size necessary; and

(3) The activities shall not cause any change in preconstruction elevation of the steep slope area; and

(4) Backfill the uppermost six (6) inches of any excavation with the original topsoil material; and

(5) The disturbed area shall be replanted with indigenous plants;

(6) The disturbed area shall be stabilized in accordance with the requirements of the appropriate Soil Conservation District.

k. *Minimum Floor Area.* Every dwelling hereafter erected shall have a minimum floor area excluding garages of one thousand five hundred (1,500) square feet.

l. *Additional Requirements.* For additional requirements relating to floor area, impervious coverage and front setback modification, see subsection 12-23.19.

(Ord. No. 581 § 12-5.3; Ord. No. 93-970 § 1; Ord. No. 97-1094 § 1; Ord. No. 2000-1210 §§ 3, 4; Ord. No. 2002-1274 §§ 7, 8; Ord. No. 2009-1508 § 1)

12-6 R-1A RESIDENCE DISTRICT.

12-6.1 Primary Intended Use.

This zone district is designed for single family residential use but permits any use as permitted and regulated in R-1 Residence District, including conditional uses pursuant to Section 12-25 limited to the following:

a. Open Space Residential Development;

b. Professional Uses;

c. Institutional Uses;

d. Public Utilities.

e. Cellular towers as secondary uses on municipal properties in the R-1A District only.

(Ord. No. 581 § 12-6.1; Ord. No. 2001-1260 § 3; Ord. No. 2005-1390 § 1)

12-6.2 Prohibited Uses.

Any use other than those permitted in subsection 12-5.1 is prohibited. (Ord. No. 581 § 12-6.2)

12-6.3 Required Conditions.

The following requirements must be complied with in the R-1A Residence District.

a. *Height.* No building shall exceed a maximum of two and one-half (2 1/2) stories or thirty-five (35) feet in height whichever is the lesser.

b. *Front Yard.* There shall be a front yard of not less than one hundred (100) feet, except that where the existing buildings on the same side of the street and within eight hundred twenty-five (825) feet from each side line, exclusive of streets or private roads, form an irregular setback line, new buildings may conform to the average of such irregular setback lines, provided that no new building may project closer than seventy-five (75) feet to the street or road property line. A less than required setback line, for an existing principal building may be extended laterally along the line, provided that the front yard toward the street property line is not further encroached upon and that the side line requirements are observed.

c. *Side Yards.* There shall be two (2) side yards, and no side yard shall be less than fifty (50) feet. These requirements shall apply for a new building and for an alteration to an existing building. Additions to dwellings with insufficient sideyard setbacks, existing on April 21, 1997, shall be permitted if the dwelling is set back at least thirty (30) feet from the side property line and if the addition is no closer to the side property line than the existing structure.

d. *Rear Yard.* There shall be a rear yard of at least one hundred (100) feet. This requirement shall apply for a new building and for an alteration to an existing building.

e. *Access Corridor.* No lot shall have a street frontage of less than fifty (50) feet. The width of any corridor providing access to a street shall be at least fifty (50) feet at all points.

f. *Driveway Position.* No portion of any driveway hereafter constructed shall be within ten (10) feet of a lot line of an adjacent property.

g. *Minimum Lot Area.* The minimum lot area is one hundred thirty-seven thousand five hundred (137,500) square feet.

h. *Lot Shape.* It must be possible to fit a circle with a diameter of two hundred seventy-five (275) feet completely within the lot.

i. *Building Envelope.* The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.

j. *Surface Disturbance.* Disturbance of land containing slopes over fifteen (15%) percent shall be limited as per the following table, based on ten (10) foot contour intervals, as shown on a grading plan. The ten (10) foot contour intervals utilized to establish these categories should be those which result in the greatest slope, rather than simply using those contours which are multiples of ten (10).

**Maximum Surface Disturbance per Lot
Shall Not Exceed the Greater of:**

Slope Category	Percent of Category	Square Feet
15 - 24.99%	20%	1,000
25 - 29.99%	None	500
30% or greater	None	250

1. Exemptions. The following are exempt from the above slope disturbance limits:

(a) Septic system repair/alterations: Repairs to malfunctioning septic systems and alterations to septic systems (including the relocation of the field and/or tank and/or other related facilities), on lots which are not subject to a lot development plan for other reasons (such as new buildings, additions, or other significant land disturbance), and which are not for the purpose of expanding in order to accommodate additional bedrooms, subject to the following conditions, to the satisfaction of the Health Department:

(1) Septic system repairs/alterations with no expansion of use (as defined in N.J.A.C. 7:9A), such as to accommodate additional bedrooms; and

(2) The slope area to be disturbed is the minimum amount possible to complete the alteration; and

(3) The design engineer certifies on the plan that there is no practicable alternative for the placement of the system on the property that disturbs no steep slope areas; and

(4) The disturbed area shall be stabilized in accordance with the requirements of the appropriate Soil Conservation District.

(5) The design engineer shall submit photos prior to disturbance and after completion, along with a certification that the limits of disturbance and grading were completed in accordance with the approved plans meeting the above criteria.

(b) Temporary disturbance of land for the installation of underground lines (sewer laterals, water service, other utility lines) servicing existing buildings, subject to the following conditions:

(1) The trench into which the utility line is placed shall be no wider than necessary to comply with the United States Occupational Safety and Health Administration safety standards for excavations, set forth at 29 CFR Part 1926, Subpart P.; and

(2) Temporary disturbance, such as temporary construction clearing or temporary storage of dirt or equipment, shall be the minimum size necessary; and

(3) The activities shall not cause any change in preconstruction elevation of the steep slope area; and

(4) Backfill the uppermost six (6) inches of any excavation with the original topsoil material; and

(5) The disturbed area shall be replanted with indigenous plants;

(6) The disturbed area shall be stabilized in accordance with the requirements of the appropriate Soil Conservation District.

k. *Minimum Floor Area.* Every dwelling hereafter erected shall have a minimum floor area excluding garages of one thousand three hundred fifty (1,350) square feet.

l. *Additional Requirements.* For additional requirements relating to floor area, impervious coverage and front setback modification, see subsection 12-23.19. (Ord. No. 581 § 12-6.3; Ord. No. 93-970; Ord. No. 97-1094 § 2; Ord. No. 2000-1210 §§ 3, 4; Ord. No. 2002-1274 §§ 7, 8; Ord. No. 2009-1508 § 1)

12-7 R-2 RESIDENCE DISTRICT.

12-7.1 Primary Intended Use.

This zone district is designed for single family residential use but permits any use as permitted and regulated in the R-1 Residence District, except that conditional uses shall be limited to:

a. Open space residential development.

b. Professional uses.

c. Institutional uses.

d. Public utilities.

(Ord. No. 581 § 12-7.1)

12-7.2 Prohibited Use.

Any use other than those permitted in subsection 12-5.1 is prohibited. (Ord. No. 581 § 12-7.2)

12-7.3 Required Conditions.

The following requirements must be complied with in the R-2 Residence District:

a. *Height.* No building shall exceed a maximum of two and one-half (2 1/2) stories or thirty-five (35) feet in height, whichever is the lesser.

b. *Front Yard.* There shall be a front yard of not less than seventy-five (75) feet, except that where the existing buildings on the same side of the street and within six hundred (600) feet from each side line, exclusive of streets or private roads, form an irregular setback line, new buildings may conform to the average of such irregular setback lines, provided that no new building may project closer than fifty (50) feet to the street or road property line nor need setback more than seventy-five (75) feet from the property line. A less than required setback line for an existing principal building may be extended laterally along the line, provided that the front yard toward the street property line is not further encroached upon and that the side line requirements are observed.

c. *Side Yards.* There shall be two (2) side yards, and no side yard shall be less than thirty (30) feet. These requirements shall apply for a new building and for an alteration to an existing building. Additions to dwellings with insufficient sideyard setbacks, existing on April 21, 1997, shall be permitted if the dwelling is set back at least twenty (20) feet from the side property line and if the addition is no closer to the side property line than the existing structure.

d. *Rear Yard.* There shall be a rear yard of at least fifty (50) feet. This requirement shall apply for a new building and for an alteration to an existing building.

e. *Access Corridor.* No lot shall have a street frontage of less than fifty (50) feet. The width of any corridor providing access to a street shall be at least fifty (50) feet at all points.

f. *Driveway Position.* No portion of any driveway hereafter constructed shall be within ten (10) feet of an adjacent lot line.

g. *Minimum Lot Area.* The minimum lot area is fifty thousand (50,000) square feet.

h. *Lot Shape.* It must be possible to fit a circle with a diameter of one hundred seventy (170) feet completely within the lot.

i. *Building Envelope.* The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.

j. *Surface Disturbance.* Disturbance of land containing slopes over fifteen (15%) percent shall be limited as per the following table, based on ten (10) foot contour intervals, as shown on a grading plan. The ten (10) foot contour intervals utilized to establish these categories should be those which result in the greatest slope, rather than simply using those contours which are multiples of ten (10).

**Maximum Surface Disturbance per Lot
Shall Not Exceed the Greater of:**

Slope Category	Percent of Category	Square Feet
15 - 24.99%	20%	1,000
25 - 29.99%	None	500
30% or greater	None	250

1. Exemptions. The following are exempt from the above slope disturbance limits:

(a) Septic system repair/alterations: Repairs to malfunctioning septic systems and alterations to septic systems (including the relocation of the field and/or tank and/or other related facilities), on lots which are not subject to a lot development plan for other reasons (such as new buildings, additions, or other significant land disturbance), and which are not for the purpose of expanding in order to accommodate additional bedrooms, subject to the following conditions, to the satisfaction of the Health Department:

(1) Septic system repairs/alterations with no expansion of use (as defined in N.J.A.C. 7:9A), such as to accommodate additional bedrooms; and

(2) The slope area to be disturbed is the minimum amount possible to complete the alteration; and

(3) The design engineer certifies on the plan that there is no practicable alternative for the placement of the system on the property that disturbs no steep slope areas; and

(4) The disturbed area shall be stabilized in accordance with the requirements of the appropriate Soil Conservation District.

(5) The design engineer shall submit photos prior to disturbance and after completion, along with a certification that the limits of disturbance and grading were completed in accordance with the approved plans meeting the above criteria.

(b) Temporary disturbance of land for the installation of underground lines (sewer laterals, water service, other utility lines) servicing existing buildings, subject to the following conditions:

(1) The trench into which the utility line is placed shall be no wider than necessary to comply with the United States Occupational Safety and Health Administration safety standards for excavations, set forth at 29 CFR Part 1926, Subpart P.; and

(2) Temporary disturbance, such as temporary construction clearing or temporary storage of dirt or equipment, shall be the minimum size necessary; and

(3) The activities shall not cause any change in preconstruction elevation of the steep slope area; and

(4) Backfill the uppermost six (6) inches of any excavation with the original topsoil material; and

(5) The disturbed area shall be replanted with indigenous plants;

(6) The disturbed area shall be stabilized in accordance with the requirements of the appropriate Soil Conservation District.

k. *Minimum Floor Area.* Every dwelling hereafter erected shall have a minimum floor area excluding garages of twelve hundred (1200) square feet.

l. *Additional Requirements.* For additional requirements relating to floor area, impervious coverage and front setback modification, see subsection 12-23.19.

(Ord. No. 581 § 12-7.3; Ord. No. 93-970 § 3; Ord. No. 97-1094 § 3; Ord. No. 2000-1210 §§ 3, 4; Ord. No. 2002-1274 §§ 7, 8; Ord. No. 2009-1508 § 1)

12-8 R-3 RESIDENCE DISTRICT.

12-8.1 Primary Intended Use.

This zone district is designed for single family residential use but also permits any use as permitted and regulated in the R-1 Residence District, except that conditional uses shall be limited to:

- a. Professional Uses;
- b. Institutional Uses;
- c. Public Utilities.

(Ord. No. 581 § 12-8.1)

12-8.2 Prohibited Use.

Any use other than those listed in subsection 12-5.1 is prohibited. (Ord. No. 581 § 12-8.2)

12-8.3 Required Conditions.

The following requirements must be complied with in the R-3 District:

a. *Height.* No building shall exceed a maximum of two and one-half (2 1/2) stories or thirty-five (35) feet in height, whichever is the lesser.

b. *Front Yard.* There shall be a front yard of not less than fifty (50) feet, except that where the existing buildings on the same side of the street and within three hundred (300) feet from each side line, exclusive of streets or private roads, form an irregular setback line, new buildings may conform to the average of such irregular setback lines, provided that no new building may project closer than forty (40) feet to the street or road property line nor need set back more than fifty (50) feet from the property line. A less than required setback line for an existing principal building may be extended laterally along the line provided that the front yard toward the street property line is not further encroached upon and that the side line requirements are observed.

c. *Side Yards.* There shall be two (2) side yards, and no side yard shall be less than fifteen (15) feet. These requirements shall apply for a new building and for an alteration to an existing building.

d. *Rear Yard.* There shall be a rear yard of at least fifty (50) feet. This requirement shall apply for a new building and for an alteration to an existing building.

e. *Access Corridor.* No lot shall have a street frontage of less than fifty (50) feet. The width of any corridor providing access to a street shall be at least fifty (50) feet at all points.

f. *Driveway Position.* No portion of any driveway hereafter constructed shall be within ten (10) feet of an adjacent lot line.

g. *Minimum Lot Area.* The minimum lot area is twenty thousand (20,000) square feet.

h. *Lot Shape.* It must be possible to fit a circle with a diameter of one hundred (100) feet completely within the lot.

i. *Building Envelope.* The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.

j. *Surface Disturbance.* Disturbance of land containing slopes over fifteen (15%) percent shall be limited as per the following table, based on ten (10) foot contour intervals, as shown on a grading plan. The ten (10) foot contour intervals utilized to establish these categories should be those which result in the greatest slope, rather than simply using those contours which are multiples of ten (10).

Maximum Surface Disturbance per Lot

Shall Not Exceed the Greater of:

Slope Category	Percent of Category	Square Feet
15 - 24.99%	20%	1,000
25 - 29.99%	None	500
30% or greater	None	250

1. Exemptions. The following are exempt from the above slope disturbance limits:

(a) Septic system repair/alterations: Repairs to malfunctioning septic systems and alterations to septic systems (including the relocation of the field and/or tank and/or other related facilities), on lots which are not subject to a lot development plan for other reasons (such as new buildings, additions, or other significant land disturbance), and which are not for the purpose of expanding in order to accommodate additional bedrooms, subject to the following conditions, to the satisfaction of the Health Department:

(1) Septic system repairs/alterations with no expansion of use (as defined in N.J.A.C. 7:9A), such as to accommodate additional bedrooms; and

(2) The slope area to be disturbed is the minimum amount possible to complete the alteration; and

(3) The design engineer certifies on the plan that there is no practicable alternative for the placement of the system on the property that disturbs no steep slope areas; and

(4) The disturbed area shall be stabilized in accordance with the requirements of the appropriate Soil Conservation District.

(5) The design engineer shall submit photos prior to disturbance and after completion, along with a certification that the limits of disturbance and grading were completed in accordance with the approved plans meeting the above criteria.

(b) Temporary disturbance of land for the installation of underground lines (sewer laterals, water service, other utility lines) servicing existing buildings, subject to the following conditions:

(1) The trench into which the utility line is placed shall be no wider than necessary to comply with the United States Occupational Safety and Health Administration safety standards for excavations, set forth at 29 CFR Part 1926, Subpart P.; and

(2) Temporary disturbance, such as temporary construction clearing or temporary storage of dirt or equipment, shall be the minimum size necessary; and

(3) The activities shall not cause any change in preconstruction elevation of the steep slope area; and

(4) Backfill the uppermost six (6) inches of any excavation with the original topsoil material; and

(5) The disturbed area shall be replanted with indigenous plants;

(6) The disturbed area shall be stabilized in accordance with the requirements of the appropriate Soil Conservation District.

k. *Minimum Floor Area.* Every dwelling hereafter erected shall have a minimum floor area excluding garages of one thousand (1,000) square feet.

l. *Additional Requirements.* For additional requirements relating to floor area, impervious coverage and front setback modification, see subsection 12-23.19.

(Ord. No. 581 § 12-8.3; Ord. No. 93-970 § 4; Ord. No. 97-1094 § 4; Ord. No. 2000-1210 §§ 3, 4; Ord. No. 2002-1274 §§ 7, 8; Ord. No. 2009-1508 § 1)

12-9 R-4 RESIDENCE DISTRICT.

12-9.1 Primary Intended Use.

This zone district is designed for single family residential use but also permits any use as permitted and regulated in the R-1 Residence District, except that conditional uses shall be limited to:

a. Professional Uses;

b. Institutional Uses;

c. Public Utilities.

(Ord. No. 581 § 12-9.1)

12-9.2 Prohibited Use.

Any use other than those listed in subsection 12-5.1 is prohibited. (Ord. No. 581 § 12-9.2)

12-9.3 Required Conditions.

The following requirements must be complied with in the R-4 District.

a. *Height.* No building shall exceed a maximum of two and one-half (2 1/2) stories or thirty-five (35) feet in height, whichever is the lesser.

b. *Front Yard.* There shall be a front yard of not less than forty (40) feet, except that where the existing buildings on the same side of the street and within three hundred (300) feet from each side line, exclusive of streets or private roads, form an irregular setback line, new buildings may conform to the average of such irregular setback lines, provided that no new building may project closer than thirty (30) feet to the street or road property line nor need setback more than forty (40) feet from the property line. A less than required setback line for an existing principal building may be extended laterally along the line, provided that the front yard toward the street property line is not further encroached upon and that the side line requirements are observed.

c. *Side Yards.* There shall be two (2) side yards, and no side yard shall be less than ten (10) feet. These requirements shall apply for a new building and for an alteration to an existing building. Additions to dwellings with insufficient sideyard setbacks, existing on April 21, 1997, shall be permitted if the dwelling is set back at least eight (8) feet from the side property line and if the addition is no closer to the side property line than the existing structure.

d. *Rear Yard.* There shall be a rear yard of at least forty (40) feet. This requirement shall apply for a new building and for an alteration to an existing building.

e. *Access Corridor.* No lot shall have a street frontage of less than fifty (50) feet. The width of any corridor providing access to a street shall be at least fifty (50) feet at all points.

f. *Driveway Position.* No portion of any driveway hereafter constructed shall be within eight (8) feet of a lot line of an adjacent property.

g. *Minimum Lot Area.* The minimum lot area is eleven thousand two hundred fifty (11,250) square feet.

h. *Lot Shape.* It must be possible to fit a circle with a diameter of seventy-five (75) feet completely within the lot.

i. *Building Envelope.* The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.

j. *Surface Disturbance.* Disturbance of land containing slopes over fifteen (15%) percent shall be limited as per the following table, based on ten (10) foot contour intervals, as shown on a grading plan. The ten (10) foot contour intervals utilized to establish these categories should be those which result in the greatest slope, rather than simply using those contours which are multiples of ten (10).

**Maximum Surface Disturbance per Lot
Shall Not Exceed the Greater of:**

Slope Category	Percent of Category	Square Feet
15 - 24.99%	20%	1,000
25 - 29.99%	None	500
30% or greater	None	250

1. Exemptions. The following are exempt from the above slope disturbance limits:

(a) Septic system repair/alterations: Repairs to malfunctioning septic systems and alterations to septic systems (including the relocation of the field and/or tank and/or other related facilities), on lots which are not subject to a lot development plan for other reasons (such as new buildings, additions, or other significant land disturbance), and which are not for the purpose of expanding in order to accommodate additional bedrooms, subject to the following conditions, to the satisfaction of the Health Department:

(1) Septic system repairs/alterations with no expansion of use (as defined in N.J.A.C. 7:9A), such as to accommodate additional bedrooms; and

(2) The slope area to be disturbed is the minimum amount possible to complete the alteration; and

(3) The design engineer certifies on the plan that there is no practicable alternative for the placement of the system on the property that disturbs no steep slope areas; and

(4) The disturbed area shall be stabilized in accordance with the requirements of the appropriate Soil Conservation District.

(5) The design engineer shall submit photos prior to disturbance and after completion, along with a certification that the limits of disturbance and grading were completed in accordance with the approved plans meeting the above criteria.

(b) Temporary disturbance of land for the installation of underground lines (sewer laterals, water service, other utility lines) servicing existing buildings, subject to the following conditions:

(1) The trench into which the utility line is placed shall be no wider than necessary to comply with the United States Occupational Safety and Health Administration safety standards for excavations, set forth at 29 CFR Part 1926, Subpart P.; and

(2) Temporary disturbance, such as temporary construction clearing or temporary storage of dirt or equipment, shall be the minimum size necessary; and

(3) The activities shall not cause any change in preconstruction elevation of the steep slope area; and

(4) Backfill the uppermost six (6) inches of any excavation with the original topsoil material; and

(5) The disturbed area shall be replanted with indigenous plants;

(6) The disturbed area shall be stabilized in accordance with the requirements of the appropriate Soil Conservation District.

k. *Minimum Floor Area.* Every dwelling hereafter erected shall have a minimum floor area excluding garages of one thousand (1000) square feet.

l. *Additional Requirements.* For additional requirements relating to floor area, impervious coverage and front setback modification, see subsection 12-23.19.

(Ord. No. 581 § 12-9.3; Ord. No. 93-970 § 5; Ord. No. 97-1094 § 5; Ord. No. 2000-1210 §§ 3, 4; Ord. No. 2002-1274 §§ 7, 8; Ord. No. 2009-1508 § 1)

12-10 R-5 RESIDENCE DISTRICT.

12-10.1 Primary Intended Use.

This zone district is designed for single family residential use but also permits any use as permitted and regulated in the R-1 Residence District, except that conditional uses shall be:

a. Professional Uses;

b. Institutional Uses;

c. Public Utilities;

d. Single Family Attached Residential Units.

(Ord. No. 581 § 12-10.1)

12-10.2 Prohibited Uses.

Any use other than those listed in subsection 12-5.1 is prohibited. (Ord. No. 581 § 12-10.2)

12-10.3 Required Conditions.

The following requirements must be complied with in the R-5 Residence District.

a. *Height.* No building shall exceed a maximum of two and one-half (2 1/2) stories or thirty-five (35) feet in height, whichever is the lesser.

b. *Front Yard.* There shall be a front yard of not less than thirty (30) feet, except that where the existing buildings on the same side of the street and within two hundred (200) feet from each side line, exclusive of streets or private roads, form an irregular setback line, new buildings may conform to the average of such irregular setback lines, provided that no new building may project closer than twenty (20) feet from the property line. A less than required setback line for an existing principal building may be extended laterally along said line, provided that the front yard toward the street property line is not further encroached upon and that the side line requirements are observed.

c. *Side Yards.* There shall be two (2) side yards, and no side yard shall be less than seven (7) feet, provided. These requirements shall apply for a new building and for an alteration to an existing building. Additions to dwellings with insufficient sideyard setbacks, existing on April 21, 1997, shall be permitted if the dwelling is set back at least six (6) feet from the side property line and if the addition is no closer to the side property line than the existing structure.

d. *Rear Yard.* There shall be a rear yard of at least twenty-five (25) feet. This requirement shall apply for a new building and for an alteration to an existing building.

e. *Lot Width.* No lot shall have a street frontage of less than fifty (50) feet. The width of the lot shall be at least fifty (50) feet at all points.

f. *Minimum Lot Area.* The minimum lot area is five thousand (5,000) square feet.

g. *Lot Shape.* It must be possible to fit a circle with a diameter of fifty (50) feet completely within the lot.

h. *Building Envelope.* The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.

i. *Surface Disturbance.* Disturbance of land containing slopes over fifteen (15%) percent shall be limited as per the following table, based on ten (10) foot contour intervals, as shown on a grading plan. The ten (10) foot contour intervals utilized to establish these categories should be those which result in the greatest

slope, rather than simply using those contours which are multiples of ten (10).

Maximum Surface Disturbance per Lot

Shall Not Exceed the Greater of:

Slope Category	Percent of Category	Square Feet
15 - 24.99%	20%	1,000
25 - 29.99%	None	500
30% or greater	None	250

j. *Minimum Floor Area.* Every dwelling hereafter erected shall have a minimum floor area excluding garages of eight hundred (800) square feet.

1. Exemptions. The following are exempt from the above slope disturbance limits:

(a) Septic system repair/alterations: Repairs to malfunctioning septic systems and alterations to septic systems (including the relocation of the field and/or tank and/or other related facilities), on lots which are not subject to a lot development plan for other reasons (such as new buildings, additions, or other significant land disturbance), and which are not for the purpose of expanding in order to accommodate additional bedrooms, subject to the following conditions, to the satisfaction of the Health Department:

- (1) Septic system repairs/alterations with no expansion of use (as defined in N.J.A.C. 7:9A), such as to accommodate additional bedrooms; and
- (2) The slope area to be disturbed is the minimum amount possible to complete the alteration; and
- (3) The design engineer certifies on the plan that there is no practicable alternative for the placement of the system on the property that disturbs no steep slope areas; and
- (4) The disturbed area shall be stabilized in accordance with the requirements of the appropriate Soil Conservation District.
- (5) The design engineer shall submit photos prior to disturbance and after completion, along with a certification that the limits of disturbance and grading were completed in accordance with the approved plans meeting the above criteria.

(b) Temporary disturbance of land for the installation of underground lines (sewer laterals, water service, other utility lines) servicing existing buildings, subject to the following conditions:

- (1) The trench into which the utility line is placed shall be no wider than necessary to comply with the United States Occupational Safety and Health Administration safety standards for excavations, set forth at 29 CFR Part 1926, Subpart P.; and
- (2) Temporary disturbance, such as temporary construction clearing or temporary storage of dirt or equipment, shall be the minimum size necessary; and
- (3) The activities shall not cause any change in preconstruction elevation of the steep slope area; and
- (4) Backfill the uppermost six (6) inches of any excavation with the original topsoil material; and
- (5) The disturbed area shall be replanted with indigenous plants;
- (6) The disturbed area shall be stabilized in accordance with the requirements of the appropriate Soil Conservation District.

k. *Additional Requirements.* For additional requirements relating to floor area and impervious coverage, see subsection 12-23.19.

(Ord. No. 581 § 12-10.3; Ord. No. 93-970 § 6; Ord. No. 97-1094 § 6; Ord. No. 2000-1210 §§ 3, 4; Ord. No. 2002-1274 §§ 7, 8; Ord. No. 2009-1508 § 1)

12-11 R-8 SINGLE FAMILY ATTACHED RESIDENCE DISTRICT.

12-11.1 Primary Intended Use.

The R-8 District is designed for single family attached residential units. For the purpose of administering this Article, single family attached residential units shall be defined as a dwelling accommodation within a building containing more than one (1) but not more than six (6) single family dwelling units, provided each separate dwelling unit:

- a. Is attached to other similar dwelling units by one (1) or more party walls, or portions thereof, extending from the foundation to the roof;
- b. Provides at least two (2) separate means of access to the outside for each dwelling unit.

A single family attached residential unit may include a building or structure in fee simple, condominium, or cooperative ownership, or any combination thereof.

(Ord. No. 581 § 12-11.1)

12-11.2 Prohibited Use.

Any use other than those listed in subsection 12-11.1 above is prohibited. (Ord. No. 581 § 12-11.2)

12-11.3 Required Conditions.

The following conditions must be complied with in the R-8 Zone District.

a. *Height.* No building shall exceed a maximum of thirty-five (35) feet in height.

b. *Setbacks.* No building or structure shall be located closer than:

1. One hundred (100) feet from the right-of-way line of any State highway;
2. Fifty (50) feet from the right-of-way line of any municipal or county road;
3. Thirty-five (35) feet from any residence district boundary line;
4. Thirty-five (35) feet from any nonresidential district boundary line;
5. Twenty-five (25) feet from the curbline of any internal private roads.

c. *Buffer Areas.* Those setbacks required in subsection 12-11.3b1, 2 and 3 above shall be buffer landscaped areas and shall not contain any building, structure or improvements other than access into the interior of the tract as approved by the Planning Board. Vehicular access from any state highway is specifically prohibited. Off-street parking is permitted within the setback required in paragraph 4. above provided the parking is not closer than ten (10) feet from any nonresidential district boundary line. This ten (10) foot buffer area must be landscaped as approved by the Planning Board. The twenty-five (25)-foot setback required in paragraph 5. above shall not permit a parking area other than that permitted on the driveway leading to an attached garage. This setback shall be landscaped as approved by the Planning Board.

d. *Density.* The gross density for any development in the R-8 Zone shall not exceed seven (7) single family attached dwelling units per acre, notwithstanding any other provisions of this chapter. The maximum number of dwelling units for any project shall be determined by multiplying the total area of the tract in acres within the R-8 Zone exclusive of any abutting public streets by seven (7). Any fractional number of units shall be deleted.

e. *Minimum Floor Area.* Every single family attached residential unit hereafter erected and containing one (1) bedroom shall have a minimum floor area of seven hundred (700) square feet per unit and every single family attached residential unit hereafter erected and containing more than one (1) bedroom shall have a minimum floor area of an additional two hundred (200) square feet for each additional bedroom.

f. *Off-Street Parking.* Off-street parking shall be provided in accordance with Section 9-10 of this chapter.

g. *Rooms.* Any room other than a living room, dining room, kitchen, bathroom, laundry room, utility room, foyer or hallway shall be construed as a bedroom and every unit constructed shall be presumed to have at least one (1) bedroom. The number of bedrooms per single family attached residential unit is unrestricted provided, however, the total number of more than two (2) bedroom units shall not exceed the total number of two (2) or less bedroom units and there shall not be more than eighteen (18) bedrooms per gross acre. Under no circumstances shall the bedroom mix result in a gross density that exceeds seven (7) single family attached residential units per acre.

h. *Open Space.* There shall be a minimum distance of thirty (30) feet between all structures containing dwelling units.

i. *Landscaping.* A Landscaping Plan shall be submitted and be subject to review and approval by the Planning Board at the same time as the Site Plan. The Landscaping Plan will show in detail the location, size, and type of all plantings including lawns to be used on the site. All areas not used for buildings or off-street parking shall be including in the Landscaped Plan. All parking and service areas shall be so screened that said areas are shielded from residential areas adjacent to the site.

j. *Access.* All ingress and egress streets and driveways shall only be located within the R-8 Zone at locations approved by the Planning Board. All recreation areas shall be shown on the Site Plan and shall be subject to review and approval by the Planning Board.

k. *Lighting.* Yard lighting shall be provided during the hours of darkness to provide illumination for the premises and all interior sidewalks, walkways and parking areas thereon. All wiring shall be laid underground and all lighting fixtures shall be arranged so that the direct source of light is not visible from any residential areas adjacent to the site.

l. *Architecture and Construction.* From a design and construction standpoint, a single family attached residence structure has two (2) basic options.

1. It shall be designed and constructed to resemble a large single family residence, or

2. It shall be designed and constructed, with appropriately different single family attached residences, setbacks, and rooflines so as to reflect the combination of more than one (1), but not more than six (6) single family attached residences.

The architecture employed shall be aesthetically in keeping with the surrounding area and shall be subject to approval by the Planning Board. All buildings shall be constructed in accordance with the Building Code and shall comply with the following requirements:

(a) The exterior of each building wall of single family attached residences shall be of wood, brick or stone facing, solid brick or stone, or some other acceptable durable material. Asbestos shingle and cinder or concrete block as exterior finishes are prohibited. The applicant shall submit to the Planning Board for review and approval, in addition to any and all other documents required by any other ordinance concerning Site Plan Review, floor plans, elevation drawings, color rendering and detailed finish schedules.

(b) The exterior of accessory structures shall harmonize architecturally with and be constructed of materials of a like character to those used in principal structures.

(c) There shall be between single family attached residences a soundproof fire wall constructed according to the specifications approved by the Borough Engineer. Such noncombustible wall shall have a sound transmission classification (STC) of not less than fifty-two (52) based on the laboratory test procedure specified in the ASTM (American Society of Testing Materials) recommended practice E-90-66-T.

m. *Utilities.* Every single family attached residential unit must be connected to the public sanitary sewer and water systems as approved by the Borough Engineer. All utilities shall be installed underground. Every dwelling unit shall be serviced by a fire hydrant within five hundred (500) feet of the unit which hydrant shall be connected to a six (6)-inch main. If more than one (1) fire hydrant is required, the hydrants shall be connected to an eight (8)-inch main.

n. *Roads.* All internal roads and driveways within the project shall be private roads constructed and maintained by the developer pursuant to specifications prepared by the Borough Engineer and subject to approval of the Planning Board. All internal roadways shall be designed for maximum safety and convenience and shall not be less than twenty (20) feet in width for two-way traffic nor less than twelve (12) feet in width for one-way traffic. Additional width shall be provided when curbside parking in a roadway is provided.

o. *Storage Space.* A storage area having a minimum floor area of forty-eight (48) square feet, and having both width and length of at least four (4) feet may be located in the basement, cellar, or garage serving the unit or in a structure with exterior access attached to the unit. If in a garage, the space shall be located beyond an area for vehicle parking having minimum dimensions of nine (9) feet in width and eighteen (18) feet in length.

p. *Fees.* At the time of filing an application for Site Plan Approval, the applicant will file with the Borough Clerk a fee of seventy-five (\$75.00) dollars per dwelling unit within the project. The fees shall be used to defray the cost of processing the application. No part of the application fee is refundable. At such time as the Site Plan is approved by the Planning Board but prior to the issuance of a Building Permit, the applicant shall file with the Borough Clerk an inspection fee equal to or not less than five (5%) percent of the estimated costs of all improvements on site exclusive of the dwelling structures. The fee shall be determined by the Borough Engineer and will be used to defray any engineering inspections made by the Borough. Any part of the fee that is not used as above outlined will be returned to the developer after approval by the Borough Council.

q. *Easements.* Any easements as required by the Planning Board, after review by the Borough Engineer, shall be shown on the Site Plan and the easements shall be given to the Borough at such time as the Site Plan is approved. The easements may include but are not necessarily limited to utility lines, public improvements, and ingress and egress for emergency vehicles.

r. *Guarantees.* The developer shall furnish to the Borough as a condition of Site Plan approval such guarantees, covenants, Master Deed or Developer's Agreement, which shall satisfy the requirements of the Planning Board for the construction and maintenance of common areas, landscaping, recreational areas, public improvements and buildings.
(Ord. No. 581 § 12-11.3)

12-12 B-1 BUSINESS DISTRICT.

12-12.1 Primary Intended Use.

This zone is limited to business uses of retail sales and service type such as stores, shops, business and professional offices, restaurants, banks, theaters, newspaper offices, printing establishments, recreational instructional studios, and accessory uses customarily incident to the above uses; and to such uses on the ground floor combined with upper-story studio and one (1) bedroom residential units. Dependent living facilities are permitted. Additionally, the following uses are permitted:

a. Conditional uses pursuant to Section 12-25 limited to the following:

1. Institutional Uses;
2. Public Utilities;
3. Public Garages;
4. Hotels;
5. Reserved;
6. Outdoor Dining.

b. Sidewalk sales shall be permitted on not more than nine (9) days during each calendar year, which days shall be authorized by the Borough Clerk subject to the following standards:

1. Goods and merchandise may be displayed only upon a sidewalk area immediately in front of the business establishment selling same and in such a manner as to permit the free flow of pedestrian traffic on the sidewalk.
2. Goods and merchandise shall be of the same type and quality as that ordinarily maintained and sold by the business establishment conducting the sale.
3. Goods and merchandise shall be displayed in such manner as to permit sales to pedestrians on sidewalk areas. Sales shall not be conducted or made to pedestrians walking or standing in streets, roads or other areas where motor vehicles ordinarily travel.
4. No advertising signs larger than twelve inches by twenty-four (12 x 24) inches shall be utilized in sidewalk sales.
5. Business establishments adjacent to parking areas may set aside portions thereof by clearly marking some and restricting the areas to sidewalk sales. Booths or other displays shall be located in such a manner as to permit the free flow of traffic through the area.
6. Sidewalk sales shall be restricted between the hours of 9:00 a.m. and 6:00 p.m., prevailing time.
7. The use of public address systems, bells, music, auctioneers or other devices or activities not otherwise utilized by business establishments in the ordinary course of business shall not be permitted in conjunction with sidewalk sales.
8. The location of booths and other merchandise displays along sidewalks and in parking areas shall be subject to approval by an authorized member of the Police Department of the Borough of Bernardsville and the Fire Department of the Borough of Bernardsville. Any party failing to comply with a written directive from either of the agencies shall be deemed to be in violation of this chapter.

(Ord. No. 581 § 12-12.1; Ord. No. 769 § 1; Ord. No. 93-947 § 3; Ord. No. 94-990 § 1; Ord. No. 98-1149 § 1 Art. 12; Ord. No. 2001-1261 § 2; Ord. No. 2003-1322 § 1; Ord. No. 2003-1323 § 2; Ord. No. 2013-1623 § 2; Ord. No. 2014-1654 § 2)

12-12.2 Prohibited Uses; Used Car Sales as Accessory Use.

a. This zone shall prohibit any business conducted outside the confines of the building, except that sidewalk sales shall be permitted as provided in subsection 12-12.1b, and used car sales are permitted outside the confines of the building as an accessory use to a franchised new car dealer only when all of the following requirements are complied with:

1. The area devoted to the accessory use is no larger than twice the ground floor area of the building in which the principal use of the premises is conducted.
2. The area devoted to the accessory use is surfaced with an asphalt, bituminous or cement binder pavement which shall be graded and drained to dispose of all surface water.
3. Any lighting in connection with the accessory use shall be so arranged as to reflect the light downward away from all adjoining residence buildings, residence zones or streets.
4. The area to be used for the permitted accessory use shall be at all times clearly and legibly marked on the required paved surface.

b. The following uses are also prohibited:

1. Any process of manufacture, fabrication, assembly, treatment, conversion or alteration which is not an accessory use clearly incidental to the operation of permitted business or use actually conducted on the premises.
2. All residential construction or conversion where the first floor is intended for residential use.
3. Coin-operated vending machines, unless operated within the confines of a principal building or unless permitted by subsection 12-25.2 of this chapter.
4. Roadstands and establishments commonly called snack bars, and similar businesses engaged in the sale of food, soft drinks, ice cream and similar confections which are so prepared and served as to be intended for immediate consumption, and where the customers are served while seated or standing outside the confines of the building or structure in which the business is conducted.
5. Motels or tourist cabins; trailer camps or other storage or parking of trailers.
6. Junk yards, dumps, refuse depots, second-hand material yards, automobile graveyards or disassembly plants, and places for storing, baling or treating junk, old iron, rags, bottles or scrap paper.
7. Commercial warehouses.
8. Coal and lumber yards.
9. Fuel distributing plants or storage yards; express, carting or hauling yards.
10. Bottling works; milk bottling or processing plants.
11. Contractor's plant or yard for storage of equipment or materials; storage or parking in the open of trucks, tractors, cranes, bulldozers, power shovels, or other similar apparatus or equipment except during the course of construction or at the premises.
12. The bulk storage of explosives, inflammable or poisonous gases; the bulk storage of crude oil or any of its volatile products or other flammable liquids.
13. Carousels, roller coasters, merry-go-rounds, ferris wheels, pony riding tracks, exhibitions or wild animals and similar commercial amusements, except in connection with a carnival or circus having a special permit from the Governing Body.
14. Slaughtering poultry and animals; rendering lards of fats and smoking meats, whether or not the same is incidental to a retail business.
15. Stone or monument works.
16. Wholesale bakery.
17. Any commercial or industrial use.

c. For the purpose of this chapter, such uses as laundries, cleaning and dyeing establishments, bakeries and the like shall be deemed to be industries where they employ more than five (5) persons used in the processing or manufacturing of a product or use more than a total of ten (10) horsepower machinery, but is not intended that a retail store or service establishment such as a hotel, department store, or bank be limited in the number of its employees.

d. *Nuisances.* No stores, shop or office in any building shall use any noisemaking instrument such as phonographs, loudspeakers, amplifiers, radios, television sets or similar devices which are so situated as to be heard outside any building. No smoke, dust, fumes or objectionable odor shall be emitted from any building. The display of merchandise on the exterior premises of any building is prohibited, except as to sidewalk sales as provided herein.

(Ord. No. 581 § 12-12.2; Ord. No. 93-947 §§ 4, 5; Ord. No. 94-982 § 1; Ord. No. 98-1149 § 1 Art. 12)

12-12.3 Required Conditions.

The following requirements must be complied with in the B-1 District, except for a dependent living facility for which required conditions are set forth in subsection 12-12.4:

a. *Height.* No building shall have a height of greater than two (2) stories or thirty (30) feet, whichever is less, wherein all stories are used for permitted business or commercial uses. No building shall have a height of greater than three (3) stories or thirty-five (35) feet, whichever is less, if used for business or commercial use in the first story and residential use above.

b. *Front Yard.* There shall be a front yard of not less than ten (10) feet, except that where the existing buildings on the same side of the street and within two hundred (200) feet from an established setback, new buildings shall conform to such established line, provided no new building need set back more than fifteen (15) feet from the front street property line.

c. *Side Yards.* All business buildings may be built without side yards except that there shall be a minimum side yard of ten (10) feet where a business zone adjoins a residence zone.

d. *Rear Yard.* There shall be a rear yard of ten (10) feet except that there shall be a rear yard of at least twenty-four (24) feet where property abuts any residence zone district. Where an alley separates the business from the residential zone, the full alley width may be counted as part of the required yard. Off-street parking may be counted as part of the required yard.

e. *Minimum Floor Area.* The minimum net rentable space for residential units in upper stories shall be five hundred (500) square feet for studio (zero (0)-bedroom) units and six hundred seventy-five (675) square feet for one (1)-bedroom units.

f. *Maximum Impervious Coverage.* The maximum coverage of any lot by impervious surfaces (building and paved areas) shall be eighty-five (85%) percent.

g. Parking and loading shall be provided in accordance with Section 9-10.

(Ord. No. 581 § 12-12.3; Ord. No. 769 § 1; Ord. No. 93-946 § 3; Ord. No. 93-947 § 6; Ord. No. 98-1149 § 1 Art. 12; Ord. No. 2001-1261 § 1; Ord. No. 2003-1323 § 2; Ord. No. 2005-1377 § 1)

12-12.4 Required Conditions For Dependent Living Facilities.

Except where higher requirements are set forth herein, a dependent living facility shall comply with N.J.A.C. 8:36-1 to 8:36-16 and N.J.A.C. 8:36-18, as amended from time to time and any other applicable State and County regulations. The application for development shall include an approved certificate of need from the NJ Department of Health. The following requirements must be complied with in the B-1 Zone Districts for a dependent living facility.

a. *Height.* No building shall have a height of greater than three (3) stories or thirty-five (35) feet whichever is the lesser.

b. *Front Yard.* There shall be a front yard of not less than forty (40) feet.

c. *Side Yards.* There shall be two (2) side yards and no side yard shall be less than twenty-five (25) feet. If the side yard abuts a residential zone, the side yard shall not be less than fifty (50) feet.

d. *Rear Yard.* There shall be a rear yard of not less than twenty-five (25) feet. If the rear yard abuts a residential zone, the rear yard shall not be less than fifty (50) feet.

e. *Maximum Improved Lot Coverage.* The maximum improved lot coverage shall not exceed fifty (50%) percent.

f. *Parking.* There shall be one (1) parking space per unit. Parking shall conform to Section 9-10 Site Design And Parking Standards of the Bernardsville Land Development Ordinance.

g. *Emergency Access.* All sides of the dependent living facility building shall be accessible by emergency vehicles.

h. *Minimum Lot Area.* The minimum lot area is two (2.0) acres.

i. *Units.* The maximum number of units is twenty-five (25) units per acre.

(Ord. No. 2003-1323 § 2)

12-13 O-B OFFICE BUILDING DISTRICT.

12-13.1 Primary Intended Use.

The "O-B" District is designed for offices for executive or administrative purposes, banks, and offices for physicians, dentists, or architects, engineers, attorneys, accountants and like professional uses. No building shall be permitted with a mixed residential and nonresidential use in the building. (Ord. No. 581 § 12-13.1)

12-13.2 Prohibited Use.

Any use other than those listed in subsection 12-13.1 is prohibited. (Ord. No. 581 § 12-13.2)

12-13.3 Required Conditions.

All office buildings shall meet the following requirements:

a. *Height.* No building shall exceed a height of two (2) stories or thirty-five (35) feet, whichever results in the lesser height.

b. *Front Yard.* There shall be a front yard of at least forty (40) feet.

c. *Side Yard.* There shall be two (2) side yards neither of which shall be less than twelve (12) feet.

d. *Rear Yard.* There shall be a rear yard of at least forty (40) feet.

e. *Off-Street Parking.* Off-street parking must comply with the requirements of Section 9-10.

f. *Minimum Lot Area.* There shall be a minimum lot area of fifteen thousand (15,000) square feet with a minimum width of one hundred (100) feet measured at the front lot line.

g. *Distance Between Buildings.* No building shall be erected closer than twenty-four (24) feet with a minimum width of one hundred (100) feet measured at the front lot line.

h. *Utilities.* All utilities must be underground including electricity and gas. Every structure must be connected to the public sanitary sewer and water systems in a manner approved by the Borough Engineer. Drainage facilities shall be provided to dispose properly of all surface water as required by the Borough Engineer and approved by the Planning Board.

i. *Landscaping.* Those portions of the entire site that are not used for off-street parking or buildings shall be attractively planted and maintained with trees, shrubs, plants and grass lawns as required by the Planning Board.

j. *Trash Disposal.* Each business building shall provide a fireproof enclosure contained within an area or areas concealed from any customers' parking area or any adjacent property solely for orderly deposit and pick up of trash, and this enclosure shall be shown on the Site Plan and approved as part of it.

k. *Architecture and Construction.* Office building structures shall be architecturally designed so as to be aesthetically in keeping with the surrounding area and as approved by the Planning Board. The location and placement of the building on the land shall be done in a manner to insure, while meeting required setback side and rear line requirements, the best possible blending of land and building.

All buildings shall be constructed in accordance with the Building Code and shall comply with all requirements of the Fire Code as well as other applicable municipal or State requirements and in addition shall comply with the following requirements:

1. The exterior of each building wall of office business structures shall be of a brick or stone facing, solid brick or stone, or some other accepted durable material. Asbestos shingle and cinder or concrete block as an exterior finish are permitted only when specifically approved by the Planning Board.
2. The exterior of accessory structures shall harmonize architecturally with and be constructed of materials of a like character to those used in principal structures.
3. All stairways shall be contained within office business structures.
4. There shall be between each office on the same floor level, a soundproof fire wall constructed according to the specifications approved by the Borough Engineering and Construction Official. Such non-combustible wall shall have a Sound Transmission Classification (STC) of not less than fifty-two (52) based on the laboratory test procedure specified in the ASTM (American Society of Testing Materials) recommended practice E-90-66T.
5. There shall be between each office on different floor levels, materials having a Sound Transmission Classification (STC) of not less than fifty (50) as described in (4) above as well as an Impact Noise Rating (INR) of zero (0) as specified in ISO recommendation R-140 (Field and Laboratory Measurements of Airborne and Impact Sound Transmission - First Edition, January 1960) for measuring impact transmission with a standard tapping machine. (Ord. No. 581 § 12-13.3)

12-14 - 12-15 RESERVED.

12-16 C-1 COMMERCIAL DISTRICT.

12-16.1 Primary Intended Use.

This zone district is limited to any use as permitted in the B-1 Business District as well as new automobile sales, and additionally:

- a. Conditional uses pursuant to Section 12-25 limited to the following:

1. Institutional use;
2. Public utilities;
3. Public garages;
4. Hotels;
5. Reserved;
6. Outdoor dining.

- b. Accessory uses for a new automobile sales use include repair and preparation of automobiles wholly within a building. Storage areas for repaired or to-be-repaired automobiles shall be screened from adjacent properties. Display of used car sales outside the confines of the building only when all the following requirements are complied with:

1. The area devoted to the accessory used car sales is no larger than the showroom floor area of the building in which the principal use of the premises is conducted.
2. The area devoted to the accessory used car sales is surfaced with an asphalt, bituminous or cement binder pavement which shall be graded and drained to dispose of all surface water.
3. Any lighting in connection with the accessory used car sales shall be so arranged as to reflect the light downward away from all adjoining properties and streets and shall comply with subsection 9-10.1.e.

- c. All automobile display and storage areas shall be paved.

(Ord. No. 581 § 12-14.1; Ord. No. 769 § 1; Ord. No. 94-990 § 1; Ord. No. 2003-1323 § 3; Ord. No. 2004-1356 § 2; Ord. No. 2014-1654 § 2)

12-16.2 Prohibited Uses.

- a. The following uses are prohibited:

1. Residential construction or conversion of the first floor to residential use.
2. Any business conducted outside the confines of a building when said business is the principal or main use of the premises, except sidewalk sales as defined and regulated in this chapter. A business use conducted outside the confines of a building is permitted as an accessory use provided all the requirements of subsection 12-12.2a are complied with.
3. Any commercial use resulting in or producing any of the following conditions:
 - (a) Dissemination of smoke, fumes, gas, dust, odor or any other atmospheric pollutant beyond the boundaries of the lot occupied by such use.
 - (b) Noise audible beyond the boundaries of the immediate site.
 - (c) Dissemination of glare or vibration beyond the immediate site on which such use is conducted.
4. Coin operated vending machines, unless operated within the confines of a principal building or unless permitted by subsection 12-25.2 of this chapter.
5. Motels or tourists cabins; trailer camps or other storage or parking of trailers.
6. Junk yards, dumps, refuse depots, second-hand material yards, automobile graveyards or disassembly plants, and places for storing, bailing or treating junk, old iron, rags, bottles or scrap paper.
7. Bottling works, milk bottling or processing plants.
8. The bulk storage of explosives, inflammable or poisonous gases, the bulk storage of crude oil or any of its volatile products or other inflammable liquids, unless stored in underground tanks.
9. Carousels, roller coasters, merry-go-rounds, ferris wheels, pony riding tracks, exhibitions of wild animals and similar commercial amusements, except in connection with a carnival or circus having a special permit from the Governing Body.
10. Slaughtering poultry and animals; rendering lards or fats and smoking meats, whether or not the same is incidental to a retail business.
11. Any industrial use.
12. Fuel distributing plants or storage yards, express carting or hauling yards.

- b. No store, shop or office shall use any noisemaking instrument such as phonographs, loudspeakers, amplifiers, radios, television sets, or similar devices which are so situated as to be heard outside any building.

12-16.3 Required Conditions.

The following requirements must be complied with in the C-1 District, except for a dependent living facility for which required conditions are set forth in subsection 12-16.4.

- a. *Height.* No building shall have a height of greater than two (2) stories or thirty (30) feet, whichever is less, wherein all stories are used for permitted business or commercial uses. No building shall have a height of greater than three (3) stories or thirty-five (35) feet, whichever is less, if used for business or commercial use in the first story and residential use above.
- b. *Front Yard.* There shall be a front yard of not less than forty-two (42) feet.
- c. *Side Yards.* There shall be two (2) side yards and no side yard shall be less than ten (10) feet.
- d. *Rear Yard.* There shall be a rear yard of at least twenty-four (24) feet, provided that where any alley or railroad right-of-way separates the Commercial Zone from the Residential Zone the full alley or right-of-way be counted as part of the required yard.
- e. *Landscaping.* Those portions of all front, rear and side yards that are not used for off-street parking shall be attractively planted with trees, shrubs, plants and grass lawns as required by the Planning Board. Special planting or fence as approved by the Planning Board shall be provided along rear property lines so that the parking area is not visible from the adjacent residential properties.
- f. *Minimum Floor Area.* The minimum net rentable space for residential units in upper stories shall be five hundred (500) square feet for studio (zero (0)-bedroom) units and six hundred seventy-five (675) square feet for one (1)-bedroom units.
- g. *Maximum Impervious Coverage.* The maximum coverage of any lot by impervious surfaces (buildings and paved areas) shall be eighty-five (85%) percent.
- h. Parking and loading shall be provided in accordance with Section 9-10.

(Ord. No. 581 § 12-14.3; Ord. No. 93-946 § 4; Ord. No. 93-947 §§ 10, 11; Ord. No. 2001-1261 § 1; Ord. No. 2003-1323 § 3; Ord. No. 2005-1377 § 2)

12-16.4 Required Conditions For Dependent Living Facilities.

Except where higher requirements are set forth herein, a dependent living facility shall comply with N.J.A.C. 8:36-1 to 8:36-16 and N.J.A.C. 8:36-18, as amended from time to time and any other applicable state and county regulations. The application for development shall include an approved certificate of need from the NJ Department of Health. The following requirements must be complied with in the C-1 Zone District for a dependent living facility.

- a. *Height.* No building shall have a height of greater than three (3) stories or thirty-five (35) feet whichever is the lesser.
- b. *Front Yard.* There shall be a front yard of not less than forty-two (42) feet.
- c. *Side Yards.* There shall be two (2) side yards and no side yard shall be less than twenty-five (25) feet. If the side yard abuts a residential zone, the side yard shall not be less than fifty (50) feet.
- d. *Rear Yard.* There shall be a rear yard of not less than twenty-five (25) feet. If the rear yard abuts a residential zone, the rear yard shall not be less than fifty (50) feet.
- e. *Maximum Improved Lot Coverage.* The maximum improved lot coverage shall not exceed fifty (50%) percent.
- f. *Parking.* There shall be one (1) parking space per unit. Parking shall conform to Section 9-10 Site Design and Parking Standards of The Land Development Ordinance.
- g. *Emergency Access.* All sides of the dependent living facility building shall be accessible by emergency vehicles.
- h. *Minimum Lot Area.* The minimum lot area is two (2.0) acres.
- i. *Units.* The maximum number of units is twenty-five (25) units per acre.

(Ord. No. 2003-1323 § 3)

12-16.5 Required Standards for Automobile Sale Use.

The following requirements must be complied with:

- a. *Height.* No building shall have a height greater than two (2) stories or thirty (30) feet, whichever is less.
- b. *Front Yard for Buildings.* Forty-two (42) feet, with no parking nor vehicle display closer to the street than the face of the building.
- c. *Side Yard for Building and Vehicles.* Ten (10) feet. Side yard for building abutting a residential zone: twenty-five (25) feet. Side yard for vehicles abutting a residential zone: fifteen (15) feet.
- d. *Rear Yard for Building and Vehicles.* Twenty-four (24) feet, provided that where any alley or railroad right-of-way separates the commercial zone from the residential zone, the full alley or right-of-way be counted as part of the required rear yard.
- e. *Landscaping.* Those portions of all front, rear and side yards that are not used for off-street parking, display or storage shall be attractively planted with trees, shrubs, plants and grass lawns as required by the approving Board. Special planting, fence or berm, as approved by the approving Board, shall be provided along rear and side property lines abutting a residential zone so that vehicles are not visible from the adjacent residential zones during all seasons.
- f. *Maximum Impervious Coverage.* The maximum coverage of any lot by impervious surfaces (buildings and paved areas) shall be seventy-five (75%) percent.
- g. *Outdoor Display.* The maximum area used for outdoor display of for-sale new and used automobile stalls shall not exceed twice the showroom display area within the principal building.
- h. Adequate parking shall be provided for visitors, customers and employees as required by the approving Board in subsection 9-10.6.

(Ord. No. 2004-1356 § 3)

12-17 AFFORDABLE HOUSING OVERLAY ZONE DISTRICTS.

12-17.1 AHO-3 Affordable Housing District.

12-17.1.1 Primary Intended Use.

- a. Affordable family rental multi-family dwellings;
- b. Market rate multi-family dwellings;
- c. A commercial use at ground level;
- d. Parking and facilities in accordance with Section 9-10 of this chapter or Residential Site Improvement Standards as deemed appropriate by the local

approving Board;

- e. Lower level parking that is more than half its height above mean building elevation shall be a story, and
- f. Other accessory uses customarily incident to the above uses provided they not include any activity commonly conducted for gain unless specifically permitted by this Article.
- g. Commercial uses are not permitted unless the use is within a mixed-use inclusionary development.
- h. Inclusionary developments must contain at least five hundred (500) square feet of commercial space at ground floor.
- i. Buildings on a street corner must contain at least one thousand (1,000) square feet of commercial space at ground floor. If a building has two frontages on a street corner, it must provide at least one thousand (1,000) square feet at each corner.

(Ord. No. 2018-1772)

12-17.1.2 Required Conditions.

The following requirements must be complied within the AHO-3 Affordable Housing Districts:

- a. *Height.* No building shall exceed a maximum of four (4) stories or forty (40) feet in height, whichever is the lesser,
- b. *Open Space.* No more than ninety-five (95%) percent of a lot may be covered by an impervious surface. Any open space provided at ground level must have at least one (1) dimension measuring at least twenty (20) feet on the side and no dimension measuring smaller than three (3) feet,
- c. *Driveway Position.* No portion of any driveway hereafter constructed shall be within ten (10) feet of a lot line of an adjacent property,
- d. *Minimum Lot Area.* The minimum lot area is twenty-four thousand (24,000) sq. ft.
- e. *Lot Shape.* It must be possible to fit a circle with a diameter of one hundred (100) feet completely within the lot,
- f. *Building Envelope.* The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP,
- g. *Minimum Floor Area.* Every dwelling hereafter erected shall have a minimum floor area excluding garages of:

Unit Type	Minimum Floor Area (Square Feet)
0 Bedroom (Studio)	500
1 Bedroom	675
2 Bedrooms	900
3 Bedrooms	1000

Units with more than three (3) bedrooms are not permitted.

- h. The maximum number of dwelling units shall be 32 units per acre, producing 80 rental units which shall include fifteen (15) percent or 12 units for affordable family rental households.
- i. There shall be a minimum of three (3) affordable family rental units provided for every 24,000 square feet of lot area.
- j. Minimum distance between apartment buildings is twenty (20) feet.
- k. No building shall contain more than twenty (20) dwellings.

(Ord. No. 2018-1772)

12-17.1.3 Design Standards.

- a. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, Article 9-10, as amended from time to time, this section shall apply.
- b. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
- c. Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing common color schemes and materials.
- d. The appearance of the side and rear elevations of buildings is important. Therefore, guidelines for the fronts of buildings shall also apply to the rear and sides where visible at street level from a public right-of-way.
- e. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank, windowless or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.
- f. The type, shape, pitch, feature and color of any roof shall be architecturally compatible with the building style, material, colors and details of other buildings in the area.
- g. Flat roofs shall be enclosed by parapets or other appropriate architectural details.
- h. All open space shall be designed and landscaped in a way to allow for easy maintenance and limited encroachment onto any public right of way. Additionally, all private open space shall be designed in a way that allows for a reasonable level of enjoyment by residents.
- i. Green building strategies are encouraged in the AHO-3 Overlay Zone.

(Ord. No. 2018-1772)

12-17.2 AHO-4 Affordable Housing District.

12-17.2.1 Primary Intended Use.

- a. Affordable family multi-family dwellings:
 - 1. Townhouses
 - 2. Apartments
- b. Parking and facilities in accordance with Section 9-10 of this chapter or Residential Site Improvement Standards as deemed appropriate by the local approving Board, and
- c. Other accessory uses customarily incident to the above uses provided they not include any activity commonly conducted for gain unless specifically permitted by this Article.

(Ord. No. 2018-1772)

12-17.2.2 Required Conditions.

The following requirements must be complied within the AHO-4 Affordable Housing Districts:

- a. *Height.* No building shall exceed a maximum of three and a half (3.5) stories or forty (40) feet in height, whichever is the lesser,
- b. *Front Yard.* There shall be a front yard of not less than fifty (50) feet,
- c. *Side Yards.* There shall be two (2) side yards, and no side yard shall be less than twenty (20) feet,
- d. *Rear Yards.* There shall be a rear yard of at least fifty (50) feet,
- e. *Driveway Position.* No portion of any driveway hereafter constructed shall be within ten (10) feet of a lot line of an adjacent property,
- f. *Minimum Lot Area.* The minimum lot area is twenty-five acres.
- g. *Lot Shape.* It must be possible to fit a circle with a diameter of one hundred seventy (170) feet completely within the lot,
- h. *Building Envelope.* The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP,
- i. *Minimum Floor Area.* Every dwelling hereafter erected shall have a minimum floor area excluding garages of:

Unit Type	Minimum Floor Area (Square Feet)
0 Bedroom (Studio)	500
1 Bedroom	675
2 Bedrooms	900
3 Bedrooms	1000

Units with more than 3 bedrooms are not permitted.

- j. At least six (6) affordable family rental units shall be for very low-income households.
- k. Minimum distance between buildings is twenty (20) feet.
- l. Maximum density is 14 family rental dwelling units per non-critical area. Critical areas include: slopes of 15% or greater, wetlands, lakes, ponds and open waterways, and conservation easements. Fifteen (15%) percent of total dwelling units shall be for affordable family rental households; or twenty percent (20%) of total dwelling units shall be for affordable owner-occupied family households.

(Ord. No. 2018-1772)

12-17.2.3 Design Standards.

- a. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, this section shall apply.
- b. Overall development shall have a compatible design, architectural and landscaping scheme for the site,
- c. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
- d. Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing common color schemes and materials.
- e. Building facades shall be consistent with the size, scale and setbacks of adjacent buildings and those where there is a visual relationship.
- f. Guidelines for the fronts of buildings shall also apply to the rear and sides where visible at street level from a public right of way.
- g. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank, windowless or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.
- h. The type, shape, pitch, feature and color of any roof shall be architecturally compatible with the building style, material, colors and details of other buildings in the area.
- i. Flat roofs shall be enclosed by parapets or other appropriate architectural details.
- j. Green building strategies are encouraged in the AHO-4 Overlay Zone.

(Ord. No. 2018-1772)

12-18 I INDUSTRIAL DISTRICT.

12-18.1 Primary Intended Use.

In the Industrial District a building may be erected or used and a lot may be used or occupied for any of the following purposes and uses and no other:

- a. *The processing of stone or rock products.* Processing shall include grinding, polishing, coloring and otherwise treating the raw materials, as well as, the further use of such products in the manufacture of derivative or secondary products which are substantially different in form or character from the original raw materials.
- b. *Bulk storage, wholesale and warehousing.* (1) Wholesale establishments including, but not limited to, lumber and building materials sales, machinery sales and service, contractors' heavy equipment sales, rental and service and nursery and landscaping sales; (2) the storage of building material, trees, tree parts and bulk materials; (3) the parking or storage of vehicles or the maintenance or repair of commercial and industrial vehicles or equipment; and (4) parcel delivery and service distribution facilities.
- c. Shops such as construction and industrial trade shops, boat works (custom building and repair), ornamental iron workshops and monument works.
- d. The manufacture or assembly of small parts and equipment.
- e. Public utilities and facilities.
- f. Self-storage facilities.
- g. Fuel oil storage and distribution.
- h. Recycling facility for the recycling of concrete, asphalt and soil.
- i. Retail sales shall be allowed as an accessory use incidental and subordinate to uses permitted in this zone. Areas devoted to retail sales shall be limited to one thousand (1,000) square feet.
- j. Other accessory uses on the same lot and customarily incidental to the principal use, such as office and shipping facilities, machine shop, locker room, boiler room, scale house, concrete plant, asphalt plant and rock crushers.

(Ord. No. 95-1030 § 12-15.1; Ord. No. 2013-1627; Ord. No. 2015-1699 § 2; Ord. No. 2018-1779; Ord. No. 2018-1783)

12-18.2 Prohibited Use.

Any use other than those in subsection 12-18.1 is prohibited as well as any use which is predominantly retail oriented or will produce or emit injurious noise, fumes, smoke, odor, vibration or hazard to the community. (Ord. No. 95-1030 § 12-15.2)

12-18.3 Required Conditions.

The following conditions must be complied with in the Industrial District:

- a. *Minimum Lot or Condominium Area.* The Industrial District may be subdivided into separate lots or condominium areas which shall have a minimum area of fifty thousand (50,000) square feet, and a shape which can accommodate a one hundred (100) foot diameter circle.
 - b. *Height.* No building shall exceed a height of two (2) stories or thirty-five (35) feet, whichever is the lesser.
 - c. *Front Yard.* There shall be a front yard of not less than ten (10) feet.
 - d. *Side Yards.* There shall be a fifteen (15) foot setback along one (1) side of the property which shall be kept clear for the purpose of emergency access.
 - e. *Rear Yard.* There shall be a fifteen (15) foot rear yard setback which shall be kept clear for emergency equipment access.
 - f. *Access.* The individual lots or condominium parcels shall be provided access by a private drive within a right-of-way of at least forty (40) feet in width. A declaration of rights shall be recorded.
 - g. The maximum lot area coverage shall be seventy-five (75%) percent.
 - h. *Minimum Frontage.* Each lot or condominium parcel shall have a minimum frontage of fifty (50) feet along the private right-of-way.
 - i. Prior to final site plan or subdivision approval, a condominium or property owners association shall be established to take care of the development and maintenance of all private facilities and services supporting this district including, but not limited to private road, entrance and railroad gate, stormwater management, perimeter fencing and berming, pond security, water supply, sewerage collection and treatment facilities, signage and slope stability.
 - j. That portion of the Industrial District above elevation 400 and between the elevation and the Residential District(s) shall be a conservation area where no building or industrial activity shall take place, as shown on the Zone Boundary Amendment Map prepared by Yannaccone Associates, Inc. dated March 23, 1995 and amended to April 27, 1995.
 - k. Parking and loading shall be provided in accordance with Section 9-10.
- (Ord. No. 95-1030 § 12-15.3; Ord. No. 2005-1377 § 3)

12-19 I-2 LIGHT INDUSTRIAL ZONE DISTRICT.

12-19.1 Primary Intended Use.

This zone district is provided for existing light industrial workshops and other similar uses. Because of the limited capacity of local streets adjacent to this zone, uses which generate nonresidential vehicle traffic are to be limited and uses which have large numbers of commercial vehicles are prohibited.

- a. Workshops of craftsman and tradesman in the construction industry, ornamental ironwork workshops, monument workshops and similar workshop establishments.
 - b. Self-storage facilities.
 - c. Light industrial workshops and/or assembly of small parts workshops.
- (Ord. No. 96-1057 § 1; Ord. No. 2005-1376 § 1)

12-19.2 Accessory Uses.

Customary and incidental accessory uses to a principal use such as office, shipping facilities, machine shop, locker room, fuel storage, employee parking and equipment parking are permitted. (Ord. No. 96-1057 § 1)

12-19.3 Accessory Structures.

Customary and incidental accessory structures to the principal structure such as storage sheds and garages are permitted. The height shall not exceed one (1) story or fifteen (15) feet whichever is the lesser. All yards for an accessory structure shall be a minimum of fifteen (15) feet. No accessory structure shall be located in the front yard. (Ord. No. 96-1057 § 1)

12-19.4 Prohibited Uses.

- a. Retail sales of goods and services.
 - b. Vehicle maintenance and repair facilities.
 - c. Distribution or warehousing.
 - d. Commercial waste hauler depot or waste transfer station.
 - e. Fuel distribution business.
 - f. Trucking uses.
 - g. Storage and/or parking of equipment and/or vehicles not accessory to the principal permitted use.
- (Ord. No. 96-1057 § 1)

12-19.5 Required Conditions.

- a. *Height.* No building shall exceed a height of two (2) stories or thirty (30) feet, whichever is the lesser.
 - b. *Front Yard.* Not less than ten (10) feet for existing structures and not less than forty (40) feet for new structures.
 - c. *Side Yards.* Not less than fifteen (15) feet for existing structures and not less than the height of the principal structure for new structures.
 - d. *Rear Yard.* Not less than fifteen (15) feet for existing structures and not less than the height of the principal structure for new structures.
 - e. *Minimum Lot Area.* There shall be a minimum lot area, as defined, of twenty thousand (20,000) square feet; the lot shape shall be such that the minimum lot width at the front setback line is one hundred (100) feet.
 - f. Maximum lot area coverage for structures is thirty (30%) percent.
 - g. Maximum impervious coverage is seventy (70%) percent.
- (Ord. No. 97-1057 § 1)

12-19.6 Buffer Areas.

All required setbacks shall be landscaped areas and shall not contain any structures, storage, parking or other similar improvements or uses. Where the property abuts a residential zone, a fifteen (15) foot buffer shall be established consisting of either natural vegetation or landscape plantings to form a vision proof barrier into the I-2 property. (Ord. No. 96-1057 § 1)

12-19.7 Parking.

- a. Parking shall be provided as in Section 9-10 of this chapter.
- b. Parking shall only be permitted for those commercial vehicles which are owned or used by an on-site use permitted in this zone district.
- c. No more than forty (40%) percent of vehicle parking shall be for commercial and/or nonresidential type vehicles.

(Ord. No. 96-1057 § 1)

12-19.8 Vehicle Operation.

No commercial vehicle associated with permitted land uses within the zone shall be operated on the property, nor ingress and egress, the property between the hours of 7:00 p.m. and 7:00 a.m. In the event of an emergency service provided by any of the permitted land uses, these hours of operation shall not apply. (Ord. No. 96-1057 § 1)

12-20 AFFORDABLE HOUSING ZONE DISTRICTS.

12-20.1 AH-1 AFFORDABLE HOUSING DISTRICT.

- a. *Primary Intended Use.*
 - 1. Affordable family rental multi-family dwellings:
 - (a) Townhouses
 - (b) Apartments
 - 2. Parking and facilities in accordance with Section 9-10 of this chapter or Residential Site Improvement Standards as deemed appropriate by the local approving Board,
 - 3. Other accessory uses customarily incident to the above uses provide they not include any activity commonly conducted for gain unless specifically permitted by this Article, and
 - 4. No more than one (1) principal building on a lot.

- b. *Required Conditions.*

The following requirements must be complied with in the AH-1 Affordable Housing Districts:

- 1. Height. No building shall exceed a maximum of two and one-half (2 1/2) stories or thirty-five (35) feet in height, whichever is the lesser,
- 2. Front Yard. There shall be a front yard of not less than fifteen (15) feet,
- 3. Side Yards. There shall be two (2) side yards, and no side yard shall be less than ten (10) feet,
- 4. Rear Yards. There shall be a rear yard of at least ten (10) feet,
- 5. Building Envelope. The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.
- 6. Minimum Floor Area. Every dwelling hereafter erected shall have a minimum floor area excluding garages of

Unit Type	Minimum Floor Area (Square Feet)
0 Bedroom (Studio)	500
1 Bedroom	675
2 Bedrooms	900
3 Bedrooms	1000

Units with more than 3 bedrooms are not permitted.

- 7. The maximum number of dwelling units shall not exceed 6 affordable family rental units.
- c. *Design Standards.*
 - 1. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, Article 9-10, as amended from time to time shall apply.
 - 2. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
 - 3. Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing common color schemes and materials.
 - 4. Building facades shall be consistent with the size, scale and setbacks of adjacent buildings and those where there is a visual relationship.
 - 5. The appearance of the side and rear elevations of buildings is important. Therefore, guidelines for the fronts of buildings shall also apply to the rear and sides where visible at street level from a public right-of-way.
 - 6. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.
 - 7. The type, shape, pitch, feature and color of a roof shall be architecturally compatible with the building style, material, colors and details of other buildings in the area.
 - 8. Flat roofs shall be enclosed by parapets or other appropriate architectural details.
 - 9. All open space shall be designed and landscaped in a way to allow for easy maintenance and limited encroachment onto any public right of way. Additionally, all private open space shall be designed in a way that allows for a reasonable level of enjoyment by residents.
 - 10. Green building strategies are encouraged in the AH-1 Zone.

(Ord. No. 2018-1772 § 5)

12-20.2 AH-2 AFFORDABLE HOUSING DISTRICT.

- a. *Primary Intended Use.*

1. Affordable family rental multi-family dwellings:
 - (a) Townhouses
 - (b) Apartments
2. Parking and facilities in accordance with Section 9-10 of this chapter or Residential,
3. Site Improvement Standards as deemed appropriate by the local approving

Board,

4. Other accessory uses customarily incident to the above uses provide they not include any activity commonly conducted for gain unless specifically permitted by this Article.

b. *Required Conditions.*

The following requirements must be complied with in the AH-2 Affordable Housing Districts:

1. Height. No building shall exceed a maximum of three (3.0) stories or thirty-five (35) feet in height, whichever is the lesser,
2. Front Yard. There shall be a front yard of not less than twenty-five (25) feet,
3. Side Yards. There shall be two (2) side yards, and no side yard shall be less than twenty (20) feet,
4. Rear Yards. There shall be a rear yard of at least twenty (20) feet,
5. Building Envelope. The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.
6. Minimum Floor Area. Every dwelling hereafter erected shall have a minimum floor area excluding garages of:

Unit Type	Minimum Floor Area (Square Feet)
0 Bedroom (Studio)	500
1 Bedroom	675
2 Bedrooms	900
3 Bedrooms	1000

Units with more than 3 bedrooms are not permitted.

7. The maximum number of dwellings shall not exceed 30 rental age-restricted affordable dwellings.
8. At least one-third of the affordable dwelling units shall be for very low-income households as defined in the definitions.
9. Minimum distance between buildings is twenty (20) feet.

c. *Design Standards.*

1. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, Article 9-10, as amended from time to time, shall apply
2. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
3. Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing common color schemes and materials.
4. Building facades shall be consistent with the size, scale and setbacks of adjacent buildings and those where there is a visual relationship.
5. The appearance of the side and rear elevations of buildings is important. Therefore, guidelines for the fronts of buildings shall also apply to the rear and sides where visible at street level from a public right-of-way.
6. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.
7. The type, shape, pitch, feature and color of a roof shall be architecturally compatible with the building style, material, colors and details.
8. Flat roofs shall be enclosed by parapets or other appropriate architectural details.
9. All open space shall be designed and landscaped in a way to allow for easy maintenance and limited encroachment onto any public right of way. Additionally, all private open space shall be designed in a way that allows for a reasonable level of enjoyment by residents.
10. Green building strategies are encouraged in the AH-2 Zone.

(Ord. No. 2018-1772 § 5; Ord. No. 2018-1778 § 2)

12-20.3 AH-3 AFFORDABLE HOUSING DISTRICT.

a. *Primary Intended Use.*

1. Affordable family rental multi-family dwellings:
 - (a) Townhouses
 - (b) Apartments
2. Parking and facilities in accordance with Section 9-10 of this chapter or Residential Site Improvement Standards as deemed appropriate by the local approving Board,
3. Other accessory uses customarily incident to the above uses provide they not include any activity commonly conducted for gain unless specifically permitted by this Article, and

b. *Required Conditions.*

The following requirements must be complied with in the AH-3 Affordable Housing Districts:

1. Height. No building shall exceed a maximum of three (3.0) stories or thirty-five (35) feet in height, whichever is the lesser.
2. Front Yard. There shall be a front yard of not less than thirty-five (35) feet.
3. Side Yards. There shall be two (2) side yards, and no side yard shall be less than twenty (20) feet.
4. Rear Yards. There shall be a rear yard of at least ten (10) feet.
5. Building Envelope. The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.
6. Minimum Floor Area. Every dwelling hereafter erected shall have a minimum floor area excluding garages of:

Unit Type	Minimum Floor Area (Square Feet)
0 Bedroom (Studio)	500
1 Bedroom	675
2 Bedrooms	900
3 Bedrooms	1000

Units with more than 3 bedrooms are not permitted.

7. The maximum number of family rental affordable dwellings shall not exceed sixteen (16), providing one (1) unit is very low income.
8. Minimum distance between buildings is twenty (20) feet.

c. *Design Standards.*

1. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, Article 9-10, as amended from time to time shall apply.
2. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
3. Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing common color schemes and materials.
4. Building facades shall be consistent with the size, scale and setbacks of adjacent buildings and those where there is a visual relationship.
5. The appearance of the side and rear elevations of buildings is important. Therefore, guidelines for the fronts of buildings shall also apply to the rear and sides where visible at street level from a public right-of-way.
6. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.
7. The type, shape, pitch, feature and color of a roof shall be architecturally compatible with the building style, material, colors and details of other buildings in the area.
8. Flat roofs shall be enclosed by parapets or other appropriate architectural details.
9. All open space shall be designed and landscaped in a way to allow for easy maintenance and limited encroachment onto any public right of way. Additionally, all private open space shall be designed in a way that allows for a reasonable level of enjoyment by residents.
10. Green building strategies are encouraged in the AH-3 Zone.

(Ord. No. 2018-1772 § 5)

12-20.4 AH-4 AFFORDABLE HOUSING DISTRICT.

a. *Primary Intended Use.*

1. Affordable family rental multi-family dwellings:
 - (a) Townhouses
 - (b) Apartments
2. Parking and facilities in accordance with Section 9-10 of this chapter or Residential Site Improvement Standards as deemed appropriate by the local approving Board,
3. Other accessory uses customarily incident to the above uses provide they not include any activity commonly conducted for gain unless specifically permitted by this Article.

b. *Required Conditions.*

1. The following requirements must be complied with in the AH-1 Affordable Housing Districts:
 1. Height. No building shall exceed a maximum of two and one-half (2 1/2) stories or thirty-five (35) feet in height, whichever is the lesser.
 2. Front Yard. There shall be a front yard of not less than twenty-five (25) feet.
 3. Side Yards. There shall be two (2) side yards, and no side yard shall be less than ten (10) feet.
 4. Rear Yards. There shall be a rear yard of at least fifteen (15) feet.
 5. Building Envelope. The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.
 6. Minimum Floor Area. Every dwelling hereafter erected shall have a minimum floor area excluding garages of:

Unit Type	Minimum Floor Area (Square Feet)
0 Bedroom (Studio)	500
1 Bedroom	675
2 Bedrooms	900
3 Bedrooms	1000

Units with more than 3 bedrooms are not permitted.

7. The maximum number of dwelling units shall not exceed 10 affordable family units.
8. Minimum distance between buildings is twenty (20) feet.

c. *Design Standards.*

1. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, Article 9-10, as amended from time to time shall apply.
2. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
3. Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing common color schemes and materials.
4. Building facades shall be consistent with the size, scale and setbacks of adjacent buildings and those where there is a visual relationship.
5. The appearance of the side and rear elevations of buildings is important. Therefore, guidelines for the fronts of buildings shall also apply to the rear and sides where visible at street level from a public right-of-way.
6. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank or featureless walls. Also, large expanses of

windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.

7. The type, shape, pitch, feature and color of a roof shall be architecturally compatible with the building style, material, colors and details of other buildings in the area.
8. Flat roofs shall be enclosed by parapets or other appropriate architectural details.
9. All open space shall be designed and landscaped in a way to allow for easy maintenance and limited encroachment onto any public right of way. Additionally, all private open space shall be designed in a way that allows for a reasonable level of enjoyment by residents.
10. Green building strategies are encouraged in the AH-4 Zone.

(Ord. No. 2018-1772 § 5)

12-20.5 AH-5 AFFORDABLE HOUSING DISTRICT.

a. Primary Intended Use.

1. Affordable family rental multi-family dwellings:
 - (a) Townhouses
 - (b) Apartments
2. Parking and facilities in accordance with Section 9-10 of this chapter or Residential Site Improvement Standards as deemed appropriate by the local approving Board.
3. Other accessory uses customarily incident to the above uses provide they not include any activity commonly conducted for gain unless specifically permitted by this Article.

b. Required Conditions.

1. The following requirements must be complied with in the AH-5 Affordable Housing Districts:
 1. Height. No building shall exceed a maximum of two and one-half (2 1/2) stories or thirty-five (35) feet in height, whichever is the lesser.
 2. Front Yard. There shall be a front yard of not less than twenty-five (25) feet.
 3. Side Yards. There shall be two (2) side yards, and no side yard shall be less than ten (10) feet.
 4. Rear Yards. There shall be a rear yard of at least twenty-five (25) feet.
 5. Building Envelope. The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.
 6. Minimum Floor Area. Every dwelling hereafter erected shall have a minimum floor area excluding garages of:

Unit Type	Minimum Floor Area (Square Feet)
0 Bedroom (Studio)	500
1 Bedroom	675
2 Bedrooms	900
3 Bedrooms	1000

Units with more than 3 bedrooms are not permitted.

7. The maximum number of family rental affordable dwellings shall not exceed eight (8) units.
8. Minimum distance between buildings is fifteen (15) feet.

c. Design Standards.

1. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, Article 9-10, as amended from time to time, shall apply.
2. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
3. Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing common color schemes and materials.
4. Building facades shall be consistent with the size, scale and setbacks of adjacent buildings and those where there is a visual relationship.
5. The appearance of the side and rear elevations of buildings is important. Therefore, guidelines for the fronts of buildings shall also apply to the rear and sides where visible at street level from a public right-of-way.
6. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.
7. The type, shape, pitch, feature and color of a roof shall be architecturally compatible with the building style, material, colors and details of other buildings in the area.
8. Flat roofs shall be enclosed by parapets or other appropriate architectural details.
9. All open space shall be designed and landscaped in a way to allow for easy maintenance and limited encroachment onto any public right of way. Additionally, all private open space shall be designed in a way that allows for a reasonable level of enjoyment by residents.
10. Green building strategies are encouraged in the AH-5 Zone.

(Ord. No. 2018-1772 § 5)

12-21 HD HIGHWAY DEVELOPMENT DISTRICT.

12-21.1 Primary Intended Use.

This zone district is limited to business uses of a retail sales and service type such as stores, shops, business and professional offices, restaurants, banks, theaters, recreational instruction studios, and accessory uses customarily incident to the above uses. Sidewalk sales are permitted in the Highway Development District. Additionally, hotels, and outdoor dining are permitted as conditional uses pursuant to Section 12-25. (Ord. No. 581 § 12-16.1; Ord. No. 769 § 1g; Ord. No. 94-990 § 1; Ord. No. 2013-1623 §3; Ord. No. 2014-1654 § 1)

12-21.2 Prohibited Use.

Any use other than those listed in subsection 12-21.1 is prohibited and, in addition, the following uses are specifically prohibited:

- a. Any type of residential construction use.
 - b. Any type of industrial operation or use including any process of manufacture, fabrication, assembly, disassembly, extraction, treatment conversion or alteration of any material unless clearly incidental or accessory to the permitted principal use.
 - c. Gasoline service stations.
 - d. Any business operation conducted outside the confines of a building, or any business operation which results in the storage or display of any article or merchandise outside the confines of a building such as a lumber yard, auto sales and the like; except sidewalk sales.
 - e. All uses prohibited in subsections 12-12.2 and 12-16.2.
- (Ord. No. 581 § 12-16.2)

12-21.3 Required Conditions.

Every one of the following requirements shall be complied with in the Highway Development district:

- a. *Height.* No building shall exceed a height of two (2) stories or thirty-five (35) feet, whichever results in the lesser height.
 - b. *Front Yard.* There shall be a front yard of not less than one hundred seventy-five (175) feet.
 - c. *Side Yards.* There shall be two (2) side yards and no side yard shall be less than twenty-five (25) feet.
 - d. *Rear Yard.* There shall be a rear yard of at least sixty-five (65) feet.
 - e. *Landscaping and Buffer Areas.* Those portions of the entire site that are not used for off-street parking or buildings shall be attractively planted and maintained with trees, shrubs, plants and grass lawn as required by the Planning Board.
 - f. *Distance Between Buildings.* No building shall be erected closer than fifty (50) feet to any other building situated on the same lot.
 - g. *Utilities.* Each business building shall be provided with adequate utilities such as water and sewage facilities as well as drainage facilities to properly dispose of all surface water as required by the Borough Engineer and approved by the Planning Board.
 - h. *Trash Disposal.* Each business building shall provide an area or areas, concealed from any customers' parking area or any adjacent property for orderly deposit and pick-up of trash approved as part of the Site Plan.
 - i. *Nuisances.* No stores or shops shall use any noisemaking devices such as phonographs, loud speakers, amplifiers, radios, television sets or similar devices so situated so as to be audible outside the confines of any building. No smoke, fumes or objectionable odors shall be emitted from any building. Outdoor storage or the display of any article or merchandise placed on the exterior premises of any building is prohibited, except the display of merchandise incidental to sidewalk sales.
 - j. *Parking.* Parking and loading shall be in accordance with Section 9-10.
- (Ord. No. 581 § 12-16.3)

12-22 R-1-10 RESIDENCE DISTRICT.

12-22.1 Primary Intended Uses.

This zone district is designed for single family residential use but permits:

- a. Private garages conforming to subsection 12-23.4.
 - b. Local municipal public buildings and uses.
 - c. *Farming and Truck Gardening.* No building nor other shelter for keeping of any farm animal or fowl shall be permitted closer to any street than three hundred (300) feet nor closer to any other property line than one hundred (100) feet.
 - d. Parking and facilities in accordance with Section 9-10 of this chapter.
 - e. Signs conforming to subsection 12-23.15 of this chapter.
 - f. Other accessory uses customarily incident to the above uses provided they do not include any activity commonly conducted for gain unless specifically permitted in this Article.
 - g. Conditional uses pursuant to Section 12-25, limited to the following:
 1. Open Space Residential Development;
 2. Professional uses;
 3. Institutional uses;
 4. Public utilities;
 5. Caretaker's accessory apartments;
 6. Accessory dwelling unit, detached.
 - h. Not more than one (1) principal building on a lot.
- (Ord. No. 2002-1271 § 1)

12-22.2 Prohibited Uses.

Any use other than those uses listed in subsection 12-5.1 is prohibited. (Ord. No. 2002-1271 § 1)

12-22.3 Required Conditions.

The following requirements must be complied with in the R-1-10 Residence District:

- a. *Height.* No building shall exceed a maximum of two and one-half (2 1/2) stories or thirty-five (35) feet in height, whichever is the lesser.
- b. *Front Yard.* There shall be a front yard of not less than one hundred twenty-five (125) feet, except that where the existing buildings on the same side of the street and within seven hundred (700) feet from each side line, exclusive of streets or private roads, form an irregular setback line, new buildings may conform to the average of such irregular setback lines, provided that no new building may project closer than one hundred (100) feet to the street or road property line nor need setback more than one hundred twenty-five (125) feet from the property line. A less than required setback line for an existing principal building may be extended laterally along the line, provided that the front yard toward the street property line is not further encroached upon and that the side line requirements are observed.
- c. *Side Yards.* There shall be two (2) side yards, and no side yard shall be less than seventy-five (75) feet. These requirements shall apply for a new building and for an alteration to an existing building. Additions to dwellings with insufficient sideyard setbacks, existing on April 21, 1997, shall be permitted if the dwelling is set back at least forty (40) feet from the side property line and if the addition is no closer to the side property line than the existing structure.
- d. *Rear Yards.* There shall be a rear yard of at least one hundred (100) feet. This requirement shall apply for a new building and for an alteration to an existing building.

- e. *Access Corridor.* No lot shall have a street frontage of less than fifty (50) feet. The width of any corridor providing access to a street shall be at least fifty (50) feet at all points.
- f. *Driveway Position.* No portion of any driveway hereafter constructed shall be within ten (10) feet of a lot line of an adjacent property.
- g. *Minimum Lot Area.* The minimum lot area is four hundred thirty-five thousand six hundred (435,600) square feet.
- h. *Lot Shape.* It must be possible to fit a circle with a diameter of four hundred seventy-five (475) feet completely within the lot.
- i. *Building Envelope.* The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.
- j. *Surface Disturbance.* Disturbance of land containing slopes over fifteen (15%) percent shall be limited as per the following table, based on ten (10) foot contour intervals, as shown on a grading plan. The ten (10) foot contour intervals utilized to establish these categories should be those which result in the greatest slope, rather than simply using those contours which are multiples of ten (10).

**Maximum Surface Disturbance per Lot
Shall Not Exceed the Greater of:**

Slope Category	Percent of Category	Square Feet
15 - 24.99%	20%	1,000
25 - 29.99%	None	500
30% or greater	None	250

1. Exemptions. The following are exempt from the above slope disturbance limits:
 - (a) Septic system repair/alterations: Repairs to malfunctioning septic systems and alterations to septic systems (including the relocation of the field and/or tank and/or other related facilities), on lots which are not subject to a lot development plan for other reasons (such as new buildings, additions, or other significant land disturbance), and which are not for the purpose of expanding in order to accommodate additional bedrooms, subject to the following conditions, to the satisfaction of the Health Department:
 - (1) Septic system repairs/alterations with no expansion of use (as defined in N.J.A.C. 7:9A), such as to accommodate additional bedrooms; and
 - (2) The slope area to be disturbed is the minimum amount possible to complete the alteration; and
 - (3) The design engineer certifies on the plan that there is no practicable alternative for the placement of the system on the property that disturbs no steep slope areas; and
 - (4) The disturbed area shall be stabilized in accordance with the requirements of the appropriate Soil Conservation District.
 - (5) The design engineer shall submit photos prior to disturbance and after completion, along with a certification that the limits of disturbance and grading were completed in accordance with the approved plans meeting the above criteria.
 - (b) Temporary disturbance of land for the installation of underground lines (sewer laterals, water service, other utility lines) servicing existing buildings, subject to the following conditions:
 - (1) The trench into which the utility line is placed shall be no wider than necessary to comply with the United States Occupational Safety and Health Administration safety standards for excavations, set forth at 29 CFR Part 1926, Subpart P.; and
 - (2) Temporary disturbance, such as temporary construction clearing or temporary storage of dirt or equipment, shall be the minimum size necessary; and
 - (3) The activities shall not cause any change in preconstruction elevation of the steep slope area; and
 - (4) Backfill the uppermost six (6) inches of any excavation with the original topsoil material; and
 - (5) The disturbed area shall be replanted with indigenous plants;
 - (6) The disturbed area shall be stabilized in accordance with the requirements of the appropriate Soil Conservation District.
 - k. *Minimum Floor Area.* Every dwelling hereafter erected shall have a minimum floor area excluding garages of one thousand five hundred (1,500) square feet.
 - l. *Additional Requirements.* For additional requirements relating to floor area, impervious coverage and front setback modification, see subsection 12-23.19.
- (Ord. No. 2002-1271 § 1; Ord. No. 2002-1274 §§ 7, 8; Ord. No. 2009-1508 § 1; Ord. No. 2009-1516 §§ 1,2)

12-22.4 Nonconforming Lots.

Lots which do not conform to the R-1-10 minimum lot size of four hundred thirty-five thousand six hundred (435,600) square feet but which conformed to the R-1 lot size at the time of adoption of the R-1-10 Zone District shall be classified as conforming lots and shall be afforded all rights and privileges thereto consistent with the area, height and bulk standards of the R-1 Zone District. (Ord. No. 2002-1271 § 1)

12-23 SUPPLEMENTARY REGULATIONS AND GENERAL PROVISIONS.

12-23.1 Accessory Building.

- No accessory building may be built on any lot on which there is no principal building or structure. If, as the result of a subdivision, an existing accessory building is located on a new lot on which there is no principal building or structure, that accessory building may remain on the lot, but it may not be used until a new principal building or structure is built on that lot.
- a. No accessory building shall exceed the height regulations of the district in which it is constructed, provided, however, this shall not apply to accessory farm buildings such as barns, silos and water towers.
 - b. Accessory buildings shall be at least ten (10) feet from any principal building situated on the same lot, unless an integral part thereof, and shall be at least six (6) feet from any other accessory building.
 - c. Accessory buildings on corner lots may not be erected nearer to the street than the front yard required on the adjacent lot.
 - d. No accessory building wall shall be located nearer to any side or rear lot line than the following distances:

R-1	40 feet*
R-1A	40 feet*
R-2	30 feet
R-3	15 feet
R-4	10 feet
R-5	7 feet

*See paragraph g. below.

e. No accessory building shall be used as a dwelling unit in any of the zone districts except as provided in subsection 12-5.1g. relative to detached accessory dwelling units in the R-1 zone if approved as a conditional use.

f. No accessory building shall be erected in a front yard. On a residential lot, nonhabitable accessory structures limited to swimming pools, tennis courts, and garages are permitted in a front yard provided they are located at least one and one-half (1 1/2) times the minimum front yard setback from the front street property line.

g. All accessory buildings over twenty (20) feet in height as defined in this chapter and located in the R-1 and R-1A Zones shall be set back a distance equal to two (2) times the building height (as defined by this chapter).

(Ord. No. 581 § 12-17.2A; Ord. No. 97-1094 §§ 8,9; Ord. No. 98-1148 § 1; Ord. No. 99-1167 § 4)

12-23.2 Public Utilities.

Nothing in this chapter shall be interpreted as prohibiting public utility distribution facilities, such as water distribution lines, sanitary sewers and telephone, electric, cable TV and natural gas distribution lines, along with related attendant facilities, intended for local service, which utility systems are permitted in all zone districts when approved by the appropriate serving utility agency. Other public utility installations, including, but not necessarily limited to, utility service and maintenance yards, electrical power generating stations, utility truck storage and utility maintenance buildings and yards, are permitted as conditional uses, but only when meeting the requirements of subsection 12-25.21. (Ord. No. 581 § 12-17.2; Ord. No. 91-870 § 1)

12-23.3 Driveways.

To facilitate access by fire engines all driveways must meet the following standards:

a. To permit turnaround, driveways of two hundred (200) feet or more in length (from street to principal structure) shall provide either a K-turn with at least fifty (50) feet depth, at least fourteen (14) feet improved width, and at least forty-five (45) feet centerline radius, or a loop of at least fourteen (14) feet improved width and at least forty-five (45) feet centerline radius, or other equivalent facilities approved by the Fire Prevention Bureau, within two hundred (200) feet of the principal structure.

b. For driveways longer than fifty (50) feet (from street to principal structure), horizontal curves shall have a centerline radius of at least forty-five (45) feet and improved width of at least fourteen (14) feet, and the remainder of the driveway shall have an unobstructed width of at least twelve (12) feet (for instance, at gates).

c. At the intersection of a driveway longer than fifty (50) feet (from street to principal structure) with the street, the first thirty (30) feet of the driveway shall not have a change in slope in excess of fifteen (15%) percent inclusive of the crown of the road. All angles between the driveway centerline and the street shall be sixty (60°) degrees or more.

d. See also subsection 12-23.19d. (Ord. No. 2015-1688 § 2)

(Ord. No. 581 § 12-17.2; Ord. No. 94-992 § 2; Ord. No. 2015-1688 § 2)

12-23.4 Garages in Residential Zone Districts.

No building permit shall hereinafter be granted for the erection of a garage for more than four (4) motor vehicles in a residential zone district. A garage shall be connected by an adequately surfaced driveway to the adjacent street, road or lane. The provisions of this section must be met on the single lot for which the garage, carport or approved shelter is accessory to the main use of the premises. These provisions shall not be deemed to limit commercial trucks or cars used upon a farm. (Ord. No. 581 § 12-17.3; Ord. No. 2015-1697 § 2)

12-23.5 Traffic Visibility Across Corner Lots.

On any corner lot in any residence zone district no fence, structure or planting over thirty (30) inches in height above the curb or edge of roadway shall be erected or maintained within twenty (20) feet of the corner property line so as to interface with traffic visibility across the corner. (Ord. No. 581 § 12-17.4)

12-23.6 Corner Lots.

Where a lot is bounded by more than one (1) street or private road, the front setback requirement shall apply to all sides adjacent to the streets or private roads except, however, in the R-4 and R-5 Zones which shall use the minimum front setback from the side with the least street frontage and use the following setback from the street with the greater frontage: R-4 Zone, the greater of thirty (30) feet or the result of subtracting forty-five (45) feet from the lot width perpendicular to the side of the lot with the longer street frontage, but the latter need not exceed the normal front yard setback; R-5 Zone, the greater of fifteen (15) feet or the result of subtracting thirty-five (35) feet from the lot width perpendicular to the side of the lot with the longer street frontage, but the latter need not exceed the normal front yard setback. The other remaining sides which are not bounded by a street shall be considered as side yards with the applicable requirement for that zone. (Ord. No. 581 § 12-17.5; Ord. No. 97-1094 § 7)

12-23.7 Outdoor Storage and Display of Merchandise for Sale.

The outside storage and display of merchandise for sale ("outside" meaning any area not enclosed by walls on all sides and covered by a roof) shall be prohibited except as set forth below:

a. *Outdoor Storage, Display and Sales in the B-1, C-1 and HD Districts:*

1. Seasonal displays and sales of plants (including pumpkins), flowers, trees and shrubs shall be permitted from March 1 through December 31 of each year;

2. Storage of construction items, lumber and bagged materials (cement, peat moss, mulch, lime, etc.) can be located only in a rear or side yard, shall be properly screened from the roadway and neighboring properties, and shall be stacked no higher than six (6) feet or the height of a single pallet or other load as delivered, whichever is the higher;

3. Sidewalk sales shall be governed by subsection 12-12.1b; and

4. Used car sales shall be governed by subsection 12-12.2.

b. *General Restrictions.*

1. Such merchandise cannot occupy any State, County or municipal right-of-way or designated fire lanes;

2. Such merchandise cannot occupy a public or private sidewalk unless the sidewalk is wide enough to include, along with the merchandise, an unobstructed walk width of at least four (4) feet;

3. Such merchandise cannot occupy any vehicular driveway or accessway providing ingress and egress to the premises;

4. Such merchandise cannot occupy parking areas or portions thereof, including parking aisles and landscaped buffer areas; and

5. Additional lighting intended to accommodate the outside storage, display and sale of such merchandise must comply with municipal lighting standards.

(Ord. No. 581 § 12-17.6; Ord. No. 97-1085 § 2; Ord. No. 97-1103 § 1; Ord. No. 2005-1413 § 1; Ord. No. 2015-1704)

12-23.8 Zoning Affects All Structures, Buildings, and Land and the Use Thereof.

No land or premises may be used and no building or structure may be erected, razed, moved, extended, enlarged, altered or used for any purpose other than a purpose permitted herein for the zone district in which it is located, and all construction and uses shall be in conformity with the regulations provided for the zone district in which such building or premises is located. (Ord. No. 581 § 12-17.7)

12-23.9 Nature and Extent of Uses of Land.

The control and the regulation of the uses of buildings and structures as herein provided shall equally apply to the nature and extent of the use of the land. (Ord. No. 581 § 12-17.8)

12-23.10 Dangerous Conditions.

No permit shall be granted for a building or use if the design or construction of same involves or is likely to involve exceptional risk of traffic congestion, public safety or a hazard. (Ord. No. 581 § 12-17.9)

12-23.11 Incongruous Buildings.

No permit shall be granted for a building or use if the design or construction of any building or use is so markedly incongruous with the character of the neighborhood as to materially affect the value of adjacent or nearby property. (Ord. No. 581 § 12-17.10)

12-23.12 Subdivision of Lot.

When a new lot or lots are formed from part of a parcel of land, the separation must be effected in such manner as not to impair any of the provisions of this chapter or the Land Subdivision Ordinance of the Borough of Bernardsville. (Ord. No. 581 § 12-17.11)

12-23.13 Yards.

Every lot must provide front, rear and side yards as required by its zone district. All front yards must face upon a public street or private road approved by the Planning Board and no lot may contain more than one (1) principal building. (Ord. No. 581 § 12-17.12)

12-23.14 Required Area.

No lot area, parking area, or other space shall be so reduced in area or dimension as to make said area or dimension less than the minimum required under this chapter. (Ord. No. 581 § 12-17.13)

12-23.15 Signs.

a. *General Sign Provisions.* It is the intent of this chapter to provide design criteria and control of signs located throughout the Borough of Bernardsville to assure a high level of attractiveness and compatibility with the site and character of the community. The following provisions apply generally to all signage.

1. Signs shall not be erected or maintained except in conformity with the provisions of this chapter.
2. Sign erection permit required. No sign shall be constructed or displayed unless a sign erection permit shall have been obtained from the Building Subcode Official except those exempt under subsections 12-23.15a.18 and 12-23.15b.
3. Review and Approval Procedure: Applications for sign erection permits shall be filed with the Zoning Officer and Construction Official. Applications shall include sketches and description of proposed signs including dimensions, graphics, colors, materials and construction details. Any modifications including colors, wording or graphics of existing signs shall be submitted for review. Permits shall be issued for approved applications upon payment of the established fee. If a variance is required, a denial letter shall be issued which specifies the relief required.
4. Sign Review Citizens Advisory Committee.

(a) Composition.

A Sign Review Citizens Advisory Committee of seven (7) members shall be established consisting of the following classes:

Class 1: A member of the Planning Board appointed by the Mayor as recommended by the Chairman of the Planning Board.

Class 2: A member of the business community located in the commercial area of the Borough appointed by the Mayor.

Class 3: Five (5) individuals appointed by the Mayor.

At least one (1) of these members shall have had training or experience in graphics and/or building design.

(b) Terms. All members shall serve at the pleasure of the Mayor.

(c) Organization. The committee shall elect a Chairman and Vice Chairman.

(d) Powers and Duties. The Sign Review Citizens Advisory Committee shall be advisory to the Planning Board and shall function under its authority.

The Committee is authorized to adopt its operational procedures. It shall have the following powers and duties.

- (1) Assist applicants in attaining conformance with acceptable design and construction standards, with emphasis on informal discussions.
 - (2) When requested to do so, review applications for signs and recommend approval or disapproval to the appropriate Board or official.
 - (3) Monitor the erection and condition of signs throughout the Borough for compliance with the sign regulations.
 - (4) Advise the Zoning Officer of violations or noncompliance with this chapter and recommend measures for their correction.
 - (5) Review and recommend amendments to this chapter for consideration by the Planning Board for submission to the Mayor and Borough Council.
5. No sign shall be placed in such a position that it will cause confusion or danger to street traffic by obscuring the view or by simulating official, directional or warning signs maintained by any Governmental Body, railroad or public utility concerned with the protection of the public health or safety. This shall include, but not be limited to, any sign visible from the public right-of-way which uses an arrow device or simulates a stop sign or stop light.
 6. Signs advertising a use no longer in existence or a product no longer available shall be removed within thirty (30) days.
 7. No permanent sign shall be attached to trees, fence posts, stumps, utility poles, bridges, rocks or like features not considered to be advertising structures.
 8. All illuminated signs shall be either indirectly lighted or of the diffused lighting type, unless illuminated by an interior source. No sign shall be lighted by using unshielded incandescent bulbs, neon or gas discharge tubes, mirrors reflecting a direct light source or similar devices. Buildings or structures may not be outlined by tubing or strings or lights.
 9. No business sign shall be permitted which is not accessory to the business or use conducted on the property. Advertising billboard signs are prohibited.
 10. Silhouette signs are prohibited.
 11. Rotating signs, live action signs, and flashing or intermittent illuminated signs are prohibited.

12. Banners, pennants or any moving object used for advertising purposes whether containing a message or not are prohibited, unless specifically authorized by the Governing Body for a special public event.
 13. No sign shall be erected within or over the right-of-way of any street unless specifically authorized by this chapter or other ordinances of the Borough.
 14. All signs, other than permitted temporary signs shall be constructed of durable materials and shall be adequately maintained. All cracked, warped or broken members of a sign shall be replaced or repaired. All broken or cracked glass shall be replaced. Any sign which fails to meet the maintenance provisions of this chapter shall be repaired or removed within sixty (60) days upon written notification by the Building Subcode Official.
 15. Portable signs are prohibited except where permitted by other provisions of this chapter.
 16. Signs not exceeding one (1) square foot in area may be used for a driveway entrance, exit or for warning and directional purposes provided the signs are limited to said uses, and provided further the signs do not bear thereon any type of commercial advertising. (Ord. No. 2018-1782)
 17. Any sign that is or shall become dangerous or unsafe in any manner whatsoever, or any sign erected hereafter contrary to the provisions of this chapter shall be repaired, made safe, and otherwise restored to its original condition in conformity with this chapter or shall be taken down and removed by the owner, lessor, agent or occupant of the building, property or land upon which it is placed or to which it is attached.
 18. The following exemptions shall apply only to the requirement for a sign permit and shall not be construed as relieving the owner of the sign from the responsibility for its erection and maintenance in good and safe condition.
 - (a) Memorial tablets or signs, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials.
 - (b) Traffic or other municipal signs, legal notices, railroad crossing signs, danger signs and such temporary emergency signs as may be erected by governmental or public utility employees in carrying out their official work.
 - (c) Names on mailboxes.
 - (d) Signs forbidding trespassing, hunting, fishing or trapping as authorized by the Fish and Game Laws. (Chapter 23 of the Revised Statutes)
 19. There shall be permitted one (1) wall or ground sign not exceeding twelve (12) square feet located in the premises of places of worship, Sunday school buildings, public libraries, museums, art galleries, parish houses, buildings used exclusively by Federal, State, County, and local government for public purposes, public, private and parochial schools, public recreational and community center buildings and grounds. No fee shall be required in connection with the permit for such a sign. No such sign shall be located closer than fifteen (15) feet to a property line or within the lesser of fifteen (15) feet or one-half (1/2) the setback of the principal building, but in no event less than five (5) feet, from a street right-of-way line.
 20. No sign shall contain more than three (3) colors, including black and white.
 21. No sign shall contain words or graphics which are offensive to the community's standards.
 22. Construction materials of signs shall be selected to complement the architecture and building materials of the building on which they are located, or to which they are related, as well as surrounding buildings.
 23. Any signs other than those for which provision is expressly made under this section are prohibited.
- b. *Temporary Signs.* The following temporary signs are permitted in all zones (unless otherwise indicated). In no case shall a temporary sign be illuminated.
1. Real estate signs advertising the prospective sale or rental of the premises upon which they are located are permitted as follows:
 - (a) No real estate signs may be illuminated.
 - (b) Real estate signs shall be not more than six (6) square feet in area in residential zones and not more than twelve (12) square feet in area in nonresidential zones.
 - (c) Real estate signs may contain not more than three colors.
 - (d) Not more than one (1) real estate sign, which may be double-faced, shall be placed on a property. If a property has frontage on two (2) or more streets, other than two (2) streets joining at a corner of the property, two (2) signs may be placed on the property.
 - (e) All real estate signs shall be removed within seven (7) days of sale or complete rental of the property.
 - (f) No property shall have a real estate sign displayed for more than six (6) months in any twelve (12) month period without the permission of the Borough Council.
 - (g) Real estate signs advertising the rental of any portion of the premises may only be displayed for the period commencing four (4) months prior to the expiration of a lease through the signing of a new lease and shall be subject to the six (6)-month limitation set forth in paragraph (f) above.
 2. Campaign signs announcing or advertising any political, educational, charitable, civic, professional, religious or like campaign or event. However, such signs shall not be permitted for a period exceeding sixty (60) days in any calendar year, shall not exceed twelve (12) square feet in area, and shall be removed within seven (7) days of the conclusion of the campaign or event.
 3. Signs are permitted on construction sites for the duration of the construction period as follows:
 - (a) Major subdivisions: One (1) on-tract sign not exceeding eight (8) feet in height or thirty-two (32) square feet in area.
 - (b) New single family residence: One (1) or more signs on a lot none of which exceed six (6) feet in height. The total, aggregate area of signs may not exceed twenty-four (24) square feet per lot.
 - (c) Other construction including additions, alterations and repairs: One (1) sign not exceeding six (6) feet in height or eight (8) square feet in area.
- All such signs shall be on the subject property and shall be beyond the street right-of-way.
4. Farmers' signs advertising the sale of farm products produced within the Borough. They shall not exceed six (6) square feet in area. The signs shall be removed during seasons when products are not being offered for sale. Not more than two (2) such signs shall be erected on any one (1) property.
 5. Signs announcing any educational, charitable, civic, religious or like special event to be held in the Borough shall be permitted in all zones. Such signs, however, shall not be permitted for a period exceeding fourteen (14) days per special event in any one (1) calendar year, shall not exceed twelve (12) square feet in area and shall be removed within forty-eight (48) hours of the conclusion of the event. There shall be not more than six (6) off-site signs, Borough-wide, advertising any special event and no group shall be allowed to erect temporary off-site signs pursuant to this paragraph for more than four (4) special events per year. No off-site signs shall be erected without permission of the property owner(s) and no signs shall be erected in the right-of-way without the permission of the Borough Zoning Officer. Furthermore, no signs shall be posted in a County or State right-of-way without the permission of the appropriate authority. No temporary sign may be erected:
 - (a) Where it may interfere with the ability of a person to see the street or highway ahead or official signs, signals or traffic control devices.
 - (b) Within the limits of traffic circles, median strips, great separations or interchanges.
 - (c) Which is affixed to, suspended from, or made part of any highway structure or appurtenances.
 - (d) Which contains any lights.
 - (e) Which contains advertising of any kind.
 6. Announcements of the sale of an individual's personal property. Such signs shall not exceed six (6) square feet in area and shall not be displayed for a period exceeding thirty-one (31) days in any calendar year.

7. Window signs or lettering advertising sales or conjunction with permanent signs or lettering shall not cover more than a total of twenty-five (25%) percent of the window area and shall be removed within three (3) days after termination of the sale or event advertised by the sign.
- c. *Signs in the Residential Zone District.* In the residential districts only the following signs shall be permitted:
 1. One (1) customary professional sign or nameplate sign for a permitted use not more than two (2) square feet in area, which may be either a non-illuminated or an illuminated non-flashing sign, provided the direct source of light is shielded in such a manner that it is not visible from the street or any adjoining residential property unless said source is a porch light or a lamp post light.
 2. A sign deemed necessary to the public welfare by the Governing Body or any other sign required by law.
 3. Except for temporary signs, none of the signs permitted in the residential districts shall be erected nearer any street or road than half of the setback required for the principal building to be erected on said plot, provided that a nameplate sign not more than one (1) square foot in area as regulated above may be placed anywhere within the front yard.
- d. *Signs in the Nonresidential Zone Districts.* In all nonresidential zone districts, no sign shall be permitted which is not accessory to the business conducted on the property. Any such sign must be erected only upon an entrance wall or wall fronting on a street, except as provided below, and must comply with the following requirements:
 1. No wall sign shall extend further than six (6) inches from the face of the building upon which it is attached, provided however, that where a sign extends more than three (3) inches from the face of the wall, the bottom of the sign shall not be closer than ten (10) feet from the ground level below the sign.
 2. The maximum height of any single sign shall not exceed twenty (20%) percent of the height of the building or five (5) feet and the maximum width shall not exceed ninety (90%) percent of the width of the store front to which the sign is attached.
 3. The total sign area for all signs permitted on the face of any building shall not exceed five (5%) percent of the area of the face of the building upon which such sign or signs are attached.
 4. Signs mounted at right angles to the face of a building shall comply with design standards stated in subsection 12-23.15a and shall not extend closer than ten (10) feet from the ground level below the sign. They shall not extend above the wall on which they are mounted. No sign shall project more than three (3) feet from the building line or exceed twelve (12) square feet in area.
 5. If more than one (1) sign is permitted on a site or building the signs shall be compatible with each other and with the character of the site and shall not obscure other signs or architectural features.
 6. Window signs, including interior signs within two (2) feet of window surfaces, shall not exceed twenty (20%) percent of the area of each window upon which such signs are displayed. Design criteria indicated in subsection 12-23.15a shall apply to these signs.
 7. Commercial properties are permitted freestanding signs subject to the following restrictions.
 - (a) There may be only one (1) freestanding sign per lot.
 - (b) The sign shall be located at least four (4) feet from a street right-of-way line or property line and at least fifty (50) feet from the point of intersection of the side lines of any two (2) streets.
 - (c) The sign shall have a solid background which shall not exceed ten (10) square feet in area nor more than three (3) feet in width.
 - (d) The top of the sign shall be located no more than eight (8) feet above the ground below the sign nor more than eight (8) feet above the curb line of the street immediately opposite the sign.
 8. Provided there is no freestanding sign as provided in paragraph 7 above, a commercial property having a street frontage of at least three hundred (300) feet shall be permitted one (1) freestanding sign, subject to the following limitations and requirements:
 - (a) The sign shall contain only the name of the commercial property or facility or the brand or the manufacturer's name of the principal product sold or the service rendered.
 - (b) The top of the sign shall not extend more than fifteen (15) feet above the ground surface below the sign.
 - (c) The total area of the sign shall not exceed thirty (30) square feet.
 - (d) The bottom of the sign shall be at least ten (10) feet above the ground level below the sign.
 - (e) Subject to the requirement in paragraph (d) above, one (1) sign for each business establishment located on the premises may be suspended below the principal sign surface. Each such sign shall contain only the name of the business establishment, and each sign shall not exceed one (1) foot in height and five (5) feet in width.
 9. Provided there be no wall sign, a sign may be erected on sloping roofs, including gambrel and mansard roofs, or on roof fascias, overhangs and marquees subject to the following limitations and requirements:
 - (a) There shall be only one (1) such sign for each commercial use.
 - (b) The top of the sign shall be located at least one (1) foot below the highest point of the roof of the building.
 - (c) The height of the sign shall not exceed three (3) feet or fifteen (15%) percent of the height of the building, whichever is less.
 - (d) The width of the sign shall not exceed fifteen (15) feet or fifty (50%) percent of the width of the roof of other structures to which it is attached, whichever is less.
 10. Business signs on major streets shall be sufficiently legible and intelligible to afford a motorist the opportunity to absorb the information, make a voluntary decision to turn or stop and enter the deceleration lane before slowing down. In further interest of safety, they shall cause a minimum of confusion with other private and public signs and traffic lights. Accordingly, signs shall be of professional quality. The use of the colors red and green, and the use of arrows or the word "stop" in such a manner as to resemble traffic signs are prohibited.
- e. *Gasoline Service Stations Signs.* Gasoline service stations and public garages only may display, in addition to the foregoing signs, the following special signs which are deemed to be customary and necessary to their respective businesses.
 1. One (1) freestanding sign advertising the name of the station or garage and the principal products sold on the premises, including any special company or brand name, insignia or emblem, provided that each such sign shall not exceed twenty (20) square feet in area on each side and shall be erected within the property line. The highest point of any freestanding sign shall not be more than twenty-five (25) feet above the ground.
 2. One (1) temporary sign located inside the property line and specifically advertising special seasonal servicing of automobiles, provided that each such sign does not exceed seven (7) square feet in area.
 3. One (1) freestanding price sign shall be permitted for each frontage and be located no closer than six (6) feet from the property boundary lines. Area shall not exceed six (6) square feet and maximum height shall be eight (8) feet from the grade below.
- f. *Penalties.* Any violation of any provision of this chapter may result in the removal of the sign in violation and be punishable under Article 16, Violations and Penalties of the Development Regulations Ordinance No. 581.

(Ord. No. 581 § 12-17.14; Ord. No. 825 § 1; Ord. No. 890 §§ 1b.-1f.; Ord. No. 97-1103 § 2; Ord. No. 2000-1198 § 1; Ord. No. 2002-1291 § 1; Ord. #1484-2008 § 2; Ord. #2016-1713 § 2; Ord. No. 2018-1782)

a. In all districts the use of any land or property or any buildings or roof top structures, or the construction, development or alteration of any structure, roof, building, for the purpose of accommodating the taking off or the landing of airplanes, helicopters or any and all other types and kinds of airborne vehicles is specifically prohibited whether a principal use or an accessory use.

1. Airborne vehicles landing in an emergency or under emergency circumstances shall not be deemed in violation of this subsection.
2. The landing or taking off of airborne vehicles related to a special event shall not be deemed to be a violation of this subsection provided a permit has been obtained therefor in accordance with standards established by the Governing Body. A special event shall include any event conducted, sponsored or permitted by any organization or association for recreational, entertainment, charitable, educational or benevolent purposes.
3. Drive-in, drive-through and car hop restaurants.

(Ord. No. 581 § 12-17.15; Ord. No. 2014-1654 § 4)

12-23.17 Minimum Net Habitable Floor Area.

The net habitable floor area of any dwelling unit shall be not less than that permitted in the New Jersey State Housing Code. (Ord. No. 94-995 § 1)

12-23.18 Maximum Occupancy Limits.

The number of occupants of any dwelling unit shall not exceed the maximum permitted under the New Jersey State Housing Code. (Ord. No. 94-995 § 1)

12-23.19 Additional Requirements.

The following provisions as to floor areas, impervious coverage and, except as noted in paragraph c. hereof, front setback modifications shall apply in all residence districts other than the R-8, R-10A and R-10B Residence Districts. In the case of a residential lot within a tract subject to Open Space Residential Development (see subsection 12-25.2a), the area of the lot shall be deemed to include such portion of the total Conservation Open Space and Common Open Space of the tract as the area of the lot bears to the area of all residential lots within the tract.

- a. The combined floor areas of all buildings may not exceed the amount allowed in the following table:

Lot area in square feet			Floor area allowed in square feet	
At least	but less than	is	plus	of excess over
0	5,000	0	50%	0
5,000	10,000	2,500	14%	5,000
10,000	20,000	3,200	10%	10,000
20,000	50,000	4,200	6%	20,000
At least	but less than	is	plus	of excess over
50,000	150,000	6,000	4%	50,000
150,000	unlimited	10,000	3%	150,000

- b. The portion of a lot covered by impervious surfaces may not exceed one and one-half (1.5) times the floor area permitted for the lot under paragraph a. plus a driveway allowance of fourteen (14) feet times the existing or proposed front setback.
- c. Except in the R-5 Residence District, the required residential front yard setback for a principal dwelling containing two (2) or more stories, excluding attics and cellars but including basements, shall be increased over that otherwise required to at least equal the length of the longest side of the dwelling facing, or within sixty (60) degrees of being parallel to, a front lot line.
- d. On residential lots, the area devoted to driveway and parking in the front yard (defined by the area between the right-of-way and a line parallel to the right-of-way and equal to the front setback of the dwelling), shall not exceed 17% of the maximum impervious area as calculated per subsection 12-23.19b. Where the dwelling is setback more than 50' from the street right-of-way, the 17% shall apply to the area within 50' of the right-of-way. Off-street parking in the front yard shall be limited to parking on an improved driveway or parking surface such as pavement, stone, pavers, or similar surface, and not on lawns. (Ord. No. 2015-1688 § 1)
- (Ord. No. 2000-1210 § 2; Ord. No. 2015-1688 § 1)

12-23.20 Wireless Telecommunication Use.

Wireless telecommunication towers are not permitted. Application for the co-location of a new set of antennas on an existing wireless telecommunication tower without extension of the tower is a conditional use. The application shall conform to the standards set forth herein.

Wireless telecommunication uses are a permitted use if the antennas and radio-electronic equipment are located within a nonresidential zone district in the Borough and the following standards are satisfied:

- a. The applicant has obtained a license from the FCC to provide cellular or personal wireless facilities and services to this area.
- b. The antennas are mounted on an existing structure or building such as a water tower, church steeple, roof top or electric transmission tower.
- c. The height of the antennas is not greater than fifteen (15) feet over the height of the existing structure.
- d. *Visual Compatibility Requirements.*
 1. Wireless telecommunications antennas on existing structures or buildings shall be designed, located and screened to blend with and into the existing natural or built surroundings so as to eliminate to the maximum extent practicable visual impacts through the use of color and camouflaging, architectural treatment, landscaping, and other appropriate means which shall cause such antennas to be visually compatible with the existing structure, building and neighborhood.
 2. A wireless telecommunications equipment compound shall be enclosed within a visually solid fence at least six (6) feet and no more than eight (8) feet high, as approved by the Planning Board, and shall include a locking security gate. The height of any equipment building shall not exceed twelve (12) feet.
 3. A wireless telecommunications equipment compound consisting of no more than two thousand five hundred (2,500) square feet may be erected in support of wireless telecommunications antennas but only if:
 - (a) It is situated behind existing vegetation, tree cover, structures, buildings or terrain features which will shield the wireless telecommunications equipment compound from public view; or
 - (b) When a location out of public view is not possible, a landscape buffer shall be provided outside the wireless telecommunications equipment compound, to shield the facility from public view. Landscaping shall include native evergreen and deciduous trees at least eight (8) feet high at the time of planting.
 4. On-roof placement of radio-electronic equipment and/or cabinets shall be located out of the public view.
- e. An applicant desiring to construct wireless telecommunications antennas shall demonstrate to the satisfaction of the Planning Board, each of the following:
 1. The need for wireless telecommunications antennas at the proposed location. The evidence presented and introduced to the Planning Board shall describe in detail: (i) the wireless telecommunications network layout and its coverage area requirements and (ii) the need for new wireless telecommunications

facilities at a specific location within the Borough:

2. That the applicant has exercised its best efforts to locate or co-locate the wireless telecommunications antennas on existing buildings or structures within the applicant's search area which will be least visually intrusive. Without otherwise limiting the nature of the evidence to be provided by the applicant in order to meet its burden on this issue, the applicant shall provide to the Planning Board copies of all correspondence from and between the wireless telecommunications provider and the property owners of the existing buildings or structures. The failure of the applicant to present evidence of the foregoing shall constitute a rebuttable presumption that the applicant has not exercised its best efforts as required herein.

f. Off-street parking shall be permitted as needed and as approved by the Planning Board.

g. The applicant shall provide assurances to the Planning Board and in a form reviewed and approved by the Planning Board Attorney that will cause the antennas, the compound area enclosing related electronic equipment and all other related improvements to the land to be removed, at no cost to the Borough, when the antennas are no longer operative. Any communication facility not used for its intended and approved purpose for a period of six (6) months shall be considered "no longer operative" and shall be removed by the applicant or its assigns within sixty (60) days thereof.

h. All other applicable requirements of the Land Development Regulations Ordinance not contrary to the specific conditions and standards herein shall be met, but waivers and/or variances of such other applicable requirements of this Ordinance may be granted by the Planning Board.

i. Applicant shall submit its site plan according to Article 9 of the Land Development Regulations. In addition, the applicant shall provide the Planning Board with the following:

1. Photographic simulations showing the public view of the proposed antennas from four (4) locations;

2. A report from a qualified expert that the antennas comply with the latest structural and wind loading requirements as set forth in the Building Officials and Code Administrators ("BOCA") International and the Electronic Industries Association/Telecommunications Industries Association ("ETA/TIA") publications.

j. No signs other than a sign displaying owner contact information, warnings, equipment information and safety instructions are permitted. Such sign shall not exceed two (2) square feet in area.

k. No lighting is permitted except the compound area may have security and safety lighting at the entrance provided it is no greater than one hundred fifty (150) watts, is focused downward and is on timing devices and/or sensors so that the light is turned off when not needed for safety or security purposes.

l. No equipment shall be operated so as to produce noise in excess of the limits set by N.J.A.C. 7:29-1.1 et seq. except in emergency situations requiring the use of a backup generator.

(Ord. #2003-1307 § 2)

12-23.21 Dumpsters.

a. Definitions.

1. All definitions set forth in Section 1-3 of the Borough Land Development Ordinance are incorporated by reference.
2. As used in this section

Dumpster shall mean a rigid container with a capacity of ten (10) cubic yards or more, used for collection and temporary storage of solid waste, construction materials, industrial and other waste materials.

Portable Storage Unit shall mean any container, storage unit, shed-like container or other portable structure with a capacity of ten (10) cubic yards or more that can be or is used for the storage of personal property of any kind and which is located outside an enclosed building. A portable storage unit does not include an accessory building or shed complying with all building codes and land use requirements.

b. *Permits Required; Fees.* Dumpsters and portable units, as defined above and when placed on residential property or in a residential zone shall require a permit issued by the Construction Official upon payment of a fee of twenty-five (\$25.00) dollars and shall be limited to use for a period not to exceed ninety (90) days, unless a longer period has been allowed as part of a development approval granted by the Planning Board or the Zoning Board or the Zoning Board of Adjustment, or by the Borough Council when no development application is involved. The Construction Official may grant one (1) ninety (90) day permit extension for an additional fee of twenty-five (\$25.00) dollars. During the period covered by the permit, a dumpster may be removed for emptying and replaced without requiring an additional permit.

c. Miscellaneous Regulations.

1. Dumpsters and portable storage units shall be placed either on vacant private property or located on the side yard or back yard of any existing building on private property. Should the applicant require or request placement in the front yard of a building on private property, said application shall be treated as the same as an application under paragraph c,3 below. If a permit extension has been granted and the applicant applies for a further extension or applies for an additional dumpster permit during the same calendar year at the same site, that application must be made to, and granted by, the Borough Council, and the fee for such extension or application shall be fifty (\$50.00) dollars. The permit shall be prominently displayed in a window of the residence facing the street, or in a window of the construction trailer or shed, if any.

2. It shall be unlawful for any person to construct or place a dumpster or portable storage unit as defined in this section upon any front yard of private property or upon any Borough-owned land or upon any street, avenue, highway, lane, alley or public place. No permit shall be issued for such use or storage of dumpsters or portable storage units unless the applicant establishes a hardship by satisfying one (1) or more of the following criteria.

(a) The lot configuration or placement of existing buildings or construction equipment or materials prevents placement of the dumpster in a side or rear yard.

(b) Parking on the property or adjoining streets will be adversely affected.

(c) Traffic flow on the property or adjoining streets will be adversely affected.

3. Should the applicant demonstrate a hardship warranting placement of a dumpster or portable storage units on the front yard of private property or on a public area as defined above, the Construction Official shall issue a dumpster or portable storage unit permit for a period not to exceed ninety (90) days and may grant one (1) ninety (90) day extension of the permit.

4. A permit may be revoked by the Code Enforcement Officer if it is determined that the existence of the dumpster or portable storage unit is adversely affecting traffic flow or affecting the safety or welfare of the public.

d. Enforcement; Penalties.

1. This section shall be enforced by the Borough Code Enforcement Officer.

2. Any person who shall violate any provision of this section shall be subject to the penalties as provided in Chapter I, Section 1-5. Each day in which such violation continues shall constitute a separate offense. Repeat offenders, as that term is defined in Section 1-5, shall be subject to the penalties set forth in Section 1-5.

3. The Code Enforcement Officer shall notify the owner, tenant and/or contractor in writing of any violation. The owner, tenant or contractor shall have five (5) days from the date of receipt of the notice to cure the violation.

4. If the violation is not cured, the Code Enforcement Officer may issue a summons and/or remove the dumpster without further notice.

5. Should the Borough be required to move the dumpster pursuant to paragraph c,5 above, the Code Enforcement Officer shall certify the costs of

removal and storage and forward the bill to the property owner or person or entity in control of said property or dumpster for payment within thirty (30) days of the date of the bill and any continuing storage costs. The amount of the charge shall become a lien upon the lands and properties for which the dumpster was located.

(Ord. No. 10-1531 §1)

12-23.22 Parking and Storage of Recreational Vehicles, Utility Trailers, and Snow Plows.

a. *Parking of Recreational Vehicles.* No mobile dwelling, trailer or any recreational vehicle shall be stored or parked on any premises in any residential zone district (except for the R-1-10, R-1 and R-1A Zones) within the limits of the Borough of Bernardsville, except as hereinafter provided:

1. Recreational vehicles, as herein defined, may be stored or parked within a closed building or garage on the premises.
2. Recreational vehicles, as herein defined, may be stored or parked outdoors on any premises upon the following terms and conditions:

(a) Not more than one (1) recreational vehicle shall be stored or parked on any premises in any residential zone district within the limits of the Borough of Bernardsville, except as hereinafter provided. For purposes of this subsection, premises shall include adjoining lots in common ownership, unless said adjoining lots otherwise conform to this chapter and other provisions hereof.

(b) No recreational vehicles shall be stored or parked within any residential district other than that lot upon which the principal residence structure of the actual owner of the recreational equipment is located.

(c) No recreational vehicles shall be stored or parked at any time when said premises are not being occupied, except for vacation absences.

(d) No recreational vehicles shall be stored or parked in any district as an accessory building or use, except as herein provided.

(e) No recreational vehicles shall exceed the following bulk requirements:

- (1) A maximum height of twelve (12) feet as parked, including trailer, cradle or mount, but excluding mast in the case of a boat.
- (2) A maximum body length of twenty-one (21) feet, including trailer hitch, tongue and bumper.
- (3) A maximum of eight (8) feet in body width, excluding hardware.
- (4) A maximum gross weight of twelve thousand (12,000) pounds, including trailer and mount.

3. No recreational vehicles shall be stored or parked within any front yard. These requirements shall apply to both frontages on a corner lot. In addition, no recreational vehicle shall be stored or parked in the required rear or side yard setback required in the zone in which the property is located.

4. All recreational vehicles must be kept clean and in good repair at all times and shall carry a current year's license or registration as required by law.

5. The owner of the recreational vehicles shall have and display upon request to any authorized officials of the Borough satisfactory proof of ownership of such recreational equipment.

6. All recreational vehicles shall be maintained in mobile condition.

7. No recreational vehicles shall be used for sleeping or dwelling purposes while on said premises and shall not be commercially stored or offered or displayed for sale. Further, such recreational equipment shall not be connected with any electric, water, gas or sanitary sewer facilities.

8. No construction or repair of any such recreational vehicles shall be carried on outdoors in any residential district. For purposes of this subsection, construction or repair shall not include painting or essential maintenance.

9. No recreational vehicles shall be stored, parked or maintained so as to create a dangerous or unsafe condition on the premises where parked.

10. Loading and unloading of recreational vehicles at any location on the premises is permitted, provided that said vehicle is not stored or parked for a period longer than forty-eight (48) hours in any seven (7) consecutive days.

b. All recreational vehicles shall be effectively screened with plantings, shrubs and trees or fencing so as not to be readily visible from the street or from any adjoining or nearby properties.

c. *Parking of Utility Trailers.*

1. Except as permitted in paragraph 3 below, no utility vehicle which is larger than four (4) feet in width, eight (8) feet in length may be stored in any residential zone other than the R-1-10, R-1 and R-1A Zones.

2. Not more than one (1) utility trailer which is less than or equal to four (4) feet in width and eight (8) feet in length and that is only used for noncommercial purposes may be stored or parked within a closed building or garage on the premises, or in the rear yard, as long as it is not parked in the applicable rear yard setback in the zone and is not visible from any adjoining property.

3. Except as permitted by paragraph 4, no utility trailers shall be stored or parked on any lot other than that lot upon which the principal residence structure of the actual owner of the utility trailer is located.

4. No utility trailers shall be stored or parked at any time when said premises are not being occupied, except for vacation absences.

5. No utility trailers shall be stored or parked within any front yard. This requirement shall apply to both frontages on a corner lot. In addition, no utility trailer shall be stored or parked in the required rear or side yard setback required in the zone in which the property is located.

d. No snow plows shall be stored outdoors in any residential zone (except for the R-1-10, R-1 and R-1A Zones). (This prohibition shall not apply to any plow that is affixed to the front of a vehicle otherwise permitted in the zone.)

(Ord. No. 2015-1701 § 2)

12-23.23 Parking of Commercial Vehicles in Residential Zones.

a. One (1) registered commercial vehicle with a GVWR not exceeding 8,500 pounds (or the maximum weight permitted under the Borough's traffic regulations set forth in Borough Code Section 7-10 entitled "Vehicles over Designated Weight Excluded from Certain Streets", whichever is less) on four (4) wheels, owned or used by a resident of the premises, shall be permitted to be regularly parked on a driveway or other paved parking area in any residential district. A registered commercial vehicle with a GVWR not exceeding 8,500 pounds on four (4) wheels, owned or used by a resident of the premises, with advertising which exceeds the maximum limits set forth in the preceding sentence shall be permitted to be regularly parked or garaged on a lot in any residential district, provided that said vehicle is parked in a side or rear yard area outside of the required setback, which area is screened from neighboring properties by plantings at least five (5) feet in height. For purposes of this subsection, a commercial vehicle is a truck, van, bus or other vehicle utilized in connection with any business, whether or not said vehicle is registered as a "commercial" vehicle with the New Jersey State Motor Vehicle Commission; except that this provision shall not be deemed to limit the number of commercial trucks or cars used on a farm, or construction equipment which is used on the site for construction purposes, or

1 All such vehicles shall remain subject to the weight limitations as set forth in the Borough's traffic regulations set forth in Borough Code Section 7-10 entitled "Vehicles over Designated Weight Excluded from Certain Streets"

b. Notwithstanding any other provision of this section, no vehicle with a gross vehicle weight rating in excess of 8,500 pounds shall be stopped, parked, stored or garaged in a residential district, except:

1. To the extent, and for the minimum time, necessary to provide a service directly related to a residential dwelling or use; or
2. On the premises of an operating farm where such vehicle is used in the farming operation.

(Ord. No. 2015-1697 § 1)

12-24 HOME-BASED BUSINESS.

Home office use, meaning an office activity carried on for gain by a resident in a dwelling unit, shall be a permitted accessory use in residential zone districts, provided:

- a. The use is limited solely to office use;
- b. The use is operated by or employs in the residence only a resident or residents who are permanent full-time residents of the dwelling unit, and no other persons;
- c. No nonresident employees, customers, or business invitees or guests shall visit the dwelling unit for business purposes;
- d. The use shall be located on only one floor of the dwelling unit, shall not exceed twenty-five (25%) percent of the floor area of the floor on which it is located, and shall not be served by an entrance separate from the household;
- e. Interior storage of materials related to this use shall consist only of office supplies;
- f. There shall be no change to the exterior of buildings or structures because of the use, and no outside appearance of a business use, including, but not limited to, parking, storage, signs, or lights;
- g. The use operates no equipment or process that creates noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with telephone, radio or television reception, detectable by neighboring residents;
- h. The use does not require any increased or enhanced electrical or water supply;
- i. The quantity and type of solid waste disposal is the same as other residential uses in the zone district;
- j. The quantity and quality of effluent is typical of normal residential use, and creates no potential or actual detriment to the sanitary sewer system or its components;
- k. Delivery trucks shall be limited to U.S. Postal Service and other delivery services providing regular service to residential uses in the zone district;
- l. All vehicular traffic to and from the home office use shall be limited in volume, type, and frequency to that normally associated with other residential uses in the zone district.

(Ord. No. 2000-1209 § 1)

12-25 CONDITIONAL USES.

12-25.1 General Provisions.

A conditional use is a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in the Borough Land Development Regulations. The Borough Planning Board, or the Board of Adjustment in cases where it has the power under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., to grant a conditional use, may grant conditional uses according to the specifications and standards set forth in this section and in accordance with the provisions of the Municipal Land Use Law at N.J.S.A. 40:55D-67. (Ord. No. 581 § 12-19.1; Ord. No. 2001-1257)

12-25.2 Conditional Uses Permitted.

- a. *Open Space Residential Development.*
 - 1. Mutual Consent Required.
 - (a) Open Space Residential Development is optional with both the applicant and Planning Board and the foregoing requirements shall apply only if such option is exercised by either of them and is consented to by the other.
 - (b) Nothing contained herein shall be construed to require the Planning Board to approve any development employing Open Space Residential Development if the development is in conflict with any provision of the Bernardsville Development Regulations Ordinance or Master Plan or if the development would in any way result in a development pattern that would adversely affect that portion of the Borough in which it falls.
 - 2. Objectives. The specific objectives of Open Space Residential Development is the preservation and protection of the Borough's natural resources and the maximization of open space.
 - 3. Conditions and Standards.
 - (a) Minimum Tract Area. The following minimum tract areas are established for Open Space Residential Development:

R-1-10	20 acres
R-1 District	20 acres
R-1A District	12 acres
R-2 District	5 acres
 - (b) Permitted Residential Use and Density. The development plan shall not result in a greater number of lots if the property in question were developed without the employment of Open Space Residential Development.
 - (c) Development Regulations for Individual Lots. Any Open Space Residential lot must meet the requirements presented in the table below:

Minimum Lot Area District Sq. Ft.	Containing Circle of Diameter (ft.)	Minimum Yards			
		Front Ft.	Rear Ft.	Side Ft. One	Both
R-1-10	137,500	275	125	100	75 150
R-1	110,000	250	100	75	40 80
R-1A	70,000	200	75	75	30 60
R-2	25,000	120	50	40	20 40
 - (d) pertaining to access corridor, driveway position, building envelope, surface disturbance, minimum floor area and additional requirements.
 - 4. Open Space Requirements.
 - (a) The amount of open space shall be at least equal to the total reduction in lot areas within the subdivision.
 - (b) Open space shall be provided totaling a maximum of fifty (50%) percent of the area of the tract. No single area reserved for open space shall have an area of contiguous land less than the following, unless the area is to be dedicated for public purposes and joined to a contiguous existing parcel of public open space:

R-1-10 District	8 acres
-----------------	---------

R-1 District	6 acres
R-1A District	4 acres
R-2 District	2 acres

- (c) The open space shall ordinarily be in a single contiguous piece except that in unusual circumstances division into more than one (1) piece may be permitted if in the judgment of the Planning Board the area would serve an important public function, promote the general welfare of the Borough, or otherwise promote the sound planning objectives of the Borough as reflected in the Master Plan. Any open space parcel shall be at least the reduced lot size for that district, unless it adjoins existing open space parcels in adjoining properties.
- (d) Any area reserved as open space shall be primarily for passive recreational use. It shall be suitable for its intended purpose as determined by the Planning Board, and shall be reserved in perpetuity by private covenant or deed restriction for one (1) or more of the following purposes:
 - (1) Essentially undeveloped/Conservation Open Space or Common Open Space.
 - (2) Conservation of environmentally sensitive features including, but not limited to, steep slopes, watercourses, wetlands, flood plains, wooded areas and scenic vistas.
 - (3) Public or private passive recreational uses such as nature study, hiking, horseback riding, fishing, gardening. Passive recreation shall be deemed to forbid the use of motorized wheels of any kind, except in specific parking areas and for ingress and egress.
 - (4) Common open space consistent with all constraints and objectives for this conditional use, within a common open space, the area available for active recreational use shall not exceed twenty (20%) percent of that common open space area. The remainder shall be restricted to passive recreation.

- 5. Ownership and Maintenance of Conservation Open Space or Common Open Space. Any developer employing the concept of Open Space Residential Development as herein defined and regulated shall provide for the ownership and maintenance of all resulting undeveloped land within the subdivision. Conservation open space shall be conveyed by deed either to the Borough of Bernardsville, to another Governmental Body or agency or to an acceptable organization such as a private conservation foundation or to owners and residents of the development. A common open space shall be conveyed by deed to an organization of owners and residents of the development. A conveyance for conservation open space or common open space to other than a Governmental Body or agency shall provide for the maintenance of the spaces.

Such organization shall not be dissolved and shall not dispose of any open space, by sale or otherwise, except to an organization conceived and established to own and maintain the open space for the benefit of such development, and thereafter such organization shall not be dissolved or dispose of any of its open space without first offering to dedicate the same to the Borough of Bernardsville.

In the event that such organization shall fail to maintain the open space 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 open space in reasonable condition, and the notice shall include a demand that such deficiencies of maintenance be remedied 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 reasonable extension of time not to exceed sixty-five (65) days within which they shall be remedied. If the deficiencies set forth in the original notice or in the modification thereof shall not be remedied within the thirty-five (35) days or any permitted extension thereof, the Governing Body, in order to preserve the open space and maintain the same for a period of one (1) year may enter upon and maintain such land. The entry and maintenance shall not vest in the public any rights to use the open space except when the same is voluntarily dedicated to the public by the owners.

Before the expiration of the year, the Governing Body shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the open space, call a public hearing upon fifteen (15) days' written notice to such organization and to the owners of the development, to be held by the Governing Body, at which hearing such organization and the owners of the development shall show cause why such maintenance by the municipality shall not, at the election of the municipality, continue for a succeeding year. If the Governing Body shall determine such organization is ready and able to maintain the open space in reasonable condition, the municipality shall cease to maintain the open space at the end of the year. If the Governing Body shall determine such organization is not ready and able to maintain the open space in a reasonable condition, the municipality may, in its discretion, continue to maintain the open space during the next succeeding year, subject to a 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.

The cost of such maintenance by the municipality shall be assessed pro rata against the properties within the development that have a right of enjoyment of the open space in accordance with assessed value at the time of imposition of the lien, and shall become a lien and tax to be levied and assessed thereon, and enforced and collected with interest by the same officers and in the same manner as other taxes.

Any proposal to dedicate open space to the Borough of Bernardsville shall be subject to acceptance by resolution of the Governing Body. If further stipulated that any use of such land for purposes other than those of subsection 12-25.2a6(d) above can only be made after a public hearing by the Governing Body.

- 6. Findings for Open Residential Space Development. Prior to approval of any open residential space developments, the Planning Board shall find, as required by N.J.S.A. 40:55D-45, the following facts and conclusions:
 - (a) That departures by the proposed development from zoning regulations otherwise applicable to the subject property conform to the zoning standards established herein.
 - (b) That the proposals for maintenance and conservation of the common open space are reliable, and the amount, location and purpose of the common open space are adequate.
 - (c) That provisions through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic and the amenities of light and air, recreation, and visual enjoyment are adequate.
 - (d) That the proposed development will not have an unreasonably adverse impact upon the area in which it is proposed to be established.
 - (e) In the case of a proposed development which contemplates construction over a period of years, that the terms and conditions intended to protect the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development are adequate.

- b. *Public Garages.* No building, structure or lot shall be used as a public garage, as defined in Article 1, except in accordance with the following restrictions or conditions:

- 1. No part of the lot in question shall be situated within three hundred (300) feet of any lot line of any plot on which is located any building or other improvement used for the following purposes:
 - (a) A school
 - (b) A hospital
 - (c) A theater
 - (d) A public library
 - (e) A fire house, municipal or other public building
 - (f) A park or playground
 - (g) A church
- 2. Gasoline filling stations shall have their gasoline pumps and other service facilities set back at least twenty-five (25) feet from any street right-of-way.

3. All entrance and exit driveways shall have an unobstructed width of at least fifteen (15) feet, and no public garages shall have an entrance or exit for motor vehicles within fifty (50) feet of the boundaries of any residence zone.
4. Public garages shall be located on a lot having a minimum frontage of not less than one hundred (100) feet.
5. No automobile commercial repair work, except emergency work, shall be carried on out of doors. Automobiles may be parked temporarily on any part of a lot. The dismantling or storage of more than two (2) wrecked motor vehicles on any lot is prohibited, and no dismantling or wrecked motor vehicle may be stored on any lot for longer than a ninety (90) day period.
6. There shall be no openings in the side or rear walls or roof of such garage or service station within ten (10) feet of any side or rear lot line.
7. No more than ten (10) rated horsepower shall be used on the premises.
8. No part of any building containing a public garage shall be used for residence or sleeping purposes.
9. All facilities for servicing cars, shall be located entirely upon private property and adequate space for automobiles being serviced shall be provided upon private property. No part of the storage space or work shop shall be nearer than thirty-five (35) feet to any street.
10. No gasoline filling station may be erected within five hundred (500) feet of an existing gasoline station.
11. Gasoline filling stations may have one (1) soda machine or one (1) machine vending non-alcoholic beverages located outside of the confines of a principal building so long as it is placed up against an exterior wall of the principal building.
12. Car washes may utilize as accessory uses washing, vacuum and towel dispensing devices located within the building envelope. Washing devices may also be located along an outside wall of the principal building.

c. *Professional Uses in Residential District.*

1. The professional office or studio shall be a part of the dwelling in which the professional person resides.
2. Not more than two (2) persons not residents in the dwelling shall be employed in such office or studio, and not more than one-half (1/2) the floor area of one (1) story of the dwelling shall be devoted to such professional use.
3. Front Yard Setbacks. In order to minimize parking hazards, a one hundred (100) foot setback (from front property line to building front) is required if parking is permitted on the street on which the lot fronts and if the paved width of the street is less than twenty (20) feet and the total width, including suitable shoulders, is less than thirty-six (36) feet
4. All portions of any driveways on the subject property shall be at least ten (10) feet from the side and rear property lines.
5. All portions of any driveways, parking areas, and parking service aisles shall be at least twenty (20) feet from an existing, conforming dwelling on any adjacent lot, and at least twenty (20) feet from the nearest point of the building envelope on any adjacent vacant lot.

d. *Institutional Uses.* Institutional Use, as defined in Article 1, shall be considered in accordance with the following standards, restrictions and conditions, except schools.

1. Minimum Lot Size. Shall not be less than twice the minimum required residential lot for the district in which the institutional use is to be located.
2. Minimum Front Yard Depth. Same as residential district requirement, unmodified.
3. Minimum Side Yard. Shall be three times the side yards requirement for the residential district.
4. Minimum Rear Yard. Shall be twice the rear yard requirement for the residential district.
5. Minimum Street Frontage. Shall be as follows:

R-1 District	500 feet
R-1A District	350 feet
R-2 District	250 feet
R-3 District	150 feet
R-4 District	100 feet
R-5 District	75 feet
6. Maximum Building Height. Shall be two (2) stories, not to exceed thirty-five (35) feet to the highest point of any building, exclusive of chimneys, steeples and similar items.
7. Parking areas shall not be located in any front yard.
8. There shall be a minimum of one (1) separate entrance and one (1) separate exit from and to a public street.
9. Maximum Building Coverage. Shall be twenty (20%) percent of the development parcel.
10. Minimum Open Space and Landscaped Areas. Shall be thirty (30%) percent of the development parcel.
11. Property shall front and have access to an arterial, major collector, or minor collector roadway.

e. *Institutional Use: School.* School, as defined in Article 1, shall be considered in accordance with the following standards, restrictions and conditions:

1. Minimum Lot Size. Shall not be less than three (3) acres in all zones.
2. Minimum Street Frontage. Shall be as follows:

R-1-10 District	500 ft.
R-1 District	500 ft.
R-1A District	350 ft.
R-2 District	250 ft.
R-3 District	150 ft.
R-4 District	100 ft.
R-5 District	75 ft.

3. Property shall front and have access to an arterial, major collector or minor collector roadway.
4. There shall be a minimum of one (1) separate entrance and one (1) exit from and to a public street.
5. Standards applicable to development of new buildings, facilities and structures proposed after the adoption of this paragraph e., excluding underground utilities and fences:

Ordinance No. 2014-1669, codified herein, was adopted July 14, 2014.

- (a) Front yard shall be the front yard requirement for the subject zone district,
- (b) Side yard shall be three times the side yard requirement for the subject zone district,
- (c) Rear yard shall be two times the rear yard requirement for the subject zone district,
- (d) Maximum Building Coverage. Shall be twenty-five (25%) percent of the development parcel,
- (e) Maximum height shall be two (2) stories and not to exceed thirty-five (35) feet.
- (f) No parking in the required front yard of the subject zone district,

- (g) No athletic fields in the required front yard of the subject zone district.
- (h) Maximum impervious coverage is fifty (50%) percent of the development parcel.
- 6. All recreation and parking areas shall be screened, on a year round basis, from view of abutting residential uses according to the following:
 - (a) Off-street parking areas shall be visually screened by densely planted landscaping, such as a hedge or existing natural landscaping or berms, to effectively screen the view of vehicles. Lighting of off-street parking areas shall be the "shoe-box" type lighting fixture that encases the light source to obviate spillage and reduce glare.
 - (b) Recreation areas shall be visually screened by landscaping, berms or existing natural landscaping if existing natural landscaping is at least fifty (50) feet in width, to effectively screen the view of the recreation field.
- 7. Setbacks, yards and open areas not developed for buildings, structures, facilities, or athletic fields shall be attractively landscaped with lawn, shrubs, coniferous and deciduous trees.
- f. *Hotels.*
 - 1. Such use shall abut and shall have direct access to a State or County Road.
 - 2. No building shall be higher than thirty-five (35) feet; or have more than two (2) stories.
 - 3. Yards.
 - (a) Front Yard. There shall be a front yard of at least forty (40) feet.
 - (b) Rear Yard. There shall be a rear yard of at least forty (40) feet. Where a rear yard adjoins a railroad or any alley, the railroad or alley may be counted as part of the required rear yard, provided that under no circumstances shall the rear yard be reduced to less than twenty-five (25) feet.
 - (c) Side Yards. There shall be two (2) side yards and no side yard shall be less than twenty-five (25) feet, provided that any side yard adjoining a residence district shall not be less than forty (40) feet.
 - 4. No hotel shall contain less than forty (40) hotel units, nor more than eighty (80) hotel units.
 - 5. Each hotel unit shall be located entirely on one (1) floor.
 - 6. Each hotel unit as defined herein shall contain at least two hundred thirty-five (235) square feet of floor area.
 - (a) Bedrooms shall have a minimum floor area of sixty (60) square feet per person of design capacity, but in no event less than two hundred (200) square feet.
 - (b) Bathrooms shall be equipped with a lavatory, toilet and tub or shower which shall at all times be supplied with hot and cold running water.
 - 7. No hotel unit shall contain cooking facilities.
 - 8. There shall be between any adjoining hotel units on the same floor level a partition wall construction to have a second transmission classification (STC) of not less than 52 based on the laboratory test procedure specified in the ASTM (American Society of Testing Material) recommended practice E-90-66T or as amended. There shall be between hotel units on different floor levels a floor construction of materials having a sound transmission classification (STC) of not less than 50 based on testing procedure as described above, as well as an impact noise rating (INR) of 0 as specified in I.S.O. recommendation R-140 (Field and Laboratory Measurements of Airborne and Impact Sound Transmission - First Edition January 1960), or as thereafter amended for measuring impact transmission with a standard tapping machine.
 - 9. The fire rating of all structural elements shall meet the minimum standards of Group 1, Noncombustible, Type 2A construction as required by the New Jersey Department of Community Affairs, Bureau of Housing Inspection, "Regulations for the Construction and Maintenance of Hotel and Multiple Dwellings."
 - 10. Each hotel unit shall have at least one (1) window capable of being opened from the inside, the opening of which shall be of sufficient size to allow an adult person to exit.
 - 11. Off-street parking for a hotel shall be provided in accordance with Section 9-10. For hotels which include restaurants and other facilities that are accessible to the general public, additional parking facilities as required in Section 9-10 for the particular use shall be provided insofar as practicable, in the judgment of the Planning Board, approximately seventy-five (75%) percent of all parking facilities serving the hotel shall be provided on the same property. Unless a greater distance is required in Section 9-10, no parking area shall be located within ten (10) feet of a property line.
 - 12. For each twenty-five (25) hotel units or fraction thereof at least one (1) hotel unit shall be designed and intended for occupancy by the handicapped. A like number of off-street parking facilities for the handicapped shall also be provided.
- g. *Single Family Attached Residential Units in the R-5 Residence District.* No lot shall be used for single family attached residential units except in accordance with the following restrictions and conditions:
 - 1. There shall be a minimum lot area of four (4) acres.
 - 2. The gross density for any development shall not exceed four (4) single family attached dwelling units per acre.
 - 3. The number of bedrooms per single family attached residential unit is unrestricted provided, however, the total number of more than three (3) bedroom units shall not exceed the total number of two (2) or less bedroom units and there shall not be more than ten (10) bedrooms per gross acre. Under no circumstances shall the bedroom mix result in a gross density that exceeds four (4) single family attached residential units per acre.
 - 4. All other regulations of the R-8 Single Family Attached Residence District shall be complied with.
- h. *Reserved.*
- i. *Public Utility Facilities.*
 - 1. In a residential zone, any such facility shall not generate more intense traffic in that zone than would be expected from the permitted residential development of the same property. Permitted residential development shall be the number of dwelling units determined by dividing the tract area by the minimum lot size of the zone or by applying the maximum permitted residential density to the tract area. The amount of traffic generated by the permitted residential development shall be based on the most recent data applicable to that development contained in the Traffic Generation Manual published by the Institute of Transportation Engineers (ITE).
 - 2. In residential zones, no more than twenty-five (25%) percent of the total lot area shall be covered by buildings, structures, sidewalks, parking area, driveways, or other improvements incidental to the proposed facility. In other zones, the coverage shall not exceed fifty (50%) percent of the total lot area.
 - 3. The height limitations, minimum lot area, and any lot coverage or floor area limitations of the zone district in which the use is located shall be met.
 - 4. The setback requirements of the zone district in which the use is located shall be met and in any case, no off-street truck parking shall be located within fifty (50) feet of any residentially zoned property.
 - 5. All applicable provisions of Article 9 relative to off-street parking and site plan approval shall be complied with. The number of parking spaces shall be determined by the use listed in the schedule in subsection 9-10.6 which most closely resembles the proposed public utility use.
 - 6. Except in the event of an emergency, no operation shall be conducted within three hundred (300) feet of any residential unit between the hours of 8:30 p.m. and 6:00 a.m. Monday through Saturday, or at any time on Sunday. In any case, no operation shall produce or create any noise, dust, smoke, fumes or odors which exceed the limits established by any applicable State, County, Municipal or other governmental regulation.
 - 7. The burden of proof shall be on the applicant to show that the proposed installation in the specific location is reasonably necessary for the efficient

operation of the public utility system.

- j. *Reserved.*
- k. *Outdoor Dining.* No outdoor table, shelf or other facility to hold food or drink while the same are being consumed shall be permitted in any nonresidential zone except in accordance with this paragraph.
 - 1. The dining area must be on private property. If any portion of the dining area is on a sidewalk over which the public has a right-of-way, an unobstructed passage not less than four (4) feet wide must be left between the dining area and any street, structure, hydrant, lamppost, highway signpost or other obstruction. No portion of the dining area may be closer than four (4) feet to any fire lane, parking lot or loading dock. No portion of any required parking space or loading dock shall be converted to dining area.
 - 2. The dining area shall be surrounded by a defining barrier not less than two (2) feet high such as landscaping, a fence or ropes and posts. If any portion of the dining area is within ten (10) feet of any area used by vehicles and less than two (2) feet above such area, the barrier shall be designed to protect the dining area unless the same is protected by trees or other means. Any immovable portion of the barrier, or any permanent roof, arbor, platform or similar structure shall be considered a site improvement for the purpose of subsection 9-9.2 requiring site plans proposing site improvements to be drawn by a licensed person.
 - 3. The placement of tables and chairs in the dining area and the provision of passages through the barrier shall not obstruct entry to or exit from any building. Folding chairs are prohibited. No advertising or product names are permitted on any tablecloths, chairs or umbrellas in the dining area.
 - 4. No use of the dining area after 10:00 p.m. or before 6:00 a.m. is permitted. Convenient containers for trash and recyclables shall be provided. The operator of the dining area shall keep it clean, sanitary and free from litter.
 - 5. Except at dining areas operated by restaurants licensed by the Board of Health, all sales of food or drink shall take place entirely within a building, no agent or employee of the operator shall carry any food or drink to the dining area and no outdoor menu board is permitted.
- l. *Caretaker's Accessory Apartment.* Accessory apartments created pursuant to this chapter shall comply with the provisions of the New Jersey Uniform Construction Code (N.J.A.C. 5:23). For purposes of this section, "living area" shall mean all rooms and enclosed floor space within a dwelling unit used or designed to be used for living, sleeping, cooking or eating purposes, including bathrooms, laundries, pantries, foyers, communicating corridors, closets and storage space, excluding unfinished basements, garages, unfinished storage areas and other unfinished areas. Any single family detached dwelling located in the R-1-10 and R-1 Residence Zones may contain not more than one (1) accessory apartment provided the following standards and conditions are met:
 - 1. The accessory apartment shall be for the sole use of the domestic employees, members of the family or nonpaying guests of the resident of the principal residence.
 - 2. The floor area of the accessory apartment shall not exceed twenty-five (25%) percent of the floor area of the living area of the principal residence.
 - 3. The dwelling structure shall comply with all Uniform Construction Code and Uniform Fire Code Requirements for two (2) family dwellings.
 - 4. The exterior of the structure shall be that of a single family and not that of a two (2) family dwelling.
 - 5. The applicant submits at the time of seeking conditional use approval, and annually thereafter, a certification on forms provided by the Borough, as follows:
 - (a) That the accessory apartment is occupied by on-site domestic employees of the residents of the primary residence or by members of the immediate family or short-term, nonpaying guests of the residents of the primary residence.
 - (b) That the accessory apartment is occupied by only one (1) person or family.
 - (c) That the accessory apartment is not a rental unit and that no rent is paid on account of the occupancy of the accessory apartment.
 - (d) That upon any violation of this section or the certification, determined by the appropriate Borough official, the violation shall be abated and the owner shall be subject to the penalties set forth in Section 1-5 of this Code.
 - 6. Prior to occupancy of the accessory apartment, a new deed shall be recorded in the Somerset County Clerk's office containing a restriction stating that the accessory apartment must be used in strict compliance with this section.
- m. *Accessory Dwelling Unit, Detached.* Accessory dwelling units created pursuant to this chapter shall comply with the provisions of the New Jersey Uniform Construction Code (N.J.A.C. 5:23). For purposes of this section, "living area" shall mean all rooms and enclosed floor space within a dwelling unit used or designed to be used for living, sleeping, cooking or eating purposes, including bathrooms, laundries, pantries, foyers, communicating corridors, closets and storage space, excluding unfinished basements, garages, unfinished storage areas and other unfinished areas. The following conditions shall be met:
 - 1. A detached accessory dwelling unit shall only be permitted in the R-1 and R-1-10 Residence Districts on lots containing at least double the minimum area required by subsections 12-5.3g and 12-22.3g.
 - 2. There shall be no more than one (1) principal residence and one (1) detached accessory dwelling unit on any one (1) property.
 - 3. The detached accessory dwelling unit shall be for the sole use of the on-site domestic employees, members of the immediate family or nonpaying short-term guests of the resident of the principal residence, except when the Owner is approved to rent units under the Borough's Accessory Apartment Program. In any event, the detached accessory dwelling unit shall not be occupied by more than four (4) persons.
 - 4. The living area of a newly constructed or converted detached accessory dwelling unit shall not exceed one thousand five hundred (1,500) square feet.
 - 5. A newly constructed accessory dwelling unit or proposed conversion of an existing building to an accessory dwelling unit must meet the setback requirements of a principal building.
 - 6. The dwelling structure shall comply with the Uniform Construction Code and Uniform Fire Code Requirements to the extent required by the Construction Official.
 - 7. No lot containing a principal residence and a detached accessory dwelling unit shall be subdivided unless each resulting lot with its improvements complies in all respects with the requirements of this section and the requirements of the R-1 Residence District or R-1-10 District.
 - 8. The applicant shall submit at the time of seeking conditional use approval, and annually thereafter, a certification on forms provided by the Borough, as follows:
 - (a) That the detached accessory dwelling unit is occupied by on-site domestic employees of the residents of the principal residence or by members of the immediate family or short-term, nonpaying guest of the residents of the principal residence, except when the Owner is approved to rent units under the Borough's Accessory Apartment Program. In any event, the detached accessory dwelling unit shall be occupied by no more than four (4) persons.
 - (b) That the detached accessory dwelling unit is not a rental unit and no rent is paid on account of the occupancy of the accessory apartment, except when the Owner is approved to rent units under the Borough's Accessory Apartment Program.
 - (c) That the living area of the detached dwelling unit is not a rental unit and no rent is paid on account of the occupancy of the accessory apartment, except when the Owner is approved to rent units under the Borough's Accessory Apartment Program.
 - (d) That upon any violation of this section or the certification, determined by the appropriate Borough official, the violation shall be abated and the owner shall be subject to the penalties set forth in Article 16 of this Code.
 - 9. Prior to issuance of a building permit for the detached accessory dwelling unit, a new deed shall be recorded in the Somerset County Clerk's Office containing a restriction stating that the detached accessory dwelling unit must be used in strict compliance with this section.

n. *Accessory Dwelling Unit, Internal.* Accessory dwelling units created pursuant to this chapter shall comply with the provisions of the New Jersey Uniform Construction Code (N.J.A.C. 5:23). For purposes of this section, "living area" shall mean all rooms and enclosed floor space within a dwelling unit used or designed to be used for living, sleeping, cooking or eating purposes, including bathrooms, laundries, pantries, foyers, communicating corridors, closets and storage space, excluding unfinished basements, garages, unfinished storage areas and other unfinished areas. The following conditions shall be met:

1. An accessory dwelling unit that is within an existing dwelling structure (internal to the building) shall only be permitted in the R-1 and R-1-10 Residence Districts on lots containing at least double the minimum area required by subsections 12-5.3g and 12-22.3g.
2. There shall be no more than one (1) principal residence and one (1) attached accessory dwelling unit on any one (1) property.
3. The accessory dwelling unit shall be for the sole use of the on-site domestic employees, members of the immediate family or nonpaying short-term guests of the resident of the principal residence, except when the Owner is approved to rent units under the Borough's Accessory Apartment Program. In any event, the accessory dwelling unit shall not be occupied by more than four (4) persons.
4. The living area of an internal accessory dwelling unit shall not exceed one thousand five hundred (1,500) square feet.
5. The dwelling structure shall comply with the Uniform Construction Code and Uniform Fire Code Requirements to the extent required by the Construction Official.
6. No lot containing a principal residence and a detached accessory dwelling unit shall be subdivided unless each resulting lot with its improvements complies in all respects with the requirements of this section and the requirements of the R-1 Residence District or R-1-10 District.
7. The applicant shall submit at the time of seeking conditional use approval, and annually thereafter, a certification on forms provided by the Borough, as follows:
 - (a) That the accessory dwelling unit is occupied by on-site domestic employees of the residents of the principal residence or by members of the immediate family or short-term, nonpaying guest of the residents of the principal residence, except when the Owner is approved to rent units under the Borough's Accessory Apartment Program. In any event, the accessory dwelling unit shall be occupied by no more than four (4) persons.
 - (b) That the accessory dwelling unit is not a rental unit and no rent is paid on account of the occupancy of the accessory apartment, except when the Owner is approved to rent units under the Borough's Accessory Apartment Program.
 - (c) That the living area of the accessory dwelling unit is not a rental unit and no rent is paid on account of the occupancy of the accessory apartment, except when the Owner is approved to rent units under the Borough's Accessory Apartment Program.
 - (d) That upon any violation of this section or the certification, determined by the appropriate Borough official, the violation shall be abated and the owner shall be subject to the penalties set forth in Article 16 of this Code.
8. Prior to issuance of a building permit for the accessory dwelling unit, a new deed shall be recorded in the Somerset County Clerk's Office containing a restriction stating that the accessory dwelling unit must be used in strict compliance with this section.

(Ord. No. 581 § 12-19.2; Ord. No. 759 § 1; Ord. No. 91-870 § 2; Ord. No. 93-946 § 5; Ord. No. 93-969 § 2; Ord. No. 93-970 § 7; Ord. No. 94-982 § 3; Ord. No. 94-990 § 3; Ord. No. 96-1074 § 2; Ord. No. 97-1096 § 1; Ord. No. 97-1103, § 5; Ord. No. 99-1167 § 3; Ord. No. 2001-1260 §§ 4, 5; Ord. No. 2004-1357 §§ 1-3, Ord. No. 2004-1358 §§ 1, 2; Ord. No. 2005-1390 § 2; Ord. No. 2014-1654 § 3; Ord. No. 2014-1669 §§ 2-5; Ord. No. 2018-1772 § 4)

12-26 NON-CONFORMING LOTS, USES AND STRUCTURES.

12-26.1 Continuance of Non-Conforming Use or Structures.

Any lawful non-conforming use which existed at the time of the passage of this chapter may be continued and any existing building designed, arranged, intended or devoted to a non-conforming use may be reconstructed or structurally altered subject to the following regulations:

- a. The structural alterations made in such residential building in a residential zone shall in no case result in the increase in floor area of the altered building exceeding that of the original. In no case should any alterations allow an intensification of the non-conforming use (e.g., one (1)-family to two (2)-family or two (2)-family to three (3)-family). In a non-residential zone any alterations should not result in an increase of the floor area of an altered building.
 - b. No structural alterations of an existing building shall be permitted which enlarge or extend the non-conforming use.
 - c. No non-conforming use shall be extended at the expense of a conforming use.
 - d. A non-conforming use changed to a conforming use may not thereafter be changed back to a non-conforming use.
 - e. A non-conforming use in existence at the time of the passage of this chapter shall not be permitted to be changed to any other non-conforming use.
 - f. In the event that there is a cessation of operation of any non-conforming use for a period of twelve (12) consecutive calendar months, the same shall be presumed to be an abandonment of such non-conforming use. Any subsequent exercise of such abandoned non-conforming use shall be deemed a violation of the terms of this chapter, except such shall not apply to a non-conforming use because of height and area violations.
- (Ord. No. 581 § 12-20.1; Ord. No. 816 § 1)

12-26.2 Completion of Existing Buildings.

Nothing in this chapter shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and construction diligently prosecuted within six (6) months of the date of such permit. (Ord. No. 581 § 12-20.2)

12-26.3 Restoration of Existing Buildings.

Nothing in this chapter shall prevent the restoration of a non-conforming building partially destroyed by fire, explosion, act of God, or act of public enemy, provided that, after restoration, the building and the use thereof shall not violate this chapter to any greater extent than existed prior to the restoration. Any building totally destroyed in the manner aforesaid may only be rebuilt as a conforming use.

The owner of any non-conforming use that is partially destroyed as above mentioned must apply for a building permit to rebuild the non-conforming use within twelve (12) months from the time of destruction. If the application to rebuild the non-conforming use is filed after the above-mentioned twelve (12) month period, a building permit will only be issued for a conforming use. Nothing in this chapter shall prevent the restoration of a wall declared unsafe by the Construction Official. (Ord. No. 581 § 12-20.3)

12-26.4 Unlawful Uses Not Authorized.

Nothing in this chapter shall be interpreted as authorization for or approval of the continuance of use of a structure or premises in violation of zoning regulations in effect at the time of the effective date of this chapter. (Ord. No. 581 § 12-20.4)

12-26.5 Non-Conforming Uses Due to Reclassification.

The foregoing provisions of this Article shall also apply to buildings, structures, land or uses which hereafter become non-conforming due to any reclassification of zone districts under this chapter, or any subsequent change in regulations of this chapter. (Ord. No. 581 § 12-20.5)

12-26.6 Existing Platted Lots.

Any lot which at the time of the adoption of this chapter fails to comply with the minimum requirements of this chapter may be used for any use not otherwise prohibited in the zone district in which it lies, provided the lot is in single ownership as defined in this chapter and further provided all yard requirements are complied with. (Ord. No. 581 § 12-20.6)

12-27 ENFORCEMENT, AUTHORITY AND DUTIES OF THE ZONING ENFORCEMENT OFFICER AND THE BUILDING SUBCODE OFFICIAL.*

12-27.1 Zoning Enforcement Officer.

The Borough Land Use Ordinances shall be enforced by the Zoning Enforcement Officer. It shall be the duty of the Zoning Enforcement Officer to investigate any violation of this chapter coming to his attention, whether by complaint or arising from his own personal knowledge. If a violation is found to exist, he shall serve written notice by registered or certified mail or by personal service upon the owner, lessee, tenant or other occupant of any building or structure, lot or land, or part thereof, where a violation of any of the provisions of this chapter has been committed or exists or upon any architect, builder, contractor or agent or other person who is employed in connection with the building or structure, lot or land, or part thereof, and who commits, takes part or assists in the commission of such violation. Such notice shall require the violation to be abated within ten (10) days from the date of service of the notice or upon such lesser time as the Zoning Enforcement Officer shall deem reasonable in cases where the danger to public health, safety and general welfare is so imminent as to require more immediate abatement. If the person fails to abate the violation within the time specified, the Zoning Enforcement Officer shall file and prosecute a complaint to terminate the violation in the Municipal Court or shall seek equitable relief in the Superior Court, as appropriate. (Ord. No. 98-1149 § 1 Art. 12)

12-27.2 Building Subcode Official.

The Building Subcode Official shall not issue any permit for the erection, construction, reconstruction, structural alteration, enlargement or moving of any building or structure or part thereof, or issue any certificate for the use or occupancy of any building, structure or land, or part thereof, where the same would be in violation of any of the provisions of this chapter. It shall be the further duty of the Building Subcode Official to report to the Zoning Enforcement Officer any violation of this chapter coming to his attention, whether by complaint or arising from his own personal knowledge. (Ord. No. 98-1149 § 1 Art. 12)

12-28 TEMPORARY PERMITS.

Temporary Permits may be authorized by the Building Subcode Official for a period not to exceed one (1) year for nonconforming uses incidental to construction projects being conducted on the same premises, including such uses as storage of building supplies and machinery, assembly of building materials, and a small real estate office where a development is being offered for sale. Such permits may be renewed by the Building Subcode Official, annually, over a period not to exceed three (3) years. (Ord. No. 581 § 12-22)

12-29 STORMWATER MANAGEMENT.

12-29.1 Definitions.

All terms in this section shall be defined in the NJDEP Stormwater Management Rule (N.J.A.C. 7:8, et seq.). The following additional terms are defined for this chapter only.

Exempt Development shall mean any development that creates less than five hundred (500) square feet of roof area and less than one thousand (1,000) square feet of new impervious area in total and disturbs less than two thousand five hundred (2,500) square feet of land.

Minor Development shall mean any development that does not meet the definition of "exempt development" as defined herein or the definition of major development in N.J.A.C. 7:8.

(Ord. No. 2006-1423 § 1; Ord. No. 07-1478 § 1)

12-29.2 Design Standards.

- a. *Exempt Developments.* Any project meeting the definition of exempt development shall be exempt from the provisions of this section.
- b. *Minor Developments.* Minor developments shall be designed to include the following stormwater management measures:

1. Water Quality. Soil erosion and sediment control measures shall be installed in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey.

2. Runoff Quantity Control. Seepage pits or other infiltration measures shall be provided with a capacity of three (3") inches of runoff for each square foot of new impervious area. Stone used in the infiltration devices shall be two and one-half (2-1/2") inch clean stone and a design void ratio of thirty-three (33%) percent shall be used. The infiltration measures shall be designed with an overflow to the surface which shall be stabilized and directed to an existing stormwater conveyance system or in a manner to keep the overflow on the developed property to the greatest extent feasible. If the new impervious surface is not roof area, an equivalent area of existing roof may be directed to the infiltration system. This shall be permitted where the existing roof is not already directed to infiltration devices.

c. *Major Developments.* All major developments shall have their stormwater management designed in accordance with the Residential Site Improvement Standards (RSIS, N.J.A.C. 5:21) and the NJDEP Stormwater Management Rule (N.J.A.C. 7:8). These standards shall apply to all projects, residential and nonresidential, in all zone districts.

(Ord. No. 2006-1423 § 1; Ord. No. 07-1478 § 1)

12-29.3 Operation and Maintenance of Stormwater Management Facilities.

- a. Applies to both minor and major stormwater developments as defined in subsection 12-29.1 above, that are privately owned.
- b. Private entity is required to ensure adequate long term operation as well as preventative and corrective maintenance (including replacement) on all stormwater management facilities (Best Management Practices). The Operation and Maintenance Manual for all projects shall include forms to be submitted to the Borough Engineer by April 1 of each year. These inspection and maintenance forms shall report the maintenance of the system throughout the year.
- c. Penalties for noncompliance shall be in accordance with the penalty provision of the Borough General Ordinances.
- d. If the stormwater facilities are not adequately maintained by the private owners, the Borough shall retain the right to perform the required maintenance and charge the private entity accordingly. This access shall be part of all drainage easements on private property.

(Ord. No. 07-1478 § 1)

12-29.4 Waivers and Exceptions.

- a. *Standards for Relief.* Waivers from strict compliance with the design standards shall only be granted upon showing that meeting the standards would

result in an exceptional hardship on the applicant or that the benefits to the public good of the deviation from the standards would outweigh any detriments of the deviation. A hardship will not be considered to exist if reasonable reductions in the scope of the project would eliminate the noncompliance.

- b. *Mitigation.* If the review agency for the project determines that a waiver is appropriate, the applicant must execute a mitigation plan. The scope of the mitigation plan shall be commensurate with the size of the project and the magnitude of relief required. The mitigation project may be taken from the list of projects in the Municipal Stormwater Management Plan or another project identified by the applicant. All mitigation projects are subject to the approval of the Municipal Engineer. A monetary contribution to the Municipality may be made in lieu of the work identified in the mitigation plan subject to the approval of the review agency.
- c. *Review Agency.* All applications subject to the review of the Planning Board or Board of Adjustment shall be reviewed by those Boards concurrently with subdivision or site plan review. Applications not subject to Planning Board or Board of Adjustment review shall be reviewed by the Municipal Engineer.
- d. *Appeals.* The appeal of the determination of the Municipal Engineer shall be made in accordance with N.J.A.C. 40:55D-70a.
(Ord. No. 2006-1423 § 1; Ord. No. 07-1478 § 1)

12-29.5 Application and Review Fees.

- a. There shall be no additional fees for stormwater review for applications to the Planning Board or Board of Adjustment.
- b. Applications for minor development shall be accompanied by an additional fee in the amount of two hundred fifty (\$250.00) dollars to cover review by the Municipal Engineer.
- c. Applications for major development shall be accompanied by an additional fee in the amount of five hundred (\$500.00) dollars to cover review by the Municipal Engineer. If a major development project is approved, an additional inspection escrow deposit shall be made in an amount to be determined by the Municipal Engineer.
(Ord. No. 2006-1423 § 1; Ord. No. 07-1478 § 1)

***Editor's Note:** Prior ordinance history includes portions of Ordinance No. 581.