

Raritan Township General Ordinances

Chapter 16.02

PURPOSE, ADMINISTRATION AND DEFINITIONS

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16.02.010 Purpose.

The purpose of this title is to establish rules, regulations, standards and procedures for review of all development in order to:

A. Further the purposes set forth in the Municipal Land Use Law (Chapter 291 Laws of New Jersey, 1975);

B. Preserve existing natural resources and give proper consideration to the physical constraints of the land;

C. Provide for safe and efficient vehicular, bicycle and pedestrian circulation;

D. Provide for appropriate screening, landscaping, signing and lighting;

E. Ensure efficient, safe and aesthetic land development;

F. Provide for compliance with appropriate design standards to ensure adequate light and air, proper building arrangements and minimum adverse effect on surrounding property;

G. Develop proper safeguards to minimize any adverse impact on the environment;

H. Ensure the provisions of adequate water supply and quality drainage and stormwater management, sanitary facilities and other utilities and services;

I. Provide for appropriate recreation, open space and public use areas;

J. Promote the public health, safety, convenience and general welfare of the township and to carry out the objectives of the Municipal Land Use Law;

K. Ensure the orderly growth and development, the conservation, protection and proper use of land and adequate provisions for circulation, utilities and services;

L. Ensure the conservation and environmental protection of all land, water and air resources within the jurisdiction of Raritan Township and throughout the region. (Prior code § 15-1.1)

16.02.020 Approving agency.

The provisions of this title shall be administered by the township planning board and, where applicable, the township board of adjustment in accordance with the Municipal Land Use Law, Chapter 291, P.L., 1975, R.S. 40:55D-1 et seq., as amended and supplemented. (Prior code § 15-1.2)

16.02.030 Definitions.

Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this title, and the word "building" shall include the word "structure," the word "used" shall include the word "arranged," "designed," "constructed," "altered," "converted," "rented," "leased" or "intended to be used"; and the word "abut" shall include the words "directly across from," "adjacent to" and "next to."

"Accessory apartment" means a self-contained housing unit incorporated within an existing residential structure originally designed for single-family residence and not substantially altered

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for the new unit.

"Accessory use, structure or building" means a use, structure or building subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building. In the case of an accessory structure or building, it shall be detached from the principal building. All structures or buildings on nonresidential lots are considered principal structures on the lot and shall conform to requirements for principal structures.

"Administrative officer" means the township planner and/or zoning officer.

Advertising Display. See "Sign."

"Affordable housing" means any housing unit with an acquisition price or rent level not exceeding the maximum resale or rent level for low and moderate income housing and as further defined in N.J.A.C. 5:93-1.1 et seq.

"Agent" means one or more persons designated to represent the applicant before the planning board.

Agricultural/Horticultural Use. See "Farm."

"Agricultural research facility" means a use primarily concerned with the scientific study of farm animals and agricultural products, located in a farm environment and where no products are manufactured or produced on the premises for sale.

"Alterations," as applied to a building or structure, means a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extension of a side or by increasing in height or by moves from one location or position to another.

"Altered parking area" means existing parking areas which are to be surfaced, resurfaced, redesigned, re-striped to indicate a new layout, curbed, redesigned to accommodate a new traffic pattern, and similar changes which require review by the board.

"Altered space" means the square footage of an existing building which will undergo a change or rearrangement in the structural parts or in the means of egress to the space, or where the use of the space will be more intensively utilized, such as the change from a storage area to an office, retail or manufacturing area, or from a residential to a nonresidential use.

"Animal hospital" means a building or portion thereof designed or used for the care, examination or treatment of domestic animals.

"Apartment" means one of several individual dwelling units designed and erected as an integrated development in one or several buildings with singleness of use and operation and which utilizes such common facilities as pedestrian walks, parking and garage areas, open space or recreation areas, and utility and sanitary systems.

"Applicant" means the legal or beneficial owner or owners of land to be subdivided or developed. The holder of an option or contract to purchase, or other person or persons having an enforceable proprietary interest in such land, may be considered to be an applicant for the purpose of this chapter. Such person may also be known as the developer.

"Application for development" means the application form and all accompanying documents required by this chapter for approval of a site plan and/or subdivision.

"Approved forms" means forms required and supplied by the planning board and board of adjustment to be submitted with an application for each submission.

"Assisted living facility" means a facility containing residences for the elderly that provide rooms, meals, personal care assistance and the supervision or administration of medications.

"Attached dwelling unit" means a dwelling unit which is physically linked to one or more other dwelling units forming a single dwelling structure.

"Automobile wrecking yard" means any yard and/or structure used or intended to be used for the conducting and operating of the business of selling, buying, storing or trading in used or discarded metal, glass, paper, cordage, or any used or disabled fixtures, vehicles or equipment of any kind.

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"Barber and Beauty Shop" means a building or part thereof in which a service is provided to men, women and children by shampooing, cutting, styling, tinting or treatment of hair, by giving manicures, pedicures or facial treatments or by the use of cosmetic products. Said use may include accessory retail sales of goods and services associated with the specific use conducted on site. (Ord. 02-53)

Billboards, Signboards or Advertising Devices. See "Sign (street graphics)."

"Block" means the area bounded by one or more streets or a municipal boundary of sufficient size to accommodate a lot or lots of the minimum size required in the zoning ordinance of the township and as further specified herein.

"Boarder" or "roomer" means a person who is not related to the head of the household and who pays for the privilege of boarding or rooming.

"Buffer strip" means a strip of land providing a natural vegetation screen or a fence or other means so as to continually restrict a clear view beyond the buffer strip.

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

"Building height" means the vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest points of the roof, but not including chimneys, spires, towers, elevator penthouses, tanks and similar projections. (Ord. 04-22)

"Building line" means a line formed by the intersection of a horizontal plane at average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered section of the building, the vertical plan will coincide with the most projected surface. All yard requirements are measured to the building line.

Building, Principal. **"Principal building"** means a structure in which is conducted the principal use of the site on which it is situated. In any residential district, any dwelling shall be deemed to be a principal building on the zone lot on which it is located.

"Business office" means a building or portion thereof which is used for conducting the affairs of a business, service, industry or government and within which a product or merchandise for sale to the public is not offered. However, personal services, such as barber and beauty shops, and repair services, such as radio and television repair shops, are not to be included within the definition of "business office." A bank, trust company, savings and loan or similar establishment for the custody, loan, exchange or issue of money, for the extension of credit and for facilitating the transmission of funds is not to be included within the definition of "business office."

"Camp" means a predominantly open space facility designed for outdoor recreational use by persons residing on the site for short periods in seasonal quarters.

"Certificate of occupancy" a certificate issued by the construction official upon completion of construction, alteration or change in occupancy of a building. Said certificate shall acknowledge compliance with all requirements of this title, such adjustments thereto granted by the board of adjustment and/or all other applicable requirements.

"Certification" means a written endorsement of a plan for soil erosion and sediment control by the township engineer which indicates that the plan meets the standards promulgated by the state soil conservation committee as set forth in the latest "Standards for Soil Erosion and Sediment Control in New Jersey."

"Change of use" means the change from one enumerated principal use to another enumerated principal permitted use on a lot or within a structure or building.

"Channel" means a watercourse with a definite bed and banks which confine and conduct continuously or intermittently flowing water.

"Child Care Center" means any facility which is maintained for the care, development or supervision of six or more children under 13 years of age who attend the facility for less than 24

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hours a day, and which is subject to State licensure or life-safety approval, pursuant to the provisions of the "Child Care Licensing Act," P.L. 1983,c.492 (C. 30:5-B-a to 30:5B-15). (Ord. 06-31)

"Church" means a building or group of buildings, including customary accessory buildings, designed or intended for public worship. For the purpose of this chapter, the word "church" shall include chapels, congregations, cathedrals, temples or similar designations, as well as parish houses, convents and such accessory uses.

"Circulation" means systems, structures and physical improvements for the movements of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits, and the handling of people and goods by such means as terminals, stations, warehouses and other storage building or trans-shipment points.

"Civic Use" means a use of a building, structure or lot by a federal, state, or municipal agency, or its duly appointed agent, including yards, parks and recreational facilities, educational facilities, public hospitals, public museums, public libraries, public community centers, theaters, public stadiums and arenas. (Ord. 02-47)

"Club," "lodge" and "fraternal organization" means a social or service organization not organized or conducted for profit and which is not an adjunct to or operated by or in conjunction with a public tavern, cafe or other place of business.

"Cluster residential development" means a residential development of detached dwelling units planned as a single, entity in accordance with the provisions of this chapter and which has common or public open space as an appurtenance.

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

"Commercial distribution of fuels" means storage of refinery products for distribution or resale.

"Commercial greenhouse" means the raising of plants within a greenhouse for income, but not including retail sales from within the greenhouse unless the greenhouse is located in a business zone where such sales are permitted.

"Commercial vehicles" means any motor vehicle, other than a passenger car, having more than two axles and/or four wheels and/or exceeding a loading capacity of one-half ton.

"Common open space" means an open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development, and containing such complementary structures and improvements as are necessary and appropriate for the enjoyment of residents and owners of the development.

"Complete application" means an application form completed as specified by this title and the rules and regulations of the planning board and all accompanying documents required by this title for approval of an application. However, if the application is found incomplete, the developer shall be notified in writing of the deficiencies within forty-five (45) days of the submission of such application, or it shall be deemed properly submitted.

The planning board may require such additional information, not specified by this title, or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for the approval of the application have been met. The application shall not be deemed incomplete for the lack of any such additional information or any revisions in the accompanying documents so required by the board. An application shall be certified as complete immediately upon the meeting of all requirements specified in this title and in the rules and regulations of the planning board, and shall be deemed complete as of the day it is so certified by the administrative officer for purposes of the commencement of the time period for action by the planning board.

"Conditional use" means a use permitted in a particular zoning district only upon a showing that such a use in a specified location will comply with the conditions and standards for the

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location or operation of such as contained in the zoning ordinance and upon the issuance of authorization therefor by the planning board.

"Condominium" means a legal arrangement providing for individual ownership of a portion of a building and/or land parcel, and including arrangements for the maintenance responsibilities of such building and/or land parcel.

"Construction official" means the municipal official specified in the building code and designated as such by the township committee.

"Construction permit" means an authorization to build issued by the township construction official after a determination that all applicable township requirements have been met.

"Cul-de-sac" or "dead end street" means a minor street or a portion of a minor street in which accessibility is limited to only one single means of ingress and egress.

"Cut" means a portion of land surface of an area from which earth has been removed or shall be removed by excavation; the depth below original ground surface to excavated surface.

"Days" means calendar days, including weekends and holidays.

"Department" means the State Department of Environmental Protection.

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

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

"Development fees" means money paid by an individual, person, partnership, association, company or corporation for the improvement of property as permitted by COAH rules.

"District" or "zone" means any portion of the territory of the township of Raritan within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this title.

"Disturbance" means any activity involving the clearing, excavating, storing, grading, filling or transporting of soil or any other activity which causes soil to be exposed to the danger of erosion.

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

"Drainage" means the removal of surface water or groundwater from land by drains, grading or other means, and includes control of runoff to minimize erosion sedimentation during and after construction or development, and means necessary for water supply preservation or prevention or alleviation of flooding.

"Dwelling" means any building or portion thereof designed or used primarily as the residence or sleeping place of one or more persons. A "dwelling" is not a mobilehome, a hotel, motel, hospital, nursing home, dormitory, fraternity or sorority house, rooming house, boarding house, or similar structure under the terms of this title.

Dwelling, Single-Family. "Single-family dwelling" means a detached building or dwelling unit designed for or occupied exclusively by one or more persons living as a single, nonprofit housekeeping unit.

Dwelling, Single-Family Semi-Detached. "Semi-detached single-family dwelling" means a one-family dwelling attached to another one-family dwelling by a common vertical wall, with each dwelling located on a separate lot.

Dwelling, Quadruplex. "Quadruplex dwelling" means four attached dwellings in one building in which each unit has two open space exposures and shares one or two walls with an

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adjoining unit or units or shares a common garage wall with an adjoining unit.

"Dwelling unit" means one or more rooms, including cooking facilities, in a structure designed as a unit for occupancy by not more than one family for living and sleeping purposes.

"ECHO unit" means elder cottage housing opportunity unit, a separate living quarters, accessory to a primary residence on the premises, not exceeding seven hundred fifty (750) square feet of gross floor area for the use of and occupancy, by not more than two persons who are relatives by blood, marriage or adoption of an owner/occupant of the primary residence on the premises. One of the ECHO unit occupants shall be sixty (60) years of age or older.

"Embankment" means a manmade deposit of soil, rock or other materials.

"Encroachment" means any obstruction within a delineated floodway.

"Environmental commission" means the Raritan Township environmental commission.

"Equalized assessed value" means the value of a property determined by the municipal tax assessor through a process designed to ensure that all property in the municipality is assessed at the same assessment ratio or ratios required by law. Estimates at the time of building permit may be obtained by the tax assessor utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the municipal tax assessor.

"Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice and gravity.

"Essential services" means the erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, including electric substations, telephone dial center, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies, or for the public health or safety or general welfare. "Essential services" shall include firehouses, first aid and emergency aid squads, whether provided by a municipal or nonprofit agency.

Excavation. See "Cut."

"Existing grade" means the vertical location of the ground surface prior to cutting or filling.

"Family" means two or more persons related by blood or marriage or legal adoption, or up to four unrelated individuals living together as a single housekeeping unit in a dwelling.

"Farm" means a parcel or parcels of land comprised of or in aggregate total of five or more acres, exclusive of a minimum of one acre used for a dwelling and any additional area covered by municipal, county or state roads. Said five or more acres shall be devoted to either the production for sale or consumption by the owner of plants and animals generally accepted as useful to man, including but not limited to forages and crops; grain and feed crops; dairy animals and products, poultry and poultry products; livestock, including beef cattle, sheep, horses, ponies, mules, hogs, dairy cattle or goats, including the breeding and grazing of any and all such animals; bees and apiary products; fur-bearing animals; and trees and forest products; including the processing and sale of these products on the property where produced. Land shall be deemed a farm when devoted to the production of fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products, including the processing of these products on the property where produced.

"Farm product sales" means the sale of seasonal products raised on the premises only and may be sold from a table or other similar portable display.

"Farm stand" means a structure designed for the display and sale of seasonal farm produce, fifty (50) percent of which is raised on the premises and/or other farm parcel owned or cultivated by the farm stand operator. Such a use shall require a conditional use permit.

"Farm structure" means any structure used for the storage of agricultural equipment or farm

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produce, or housing livestock or poultry. All farm structures shall be considered accessory structures, whether or not a principal structure exists on the same lot.

"Fast-food restaurant" means a retail food service operation in which a limited or specialized list of quickly prepared or pre-prepared food items is offered for on-premises and off-premises consumption; or where a drive-up window exists for ordering food items, or where vehicle food service or consumption of food within a vehicle exists on the premises.

"Fence" means an artificially constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials.

"Fill" means sand, gravel, earth or other materials of any composition whatsoever placed or deposited by any person.

"Final approval" means the official action of the planning board taken on a preliminary approved major subdivision or site plan after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed.

"Finished grade" means the final elevation of the ground surface conforming to the proposed design.

"Fixture" means the assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts. (Ord. 02--21)

"Flood light" means a luminaire or bulb which projects light in a specific direction in a wide beam, typically 100 degrees or more. (Ord. 02-21)

"Flood map" means:

1. Map prepared by the Department of Housing and Urban Development, Federal Insurance Administration, No. H 01-12 dated July 26, 1974;

2. Natural Resource Inventory Floodplain/Soils Map for Raritan Township.

When no flood maps are available, the township engineer shall determine the extent of flooding in any particular area based on available data and information.

"Floodplain" means the 100 year floodplain as shown on the Federal Emergency Management, National Insurance Program, Flood Insurance Rate Maps. (Ord. 06-11)

"Floodplain (500 year)" means the 500 year floodplain as shown on the Federal Emergency Management, National Flood Insurance Program, Flood Insurance Rate Maps. (Ord. 06-11)

"Floor area ratio" means the quotient achieved by dividing the gross floor area by the net area of the lot.

"Fly ash" means particles of gas-borne matter, not including process material, arising from the combustion of solid fuel, such as coal or wood.

"Footcandle" (fc) means a unit of illuminance on a surface one foot square in area onto which there is a uniform flux of one lumen. (Ord. 02-21)

"Footlambert" (fL) means a unit of luminance of a surface reflecting or emitting light at the rate of one lumen per square foot. The average luminance of any reflecting surface in footlamberts is the product of the illuminance in footcandles striking the surface times the reflectance of the surface. (Ord. 02-21)

"Full-cutoff" (fco) means a light fixture which cuts off all upward transmission of light. (Ord. 02-21)

"Fully shielded" means a fixture with housing or attachment thereto which prevents a line of sight to the bulb when viewed from another property and which prevents a line of sight to any part of the light source at or above a horizontal plane running through the lowest portion of the fixture. (Ord. 02-21)

Garage, Private. "Private garage" means a detached or attached structure used only for the storage of vehicles owned or rented by the occupant of the principal structure or his or her family.

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Garage, Public. "Public garage" means any garage other than a private garage which is open to the public and used for the storage of motor vehicles.

"Gasoline filling station and public and repair garage" means a building or place of business where gasoline, oil and grease, batteries, tires and automobile accessories are supplied and dispensed directly to the motor vehicle trade, at retail, and/or where repair service and related vehicle services may be rendered. Carwash facilities are included in this definition as accessory uses.

"Glare" means the discomfort experienced by an observer with a direct line of sight to a light source which often results in annoyance, discomfort or loss of visual performance causing visual impairment. (Ord. 02-21)

"Grading" means any stripping, cutting, filling, stock-piling any combination thereof and shall include the land in its cut or filled condition.

"Grading permit" means a permit issued by the township engineer to authorize work to be performed under this title in situations not requiring subdivision approval or site plan approval.

"Grassed waterway" means a natural or constructed path, usually broad and shallow, covered with erosion-resistant grasses, used to conduct surface water from a field diversion or other feature.

"Gross floor area" means the sum of the gross horizontal area of the several stories of a building. Floor area shall not include cellar space or any floor space where the average floor-to-ceiling height is less than seven feet.

"Group homes" means a community residence for the developmentally disabled or a shelter for victims of domestic violence, as defined by N.J. 40:55D-66.2, housing more than six persons, excluding staff.

"Hard surface" means those surfaces which do not absorb water. All structures, surfaced parking areas, streets, driveways, sidewalks, and any areas in concrete, asphalt and packed stone shall be considered "hard surface" within this definition.

"Hazardous materials" means and includes, but is not limited to, inorganic mineral acids of sulfur, fluorine, chlorine, nitrogen, chromium, phosphorous, selenium, and arsenic and their common salts; lead, nickel and mercury and their inorganic salts or metallo-organic derivatives; petroleum products and radioactive material; and coal tar acids, such as phenols and creosols, and their salts.

"Helistop" means an area that is used for the landing and takeoff of helicopters, but without any auxiliary facilities such as helicopter parking areas, waiting rooms, fueling or maintenance equipment.

"Home business" means a single business conducted from a portion of an existing single-family dwelling, or from another building on property on which there is an existing single-family dwelling. Home businesses shall be limited to retail specialty shops and activities, artisans' workshops and offices and shops, including antique, gift, book, bakery, bicycle and candy sales; galleries, photography and art studios, coin, stamp and beauty shops; cabinet making, tutoring, tailoring, professional occupations, shoe repairing, private and nursery schools, dog care, barber shops, caterers, hobby shops, fruit and vegetable markets, florists, real estate agencies, insurance brokers.

"Home occupation" means a physician, dentist, lawyer, optometrist, architect, engineer, planner, artist, accountant, real estate or insurance agent, where clients or patients visit the premises on which the "home occupation" is located. "Home occupations" require a conditional use permit and parking facilities.

"Home office" means an area of a residence not exceeding two hundred (200) square feet and used by an occupant of such residence for office or studio purposes only, provided that there is no exterior indication of such office or studio use, and provided that such use does not require

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parking, deliveries or other external traffic other than that normally required by the residential use. This definition includes the tutoring of not more than five children and the traffic associated therewith.

"Homeowners' association" means an incorporated nonprofit organization operating in a development under recorded land agreements, through which each lot owner shall be a member, and each dwelling unit is subjected to a charge for a proportionate share of the expenses for the organization's activities and maintenance, including any maintenance costs levied against the association by the township, and each owner and tenant has a right to use the common property.

"Horizontal (or vertical) foot-candles" means the amount of light striking a vertical or horizontal plane. (Ord. 02-21)

"Hospital" means any building containing beds for four or more patients, and used for the diagnosis, treatment or other care of human ailments and staffed by licensed physicians.

"Hotel" means a facility offering transient lodging accommodations, with no provision for cooking in any individual room or suite, to the general public, and providing additional services such as restaurants, meeting rooms, and recreational facilities.

Houses of Worship. See **"Church."**

"IESNA" means the Illuminating Engineering Society of North America, an organization that recommends standards for the lighting industry. (Ord. 02-21)

"Inclusionary development" means a development containing low and moderate income units. This term includes, but is not necessarily limited to, new construction, conversion of a nonresidential structure to a residential structure, and the creation of new low and moderate income units through the substantial rehabilitation of a vacant residential structure.

"Inclusionary zoning" means development regulations governing the use and development of land for low and moderate income units.

"Institution" means a nonprofit or quasi-public use, such as a church, school, library or hospital or municipally owned or operated building, structure or land used for public or quasi-public purpose.

"Interested party" means:

1. In a criminal or quasi-criminal proceedings, any citizen of the state of New Jersey; and
2. In the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the township, whose right to use, acquire or enjoy property is or may be affected by any action taken under the provisions of this chapter, or whose rights to use, acquire or enjoy property under this title or under any other law of this state or of the United States have been denied, violated or infringed by an action or a failure to act under this title.

"Junkyard" means a yard, building, covered space or space kept, maintained or existing for the purpose of buying or selling, exchanging or storing of rags, old metals, old bottles and glassware, old paper, old plumbing fixtures, salvaged items, debris, dismantled vehicles or parts thereof, unlicensed vehicles, any other old material commonly called junk, and including dismantling operations of the above materials and items. A junkyard shall not include the storage of old material to be used by the person or firm storing the same for permitted on-site manufacturing purposes.

Kennel, Commercial. **"Commercial kennel"** means an establishment, the principal function of which is the sale of dogs or services related to dogs. It shall include the establishment for the boarding, trimming, grooming, training and/or breeding of dogs for which a fee is charged.

Kennel, Noncommercial. **"Noncommercial kennel"** means an accessory use of a single-family dwelling by a breeder or dog fancier who is a resident thereof, where six or more dogs of a licensable age are kept for the principal purpose of hunting, breeding for enhancement or perpetuation of a given breed, for practice tracking, for exhibition in dog shows, for field or

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obedience trails, or for guarding or protecting of the householder's property.

The surplus offspring of dogs bred by a hobby breeder may be sold, and such sales shall not be considered commercial breeding provided there are no more than two litters per year, and provided further that the sale of the offspring is not the primary function of the kennel. There shall be no more than a total of twenty (20) dogs of licensable age; otherwise, the standards of a commercial kennel shall apply.

"**Land**" means any ground, soil or earth including marshes, swamps, drainways and areas not permanently covered by water.

"**Landfill**" means the filling of low areas, surface deposition or the raising of the surface of the ground by the dumping, depositing or placing of waste materials, vehicles, building materials, household waste, or junk, vegetated or developed.

"**Light industry**" means a land use where the primary activity involved is one of the fabricating or assembling of standardized parts as contracted to a processing activity which would change the nature or character of the product or raw material.

"**Light source**" means the bulb and lens, diffuser, or reflective enclosure. (Ord. 02-21)

"**Light trespass**" means light projected onto a property from a fixture not located on that property. (Ord. 02-21)

"**Living area**" means the area within the wall exteriors above the main grade level, but excluding cellars, attics, garages or porches.

"**Lot**" means a parcel or portion of land separated from other parcels or portions by description and area as on a subdivision of record, or survey map, or by metes and bounds for purpose of sale, lease or separate use. A street passing through land shall be considered as having divided the land into lots. A building lot shall be one meeting the minimum area and dimension requirements as specified in the township zoning ordinance, and fronting on an approved and improved street.

1. "**Lot area**" means the computed area contained within the lot lines, excluding any street rights-of-way.

2. **Lot, Corner.** "**Corner lot**" means a lot abutting upon two or more streets at their intersection or upon two parts of the same street, which streets or parts of the same street form an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the street lot lines is the corner.

3. "**Lot depth**" means the mean distance between the front and rear lot lines.

4. **Lot, Interior.** "**Interior lot**" means any lot not a corner lot.

5. The property lines bounding the lot:

a. **Lot Line, Front.** "**Front lot line**" means the dividing line between the lot and a street.

b. **Lot Line, Rear.** "**Rear lot line**" means the lot line opposite and most distant from the front lot line.

c. **Lot Line, Side.** "**Side lot line**" means the lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a "side street lot line."

6. **Lot, through:** any lot, not a corner lot, which connects two generally parallel streets. (Ord. 00-4)

7. "**Lot width**" means the distance between the two side lot lines measured at the required setback line.

"**Lot averaging**" means the reduction in size of some lots in subdivision, and the corresponding increase in the size of other lots in the same subdivision, in order to achieve an improvement in lot layout without any change in overall development intensity.

"**Low income housing**" means affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross income equal to fifty (50) percent

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or less of the median gross household income for households of the same size within the housing region in which the housing is located, and is subject to affordability controls.

"Lumens" means measure of brightness of the illumination exiting a bulb. (Ord. 02-21)

"Maintenance guarantee" means any security, other than cash, which may be accepted by the township for the maintenance of any improvements required by this title.

"Major site plan" means a plan of major development of one or more lots on which is shown:

1. The existing and proposed conditions of the lot, including, but not necessarily limited to topography, vegetation, drainage, floodplains, marshes and waterways;

2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices; and

3. Any other information that may be reasonably required in order to make an informed determination pursuant to this title requiring review and approval of site plans by the planning board.

"Major subdivision" means any subdivision not classified as a minor subdivision.

"Master plan" means a composite of the mapped and written proposals recommending the physical development of the township, which shall have been duly adopted by the planning board.

"Minimum Required Improvable Acreage" means the largest contiguous acreage of a lot excluding existing or proposed street rights of way, Freshwater Wetlands and their associated transition areas as determined and/or verified by the New Jersey Department of Environmental Protection, flood plain, storm water detention and/or retention facilities, existing easements precluding structures, bufferyards as required under Section 16.18.110 and State Open Waters. (Ord. 01-9 & Ord. 02-54)

"Minimum Required Improvable Area" means the largest contiguous area of a lot excluding existing or proposed street rights of way, Freshwater Wetlands and their associated transition areas as determined and/or verified by the New Jersey Department of Environmental Protection, flood plain, storm water detention and/or retention facilities, existing easements precluding structures, bufferyards as required under Section 16, 18.110 and State Open Waters. (Ord. 01-9 & Ord. 02-54)

"Minor development" means expansions of twenty-five (25) percent or less of the existing floor area and/or hard surface area; and/or change of use within the existing site and structures thereon; and/or new floor area up to and including five thousand (5,000) square feet; but not involving planned development, new streets or extensions of any off-tract improvements pro rated pursuant to Section 30 (C.40:55D-42) of the Municipal Land Use Law.

"Minor site plan" means a development plan of one or more lots on which is shown: (1) the existing and proposed conditions of the lot, including but not limited to tracts proposed for development; location of existing and proposed structures, driveways and parking areas; existing structures, driveways and parking areas; existing streets, rights-of-way and easements; and information regarding surrounding properties; and (2) any other information that may be reasonably required in order to make an informed determination pursuant to this chapter requiring review and approval of site plans by the planning board.

"Minor subdivision" means any subdivision resulting in not more than two lots, fronting upon an existing street not involving any new street, planned development, or the extension of any off-tract improvement. The remaining land shall not be considered as one of the two lots.

"Moderate income housing" means housing affordable according to federal department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to more than fifty (50) percent but less than eighty (80) percent of the median gross household

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income for households of the same size within the housing region in which the housing is located and is subject to affordability controls.

"Motel" means a series of attached dwelling structures, where each unit has convenient access to parking space for the use of the unit's occupant. The units, with the exception of the manager's or caretaker's, are designed to provide sleeping accommodations for automobile transients or overnight guests without the provision for cooking in any room or suite. A single-family home on the motel property, occupied by the owner/manager, is a permitted accessory use.

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

"Multiple-family dwelling" means three or more residences in a single structure.

"Municipal agency" means the township planning board or board of adjustment, or governing body when acting pursuant to this title.

"Natural ground surface" means the ground surface in its original state before any grading, excavating or filling.

"Net acreage" means the acreage of a lot, excluding the area of existing or planned street rights-of-way, and excluding the area of any easements which preclude the development of structures.

Net Area of Lot. See "Net acreage."

"New motor vehicle agencies" means a business licensed by the state of New Jersey for the sale of new, or new and used vehicles.

"Noncommercial accessory tower" means any vertical structure accessory to, but not attached to, the principal structure on any residential lot.

"Nonconforming lot" means a lot the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

"Nonconforming structure" means a structure, the size, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

"Nonconforming use" means a use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

"Obstruction" means and includes but is not limited to any structure, fill, excavation, channel modification, rock, gravel, refuse or matter in, along, across or projecting into any channel, watercourse or flood hazard area which may impede, retard or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to pose a danger to life or property.

"Official map" means a map adopted in accordance with the Municipal Land Use Law, Chapter 291, Laws of 1975, R.S. 40:55D-2, et seq., or any prior act authorizing such adoption, and which map shall be deemed to be conclusive with respect to the location and width of streets, public parks and playgrounds, drainage rights-of-way, flood control basins, public areas and historic sites.

"Off-site" means not located on the property which is the subject of a development application nor in a contiguous portion of a street or right-of-way.

"On-site" means located on the lot in questions.

"On-tract" means located on the property which is the subject of a development application, or in a contiguous portion of a street or right-of-way.

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

Open Space, Common. **"Common open space"** means land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate.

"Outside storage" means the storage of goods, materials, equipment, etc., outside an enclosed building.

"Owner" means any individual, firm, association, syndicate, co-partnership, or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this title. Such person may also be known as the developer.

"Parking access" means entrances and exits to parking areas.

"Parking area" means an open area, other than a street or public way, used for the parking of automobiles or other vehicles and available to the public, whether for a fee, free, or as an accommodation for clients or customers.

"Parking space" or "stall" means an off-street space available for the parking of a motor vehicle and which has an area of at least one hundred sixty-two (162) square feet, exclusive of passageways, driveways and access aisles appurtenant thereto and giving access thereto.

"Party immediately concerned," for purposes of notice, means any applicant for development, the owners of the subject property, and all owners of property and governmental agencies entitled to notice under Section 16.08.050.

"Percolation test" means a test designed to determine the ability of ground to absorb water.

"Performance guarantee" means any security, which may be accepted by a municipality, including cash, provided that a municipality shall not require more than ten percent of the total performance guarantee in cash.

"Permitted use" means any use which shall be allowed subject to the provisions of this title.

"Pesticide" means any substance or mixture of substances labeled, designed, intended for or capable of use in preventing, destroying, repelling, sterilizing or mitigating any insects, rodents, nematodes, predatory animals, fungi, weeds and other forms of plant life or viruses, except viruses on or in living man or other animals. The term "pesticide" shall also include any substance or mixture of substances labeled, designed or intended for use as a defoliant desiccant, or plant regulator.

"Planned development" means planned unit development, planned unit residential development, residential development, residential cluster, planned commercial or planned industrial development.

"Planned residential development" means an area developed as a single entity according to an approved plan and containing a variety of dwelling unit types, open space and recreation areas, and commercial and/or public and quasi-public uses, all primarily for the benefit of the residential development.

"Planning board" means the planning board of the township of Raritan.

"Plat" means the map of a subdivision or site plan.

Plat, Final. **"Final plat"** means the final map of all or a portion of the subdivision which is presented to the planning board for final approval in accordance with the regulations and which, if approved, shall be filed with the county clerk for recording in accordance with the law. A plat that received final approval shall have been prepared by a New Jersey licensed professional

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engineer or land surveyor in accordance with all of the provisions of Chapter 141, Laws of 1960, R.S. 46:26-9.9 et seq.

Plat, Preliminary. "Preliminary plat" means a map of a major subdivision containing information required in this title and submitted in accordance with the procedures set forth in this title for the purpose of securing preliminary approval.

Plat, Sketch. "Sketch plat" means the sketch map of a subdivision of sufficient accuracy to be used for the purpose of discussion and classification, and meeting the requirements of Chapter 16.18.

"Preliminary approval" means the conferral of certain rights prior to final approval after specific elements of a development plan have been agreed upon by the planning board and the applicant.

"Preliminary floor plans and elevations" means architectural drawings prepared during early and introductory stages of the design of a project illustrating in a schematic form its scope, scale and relationship to its site and immediate environs.

"Principal use" means the main purpose for which any lot and/or building is used.

"Professional office" means the office of a member of a recognized profession maintained for the conduct of his or her profession. Such professions shall be limited to those of medicine, law, planning, architecture, engineering, art, religion, music and other professions which require a similar degree of training and experience.

"Prohibited use" means any use which shall not be allowed under any circumstances.

"Public areas" means public parks, playgrounds, trails, paths and other recreation areas; other public open spaces; scenic and historic sites; and sites for schools and other public buildings and structures.

"Public drainage ways" means the land reserved or dedicated for the installation of stormwater sewers or drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water to safeguard the public against flood damage, sedimentation and erosion.

"Public open space" means an open space area conveyed or otherwise dedicated to a municipality, municipal agency, board of education, state or county agency or other public body for recreational or conservational uses.

"Public sewer" means sanitary effluent from a building or structure carried in force mains, collectors, interceptors and trunks to a central sewage treatment facility owned and operated by the Raritan Township municipal utilities authority.

"Public use" means any public building, structure or land used primarily for public, quasi-public or public franchise purposes.

"Public water (public water supply system)" means a water supply, storage and distribution system that is operated by the township of Raritan, the borough of Flemington or the holder of a franchise water utility and consisting of a system of water mains bringing water into the township, to storage facilities and to distribution lines for service and distribution to multiple users (as differentiated from a single home, single subdivision or commercial or industrial tract or user).

For the purpose of this title, the provision of public water to a development shall mean connection into the existing water supply and distribution system as above described or extension of such system as above described to the site of the development. Water supply primarily from groundwater via a well or wells specifically provided for a development whether on-site or off-tract shall not be considered public water irrespective of whether such well or wells are privately owned and operated or owned and/or operated by a franchise water utility.

"Rainfall excess" means the portion of rainfall which becomes direct surface runoff.

Recreational Facility, Commercial. "Commercial recreational facility" means recreation

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facilities operated as a business and open to the general public for a fee. This definition shall include Training Facilities as defined elsewhere in this chapter. (Ord. 02-53)

Recreation Facility, Private, Noncommercial. "Private noncommercial recreation facility" means clubs or recreation facilities, operated by a nonprofit organization and open only to bona fide members of such nonprofit organizations.

Recreational Facility, Public means any use or structure owned and managed by a federal, state, or municipal agency, or its duly appointed agent for the purpose of active recreational activities. (Ord. 02-47)

Recreational Training Facility means a building or part thereof in which the training and education of person(s) in various forms of recreational activities is performed for gain or profit. Said use may include accessory retail sales of goods and services associated with the specific recreational activity conducted on the site. Examples shall include: karate/martial arts, swimming, scuba, tennis, batting, fencing, gymnastics, dancing, boxing, and wrestling. (Ord. 02-53)

"Religious use" means a church, mosque, synagogue, temple or other similar place of worship.

"Retail" means establishments engaged in the selling of goods or merchandise to the general public for personal or household consumption in rendering services incidental to the sale of such goods.

"Riding academies and boarding stables" means uses and structures designed for the quartering of horses and/or for providing instruction in horsemanship.

"Right-of-way line" means that line determining the limit of the street rights of the public, either existing or contemplated.

"Roofline" means the highest continuous horizontal line of a roof. On a sloping roof, the roofline is the principal ridge line or the highest line common to one or more principal slope of the roof. On a flat roof, the roofline is the highest continuous line of the roof or parapet, whichever is higher.

"School (private, public or parochial)" means a facility having regular sessions of instruction conducted by regularly employed instructors and teachers who teach those subjects which are fundamental and essential in general education, and which provides education under the supervision of the New Jersey Department of Education or a lawfully constituted ecclesiastical governing body, or a corporation meeting the requirements of the New Jersey Department of Education.

"School Bus Depot" means a building and premises for the storage of buses used primarily for the purposes of transporting children to and from educational institutions, such as but not limited to elementary schools and high schools. Accessory uses may include the repair and maintenance of the buses that are stored on site, but shall not include the pick up or drop off of passengers. (Ord. 02-58)

"Secretary" means the person designated by the planning board as secretary to the board.

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

"Sediment basin" means a barrier or dam built across a waterway or at other suitable locations to retain rock, sand, gravel, or silt or other material.

"Sediment pool" means the reservoir space allotted to the accumulation of submerged sediment during the life of the structure.

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

"Senior citizen housing" means multi-family dwelling units designed to meet the special

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needs of the elderly and located in developments generally characterized by higher densities and lower parking requirements other than multifamily housing developments.

"Services" means establishments providing services for entertainment as opposed to products to the general public, including eating and drinking places; finance; real estate; insurance; personal services; motion pictures; amusement and recreation services; health, educational and social services; museums and galleries.

"Shop" means a business totally contained within the building.

"Shopping center" means two or more commercial establishments in excess of fifty thousand (50,000) square feet of gross floor area in one or more structures designed and operated as a coordinated integrated unit with respect to parking service, signs, etc. Uses may include retail and service establishments, offices and office structures, theaters, recreational facilities, motels and hotels and auto service stores where gasoline, oil and grease, batteries, tires and automobile accessories may be supplied and dispensed directly to the motor vehicle trade, and where minor repair service is rendered and uses accessory to all such permitted uses.

"Sign (graphic)" means any announcement, declaration, demonstration, billboard, display, illustration, bulletin board, letters, numbers, logos, models, statues, banners, flags, pennants, clocks, plants, thermometers, or lights or combination of lights used to promote or advertise the interest of any person, group of persons, corporation, place or product when the same is placed, erected, attached, painted, printed or grown so as to be visible to the general public.

A "sign" shall not include any display of official court or public office notices, any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, state, county, municipality, school or religious group.

Sign terms.

1. Advertising sign. See "Off-premises sign."
2. "Advertising sign" means:
 - a. Movement of a sign or any segment thereof, such as rotating, revolving, moving up or down, or any other type of action involving a change of position of a sign body or segment thereof, whether caused by mechanical, illusional or other means;
 - b. Lighted sign on an intermittent or flashing circuit or the movement of any light used in connection with any sign, such as blinking, traveling, flaring or changing degree of intensity or color.
3. "Area of facade" means the area of the wall of a building, not including roof areas of any type.
4. "Banners" and "pennants" means advertising devices affixed to poles, wires or ropes, and made of cloth or plastic materials, etc. Government flags are excluded from this definition.
5. "Broken plane" means discontinuous surfaces separated by air space.
6. "Canopy sign" means a sign attached to and suspended from an overhang or ceiling.
7. "Cut-out letter or number" means any figures cut out in the shape of a letter or number and supported independently on an awning or directly on a wall of a building. Any frame, artificial background support enclosing any letters excludes a letter from the classification of "cut-out."
8. "Graphic" means any device used for visual communication.
9. "Ground sign" means a freestanding sign mounted on any support other than a structure in which people live, work or congregate.
10. "Indirect lighting" means the use of fluorescent (and other vapor light) or incandescent lighting set apart from, but directed towards, the surface of the sign.
11. "Interior lighting" means the use of fluorescent (and other vapor light) or incandescent lighting to illuminate a sign from behind the lettering or from inside the sign structure.
12. "Kiosk" means a small, many sided structure placed in a public area, upon which posters, signs, messages, etc., are affixed.

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13. "Landscape signs" means signs placed on the ground created through the use of plant materials, ground forms, rocks and other natural materials.

14. "Marquees," "canopies" or "awnings" means various forms of permanent, temporary or portable roof-like coverings for entrances, windows, etc.

15. "Neighborhood identification sign" means a sign identifying the entrance to a particular subdivision or other housing project which is recognized by a given name.

16. "Off-premises sign" means a sign which directs attention to a business, profession, commodity, service or entertainment conducted, sold or offered elsewhere than on the lot or premises where the sign is located.

17. "On-premises sign" means a sign which directs attention to a business, profession, commodity, service or entertainment conducted, sold or offered on the lot or premises where the sign is located or to which it is affixed.

18. "Organization sign display" means a sign which combines all of the civic, service, religious, etc., signs normally found scattered along the roadside into one well-designed graphic.

19. "Political signs" means graphics advertising candidates, for political office or involving a ballot issue.

20. "Projecting sign" means a graphic attached to a building or other structure, and extending from the building wall or structure.

21. "Residential nameplate" means a graphic permitted for the sole purpose of identifying the following: inhabitants residing therein, the house name or address.

"Site plan" means a development plan of one or more lots on which is shown:

1. The existing and proposed conditions of the lot including, but not necessarily limited to, topography, vegetation, drainage, floodplains, marshes and waterways;

2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility service, landscaping, structures and signs, lighting, screening devices; and

3. Any other information that may be reasonably required in order to make an informed determination pursuant to this chapter requiring review and approval of site plans by the planning board.

"Slope" means the degree of deviation of a surface from the horizontal, usually expressed in percent or degree.

"Soil" means an all unconsolidated mineral and organic material of whatever origin on the immediate surface of the earth that serves as a natural medium for the growth of terrestrial plants; it generally overlies bedrock and can be readily excavated.

"Soil erosion and sediment control" means a scheme which fully indicates necessary land treatment measures, including a time schedule for their installation, which shall effectively control soil erosion and sedimentation. Such measures shall be equivalent to or exceed standards promulgated by the State Soil Conservation Committee.

"Spotlight" means a luminaire or bulb which projects light in a specific direction in a narrow beam, typically 45 degrees or less. (Ord. 02-21)

"State soil conservation committee" means an agency of the state established in accordance with the provisions of N.J.S. 4:24-1 et seq.

"Stormwater detention" means any storm drainage technique which retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof.

"Story" means that portion of a building included between the surface of any floor and the surface of the floor above it or, if there is no floor above it, then the space between the floor and the ceiling next to it.

"Stream encroachment permit" means a permit issued by the department under the

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provisions of R.S. 58:1-26.

"Street" means any street, avenue, boulevard, road, parkway, viaduct, drive or other way which is an existing state, county or municipal roadway, or which is shown upon a plat heretofore approved pursuant to law, or which is approved by official action, or which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.

Street, Arterial. "Arterial street" means interstate or state highways carrying the major portion of through traffic in the township.

Street, Collector. "Collector street" means a street which carries traffic from minor streets to the secondary, primary and arterial roads. They shall include the principal entrance street(s) of a residential development.

Street, Internal or Service. "Internal or service street" means minor ways used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

Street, Marginal Access. "Marginal access street" means a street which is parallel to and adjacent to an arterial or primary road, and which provides access to abutting properties, protection from through-traffic, and does not impede traffic flow on the major road.

Street, Minor. "Minor street" means a street which is used primarily for access to the abutting properties and not for through-traffic. Such a street is also known as a local street and includes cul-de-sacs.

Street, Primary. "Primary street" means state and county roads carrying through-traffic and traffic from one part of the township to another.

Street, Secondary. "Secondary street" means county and local roads designed to move traffic originating in the township to the primary and arterial highways.

"Stripping" means any activity which removes or disturbs the vegetation surface cover including clearing and grubbing operations.

"Structure" means any assembly of materials above or below the surface of land or water, including but not limited to buildings, paving, fences, dams, levees, bulkheads, dikes, jetties, embankments, wharves, piers, docks, landings, obstructions, pipeline, causeways, culverts, roads, railroads, bridges, and the facilities of any authority, utility, municipality, county, state or other governmental agency.

"Subdivider" means any person or other legal entity commencing proceedings under the provisions of this title to effect a subdivision of land hereunder for himself or herself or for another.

"Subdivision" means the division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other division of land for sale or development. The following shall not be considered subdivisions within the meaning of the chapter if no new streets are created:

1. Divisions of land found by the planning board or subdivision committee thereof appointed by the chairman to be for agricultural purposes where all resulting parcels are five acres or larger in size;

2. Divisions of property by testamentary or intestate provisions;

3. Divisions of property upon court order, including but not limited to, judgements of foreclosure;

4. Consolidation of existing lots of deed or other recorded instrument; and

5. The conveyance of one or more adjoining lots, tracts, or parcels of land, owned by the same person or persons, and all of which are found and certified by the administrative officer to conform to the requirements of the township zoning ordinance and are shown and designated as

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separate lots, tracts or parcels on the tax map of the township. The term "subdivision" shall also include the term "resubdivision."

"Subdivision committee" means a committee of at least three planning board members appointed by the chairman of the board for the purpose of reviewing this title and such duties relating to land subdivision which may be referred to this committee by the board.

"Substantive certification" means a determination by COAH approving a municipality's housing element and fair share plan in accordance with the provisions of the Fair Housing Act, N.J.S.A. 52:27D-301, et seq., and the regulations promulgated thereunder. A grant of substantive certification shall be valid for a period of six years in accordance with the terms and conditions contained therein.

"Temporary protection" means stabilization of erosive or sediment-producing areas.

"Townhouse" means a one-family dwelling with two common or party walls meeting fire wall construction standards separating it from adjacent units on both sides, or one party wall in the case of a building at the end of a group of attached dwellings.

"Township engineer" means the municipal official designated by the township committee as the township engineer.

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

"Tutoring" means the teaching or instruction of academic subjects to not more than four students simultaneously.

"Two-family housing" means two units connected by a common wall but having separate, complete living accommodations including kitchen and bathroom.

"Variance" means permission to depart from the literal requirements of the provisions of this title pursuant to Section 16.04.030.

"Vegetation protection" means stabilization of erosive or sediment-producing areas by covering the soil with permanent seeding, producing long-term vegetative cover; short-term seeding, producing temporary vegetative cover; or sodding, producing areas covered with a turf or perennial sod-forming grass.

"Warehouse" means any building or structure in which the principal use involves the storage of goods and materials.

"Watercourse" means any natural or artificial, waterway stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently and which has a definite channel, bed and banks, and shall include any area adjacent thereto subject to inundation by reason of overflow of flood water.

"Wholesale business" means any building, premises or land in which or upon which the principal business, operation or industry involves any handling and resale of goods in comparatively large quantities to others, but not usually to the ultimate consumer of an individual item.

"Yard" means an open space which lies between the principal building or group of buildings and the nearest lot line, and which is unoccupied and unobstructed from the ground upward except as herein permitted.

1. Yard, Front. "Front yard" means an open space extending the full width of the lot between a principal building and the front lot line, unoccupied and unobstructed from the ground upward except as may be specified elsewhere in this title.

2. Yard, Rear. "Rear yard" means an open space extending the full width of the lot between a principal building and the rear lot line, unoccupied and unobstructed from the ground upward except as may be specified elsewhere in this title.

3. Yard, Side. "Side yard" means an open space extending from the front lot line to the rear

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lot line between a principal building and the nearest lot line, unoccupied and unobstructed from the ground upward except as may be specified elsewhere in this title.

"Zoning board of adjustment" means the zoning board of adjustment of the township.

Zoning Officer. See **"Administrative officer."**

"Zoning permit" means a document signed by the administrative officer:

1. Which is required by ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building; and

2. Which acknowledges that such structure or building complies with the provisions of the municipal zoning ordinance or variance therefrom duly authorized by the appropriate municipal agency. (Ord. 06-11 § 1; Ord. 98-50 § 1; Ord. 98-47 § 5; Ord. 98-1 § 6; Ord. 95-2 § 1; Ord. 94-5 § 1; Ord. 91-13 § 1; Ord. 87-30 § 7; Ord. 87-27 § 3; Ord. 85-28 § 1; prior code § 15-1.3)
(Ord. 01-9, Amended, 04/02/2001)

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Chapter 16.04

ZONING BOARD OF ADJUSTMENT

Sections:

- 16.04.010 Establishment, appointment, organization and removal.
- 16.04.020 Compensation.
- 16.04.030 General duties and powers.
- 16.04.040 Appeals and applications to the board.
- 16.04.050 Stay of proceedings by appeal--Exception.
- 16.04.060 Modification on appeal.
- 16.04.070 Appeals to the township committee.
- 16.04.080 Written inquiries to board of adjustment.

16.04.010 Establishment, appointment, organization and removal.

A. Establishment. The zoning board of adjustment, heretofore established, is continued.

B. Appointment. Pursuant to R.S. 40:55D-69, the board of adjustment shall consist of seven members and two alternate members who shall not hold any elective office or position in the township. Each shall be appointed by the township committee for a term of four years, in the case of regular members, and two years in the case of an alternate member, running from January 1st of the year appointed. The terms shall be arranged so to provide that no more than two terms expire in any one year. Vacancies shall be filled by appointment by the township committee for the unexpired term.

C. Removal. All members of the zoning board of adjustment shall be subject to removal for cause upon written charges after notice of such charges and public hearing by the township committee.

D. Alternates. Alternate members may participate in discussions of the proceedings, but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, alternate number one shall vote. (Prior code § 15-2.1)

16.04.020 Compensation.

No member of the board of adjustment shall receive any compensation for his or her services on the board. (Prior code § 15-2.2)

16.04.030 General duties and powers.

The board of adjustment shall have the power to:

A. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement decision or refusal made by an administration officer based on or made in the enforcement of the zoning ordinance;

B. Hear and decide in accordance with the provisions of any such ordinance, requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance in accordance with this title;

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C. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation pursuant to Article 3 of this title would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship, including a variance for conditional use; provided, however, that no variance shall be granted under this section to allow a structure or use in a district restricted against such structure or use; and provided further that the proposed development does not require approval by the planning board of a subdivision, site plan or conditional use in conjunction with which the planning board shall review a request for a variance pursuant to Section 47a of the Municipal Land Use Law;

D. In particular cases and for special reasons, grant a variance to allow departure from Article 3 of this title, including, but not limited to, allowing a structure or use in a district restricted against such structure or use, but only by affirmative vote of at least five members.

No variance or other relief may be granted under the terms of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance. An application under this section may be referred to any appropriate person or agency, including the planning board pursuant to Section 17 of the Municipal Land Use Law, for its report; provided that such reference shall not extend the period of time within which the zoning board of adjustment shall act;

E. Where the enforcement of 16.64.090(E) of the zoning ordinance would entail practical difficulty or unnecessary hardship, or where the circumstances of the case do not require the building or structure to be related to a street, the board of adjustment may upon application or appeal, vary the application or paragraph 16.64.090(E) and direct the issuance of a permit subject to conditions that will provide adequate access for firefighting, ambulances and other emergency vehicles necessary for the protection of health and safety and that will protect any future street layout shown on the official map or on the general circulation plan element of the township master plan;

F. Direct issuance of permit pursuant to Section 25 of the Municipal Land Use Law for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved pursuant to Section 23 of the Municipal Land Use Law;

G. Direct issuance of a permit pursuant to subsection E of this section for a building or structure not related to a street;

H. The board of adjustment shall have the power to grant to the same extent and subject to the same restrictions as the planning board subdivision or site plan approval pursuant to Chapters 16.18 and 16.20 or conditional use approval pursuant to Article 3 of this title whenever the proposed development requires approval by the board of adjustment of a variance pursuant to subsection D of this section. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals by the board of adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial impairment of the intent and purpose of the zone plan and zoning ordinance. The number of votes of board members required to grant any such subsequent approval shall be as otherwise provided in this chapter for the approval in question, and the special vote pursuant to subsection D of this section shall not be required;

I. Whenever an application for development requests relief pursuant to subsections A through

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D of this section, the board of adjustment shall grant or deny approval of the application within one hundred twenty (120) days after submission by a developer of a complete application to the administrative officer or within such further time as may be consented to by the applicant. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in this code. Failure of the board of adjustment to act within the period described shall constitute approval of the application and a certificate of the administrative officer as to the failure of the board of adjustment to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval;

J. Whenever review or approval of the application by the county planning board is required by Sections 5 of P.L. 1968, c. 285 (C-40:27 - 6.3), in the case of a subdivision, or Sections 8 of P.L. 1968, c. 285 (C-40:27-6.6), in the case of a site plan, the board of adjustment shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its failure to report thereon within the required time.

An application under this section may be referred to any appropriate person or agency, including the planning board for its report; provided that such reference shall not extend the period of time within which the zoning board of adjustment shall act. (Prior code § 15-2.3)

16.04.040 Appeals and applications to the board.

A. Appeals. Appeals to the board of adjustment may be taken by an interested party affected by any decision of an administrative officer of the township based on or made in the enforcement of the zoning ordinance or official map. Such appeal shall be taken within twenty days by filing a notice of appeal with the officer from whom the appeal is taken specifying the grounds of such appeal. The officer from whom the appeal is taken shall immediately transmit to the board all papers constituting the record upon which the action appealed from was taken.

B. Application by Developer. A developer may file an application for development with the board of adjustment for action under any of its powers without prior application to an administrative officer. (Prior code § 15-2.4)

16.04.050 Stay of proceedings by appeal--Exception.

An appeal to the board of adjustment shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made. Unless the officer, from whose action the appeal is taken, certifies to the board of adjustment after the notice of appeal shall have been filed with him or her that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause eminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the superior court upon notice to the officer from whom the appeal is taken and on due cause shown. (Prior code § 15-2.5)

16.04.060 Modification on appeal.

The board of adjustment may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from and to that end have all the powers of the administrative officer from whom the appeal is taken. (Prior code § 15-2.6)

16.04.070 Appeals to the township committee.

Refer to Section 16.08.110. (Ord. 98-50 § 2 (part); prior code § 15-2.7)

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16.04.080 Written inquiries to board of adjustment.

Inquiries as to whether a proposed land use is permissible under the zoning ordinance or official zoning map shall be submitted in writing to the board of adjustment which shall issue a written response within forty-five (45) days after the next meeting following receipt of the request or within such additional time as may be consented to by the inquirer. (Ord. 98-50 § 2 (part); prior code § 15-2.8)

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Chapter 16.06

PLANNING BOARD

Sections:

- 16.06.010 Establishment.
- 16.06.020 Membership.
- 16.06.030 Terms of office--Removal--Compensation.
- 16.06.040 Class IV members disqualified from other office--Exceptions.
- 16.06.050 Powers of the planning board.
- 16.06.060 Informal review.

Section 16.06.010 Establishment.

The planning board heretofore established is continued pursuant to the provisions of Chapter 291 of the Laws of 1975, N.J.R.S. 40:55D-1 et seq. (Prior code § 15-3.1)

Section 16.06.020 Membership.

A. Number of Members. The planning board shall consist of seven members and two alternate members.

B. Classes of Members. The members shall consist of and be divided into, for the convenience in designating the manner of appointment, the following four classes:

Class I: the mayor.

Class II: one of the officials of the township other than a member of the township committee, to be appointed by the mayor; provided the member of the conservation commission who is also a member of the planning board as required by N.J.S. 40:56A-1 et seq., shall be deemed to be the Class II planning board member for purposes of this act in the event that there be among the Class IV members of the planning board both a member of the zoning board of adjustment and a member of the board of education.

Class III: a member of the township committee to be appointed by it.

Class IV: four citizens of the township, to be appointed by the mayor.

C. Class IV Members--Restrictions--Exceptions. The members of Class IV shall hold no other township office. The member of the environmental commission who is also a member of the planning board, as required by N.J.S. 40:56A-1 et seq., shall be a Class IV planning board member.

D. Two alternate members shall be appointed to the planning board by the mayor, and shall meet the qualifications of Class IV members.

Alternate members shall be designated at the time of appointment by the mayor as "Alternate No. 1" and "Alternate No. 2." The terms of the alternate members shall be for two years, except that the terms of not more than one alternate member shall expire in any one year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two years. A vacancy occurring otherwise than by expiration of the term shall be filled by the mayor for the unexpired term only.

Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

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E. No member or alternate member shall be permitted to act on any matter on which he or she has either directly or indirectly any personal or financial interest. Any member may, after public hearing if he or she requests one, be removed by the governing body for cause. (Ord. 98-50 § 3; Ord. 92-2 §§ 1, 2; prior code § 15-3.2)

Section 16.06.030 Terms of office--Removal--Compensation.

A. **Terms of Office--Removal.** The term of the member composing Class I shall correspond to his or her official tenure. The terms of the members composing Class II and Class III shall be one year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the environmental commission. The terms of a Class II or Class IV member, who is also a member of the environmental commission, shall be for three years or terminate at the completion of his or her term of office as a member of the environmental commission, whichever occurs first. The term of a Class IV member who is also a member of the board of adjustment or board of education shall terminate whenever he or she is no longer a member of such body or at the completion of his or her Class IV term, whichever occurs first. The term of each Class IV member shall be four years. If a vacancy in any class shall occur otherwise than by expiration of the planning board term, it shall be filled by appointment, as above provided, for the unexpired term. Any member, other than a Class I member, after a public hearing if he or she requests one, may be removed by the township committee for cause.

B. **Compensation Prohibited.** All members of the planning board shall serve without compensation. (Prior code § 15-3.3)

Section 16.06.040 Class IV members disqualified from other office--Exceptions.

The members of Class IV shall hold no other township office, except as provided in Section 16.06.020(C). (Prior code § 15-3.4)

Section 16.06.050 Powers of the planning board.

A. The planning board shall follow the provisions of this title and shall accordingly exercise its power in regard to:

1. The master plan pursuant to Article 3 of the Municipal Land Use Law;
2. Subdivision control and site plan review pursuant to Chapters 16.18 and 16.20;
3. The official map pursuant to Article 5 of the Municipal Land Use Law;
4. The zoning ordinance including conditional uses pursuant to Article 3 of this title;
5. The capital improvements program pursuant to Article 4 of the Municipal Land Use Law.

B. The planning board may:

1. Participate in the preparation and review of programs or plans required by state and federal law or regulation;
2. Assemble data on a continuing basis as part of a continuous planning process; and
3. Perform such other advisory duties as are assigned to it by this code or resolution of the township committee for the aid and assistance of the township committee or other agencies or officers.

C. The planning board, when reviewing applications for approval of subdivision plats, site plans or conditional uses, shall have the power to grant to the same extent and subject to the same restrictions as the board of adjustment:

1. Variances pursuant to Section 16.04.030(C);

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2. Direction pursuant to Section 25 of the Municipal Land Use Law for issuance of a permit for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved pursuant to Section 23 of the Municipal Land Use Law; and

3. Direction pursuant to Section 16.04.030(E) for issuance of a permit for a building or structure not related to a street.

Whenever relief is requested pursuant to this chapter, notice of the hearing on the application for development shall include reference to the request for a variance, or direction of issuance of a permit, as the case may be. (Prior code § 15-3.5)

Section 16.06.060 Informal review.

At the request of the developer, the planning board shall grant an informal review of a concept plan for a development for which the developer intends to prepare and submit an application for development. The developer shall not be required to submit any fees for such an informal review. The developer shall not be bound by any concept plan for which review is requested, and the planning board shall not be bound by any such review. (Prior code § 15-3.6)

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Chapter 16.08

MEETINGS, HEARINGS, NOTICES AND APPEALS

Sections:

- 16.08.010 Definitions.
- 16.08.020 Administrative procedures, organization, staff and meetings.
- 16.08.030 Meetings.
- 16.08.040 Hearings and minutes.
- 16.08.050 Notice of hearings on applications for development.
- 16.08.060 Notice of hearings on master plan, capital improvements program or official map.
- 16.08.070 Contents of notice of hearing.
- 16.08.080 Voting notwithstanding absence.
- 16.08.090 Fees.
- 16.08.100 Fees for appeal or application--Cost of taking testimony.
- 16.08.110 Appeals to the township committee.

Section 16.08.010 Definitions.

Words and phrases used in this chapter shall be as defined in the definition section of the Municipal Land Use Law. R.S. 40:55D-8, and Section 16.02.030 of this title. (Prior code § 15-4.1)

Section 16.08.020 Administrative procedures, organization, staff and meetings.

A. Administrative Procedures. The municipal agency shall adopt, and may amend reasonable rules and regulations, not inconsistent with the provisions of the Municipal Land Use Law or this code for the administration of its functions, powers and duties, and shall furnish a copy thereof to any person upon request and may charge a reasonable fee for such copy. Copies of all such rules and regulations and amendments thereto shall be maintained in the office of the township planner.

B. Organization Officials. The municipal agency shall elect its own chairman and vice-chairman from its own membership. In the case of the planning board, they shall be elected from the Class IV membership. The municipal agency shall select a secretary who may or may not be a member of said agency or a township employee.

C. Employment--Compensation of Experts and Staff. The planning board may employ, or contract for and fix the compensation of legal counsel, other than the township attorney, and experts, and other staff and services as it may deem necessary, not exceeding, exclusive of gifts or grants, the amount appropriated by the township committee for its use.

D. Conflict of Interest. No member of the municipal agency shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. (Prior code § 15-4.2)

Section 16.08.030 Meetings.

A. Meetings--Regular and Special. The municipal agency shall by its rules fix the time and place for holding its regular meetings for business authorized to be conducted by such agency.

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Regular meetings of the board shall be scheduled not less than once a month and shall be held as scheduled unless cancelled for lack of applications for development to process. The board may provide for special meetings, at the call of the chairman, or on the request of any two of its members, which shall be held on notice to its members and the public in accordance with township regulations. No action shall be taken at any meeting without a quorum being present. All actions shall be taken by a majority vote of the members of the board present at the meeting, except as follows:

1. A permit for buildings or structures in the bed of any street, public drainageway, flood control basin or public area shown on the official map shall require an affirmative vote of a majority of the full authorized membership.

2. Granting a variance to allow a structure or use in a district restricted against such structure or use shall require five affirmative votes of the board of adjustment membership.

B. Open to the Public. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with township regulations. An executive session for the purpose of discussing and studying any matters to come before the board shall not be deemed a regular or special meeting.

C. Minutes. Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the planning board and of the persons appearing by attorney, the action taken by the board, the findings, if any, made by it; and reasons thereof. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the township planner. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceedings concerning the subject matter of such minutes. Such interested party may be charged a reasonable fee for reproduction of the minutes for his or her use. (Prior code § 15-4.3)

Section 16.08.040 Hearings and minutes.

A. Hearings. The following shall apply:

1. The municipal agency shall hold a hearing on each application for development, or adoption, revision or amendment of the master plan. Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least ten days before the date of the hearing during normal working hours in the office of the planning board. The applicant may produce other documents, records or testimony at the hearing to substantiate or classify or supplement the previously filed maps and documents.

2. The chairman of the municipal agency presiding at the hearing or such person as he or she may designate shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the county and Municipal Investigations Law, P.L. 1953.c.38, C.2A:67A-1, et seq., shall apply.

3. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.

4. Technical rules of evidence shall not be applicable to the hearing, but the agency may exclude irrelevant, immaterial or unduly repetitious evidence.

5. The municipal agency shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The board shall furnish a transcript, or

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duplicate recording in lieu thereof, on request to any interested party at his or her expense.

The municipal agency, in furnishing a transcript of the proceedings to an interested party at his or her expense, shall not charge such interested party more than the maximum permitted in N.J.S.A. 2A:11-15. Said transcript shall be certified in writing by the transcriber to be accurate.

6. Each decision on any application for development shall be reduced in writing as provided in this subsection and shall include findings of facts and conclusions based thereon.

Failure of a motion to approve an application for development to receive the number of votes required for approval shall be deemed an action denying the application.

The municipal agency may provide such written decision and findings and conclusions either on the date of the meeting at which the board takes to grant to deny approval; or, if the meeting at which such action is taken occurs within the final forty-five (45) days of the applicable time period for rendering a decision on the application for development, within forty-five (45) days of such meetings by the adoption of a resolution of memorialization setting forth the decision and the findings and conclusions of the board thereon. An action resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above, notwithstanding the time at which such action occurs within the applicable time period for rendering a decision on the application.

The adoption of a resolution of memorialization pursuant to this subsection shall not be construed to alter the applicable time period for rendering a decision on the application for development. Such resolution shall be adopted by a vote of a majority of the members of the board who voted for the action previously taken, and no other members shall vote thereon.

Whenever a resolution of memorialization is adopted in accordance with this subdivision, the date of such adoption shall constitute the date of the decision for purposes of the mailings, filings and publications required by subdivisions (7) and (8) of this subsection.

7. A copy of the decision shall be mailed by the board within ten days of the date of decision to the applicant, or if represented, then to his or her attorney, without separate charge and to all who request a copy of the decision for a reasonable fee. A copy of the decision shall also be filed by the board in the office of the township planner. The township planner shall make a copy of such filed decision available to any interested party for a reasonable fee and available for public inspection at this office during reasonable hours.

8. A brief notice of the decision shall be published in the official newspaper of the municipality. Such publications shall be arranged by the clerk of the board. The period of time in which an appeal of the decision may be made shall run from the first publication of the decision. (Prior code § 15-4.4)

Section 16.08.050 Notice of hearings on applications for development.

A. Notice of Application. Notice pursuant to subdivisions (1), (2), (4), (5), (6) and (7) of this subsection shall be given by the applicant. Notice shall be given at least ten days prior to the date of the hearing.

1. Public notice of a hearing on an application for development shall be given, except for: (a) conventional site plan review (minor, preliminary and/or final site plans) pursuant to Chapter 16.20 wherein fewer than five off-street parking spaces are proposed, or fewer than five off-street additional parking spaces are proposed; (b) minor subdivision; and (c) final subdivision approval pursuant to Chapter 16.16, provided that public notice shall be given in the event that relief is requested pursuant to Section 16.04.030, as part of an application for development otherwise excepted herein from public notice. Public notice of a hearing shall be provided for conventional site plan review as set forth in subdivision (1)(a) above and for any site plan application

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requesting a waiver or waivers pursuant to Section 16.20.010(A), and for any modification to a site plan previously approved and for which public notice of a hearing was provided. Public notice shall be given by publication in an official newspaper of the township and by personal service in accordance with the provisions of 40:55D-12 of the Municipal Land Use Law.

2. Notice of a hearing requiring public notice pursuant to subdivision (1) of this subsection, shall be given to the owners of all real property as shown on the current tax duplicate within two hundred (200) feet in all directions of the property which is the subject of such hearing; provided that this requirement shall be deemed satisfied by notice to the: (1) condominium association, in the case of any owner whose unit has a unit above or below it; or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by: (1) serving a copy thereof on the property owner as shown on the current tax duplicate, or his or her agent in charge of the property; or (2) mailing a copy thereof by certified mail to the property owner at his or her address as shown on the current tax duplicate.

Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, vice-president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within two hundred (200) feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

3. Upon the written request of an applicant, the office of the tax collector shall within seven days, make a certified list from the current tax duplicates required to give notice pursuant to this subsection. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner not on the list shall not invalidate any hearing or proceeding. A sum of twenty-five cents (\$.25) per name or ten dollars (\$10.00), whichever is greater, shall be charged for such list.

4. Notice of hearings on application for development involving property located within two hundred (200) feet of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality.

5. Notice shall be given by personal service or certified mail to the county planning board of a hearing on an application for development of property adjacent to an existing county map or on the county master plan, adjoining other county land or situated within two hundred (200) feet of a municipal boundary.

6. Notice shall be given by personal service or certified mail to the commissioner of transportation of a hearing on an application for development of property adjacent to a state highway.

7. Notice shall be given by personal service or certified mail to the Director or the Division of State and Regional Planning of a hearing on an application for development of a property which exceeds one hundred fifty (150) acres or five hundred (500) dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the township clerk pursuant to Chapter 16.14.

8. The applicant shall file an affidavit of proof of service with the planning board in the event that the applicant is required to give notice pursuant to this subsection.

9. Notice pursuant to subdivisions (4), (5), (6) and (7) of this subsection shall not be deemed to be required, unless public notice pursuant to subdivision (1) and notice to subdivision (2) of this subsection are required.

B. Effect of Mailing Notice. Any notice made by certified mail shall be deemed complete upon mailing.

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C. Proof of Service--Affidavit. The applicant shall file an affidavit of proof of service with the board at the time of the hearing. (Ord. 98-18 § 1; prior code § 15-4.5)

Section 16.08.060 Notice of hearings on master plan, capital improvements program or official map.

Such notice shall be given in accordance with:

- A. Master plan: R.S. 40:55D-13;
- B. Capital improvements program or official map: R.S. 40:55D-15. (Prior code § 15-4.6)

Section 16.08.070 Contents of notice of hearing.

Contents of a notice of a hearing on an application for development or adoption of a master plan shall state the date, time and place of the hearing, the nature of the matters to be considered and, in the case of notices pursuant to an application for development, an identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the township tax assessor's office, and the location and time at which any maps and documents for which approval is sought are available pursuant to Chapter 16.14. (Prior code § 15-4.7)

Section 16.08.080 Voting notwithstanding absence.

A member of a planning board who was absent for one or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his or her absence from one or more of the meetings; provided, however, that such board member has available to him or her the transcript or recording of all of the hearing from which he or she was absent, and certifies in writing to the board that he or she has read such transcript or listened to such recording. (Prior code § 15-4.8)

Section 16.08.090 Fees.

The following fees shall accompany each application for development to the appropriate board or official.

- A. *Site Plan Approval.* As stated in Section 16.20.050.
- B. *Subdivision Approval.* As stated in Section 16.18.
- C. *Planned Residential Development Fees.* Total of subdivision and site plan review fees for the appropriate stage of approval.
- D. *Variance Fees.* Fees for variances from the zoning ordinance and the cost of taking testimony shall be as set forth in Section 16.78.050.
- E. *Site Plan Inspection Fees.* As stated in Section 16.20.
- F. *Subdivision Inspection Fees.* As stated in Section 16.18.
- G. *Conditional Use Application.* Two hundred dollars (\$200.00) plus appropriate subdivision and appropriate site plan fee. (Ord. 06-14 § G)
- H. *Sign Permits.* Twenty-five dollars (\$25.00) for a ground sign and twenty dollars (\$20.00) for a wall sign. (Ord. 06-14 § H)
- I. *Zoning Permits.* Issued pursuant to Section 16.78.020: Thirty dollars (\$30.00) for decks, fences, sheds, finished basements, interior renovations, oil tanks, A/C units, and other accessory

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structures; fifty dollars (\$50.00) for additions (residential and non-residential); one hundred fifty dollars (\$150.00) for single family residential (new structure); one hundred dollars (\$100.00) per unit for multi-family/attached residential (new structure); two hundred fifty \$250.00) for commercial - non-residential (new structure). (Ord. 06-14 § I)

J. Special Meeting Requests. Applicants requesting a single applicant meeting which is agreed to by the Municipal Agency shall pay an additional fee of one thousand dollars (\$1,000.00) per single applicant special meeting.

K. Zoning Certificate of Reoccupancy. Twenty dollars (\$20.00). (Amended during 3-00 supplement; Ord. 85-6 § 1; prior code § 15-4.9)

L. Zoning Certifications. Thirty dollars (\$30.00) (Ord. 06-14 § L)

M. Temporary Signs. Ten dollars (\$10.00) (Ord. 06-14 § M)

Section 16.08.100 Fees for appeal or application--Cost of taking testimony.

Refer to Section 16.78.060(B). (Prior code § 15-4.10)

Section 16.08.110 Appeals to the township committee.

A. Any interested party desiring to appeal any final decision of the board of adjustment approving an application for development pursuant to subsection 16.04.030(D) may appeal to the township committee. Such appeal shall be made within ten (10) days of date of publication of such final decision pursuant to Section 16.08.040(A)(8). The appeal to the governing body shall be made by serving the township clerk in person or by certified mail with a notice of appeal specifying the grounds thereof, and the name and address of the appellant, and the name and address of his or her attorney, if represented. Such appeal shall be decided by the governing body only upon the record established before the board of adjustment.

B. Notice of the meeting to review the record below shall be given by the township committee by personal service or certified mail to the appellant, to those entitled to notice of a decision pursuant to Section 16.08.050, and to the board from which the appeal is taken at least ten days prior to the date of the meeting. The parties may submit oral and written argument on the record at such meeting, and the township committee shall provide for verbatim recording and transcripts of such meeting pursuant to Section 16.08.040(A)(5).

C. The appellant shall: (1) with five days of service of the notice of appeal pursuant to subsection A of this section, arrange for a transcript pursuant to Section 16.08.040(A)(5) for use by the township committee and deposit of fifty dollars (\$50.00) or the estimated cost of such transcription, whichever is less; or (2) within thirty-five (35) days of service of the notice of appeal, submit a transcript as otherwise arranged to the township clerk; otherwise, the appeal may be dismissed for failure to prosecute.

The township committee shall conclude a review of the record below not later than ninety-five (95) days from the date of publication of notice of the decision below pursuant to Section 16.08.040(A)(8), unless the applicant consents in writing to an extension of such period. Failure of the township committee to hold a hearing and conclude a review of the record below and to render a decision within such specified period shall constitute a decision affirming the action of the board.

D. The township committee may reverse, remand or affirm, wholly or in part, or may modify the final decision of the board of adjustment.

E. The affirmative vote of a majority of the full authorized membership of the township committee shall be necessary to reverse, remand or modify the final action of the board of

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adjustment.

F. An appeal to the township committee shall stay all proceedings in furtherance of the action in respect to which the decision appealed was made unless the board from whose action the appeal is taken certifies to the township committee, after the notice of appeal shall have been filed with such board, that by reasons of facts stated in the certificate, a stay would, in its opinion, cause imminent peril to life or property.

G. The township committee shall mail a copy of the decision to the appellant or, if represented, then to his or her attorney, without separate charge, and for a reasonable charge to any interested party who has requested it, not later than ten days after the date of the decision. A brief notice of the decision shall be published in the official newspaper of the township. Such publication shall be arranged by the township clerk. (Prior code § 15-4.11)

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Chapter 16.10

AFFORDABLE HOUSING DEVELOPMENT FEES

Sections:

- 16.10.010 Findings and purpose.
- 16.10.020 Residential development fees.
- 16.10.030 Eligible exaction, ineligible exaction or exemptions.
- 16.10.040 Collection of fees.
- 16.10.050 Housing trust fund.
- 16.10.060 Use of funds.
- 16.10.070 Ongoing collection of development fees.
- 16.10.080 Non-Residential Development Fees

16.10.010 Findings and purpose.

A. Findings. The township committee finds and declares that the creation and preservation of affordable housing in the township serves the public interest. Maintaining and improving a stock of sound affordable housing requires affirmative steps by local government working cooperatively with public bodies at all levels and with the private sector.

B. Purpose. In *Holmdel Builder's Ass'n. v. Holmdel Twp.*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 *et seq.*, and the State Constitution subject to COAH developing rules. The purpose of this chapter is to establish standards for the collection, maintenance and expenditure of development fees in accordance with COAH's rules and regulations. Fees collected pursuant to this chapter shall be used for the sole purpose of providing low and moderate income housing. This chapter shall be interpreted within the framework of COAH's regulations on development fees including N.J.A.C. 5:97-8, and as may be amended. (Ord. 08-19 § A & B)

16.10.020 Residential development fees.

A. Within all zoning districts in the township developers of any residential development shall pay a development fee of one and one-half (1.5%) percent of the equalized assessed value of any eligible residential activity.

B. Development fees shall be imposed and collected on the construction of new residential development, and when an existing residential structure is demolished and replaced. The development fee shall be calculated based on the equalized assessed value of the land and improvements.

C. When an approval is granted for an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance), the developer shall pay a development fee of up to six (6%) percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application. (Ord. 08-19 § A, B, C)

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16.10.030 Eligible exaction, ineligible exaction or exemptions.

A. Affordable housing developments and developments where the developer has made a payment in lieu of constructing affordable units shall be exempt from development fees, including when the developer has entered into an agreement with the Township pursuant to Chapter 16.11.

B. Developers that have received preliminary or final approval of a major subdivision or minor subdivision approval prior to the effective date of the initial development fee ordinance codified in this chapter shall be exempt from paying a development fee unless the developer seeks a substantial change in the approval. "Substantial change" means a modification or elimination of a significant condition or conditions in a memorializing resolution or any significant modification in the design or layout of the subdivision plan previously approved which require a revised or amended subdivision plan application.

C. The following land uses shall be exempt from paying a development fee: hospitals, houses of worship, public schools and development by the Township or any of its agencies or instrumentalities.

D. Development fees shall not be imposed when an existing residential structure is expanded (including additions, alterations, renovations or reconstruction work). (Ord. 08-19 § A, B, C & D)

16.10.040 Collection of fees.

A. Developers shall pay fifty (50%) percent of the calculated development fee to the township at the issuance of building permits. The development fee shall be estimated by the tax assessor prior to the issuance of building permits.

B. Developers shall pay the remaining fifty (50%) percent of the calculated development fee to the township at the issuance of a certificate of occupancy. At the issuance of a certificate of occupancy, the tax assessor shall calculate the equalized assessed value and the appropriate development fee. The developer shall be responsible for paying the difference between the fee calculated at certificate of occupancy and the amount paid at building permit.

C. Regardless of the time of collection, the development fee shall be based on the percentage that applies on the date that building permits are issued. (Ord. 08-19 § A, B & C)

16.10.050 Housing trust fund.

A. There is created an interest bearing housing trust fund in a depository designated by the Raritan Township Committee for the purpose of receiving development fees from residential and nonresidential developers. All development fees paid by developers pursuant to this chapter shall be deposited in this fund. No money shall be expended from the housing trust fund unless the expenditure conforms with a spending plan approved by COAH.

B. If COAH determines that the township is not in conformance with COAH's rules on development fees, COAH is authorized to direct the manner in which all development fees collected pursuant to this chapter shall be expended. Such authorization is pursuant to this chapter, COAH's regulations on development fees and the written authorization from the governing body to the bank in which the housing trust fund is maintained. (Ord. 08-19 § A & B)

16.10.060 Use of funds.

A. Money deposited in the housing trust fund may be used for any activity approved by COAH for addressing the township's low and moderate income housing obligation. Such activities may include, but are not necessarily limited to:

1. A rehabilitation program.

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2. New construction of affordable housing units and related development costs; in the case of inclusionary developments, eligible costs shall be pro-rated based on the proportion of affordable housing units included in the development.

3. Extensions or improvements of roads and infrastructure directly serving affordable housing development sites; in the case of inclusionary developments, costs shall be pro-rated based on the proportion of affordable housing units included in the development.

4. Regional Contribution Agreements, except that payments in lieu of construction collected from residential and mixed-use development may not be used for this purpose.

5. Acquisition and/or improvement of land to be used for affordable housing.

6. Purchase of existing market rate or affordable housing for the purpose of maintaining or implementing affordability controls, such as in the event of a foreclosure.

7. Accessory apartment, market to affordable, or affordable housing partnership programs.

8. ECHO housing and related repair or unit relocation costs.

9. Green building strategies designed to be cost-saving for low and moderate income households, either for new construction that is not funded by other sources, or as part of necessary maintenance or repair of existing units, in accordance with accepted national or state standards or such guidance as may be provided by DCA or the New Jersey Housing and Mortgage Finance Agency.

10. Maintenance and repair of affordable housing units.

11. To defray the costs of structured parking; in the case of inclusionary developments, eligible costs shall be pro-rated based on the proportion of affordable housing units included in the development.

12. Repayment of municipal bonds issued to finance low and moderate income housing activity.

13. Any other activity as specified in the approved spending plan.

B. At least thirty (30%) percent of all development fees collected and interest earned shall be used to provide affordability assistance to low and moderate income households, at least half of which shall be available to low and moderate income households in affordable units included in the township's Fair Share Plan. One-third (1/3rd) of the affordability assistance portion shall be used to provide affordability assistance to very low income households. Examples of such activities include, but are not limited to: down payment assistance; low interest loans; and rental assistance.

C. No more than twenty (20%) percent of all affordable housing trust funds, exclusive of the fees used to fund an RCA and barrier-free escrow funds, shall be expended on administration. Administrative expenses can include salaries and benefits for municipal employees or consultant fees necessary to develop or implement an affordable housing program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, preserving existing affordable housing, and compliance with COAH monitoring requirements. (Ord. 08-19 § A, B & C)

16.10.070 Ongoing collection of development fees.

A. In the event any of the conditions described in N.J.A.C. 5:97-8.13(a) occur, then COAH is authorized, on behalf of the township, to direct the manner in which all funds in the affordable housing trust fund are expended.

B. The Township will identify the funds on its monitoring report pursuant to N.J.A.C. 5:97-8.12 and include a plan for the use of the funds in its spending plan pursuant to N.J.A.C. 5:97-8.10.

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C. The Township's ability to impose and collect funds and maintain its affordable housing trust fund shall be conditioned on compliance with all requirements of N.J.A.C. 5:97-8.13, which COAH will monitor at least annually. Occurrence of any of the following may result in COAH taking an action pursuant to N.J.A.C. 5:97-8.13(b):

1. Failure to meet deadlines for information required by COAH in its review of a Housing Element and Fair Share Plan, development fee ordinance or plan for spending fees.

2. Failure to address COAH's conditions for approval of a plan to spend funds within the deadlines imposed by COAH.

3. Failure to address COAH's conditions for substantive certification within deadlines imposed by COAH.

4. Failure to submit accurate monitoring reports pursuant N.J.A.C. 5:97-8.12 within the time limits imposed by COAH.

5. Failure to implement the spending plan and expend the funds within the time schedules specified in the spending plan, including the requirement to spend the remaining trust fund balance pursuant to N.J.A.C. 5:97-8.10(a)8.

6. Expenditure of funds on activities not approved by COAH.

7. Revocation of certification.

8. Other good cause demonstrating that the funds are not being used for the approved purpose.

(Ord. 08-19 § A, B & C)

16.10.080 Non-Residential Development Fees

A: Within all zoning districts in the township, developers of any non-residential development shall pay a development fee equal to three (3%) percent of the equalized assessed value for the eligible non-residential development activity.

B. Development fees shall be imposed and collected on the construction of new non-residential development, when an existing non-residential structure is demolished and replaced, and when an existing non-residential structure is expanded (including additions, alterations, renovations or reconstruction work). The development fee imposed and collected on new construction and on demolition/replacements shall be calculated based on the equalized assessed value of the land and improvements. The development fee imposed and collected when existing non-residential structures are expanded (including additions, alterations, renovations or reconstruction work) shall be calculated based on the increase in equalized assessed value that results from the expansion.

C. When an approval is granted for an increase in floor area pursuant to N.J.S.A. 40:55D-70d(4) (known as a "d" variance), the developer shall pay a development fee of up to six (6%) percent on the additional floor area realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base floor area for the purposes of calculating the bonus development fee shall be the highest floor area permitted by right during the two-year period preceding the filing of the variance application. (Ord. 08-19 § A, B & C) #04-6 #05-5

Chapter 16.11

GROWTH SHARE AFFORDABLE HOUSING PRODUCTION

Sections:

- 16.11.010 Findings and Intent
- 16.11.020 Repeal and Effect
- 16.11.030 Non-residential development
- 16.11.040 Payments in Lieu of Construction
- 16.11.050 Construction of Units on Site
- 16.11.060 Creation of Units Elsewhere in Raritan Township
- 16.11.070 Other Requirements
- 16.11.080 Exemptions

Section 16.11.010 Findings and Intent

The township committee finds and declares that the creation and preservation of affordable housing in the township serves the public interest. On December 17, 2007, COAH made public its new proposal for the Third Round Affordable Housing Rules, which Rules were approved on May 6, 2008, with an effective date of June 2, 2008, N.J.A.C. 5:97 *et seq.* It is the desire of the township committee to avoid losing irreplaceable affordable housing contributions and opportunities in the Township for low and moderate income households, while remaining in compliance with the new COAH Rules. This chapter shall be interpreted within the framework of COAH's new Rules on affordable housing growth share, including N.J.A.C. 5:97-6.4, and as may be amended.

(Ord. 06-05; Ord. 08-20)

Section 16.11.020 Repeal and Effect

A. The township's growth share affordable housing production ordinance in effect prior to this ordinance is repealed as to all new developments approved after June 2, 2008. New developments approved after June 2, 2008, shall instead be subject to the affordable housing development fee contribution requirements of Chapter 16.10 as amended in June 2008.

B. Developers who received prior to June 2, 2008, preliminary and/or final subdivision or site plan approval requiring payments in lieu of construction for a residential or non-residential development shall have the option either (1) to make the payment in lieu of construction required by the approval utilizing the new calculations and figures for payments in lieu of construction set forth in the new COAH Rules; or (2) to pay an affordable housing development fee calculated pursuant to the contribution requirements of Chapter 16.10 as amended in June 2008. (Ord. 06-5 § 1 & 2; Ord. 08-20 § A & B)

Section 16.11.030 Non-residential development

Any developer that has obtained a preliminary and/or final subdivision or site plan approval prior to June 2, 2008, for a residential or non-residential development which requires and includes affordable housing units to be constructed on-site as shown on the approved plans, shall be deemed jurisdictionally grandfathered, and the Planning Board shall be the entity having jurisdiction over any amended applications for that development to the extent an amendment to the on-site affordable housing units is sought. (Ord. 06-5 § 1 - 4; Ord. 08-20)

Section 16.11.040 Payments in Lieu of Construction

A. Payments in lieu of construction of affordable housing shall be based upon a proportionate share of the total project cost embodied in one or more pro-formas of the construction of an affordable housing development elsewhere in the Township of Raritan, which pro-formas shall be on file in the office of the Township Clerk. The actual payments in lieu of construction made by the development may be negotiated with the Township considering the actual land cost of the site(s) identified for affordable housing construction elsewhere in the township or the substitution of land, site preparation and/or construction services for all or a portion of the monetary payment otherwise required.

B. Regardless of the mechanism selected by the developer for satisfying the required number of affordable housing units, any development or portion thereof that generates a fraction of an affordable housing unit as all or a portion of the obligation shall under any circumstances be required to make a payment in lieu of construction for that fraction of a unit based on the pro-rated cost of constructing an affordable housing unit in the township. Payment will be calculated using the fraction of the unit multiplied by the minimum square footage of an affordable unit. That product is then multiplied by a dollar value to be set by the governing body by annual resolution. (Ord. 06-5 § A & B)

Section 16.11.050 Construction of Units on Site

It shall be the preferred method of the township to supply affordable housing units on site.

A. Residential Development

a. The affordable housing units may be provided within duplex, triplex, or quadplex buildings designed to resemble as nearly as possible the single-family homes being constructed within the development to accommodate the market units. Such buildings shall be deemed to be permitted uses in the underlying zone when created for the purpose of meeting the growth share obligation.

b. No density bonus shall be granted for the construction of the affordable housing units on-site, but the affordable housing units themselves shall not be included in the calculation of density for the purposes of this section.

c. In those zones where lot clustering is permitted, the lots within the development may be reduced in area and width up to 80 percent of the area and width otherwise required in the applicable zone in order to accommodate the construction of the affordable housing units on one or more lots on the same tract. All required setbacks, building height and coverage limits for the zone shall be met.

d. All affordable housing units shall comply with COAH's rules pertaining to the phasing, integration, low/moderate income split, controls on affordability, bedroom distribution, affirmative marketing, heating source and administration of the affordable units as set forth in N.J.A.C. 5:94-4.4 and elsewhere in the Rules.

B. Non-residential Development

a. Affordable housing units may be constructed within or converted from space above the

first floor level in non-residential buildings or may be constructed in a separate building or buildings on the same site as a permitted non-residential use or development subject to site plan review by the Planning Board. Residential or mixed use buildings containing up to eight affordable housing units each shall be considered to be permitted uses in all non-residential zoning district in the township notwithstanding any other provision of the zoning ordinance to the contrary. All such dwelling units shall be deed restricted pursuant to COAH's affordability regulations and will meet all safety standard and any façade requirements imposed by the Planning Board to maintain the character of the area.

b. All required setbacks, building height and coverage limits for the zone shall be met except that the area required for the parking for the affordable housing units shall not count toward the total permitted hard surface coverage.

c. Consideration shall be given to shared parking as per the parking requirements of this Title.

d. All affordable housing units shall comply with COAH's rules pertaining to the phasing, integration, low/moderate income split, controls on affordability, bedroom distribution, affirmative marketing, heating source and administration of the affordable units as set forth in N.J.A.C. 5:94-4.4 and elsewhere in the Rules. (Ord. 06-5 § A & B)

Section 16.11.060 Creation of Units Elsewhere in Raritan Township

a. Developers electing to create affordable housing units elsewhere within the Township of Raritan may do so within existing buildings in the R-5, R-5, R-6, R-6LM, and R-7 zones.

b. No individual dwelling shall be smaller than 550 sq. ft.

c. All affordable housing units shall comply with COAH's rules pertaining to the phasing (with the market units being constructed elsewhere by the same developer), low/moderate income split, controls on affordability, bedroom distribution, affirmative marketing, heating source, and administration of the affordable housing as set forth in N.J.A.C. 5:94-4.4 and elsewhere in the Rules.

d. The creation of units off site shall be limited to the provision of non-age restricted rental or affordable housing units in compliance with all of COAH's rules set forth at N.J.A.C. 5:94-1, et seq.

e. The Planning Board shall have the jurisdiction to consider the grant of a waiver from the forgoing to permit age – restricted or for sale housing where the Board finds that the granting of such a waiver would be more appropriate to the context of the development of to the location and nature of the affordable housing unit(s) being created. The Planning Board shall consider the Township wide impacts of such a deviation upon the adopted COAH certified Housing Element and Fair Share Plan before approving any such waiver. (Ord. 06-5 § a - e)

Section 16.11.070 Other Requirements

a. A proposed Affordable Housing Production Plan shall be submitted to the Planning Board

at the time application is made for any development requiring growth based affordable housing production pursuant to this section. The Plan shall be a condition of the completeness determination. All Affordable Housing Production Plans shall be the subject of review by the Township Planner for consistency with COAH' s rules and with the Township' s certified third round Housing Element and Fair Share Plan. Compliance with all of the terms of COAH' s rules and with the Affordable Housing Production Plan shall be a condition of development plan approval and may be covered by appropriate performance and maintenance guarantees as with any other required improvement.

b. Where an odd number of low number of low and moderate income housing units are required to be provided, the majority of the units shall be low income units. Where there are an insufficient number of affordable housing units provided to meet the bedroom distribution requirements of COAH' s rules, the first unit shall be a two-bedroom unit, the second unit shall be a three bedroom unit and the third shall be a one-bedroom unit. Otherwise, the bedroom distribution shall be in strict accordance with COAH' s rules.

c. It shall be the developer' s responsibility, at its sole cost and expense, to contract with a COAH approved and Township designated experienced entity for the initial and ongoing administration of the controls on affordability so as to ensure full compliance. The designated administrative entity shall, by February 1st of each year, and as needed throughout the year, file with the Township Clerk as maybe required by COAH to verify continuing compliance of each affordable unit with COAH' s rules.

d. Inclusionary residential development shall be exempt from the requirements of this section. Moreover, development covered by this Section shall be exempt from the payment of affordable housing development fees pursuant to Chapter 16.10 unless otherwise noted.

e. All affordable housing units shall be deed restricted in accordance with COAH requirements. The deed restriction period shall be for not less than 30 years from the date of certificate of occupancy of the unit. (Ord. 06-5 § a - e)

Section 16.11.080 Exemptions

Developers of hospitals, churches, synagogues, parish houses and similar uses including parochial and private schools, and governing buildings such as municipal buildings, libraries and schools shall be exempt from this ordinance. (Ord. 06-5)

Chapter 16.12

RIGHT TO FARM

Sections:

- 16.12.010** **Definitions.**
- 16.12.020** **Right to farm.**
- 16.12.030** **Notice of farm.**

16.12.010 **Definitions.**

As used in this chapter:

"**Commercial farm**" means any farm producing agriculture or horticultural products worth two thousand five hundred dollars (\$2,500.00) or more annually which products are farmed principally for sale or distribution to others, and which meet the eligibility requirements for differential property, taxation pursuant to the Farmland Assessment Act of 1964 N.J.S.A. 54:4-23.1 et seq.

Farm product sales, farm stand, farm structure: See Section 16.02.030 for definitions.

"**Home agriculture**" means the production principally for home use or consumption of plants, animals or their products, and for sale to others on the premises only (and may be sold from a table or other similar portable display) where such sales are incidental, including, but not limited to, gardening, fruit production, and poultry and livestock products for household use only. (Ord. 94-37 § 1)

16.12.020 **Right to farm.**

A. The right to farm land is recognized to exist in the township and is declared a permitted use in the following zones and subject to the standards and regulations as set forth in the development regulations of the township: R-1, R-1A, R-2, R-3, R-4, R-6, I-1, I-2, O-2.

The following farming activities shall be deemed established as acceptable, recognized and entitled to encouragement and protection as the collective embodiment of the right to farm, subject in all cases, however, to any supervening applicable federal, state, county or municipal laws or regulations respecting the public health, safety or otherwise:

1. Produce agricultural and horticultural crops, trees and forest products, livestock, poultry and other related commodities;
2. Sell home agricultural goods and farm products in accordance with the provisions of Article 3 of this title; and establish farm stands as a conditional use in accordance with the provisions of Section 16.68.060(H).
3. Replenish soil nutrients, including, but not limited to, the spreading of manure and applying environmentally approved chemical and organic fertilizers;
4. Use federally approved products, in accordance with labeled instructions, as recommended by the New Jersey Agricultural Experiment Station and the U.S. and N.J. Environmental Protection Agencies for the control of pests, predators, varmints, diseases affecting plants and livestock, and for the control of weed infestation;
5. Clear woodlands using accepted techniques and install and maintain vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water

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control in wetlands areas;

6. Use irrigation pumps and equipment and undertake aerial and ground seeding and spraying, using tractors and other necessary equipment;

7. Hire and utilize necessary farm labor, except that any housing of laborers shall only be permitted in existing residential dwellings on the property and subject to all other standards set forth in this chapter and any other governmental regulations;

8. Construct and maintain fences for orderly control of livestock;

9. Transport large, slow-moving equipment over roads within the township;

10. The use of farmland for a limited recreational use (noncommercial and non-income producing), e.g., snowmobiling shall be done only with the permission of the farm owner. Any expanded recreational use of the farmland which changes the underlying agricultural nature of the use shall be subject to the usual prior site plan review, variance application and all permits where otherwise required.

B. The foregoing uses, activities and rights when reasonable and necessary for farming, livestock or fowl production and when conducted in accordance with generally accepted agricultural practices, may occur on holidays, Sundays and weekends by day or night and shall include the attendant or incidental noise, odors, dust and fumes associated with these practices.

C. It is determined that whatever nuisance may be caused to others by these uses and activities is more than offset by the benefits from farming to the neighborhood community and society in general by preservation of open space, the beauty of the countryside and clean air. The preservation and continuance of farming operations in Raritan Township and New Jersey is a source of agricultural products for this and future generations and saves a nonreplenishable resource, i.e., the land. (Ord. 94-37 § 2)

16.12.030 Notice of farm.

For the purpose of giving due notice of nearby farming uses to proposed, new residential areas adjacent to unimproved land then being farmed or suitable therefor, the planning board shall require any applicant for an adjacent major or minor subdivision, as a condition of approval of such application, to include a provision in each and every deed conveying all or any portion of the lands thereby subdivided, as well as on filed final subdivision maps, the following record notice to grantees of such present or future proximate farming uses, which provision shall be made to run with the land:

Grantee hereby acknowledged NOTICE that there are presently, or may in the future be farm uses adjacent or in close proximity to the within described premises from which farm use may emanate noise, odors, dust, and fumes associated with agricultural practices permitted under the Raritan Township Right to Farm Ordinance.

(Ord. 94-37 § 3)

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Chapter 16.13

IMPACT ON NEIGHBORING NON-RESIDENTIAL USES

Sections:

- 16.13.010 **Right to Non-Residential Use of Land**
- 16.13.020 **Notice of Non-Residential Use**

16.13.010 Right to Non-Residential Use of Land

A. The development regulations of the Township of Raritan establish various zoning districts within the Township, several of which permit non-residential type uses. Under these regulations, various industrial, manufacturing, business, commercial, retail and other type uses of the same and similar nature set forth in the said development regulations have been established, or are permitted to be established and built upon lands located within those zones, and in accordance with the Development Regulations and the powers thereunder granted to the Planning Board and Board of Adjustment of the Township.

B. The right to conduct, use or develop such non-residential uses within the various zoning districts established in the Township namely: the B-1 Neighborhood Business; B-2 Commercial; B-3 Community Commercial; B-4 Highway Business; B-5 Low Intensity Highway Commercial; I-1 Restricted Industrial; I-2 Major Industrial; O-1 Professional Office; O-2 Business Office; P - Public and Institutional; H - Hospital District; and additional districts which may be hereinafter added by way of amendment to the Development Regulations of the Township and including the non-residential type uses permitted in the residential zones of the Township (R-1, R-1A, R-2, R-3, R-4, R-5, R-6, R-6LM, R-7, R-8, R-9) is hereby declared, reaffirmed as to all zoning districts established under the development regulations of the Township, and in accordance with the standards and regulations as set forth in the Development Regulations of the Township, or as may be amended hereafter. (Ord. 02-43)

16.13.020 Notice of Non-Residential Use

For the purpose of giving notice of an existing non-residential use or the right to expand such use; or to develop a non-residential use nearby or adjacent to proposed, new residential areas, the Planning Board/Board of Adjustment shall require any applicant for a major or minor residential subdivision, as a condition of approval of such application, to include a provision in each public offering statement and homeowner documents, as well as each and every Deed conveying all or a portion of the lands thereby subdivided, as well as a Note on the final subdivision map, the following record notice to prospective purchasers and grantees of such present or future non-residential use:

"The prospective purchaser and/or grantee, by accepting the within document, hereby acknowledges

NOTICE that there are presently, or in the future may be, non-residential uses conducted on adjacent

properties, or in close proximity to the within described premises, or neighboring zoning districts, from

which may emanate or may generate byproducts such as, but not limited to, noise, odors,