

CHAPTER XIII

ZONING<sup>1</sup>.

13-1 TITLE.

This chapter shall be known and may be cited as the "Township of Fairfield Zoning Ordinance."

13-2 PURPOSE.

13-2.1 General Purpose. The purpose of this chapter is to establish a precise and detailed plan for the use of land in the township based on the master plan, as amended, and enacted in order to promote and to protect public health, safety, morals, comfort, convenience and general welfare of the people.

13-2.2 Specific Purposes.

a. To encourage the most appropriate use of land throughout the municipality while conserving the value of property, with reasonable consideration for the character of various zoning districts and their peculiar suitability for particular uses that will be compatible with development patterns in neighboring municipalities and surrounding region.

b. To regulate land use in accordance with the comprehensive plan designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light, air and open space, to promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and preservation of the environment.

c. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open spaces.

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1. Editor's Note: For provisions pertaining to the "Right to Farm", please refer to Section 2-10 of the Revised General Ordinances of the Township of Fairfield.

d. To promote a desirable visual environment through creative development techniques and good civic design and arrangements.

e. To promote the conservation of open space and valuable natural resources and to prevent urban sprawl and degradation of the environment through the improper use of land.

f. To prevent the overcrowding of land and the undue concentration of population.

g. In the interest of attaining the objectives outlined above, to regulate the height, design, appearance, number of stories and size of buildings and other structures as well as their placement on the land.

### 13-3 DEFINITIONS.

As used in this chapter.

a. Intent. For the purposes of this chapter, all words used in the present tense include the future tense. All words in the plural number include the singular number, and all words in the singular number include the plural number, unless the natural construction of the word indicates otherwise. The word "shall" is mandatory and not directory. The word "used" includes "designated, intended or arranged to be used."

b. Specific words and phrases defined. Certain words and terms in this chapter are to be interpreted as defined below:

1. "Accessory use or structure" shall mean a subordinate use or structure, the purpose of which is incidental to that of the main use or structure and on the same lot therewith.

2. "Administrative officer" shall mean the secretary of the planning board in the case of matters involving the planning board; the clerk of the board of adjustment in the case of matters involving the board of adjustment; the township clerk in the case of matters involving the township committee; and the zoning officer in the case of matters involving the issuance of zoning permits, certificates of occupancy, and zoning ordinance enforcement.

3. "Alterations" shall mean, as applied to a building or a structure, a change or rearrangement in the structural part or in the existing facilities, or an enlargement, whether by extension of a front, rear or side or by increasing in height or in depth, or by moving from one location or position to another.

4. "Applicant" shall mean a developer submitting an application for development.

5. "Approving authority" shall mean the planning board of Fairfield Township unless a different agency is designated by ordinance when acting pursuant to the authority of N.J.S.A. 40:55D-1 et seq.

6. "Basement" shall mean the portion of the building that is partly underground which has more than one-half its interior height measured from floor to finished ceiling below the average finished grade of the ground adjoining the building.

7. "Board of adjustment" shall mean the board established pursuant to N.J.S.A. 40:55D-69.

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

9. "Building walls and porches" shall mean the walls of a building including the front wall nearest to and facing on the front street line of the lot on which the building has been or is to be erected and the side and rear walls nearest to and facing on the side and rear lot lines respectively. Roofed porticos, whether open or enclosed, shall be considered as a part of a building when measuring distances from the street line or other lot lines. Existing roofed porches and porticos may only be permanently enclosed when they comply with all front, side or rear yard setback requirements.

10. "Business" shall mean any enterprise, occupation, trade or profession engaged in, either continuously or temporarily, for profit. The term "business" shall include the occupancy or use of a building or premises or any portion thereof for the transaction of business or the rendering or receiving of professional services.

11. "Channel" shall mean the bed and banks of a stream which convey the normal flow of the stream.

12. "Cluster development" shall mean a series of detached, single-family homes for which individual building sites, on the basis of an approved site plan according to the standards included in subsection 13-8.7 may be reduced in size and width for the purposes of

providing a more compact service area and the retention of sizable areas of public or common open space.

13. "Common open space" shall mean 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/or lot or dwelling owners of the development. Common open spaces may contain such complimentary structures and improvements as are necessary and appropriate for the use and enjoyment of residents and owners of the development.

14. "Conditional use" shall mean a use permitted in a particular zoning district only upon showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in the zoning ordinance, and upon the issuance of an authorization therefore by the planning board.

15. "Courts" shall mean an unoccupied open space other than a yard. An outer court is one which extends to a front, side or rear yard.

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

17. "Development" shall mean the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure or land, or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, et seq.

18. "Drainage" shall mean the removal of surfaced water or ground water from land by drains, grading or other means and including control of runoff to minimize erosion and sedimentation during and after construction or development as well as the means necessary for water supply preservation or prevention or alleviation of flooding.

19. "Dwelling unit" shall mean a group of inter-related rooms:

(a) Intended or designed for the use of one family;

(b) Separated from other space by lockable doors;

(c) Having access to the outdoors without crossing any portion of another family's dwelling quarters; and

(d) Having provisions for living, sleeping and cooking facilities, fixed or portable, and complete sanitary facilities.

20. "Dwelling, detached, one-family" shall mean a detached building designed for and occupied exclusively by one family.

21. "Dwelling, two-family" shall mean a detached building designed for and occupied by two families living independently of each other.

22. "Environmental commission" shall mean a municipal advisory body created pursuant to N.J.S.A. 40:56A-1, et seq.

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

24. "Essential services" shall mean the erection, construction, alteration or maintenance by public utilities, telephone or municipal or other governmental agencies, of underground or overhead gas, electric, steam, water or sewage transmission or distribution systems, including buildings, 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 for the public health or safety or general welfare.

25. "Family" shall mean an individual or plurality of persons related by blood or marriage or legal adoption occupying a dwelling unit and living as a single, non-profit housekeeping unit.

26. "Farm" shall mean any parcel of land, five acres or larger, which is used for gain in the raising of agricultural products, including crops, livestock, poultry or dairy products and nursery products.

27. "Farm building" shall mean any building used for storing agricultural equipment or farm produce, or housing livestock or poultry. The term "farm building" shall not include residential dwellings.

28. "Fence" or "wall" shall mean a structure which permanently or temporarily prohibits or inhibits unrestricted travel between properties or portions of properties or between the street or public right-of-way and a property.

29. "Flood plain" shall mean a land area adjoining a river, stream, or other water course which is likely to be flooded. For the purposes of this chapter, the 100 year flood which has a one percent chance of being flooded in any given year was chosen. The special flood hazard area is delineated on the HUD Flood Plain Map used by the Federal Insurance Administration. Flood plains as described above are shown on the Fairfield Township Zoning Map.

30. "Floodway" shall mean any portion of a flood plain lying within 50 feet of the adjacent channel edge of a natural stream or within 25 feet from the edge of a lake or center line of any watercourse other than a natural stream.

31. "Garage, private" shall mean a building or space accessory to a residence which provides primarily for the storage of motor vehicles and in which no occupation, business or service for profit is carried on.

32. "Garden apartments" shall mean a residence building or group of one or more residence buildings of not more than two and one-half stories in height and two rooms in depth designed and erected as a project with singleness of use and operation and where joint or communal use is to be made of open areas by the occupants, whether it be for recreation, parking of automobiles or other communal purposes.

33. "Glare" shall mean illumination whereby a source of light, producing a reading of 50 or more on a Standard Weston Photographic light meter or equivalent at a distance of three feet is visible from the public right-of-way, or a reading of zero point eight (0.8) or more is found when such meter or equivalent is held anywhere on a residential property line.

34. "Grade, finished" shall mean the completed surfaces of lawns, walks, roads, drives and other open areas brought to grades as shown on official plans.

35. "Gross floor area, total" shall mean the sum of the gross horizontal areas of every floor of a building, measured from the inside face of exterior walls or from the center line or party or common walls.

36. "Habitable floor area" shall mean the sum of the horizontal floor areas within a building unit(s) having distance between floor and ceiling of at least eight feet for residential structures and at least seven and one-half feet for nonresidential structures which is heated and otherwise maintained for year-round human occupancy, and not including basement, garage or accessory building space.

37. "Home craft" shall mean any occupation carried on as a subordinate use by a member of the family residing on the premises of a residential use.

38. "Home professional office" shall mean the office, studio, or occupational room of a physician, surgeon, dentist, architect, licensed professional engineer, lawyer, real estate agent, certified public accountant, insurance broker, anyone desiring home office engaged in direct personal services when such use is within a



dwelling which is the bona fide residence of the principal practitioner.

39. "Loading space" shall mean any off-street space not less than 12 feet in width, 70 feet in length, and 14 feet in height available for the loading or unloading of goods, having direct access to a street or alley and so arranged that no vehicle is required to back into a street.

40. "Lot" shall mean a designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

41. "Lot area" shall mean an area of land enclosed by the boundary line of the lot and expressed in terms of square feet or acres. Any portion of a lot included in a public right-of-way shall not be included in calculating lot area.

42. "Lot, corner" shall mean a lot bounded on two or more sides by a public right-of-way.

43. "Lot coverage" shall mean that percentage of the lot or plot covered by all structures, paving and other nonporous materials other than retaining walls, shrubbery and fences. Any area of a lot covered by porous material will not be included in the calculation of lot coverage.

44. "Lot depth" shall mean the mean perpendicular distance between the front lot line and a line parallel to the front lot line drawn through the midpoint of the rear lot line, provided that, in triangular lots having no rear lot line, the distance shall be measured to the rearmost line, parallel to the front lot line, that is at least 75 percent of the required lot width.

45. "Lot, frontage" shall mean the horizontal distance measured along the full length of a street line abutting the lot line. In the case of corner lots, the shorter of the two street lines shall be considered as the frontage.

46. "Lot line, front" shall mean the right-of-way line of a street which a lot or parcel abuts.

47. "Lot line, rear" shall mean a lot line other than the front lot line which is the farthest from the street. In the case of a lot abutting two streets, required front yard setbacks from both streets shall be observed. (Where there is any question, the building inspector shall designate the rear lot line).

48. "Lot line, side" shall mean a continuous line connecting the front and back lot lines and which forms the boundary line between the lot and the adjacent parcel of land.

49. "Lot width" shall mean the horizontal distance between the side lot lines measured at the front lot line. The minimum lot width as required by this chapter shall be for at least 75 percent of the lot depth, as measured continuously from the front lot line except for lots which front on a turn-around or cul-de-sac street, in which case, lot width at the front lot line may be reduced to 50 percent of the required width, but lot width measured at the building or setback line must be equal to or greater than 75 percent of the required lot width.

50. "Maintenance guarantee" shall mean any security, other than cash, which may be accepted by a township for the maintenance of any improvements required under the authority of N.J.S.A. 40:55D-1 et seq.

51. "Master plan" shall mean a composite of one or more written or graphic proposals for the development of the municipality as set forth and adopted pursuant to N.J.S.A. 40:55D-28.

52. "Mobile home" shall mean any vehicle or similar conveyance so designed or constructed as to permit its transportation as a fully-built unit and as to permit occupancy for dwelling purposes on a permanent basis.

53. "Mobile home park" shall mean any plot of ground upon which two or more mobile homes or mobile units used for dwelling or sleeping purposes are located.

54. "Motor vehicle service station" shall mean a place where gasoline or other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale at retail to the public, which may include the sale of accessories, oiling, greasing, washing and light motor vehicle repairs on the premises.

55. "Natural stream" shall mean a naturally eroded channel with visible evidence of banks and bed, as distinguished from a swale which shows no evidence of natural erosion, except occasional gullying; and from a ditch, which is an artificially excavated channel.

56. "Nonconforming building" shall mean a building which, in its design, use or location upon a lot, does not conform to regulations of this ordinance for the zone in which it is located.

57. "Nonconforming lot" shall mean a lot or parcel which does not have the minimum width or depth or contain the minimum area for the zone in which it is located or the use to which it is being put.

58. "Nonconforming use" shall mean the use of a building or of land in a manner which does not conform to the regulations of the zone in which it is located.

59. "Occupancy" shall mean the specific purpose for which land or a building is used, designated or maintained.

60. "Parking space - off-street" shall mean an area at least ten feet in width and having a total of 200 square feet exclusive of driveways appurtenant and giving access thereto, accessible from a street, but not located on a street, which is both suitable and intended for the parking of a passenger motor vehicle. Any off-street parking space that is a part of a parking lot shall be so designed so as not to require a vehicle to back into or from a street right-of-way.

61. "Performance guarantee" shall mean any security which may be accepted by the Township of Fairfield, including cash; provided that the township shall not require more than ten percent of the total performance guarantee in cash.

62. "Permit, building" shall mean a document issued by the municipal construction official authorizing the construction, reconstruction, remodeling, alteration or repair of a building pursuant to the standards and requirements contained in the Uniform Construction Code.

63. "Permit, temporary use" shall mean a document issued by the zoning officer for the conduct of a use otherwise prohibited by the ordinance for a limited time period and stating that the special requirements governing said use and all other applicable requirements have been complied with as certified by the zoning board of adjustment.

64. "Permit, zoning" shall mean a document signed by the zoning officer: (1) which is required by ordinance as a condition precedent to the commencement of a use for the erection, construction, reconstruction, alteration, conversion or installation of a structure or building; and (2) which acknowledges that such use, structure or building complies with the provision of the township zoning ordinance or variance therefrom duly authorized by a municipal agency pursuant to N.J.S.A. 40:55D-60 and N.J.S.A. 40:55D-70.

65. "Permit, zoning certificate of occupancy" shall mean a document which shall be deemed to authorize and be required for each occupancy and use of a building or land to which it applies, and shall continue in effect only so long as such building and the use thereof and use of such land is in full conformity with the requirements of Fairfield Township development regulations or any requirements made pursuant thereto. A certificate shall only be issued by the zoning officer upon completion of construction or alteration or prior to any changes in occupancy of a building or land, only after the zoning officer is satisfied that said construction or change is in full compliance with the requirements of the Fairfield Township development regulations or a determination pursuant thereto by a municipal agency. Maintenance of a valid certificate of occupancy shall be the responsibility of the property owner.

66. "Planning board" shall mean the Fairfield Township Planning Board established pursuant to N.J.S.A. 40:55D-23.

67. "Principal building" shall mean a building in which is conducted the main or principal use of the lot on which the building is situated.

68. "Principal permitted use" shall mean primary use as specified for each district, together with any use customarily incidental to the primary use or building and located on the same lot with such principal use or building. It shall specifically exclude radio towers.

69. "Quorum" shall mean a majority of the full authorized membership of a municipal agency.

70. "Restaurant" shall mean any building or use which serves food to the general public and which provides tables, chairs and/or counters for the consumption of food entirely within the walls of such building or use. Restaurant does not include "take-out" or "drive-in" establishments which permit the consumption of food within motor vehicles.

71. "Right-of-way lines" shall mean the boundary lines of land used or intended for use as streets and from which setback and other requirements shall begin. Where existing records are vague or show a lesser dimension they shall be considered to be not less than 50 feet apart, 25 feet from the center line of the street.

72. "Roof" shall mean a covering of any material of a permanent nature being supported by columns, piers, metal rods, walls or cantilevered from a principal structure and having aperture on its surface greater than 50 percent of the total area.

73. "Schedule of regulations" shall mean the zoning schedule of district regulations made a part of this chapter by section 13-5.

74. "School" shall mean an institution designed and staffed to provide educational opportunity not including any such institution housing detainees.

75. "Setback line" shall mean a line parallel to the street at a distance therefrom equal to the depth of the front yard required for the district under consideration. No part of a building may extend closer to the street than the setback line.

76. "Sign" shall mean any device, structure, or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others, but not including any flag or any public, quasi-public, civic, charitable, or religious group.

77. "Sign, area of" shall mean the area included within the frame or edge of the sign. Where the sign has no such frame or edge, the area shall be defined by an enclosed four-sided (straight sides) geometric shape which most closely outlines said sign.

78. "Site plan" shall mean a development plan of one or more lots on which is shown (a) the existing and proposed conditions of the lot including, but not necessarily limited to, topography, vegetation, drainage, flood plains, marshes and waterways; (b) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility facilities, landscaping, structures and signs, lighting, screening devices; and (c) any other information that may be reasonably required in order to make an informed determination pursuant to an ordinance requiring review and approval of site plans by the planning board adopted pursuant to N.J.S.A. 40:55D-37 through 59.

79. "Street" shall mean a public thoroughfare which has been or will be dedicated or deeded to the public for public use.

80. "Street line" shall mean the right-of-way line of a street, road or other public way used or intended for use by vehicular traffic.

81. "Structure" shall mean a combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

82. "Swimming pools" shall mean any artificially constructed pool and any lake or pond maintained by an individual for bathing for the use of his household and guests, located on a lot as an accessory use to a residence. A wading pool, with a depth of less than 18 inches, shall not be deemed as a swimming pool. A portable pool,

located above ground level, with an area of less than 125 square feet and a water depth of less than three feet, temporary in character and constructed of a material other than concrete or masonry, capable of being moved from one place to another, shall not be deemed to be a swimming pool.

83. "Town house" shall mean one of a series of attached, one-family dwelling units, each having a common wall between adjacent section or sections and individual rear yard and/or front yard designated as an integral part of the one-family dwelling unit.

84. "Township" shall mean the Township of Fairfield.

85. "Travel trailer" shall mean a vehicular portable structure built on a chassis designed as a temporary dwelling for travel, recreation, vacation or other short-term uses and having an outside body length not exceeding 30 feet and which may contain cooking, sleeping and sanitary facilities.

86. "Variance" shall mean permission to depart from the literal requirements of this chapter or other Fairfield Township development regulations pursuant to N.J.S.A. 40:55D-1 et seq.

87. "Watercourse" shall mean any land area or use either naturally formed or artificially designed for the storage, passage, retention or flow of water, including, but not limited to the following: lake, pond, canal, ditch or swale.

88. "Yard, front" shall mean an open, unoccupied space on the same lot with the principal building, extending the full width of the lot and situated between the street line and the front building line of that lot.

89. "Yard, rear" shall mean an open, unoccupied space on the same lot as the principal building, extending the full width of the lot and situated between the rear lot line and the building line.

90. "Yard, side" shall mean an open, unoccupied space between the side line of the lot and the nearest

side building line and extending from the front yard to the rear yard, or in the absence of either of such yards, to the street or rear lot lines as the case may be.

91. "Zoning officer" shall mean the administrative officer designated as the person to issue zoning permits, certificates of occupancy and to carry out zoning ordinance enforcement.

#### 13-4 ESTABLISHMENT OF ZONES.

13-4.1 Zones. For the purpose of this chapter, the township is divided into the following zones:

- A Agriculture
- R-1 Residential
- R-2 Residential
- R-3 Residential
- FBI Planned Business - Light Industry
- I General Industry
- M Marine Resort
- FP Flood Plain
- S State

13-4.2 Zoning Map. The boundary lines of all zones shall be shown on a map attached to and made a part of this chapter and shall be known as the "Amended Zoning Map of the Township of Fairfield" dated April, 1978. The map and all notations and references thereon are hereby incorporated into and declared to be a part of this chapter.

13-4.3 Zone Boundaries. Where uncertainty exists as to any of said boundaries as shown on said map, the following rules shall apply:

a. Zone boundary lines are intended to follow the center line of streets or rail rights-of-way, or streams and lot or property lines as they exist on plats of record on June 30, 1969, unless such zone boundary lines are fixed by dimensions as shown on the zoning map.

b. Where such boundary lines are not fixed by dimensions and where they approximately follow lot lines, and where they do not scale more than ten feet distant therefrom, such lot lines shall be construed to be such boundary lines.



c. In unsubdivided land, or where a zone boundary divides a lot, the location of such boundary is indicated by dimensions shown on the map.

13-5 SCHEDULE OF DISTRICT REGULATIONS.

District regulations, as set forth in the Fairfield Township Zoning Ordinance Schedule of District Regulations -- Fairfield Township, dated April, 1978, attached hereto and made a part hereby incorporated herein, are declared to be part of this chapter.

13-6 GENERAL REGULATIONS.

13-6.1 General Modifications. The following modifications to the requirements of this chapter are permitted under the terms and specifications herein stated.

a. Existing zone lots of record. Any parcel of land with an area or dimension less than that prescribed for a lot in the zone in which such lot is located, which parcel was in existence on June 30, 1969 and whose owners since that date have not subdivided that parcel nor owned any adjoining land, may be used as a lot for any purpose permitted in the zone provided that all other regulations prescribed for the zone by the chapter are complied with, and further provided that no lot less than 5,000 square feet in area or less than 50 feet of frontage shall be used.

b. Projection. Chimneys, cornices or eaves may project into any front, side or rear yard not more than 24 inches provided the total area of the projection does not exceed nine square feet. An open or lattice enclosed fire escape or fireproof outside stairway may project into any yard not more than 25 percent of the distance from the building wall to the lot line. There shall be no other projections into yards of more than four feet. Under no circumstances shall any projection be closer to any lot line than two feet in any residential zone.

13-6.2 Regulations Applicable to all Zones. Except as hereinafter provided, the following general regulations shall apply in all zones:

a. General. No building shall hereafter be erected and no existing building shall be moved, structurally altered, rebuilt, added to or enlarged, nor shall any land be used for any purpose other than those included among the uses listed

as permitted uses in each zone by this chapter and meeting the requirements set forth in section 13-5, Schedule of Permitted Uses and Requirements. Nor shall any open space contiguous to any building be encroached upon or reduced in any manner, except in conformity to the yard, lot area, building location, percentage of lot coverage, off-street parking space, and all other regulations designated in the schedule and this chapter for the zone district in which such building or space is located. In the event of any such unlawful encroachment or reduction, such building or use shall be deemed to be in violation of this chapter, and the building permit and all other permits including the zoning certificate of occupancy shall become null and void.

1. Uniformity. Within each district, the regulations set by this chapter shall be minimum regulations and shall apply uniformly to each class or kind of structure of land.

2. Existing lots. A lot failing to meet the district requirements for area or width and which is demonstrated to have been of public record and not contiguous to other land in the same ownership at the time of enactment of this chapter, may be used for a permitted use in the district in which it is located only upon the issuance of a variance by the board of adjustment after public hearing and a showing by the applicant that he cannot reasonably obtain additional space to meet ordinance requirements. Any variance granted under this section shall constitute the minimum adjustment necessary to permit a reasonable use of the lot.

3. Contiguous lots. If two or more lots or combinations of lots or portions of lots with contiguous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purpose of this chapter and no portion of the parcel shall be used or sold which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves any remaining lot with width or area below the requirement stated in this chapter.

4. Corner lots. Building setback lines for a corner lot shall be the same as required on the adjoining lot along either block.

5. Lot coverage. The building area of all roofed structures and buildings shall be included in the determination.

6. Height exceptions. All buildings and structures shall be subject to height limitations specified in Schedule of District Regulations except: chimneys, spires, towers, elevator penthouses, tanks, antennas, and flagpoles. The height of any structure above the base on which it is fixed or attached shall not be greater than the shortest distance from such base to any property lines. The foregoing does not pertain to transmission towers and associated right-of-way widths which are to be determined by standards in the National Electric Safety Code. Agricultural buildings not intended for human occupancy shall not be subject to the building height limitations.

b. Frontage on a public street. Every principal building shall be built upon a lot with frontage on a public street which has been improved to meet the approval of the township standards or for which such improvements have been insured by the posting of a performance guarantee pursuant to the provisions of Chapter XII, Subdivision and Site Plan Review Regulations.

c. Conflict with master plan or official map. Where a lot has frontage upon a street which, on the master plan or official map of the township, is proposed for right-of-way widening, the required front yard area shall be measured from such proposed right-of-way line.

d. Yards. All yards facing on a public street shall be considered front yards and shall conform to the minimum front yard requirements for the zone in which located.

1. Yard reduction prohibited. No yard or lot existing at the time of passage of this ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet the minimum requirements established by the chapter.

2. Space used once. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purposes of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

3. Required open space and exceptions. All required yard and other open areas shall be maintained with no portion of such area used as building area of off-street parking or driveways. The following shall constitute the only exceptions: permitted animal feeding areas, arbor and trellises, barbecues or outdoor fireplaces, building projections, cultivated fields or gardens, fences, flagpoles and playground equipment or games, ponds and streams, sewage disposal systems, swimming pools, temporary garden structures, tree wells, water systems, air conditioning units or private power generating units.

e. Irregularly shaped lots. In the case of irregularly shaped lots, the minimum lot width specified in the Schedule shall be measured at the rear line of the required front yard area, provided that, in no case, shall the distance between side lot lines be reduced to less than 50 percent of the minimum width requirement.

f. Principal building. No residential lot shall have erected upon it more than one principal building and no yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be considered to provide a yard or open space for any other building.

g. Artificial lights. No artificial lights shall be used by any building or premises, which, because of intensity location, color or any other factor, shall disturb the comfort, health or safety of those residing, working or using public property, including streets within the range of the lights.

h. Swimming pools. No swimming pool shall be located any nearer than 15 feet to any rear or side property line, or in any case nearer a street than the principal building to which it is an accessory. The 15 feet are to be measured from the nearest pool line to the property line. A permanent barrier or

obstruction not less than four feet nor more than ten feet in height, so constructed as to entirely enclose the area on which the swimming pool is located and to bar all reasonable and normal access to the swimming pool except through a substantial self-closing gate or gates of the same height as the fence, equipped with facilities for locking said gate when the pool is unattended or unguarded, shall be provided for all swimming pools.

i. Temporary buildings. Temporary buildings and structures for uses incidental to construction work shall be permitted provided such buildings are removed upon completion or abandonment of the construction work.

j. Prohibited uses. Any use not specifically permitted in a zone established by this ordinance is hereby specifically prohibited from that zone and the following uses and activities are specifically prohibited in any zone in the township:

1. All billboards, signboards, advertising signs or devices not expressly related to the activity being conducted on the premises on which such sign or signs are located or otherwise specifically permitted by this chapter.

2. Residential structures without permanent foundations or without permanent connection to utilities.

3. Trailer coaches or mobile homes other than those permitted within approved trailer parks.

4. The use of any building or premises in such a manner that the health, morals, safety or welfare of the community may be endangered.

5. Any trade or industry shall be controlled by the standards of the Air Pollution Control Commission of New Jersey.

#### 13-7 SPECIAL REGULATIONS.

##### 13-7.1 Fences and Walls.

a. No fence, wall, fence-like or wall-like structure except for agricultural use shall be erected without first obtaining a permit from the zoning officer.

b. Every fence or wall shall be maintained in a safe, sound, upright condition and in accordance with the approved plan on file with the building inspector. If the building inspector upon inspection, determines that any fence or wall or portion of any fence or wall is not being maintained in a safe, sound, upright condition, he shall notify the owner of such fence in writing of his findings and state briefly the reasons for such findings and order such fence or wall or portion of such fence or wall repaired or removed within 15 days of the date of the written notice.

c. Except for permitted uses, the following fences and fencing materials are specifically prohibited: barbed-wire fences, sharp-pointed fences, canvas, cloth, electrically-charged fences.

d. No fence or wall hereafter erected, altered or reconstructed in any zone in the township may exceed three feet in height above the ground level when located within 25 feet of the intersection of two street lines.

e. No fence or wall hereafter erected, altered or reconstructed in any residential zone or business zone shall exceed seven feet in height. Fences in all other zones shall not exceed a height of ten feet.

f. The foregoing restrictions shall not be applied so as to prevent the erection of an open wire fence not exceeding 15 feet in height above ground level anywhere within a public park, public playground, or public school properties. These restrictions shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth.

g. Setback requirements for fences containing farm animals and livestock. Notwithstanding any other provisions of this chapter, the minimum setback for any fence or enclosure containing farm animals or livestock, shall be a minimum of ten feet from any property boundary line. This regulation shall be applicable to all zoning districts within the township. If greater setback distance is required by any other setback requirement under the chapter, then the greater setback requirement shall apply.

#### 13-7.2 Buffering.

a. Buffer strip. Where specified, a buffer strip shall be provided along the side and rear property lines so as to provide protection to adjacent properties.

1. Buffer strips shall be free from structures, accessory buildings, signs, driveways, parking areas, outdoor storage areas, recreation facilities or other active uses.

2. Buffer strips shall be attractively planted with trees, shrubs, plants, and grass lawns of species approved by the planning board and in accordance with approved site plans.

13-7.3 Screening.

a. Where specified, screening shall be provided with buffer strips so as to provide a visual and/or partial acoustical barrier to conceal the view or sounds of various utilitarian operations and uses from the street or adjacent properties.

b. All utilitarian areas such as deliver and service areas and waste disposal storage and pickup areas for garden apartment, business uses and industrial uses shall be screened. Screening may consist of the following:

1. A solid masonry wall not less than five feet six inches above ground.

2. A solid fencing, uniformly painted or of a naturally durable material such as cedar, cypress or redwood, not less than six feet above ground level and open to the ground to a height of not more than four inches above ground.

3. Dense hedges of shrubbery or evergreens planted at 30 inches on center in a single row or at five feet on center in two staggered rows. Evergreens or shrubs shall be a minimum of five feet above ground level at the time of planting and permitted to grow to a minimum of six feet above ground level.

13-7.4 Garages, Carports, Storage Buildings and Animal Shelters for Domestic Pets: Maximum Square Footage Allowed.

a. The design and required improvements for any off-street parking areas required under the provisions of this chapter shall comply with all applicable standards and requirements contained in Chapter XII, Subdivision and Site Plan Review Regulations.

b. Garages. A private garage constructed as an accessory use in a residence district shall be subject to the following special provisions:

1. It may be constructed within a rear yard provided it is at least ten feet from the side lot line.

1322.1

Rev. Ord. Supp. 3/00



2. In the case of a corner lot, it shall be at least ten feet from the rear lot line and it shall set back from the side line a distance equal to the required minimum width of a side yard for the district within which it is located. Access to the garage shall be on the lesser traveled street.

3. Upon mutual agreement between property owners, party-wall private garages may be built across a common lot line.

4. An attached private garage shall be subject to the yard requirements of the principal building.

5. Community garages, when built on the same lot as a principal building, shall be located in conformance with the requirements of this section for private garages; but when built as the principal use on a separate lot, they shall conform with the setback provisions for a principal building for the district within which it is located and with the side yard and rear yard provisions for a private garage as given in paragraphs 1 and 2 of this subsection.

c. The maximum square footage of garages, carports, storage buildings and animal shelters for domestic pets for the respective zones shall be as follows:

1. Agricultural:

(a) Garages and carports of 1,000 square feet or less, storage buildings commensurate with lot size, and animal shelters for domestic pets not exceeding 80 square feet.

(b) R1 Residential. Garages and carports and storage buildings not exceed 500 square feet and animal shelters for domestic pets not exceed 30 square feet.

(c) R2 Residential. Garages and carports, storage buildings of 650 square feet or less and animal shelters for domestic pets not exceed 15 square feet.

(d) R3 Residential. Garages, carports and storage buildings not to exceed 250 square feet per dwelling unit

and animal shelters for domestic pets not exceed 15 square feet per dwelling unit.

13-7.5 Off-Street Loading and Unloading Provisions.

a. Requirements. Any off-street loading and unloading facilities required by this chapter shall comply with all designed and improvement standards and requirements contained in Chapter XII Subdivision and Site Plan Review. Regulations.

13-7.6 Sign Regulations.

a. General provisions.

1. No commercial outdoor advertising signs which are not expressly and directly related to the business being conducted on the premises on which they are located and which are not expressly validated elsewhere in this chapter shall be permitted and all such signs as well as all other signs which do not conform to the specific requirements and standards set forth in this chapter are specifically prohibited.

2. No flashing sign of any type may be erected anywhere within the corporate limits of the township. No sign shall be exhibited which is portable, i.e., fixed on a movable stand; self-supporting without being firmly embedded in the ground; supported by other objects; mounted on wheels or movable vehicles; or made easily movable in some other manner.

3. No signs shall be so placed as to impede or interfere in any way with the operation of a traffic light, traffic directional signal or general traffic vision. Also, no sign with red, green or blue illumination in a beam or beacon resembling an emergency light shall be erected in any location where it may be confused with a railroad, traffic control or emergency signal.

4. No free-standing sign shall be erected in the township which exceeds a height of 25 feet.

5. Under no circumstances shall any advertising sign or device be erected or used on top of any building and no exceptions within this chapter shall be interpreted as applying thereto or creating such permission.

2. In the case of a corner lot, it shall be at least ten feet from the rear lot line and it shall set back from the side line a distance equal to the required minimum width of a side yard for the district within which it is located. Access to the garage shall be on the lesser traveled street.

3. Upon mutual agreement between property owners, party-wall private garages may be built across a common lot line.

4. An attached private garage shall be subject to the yard requirements of the principal building.

5. Community garages, when built on the same lot as a principal building, shall be located in conformance with the requirements of this section for private garages; but when built as the principal use on a separate lot, they shall conform with the setback provisions for a principal building for the district within which it is located and with the side yard and rear yard provisions for a private garage as given in paragraphs 1 and 2 of this subsection.

c. The maximum square footage of garages, carports, storage buildings and animal shelters for domestic pets for the respective zones shall be as follows:

1. Agricultural:

(a) Garages and carports of 1,000 square feet or less, storage buildings commensurate with lot size, and animal shelters for domestic pets not exceeding 80 square feet.

(b) R1 Residential. Garages and carports and storage buildings not exceed 500 square feet and animal shelters for domestic pets not exceed 30 square feet.

(c) R2 Residential. Garages and carports, storage buildings of 650 square feet or less and animal shelters for domestic pets not exceed 15 square feet.

(d) R3 Residential. Garages, carports and storage buildings not to exceed 250 square feet per dwelling unit

6. The limitations on signs prescribed in this chapter shall not apply to any sign or directional device erected by any governmental agency. The limitations or sign area prescribed in this chapter for permitted commercial and industrial uses shall not apply to parking lot markers, directional signs, or entrance and exit signs erected on the premises, provided that each such sign does not exceed two square feet in area, that the number and location of such signs are approved by the planning board, and that no such sign contains any advertising matter.

7. If, at any time, the township committee shall determine that any sign constitutes a menace to the health, safety, morals or general welfare of the community, they shall notify the record owner and the beneficial user of the premises on which said sign is located by serving a written notice upon him, together with a written notice of demand that the condition be remedied within ten days from the receipt of said notice and demand. If the condition is not so remedied, the township committee shall undertake the necessary steps to rectify the same,

charging all the costs to either the record owner or the beneficial user of the premises, or both, provided that there shall be no duplication of the payment of costs.

b. Permits. Permits shall be required for all signs greater than nine square feet in area.

1. It shall be unlawful for any person, firm or corporation to erect, alter or relocate any sign or signs greater than nine square feet in area without first having obtained a permit for the location of such sign or signs from the building inspector.

2. A written permit application shall be filed with the building inspector. Such application shall contain an accurate description of the location where the sign is to be erected, a diagram of each sign that the applicant desires to erect, and all other information that the building inspector may require in order to determine whether the proposed location of sign complies with the provisions of this chapter.

c. Permitted types and sizes of signs. There shall be no signs other than the number and types permitted in section 13-5 (Schedule of District Regulations) of this chapter and of the types and sizes permitted here.

1. Type A - A nonilluminated name plate sign situated within the property lines, and not to exceed 150 square inches.

2. Type B - An illuminated, nonflashing sign indicating a permitted home professional office, providing that such sign shall not exceed 200 square inches and shall be situated five feet from any street or property line.

3. Type C - An illuminated, nonflashing, identification sign upon the facade of the building providing that such sign shall not project outward more than eight inches or be of greater area than four square feet.

4. Type D - A free-standing, illuminated, nonflashing sign identifying this use and type activity conducted on the premises, located not less than five feet from any street, sidewalk or property line, not exceeding

ten square feet in area on any one side and not standing more than five feet above ground level. A Type F sign may be used in lieu of a Type D sign.

5. Type E - A changeable letter sign which may be illuminated, not over ten square feet in area, referring to services, programs and events to be held on the premises, provided that such sign is erected or displayed not less than five feet inside of the property line, street or sidewalk, and does not stand more than eight feet above ground level.

6. Type F - An overhanging sign or shingle, non-flashing, illuminated sign identifying the use and type of activity conducted on the premises, hung from the wall of a building or post, not exceeding eight square feet in area on any one side, located not less than five feet from a property line and not located higher than 12 feet above ground level.

7. Type G - A free-standing sign relating to the business, service or process being conducted on the premises and which does not exceed 20 square feet on any one side. The sign may be illuminated but shall not be located closer than ten feet of any property line, street or sidewalk.

8. Type H - A sign which relates to the business being conducted on the premises and which does not exceed an area equal to eight percent of the area of the facade may be placed or inscribed upon the front facade of the building providing that it shall not project outward more than 12 inches or extend above the uppermost edge of such facade.

9. Type I - In a business district having walkways roofed over with a permanent ridge canopy or other such structural device, there may be one illuminated or nonilluminated sign for each structure or occupant in such shopping area hanging from the under sign of the canopy and not exceeding eight square feet on one side.

10. Type J - A nonflashing, nonilluminated, temporary sign pertaining to the lease, rental or sale of the same lot or building upon which it is placed; and not exceeding nine square feet in area on any one side

provided such sign is erected or displayed not less than five feet inside of property line. This sign must be removed from the premises within 30 days after property is sold.

11. Signs having open and free-standing lettering may be substituted where either types of signs 3, 4, 7 or 8 are permitted and may be of an area 50 percent greater than that area specified for the sign being substituted providing such open letter signs have less than 20 percent of their surface of solid material; the open and free-standing letters are attached to a building wall, solid fence or other permanent structure, or stand upright upon the ground or open frame not more than two feet above ground level.

12. In a planned shopping center or industrial park of more than eight structures or occupants, there may be a free-standing sign of less than 100 square feet on one side to be used in common, in lieu of the free-standing signs permitted for individual structures or occupants. There may be one additional such sign for every additional 15 structures or occupants but not exceeding a total of three signs.

13-7.7 Garden Apartments and Town Houses.

a. Regulations applicable to both garden apartments and town houses.

1. Open space adjacent to, around, or between buildings not surfaced as walkways, driveways, parking areas, utility areas, or other required improvements shall be graded and seeded to provide a thick stand of grass or other plant material. Two trees and four shrubs for each dwelling unit shall be provided exclusive of those in parking areas.

2. A minimum of ten percent of the total tract area, exclusive of the normal dwelling yards, buffer strip, and parking areas, shall be designated for common recreational purposes. No one recreational area shall be less than 4,000 square feet in area nor less than 50 feet in width. Areas shall be located to be convenient to dwelling units.

3. Every building shall have a minimum setback of 15 feet from any and all interior roads, driveways, and parking areas.

4. Driveways, parking areas, dwelling entranceways, and pedestrian walks shall be provided with sufficient illumination to minimize hazards to pedestrians and motor vehicles utilizing the same and light sources shall, where necessary, be shielded to avoid glare disturbing to occupants of dwellings and of adjacent properties.

5. Sufficient laundry, drying, garbage pick-up and other utility areas must be provided and shall be located with a view both to convenience and to minimizing the detrimental effect on the aesthetic character of the building and shall be enclosed and shielded from view by fencing, walls, or shrubbery of at least six feet in height around the perimeter. Fencing and walls shall be not more than 50 percent open on the vertical surface.

6. All on-site electrical and telephone utilities services shall be installed below ground level.

7. Other standards and conditions to the site plan and to curbing, driveways, parking areas, pedestrian walks, landscaping and planting not otherwise specified herein may be attached as conditions by the planning board or township committee as circumstances indicate they will further the purposes and intent of this chapter.

b. Regulations applicable to garden apartments.

1. There shall be no dwelling units below the first floor nor above the second story of any structure.

2. Each dwelling unit shall contain complete kitchen facilities, toilet, bathing and sleeping facilities, and shall have a minimum habitable floor area in accordance with the following:

Efficiency apartment	400 square feet
One-bedroom apartment	600 square feet
Two-bedroom apartment	750 square feet
Three-bedroom apartment	1,000 square feet



3. In addition to the required habitable floor area there shall be a minimum storage area in each building for bicycles, perambulators, furniture and similar type of equipment of 50 square feet in area and a minimum of seven feet in height per dwelling unit.

4. There shall be not more than 16 dwelling units in each building or structure. The facade of any building or structure shall not exceed 70 feet in length unless making an angle turn or having an offset of at least five feet within each 70 feet of length.

5. Courtyards bounded on three or more sides by the wings of a single building or by the walls of separate buildings shall have a minimum court width of two feet for each one foot in height of the tallest adjacent building.

6. No garden apartment dwelling structure shall be located within 25 feet of another dwelling structure.

c. Regulation applicable to town houses.

1. No less than four dwelling units nor more than eight dwelling units shall be within any structure containing town houses.

2. Each dwelling unit shall be provided with a private rear yard area of not less than 500 square feet which is screened by fencing or shrubbery to a height of not less than six feet.

#### 13-7.8 Industrial Uses.

a. All permitted uses shall conform to the following performance characteristics of any proposed industrial use are questionable, a building permit may be withheld until the applicant for such use shall, upon request of the planning board, furnish any or all of the following:

1. A detailed description of the proposed industrial process and its product.

2. Reports prepared by competent technical experts showing that:

Dissemination of smoke, odors, fumes and other obnoxious gases shall be within the limit of the industrial tolerance standards of the State Department of Health, Bureau of Adult and Industrial Health.

3. Liquid wastes and effluents shall be discharged into an approved existing sewage treatment plant, in accordance with that plant's regulations, or shall be treated in a treatment plant or process which is in compliance with the State statutes and with requirements of the State department of health.

4. Precaution against fire hazards, radiation, explosion, proper handling and storage of materials and structural design, and safeguards for the health of workers shall comply with the State statutes and requirements of the State Department of Labor and Industry.

5. No vibration or glare will be evident at any point more than 150 feet from the source of said vibration or light.

All industrial uses shall stay within the tolerance standards set forth above and the user shall furnish proof of this when asked to do so by the appropriate authorities.

#### 13-7.9 Flood Hazard Requirements.

a. Purpose. The intent of this subsection is to prevent excessive and unsafe development in areas deemed unfit by reason of flood danger, unsanitary conditions and related hazards; to minimize danger to public health by protecting water supplies, recharge areas and natural drainage systems; and to promote the health, safety and welfare of the township residents and property owners in and near streams and areas subject to flooding.

b. Flood plain zone. Flood plain areas within the township are hereby defined in this chapter and shall be designated on the zoning map by the symbol FP.

1. Map filing and amendment. For purposes of determining the application of the flood plain zone to any specific area, the maps, data and other source material utilized to establish, define and designate flood plain areas shall be kept on file in the municipal

engineer's office and shall be proof of the intended limits of the flood plain areas. Any general changes in the flood plain areas as may, from time to time, be determined to be proper by a survey of the municipal engineer or as a result of acceptable engineering delineation accomplished by an outside agency, may be recommended by the municipal engineer as an amendment to the township flood plain areas map, and may be considered for proper enactment as an amendment to this chapter.

2. Interpretation. In case of any dispute concerning the flood plain boundaries, an initial determination shall be made by the municipal engineer. Any party aggrieved by a decision of the municipal engineer as to the proper location of said boundaries may appeal to the township zoning board of adjustment as provided in subsection 15-3.6. For the purpose of this section, if the municipal engineer has determined the map boundary lines to be correct, any change in said boundaries applied for shall be considered by the board of adjustment as an application for a use variance. The burden of proof in any such appeal shall be on the appellant.

Any appeal to utilize land located within the flood plains for a purpose not permitted by this section shall be considered by the board of adjustment as an application for a use variance as provided in subsection 15-3.7.

c. Permitted uses.

1. Within the floodway of any flood plain areas, the following uses, excluding structures, shall be permitted:

- (a) Pasture, grazing land or agriculture;
- (b) Recreational uses not requiring regrading or removal of trees, shrubs or vines such as: park, picnic grove, boating club, but excluding closed structures or storage areas;
- (c) Game farm, fish hatchery;
- (d) Hunting and fishing reserve;

(e) Wildlife sanctuary, woodland preserve or arboretum;

(f) Open areas needed to meet yard and area requirements for any permitted use in this and other zoning districts as specified in this chapter.

2. Within the remaining portions of flood plain areas, all uses listed in paragraph c, 1, (a) of this subsection, together with those uses permitted and regulated by this chapter for the zone district adjacent to the flood plain area as the zoning districts are set forth and delineated on the zoning map of the township, shall be permitted provided that:

(a) The minimum lot area shall be two acres;

(b) The maximum lot coverage shall be five percent;

(c) Any structure proposed to be erected, constructed or located shall not have a basement;

(d) First floor elevations of any structure or structures shall be ten feet above the elevation of the nearest natural stream or water course within 500 feet of the building location involved, as determined by the municipal engineer;

(e) Any proposed use shall be subject to site plan review as provided in subsection 13-10.5; and

(f) No vegetation removal or regrading of the site shall be carried out unless expressly permitted by the township planning board after site plan review and a determination by the Soil Conservation Service that any land disturbance activity is the minimum required to accomplish the use to be permitted.

3. Where less than 20 percent of an existing lot is located within a flood plain area, the uses, as permitted and regulated by the ordinance for the zone district in which the area is located, shall apply, provided that no structures are placed within the flood plain area.

In the case of lots split by the flood plain area designation, all construction and accompanying land disturbance of the flood plain area is permitted in accordance with the provisions of this section.

4. All nonconforming uses created as a result of the enactment of these regulations shall not be expanded or be rebuilt or re-established in the event of their destruction or abandonment, except as provided by section 13-9.

d. Municipal liability. The granting of a zoning permit in the flood plain area shall not constitute a representation, guarantee or warranty of any kind by the Township of Fairfield or by any official or employee thereof as to the practicability and safety or flood proof status of the proposed use, nor shall the granting of such a permit create any liability upon the Township of Fairfield, its officials or employees.

13-7.10 Planned Shopping Center. Planned shopping centers may be established in PBI and I zones a planned unit development, as conditional uses subject to planning board approval. Site plans must be submitted to the planning board for review, according to detailed submission, design and improvement requirements contained in the Chapter XII, Subdivision and Site Plan Review.

a. Part of PUD. A planned shopping center, as an integral part of a PUD, shall be limited to stores found in neighborhood shopping areas. These include, but are not limited to drugstore, grocery store, laundry, barber, beauty shop and restaurant.

b. Minimum acreage. A shopping center shall occupy a minimum of ten acres and the center shall be designed as a unified whole.

c. Lot coverage. Not more than 20 percent of the lot area shall be occupied by principal uses nor more than five percent by permitted accessory uses (excepting parking and loading) and, if the center consists of more than one building, they shall be separated by not less than 15 feet.

d. Parking lots. A minimum of 5.5 off-street parking spaces per thousand square feet of gross leasable area shall be provided. In addition, adequate areas shall be provided

for loading docks for delivery trucks and other vehicles as specified in subsection 13-7.5; for the servicing of shops for refuse collection, fuel and other service delivery vehicles; and pedestrian walkways. All of the above described areas shall be either hard surfaced or porous paved, graded and drained to adequately dispose of any surface water.

e. Side and rear lot lines. No building, parking, loading, access or service area may be located within 60 feet of a side or rear property line adjoined by residentially zoned property. In such cases, a screen planting at least 20 feet in width and dense enough to prevent the passage of headlight glare and blowing debris shall be provided. All parking, loading, access and service areas must be physically separated from the public street. There shall be not more than two accessways, neither of which shall exceed 24 feet in width from curblines to any one public street, except in cases where a single street frontage exceeds 600 feet, in which case an additional accessway may be provided subject to approval of the planning board on the advice of the municipal engineer. All accessways shall be located at least 200 feet from the intersection of any street boundary lines.

f. Storm drainage. The developer shall provide or contract to provide, in connection with a planned shopping center, a storm drainage system, including off-site improvements, easements and structures, which shall be of sufficient size and design as will, in the opinion of the township engineer, collect, carry off and dispose of all predictable surface water runoff accumulating on or draining naturally to or through the site. In addition, the developer shall comply with all applicable regulations of the county and State.

g. Sewage disposal. A planned shopping center shall either be connected with a municipal or regional sewerage system when available or provide a central system acceptable to the township engineer and approved by county health authorities and the New Jersey Department of Environmental Protection.

#### 13-8 PERMITTED SPECIAL USES.

13-8.1 Guiding Principles. Recognizing that certain uses, activities and structures are necessary to serve the needs and convenience of the township and at the same time recognizing that such uses may be or become inimical to the public

health, safety, and general welfare if located and operated without proper consideration being given to existing conditions and character of the surrounding area, such uses are hereby designated as permitted special uses.

In addition to other powers conferred by the chapter and applicable Statutes, the board of adjustment shall have the original jurisdiction and power to recommend to the township committee the granting of a permit for a permitted special use under the terms and conditions established by this chapter under the following stipulations and guiding principles:

a. The use for which application is being made is specifically authorized as a special exception use in section 13-5 for the zone in which located.

b. The design, arrangement and nature of the particular use is such that the public health, safety and welfare will be protected and reasonable consideration is afforded to the:

1. Character of the neighborhood and zone.
2. Conservation of property values.
3. Health and safety of residents or workers on adjacent properties and in the surrounding neighborhoods.
4. Potential congestion of vehicular traffic or creation of undue hazard.
5. Principles and objectives of this chapter and the master plan of the township.

c. The zoning board of adjustment finds that all requirements as set forth in this chapter for the zone in which it is to be located are observed; that such use will in no way be detrimental to the surrounding property values; and that the structure or proposed use will serve a useful purpose to the general welfare of the township.

13-8.2 Home Crafts. Home crafts, as defined by this chapter may be permitted in a residential district with a special use permit provided that the following standards are met and any other requirements as deemed necessary by the board of adjustment.

a. A home craft shall be carried on entirely within the principal building and shall, under no circumstances, exceed 20 percent of the total habitable floor area of the principal building.

b. No such crafts shall require interior or exterior alterations of the principal structure.

c. No sign other than Type A shall be permitted in connection with such home crafts.

d. A home craft shall be carried on only by a member of the family living within the principal structure.

13-8.3 Home Professional Occupation. Home professional occupations, as defined by this chapter may be permitted in a residential district with a special use permit provided that the following standards are met and any other requirements as deemed necessary by the board of adjustment.

a. A home professional occupation shall be carried on entirely within the principal building and shall not, under any circumstances, exceed 50 percent of the total habitable floor area of the principal building.

b. No such home professional occupation shall require exterior alterations of the principal structure which will cause the structure to be at variance or further at variances with the schedule for the district in which it is located.

c. No such home professional occupation shall permit the employment of more than five employees who are not permanent residents of the principal structure.

d. Three offstreet parking spaces are provided in addition to those required for residential use.

13-8.4 Conversions. The conversion of a detached dwelling unit to two or more family dwelling units may be permitted in the R-3 residential zones. Before authorizing the building inspector to issue a permit, provided that the following standards are met and any other requirements as deemed necessary by the board of adjustment.

a. Site plans shall be submitted at a scale of not less than ten feet to the inch showing the location and dimensions



of off-street parking, private entrances, walkways and landscaping; architectural plans shall be submitted at a scale of not less than one-quarter inch to the foot showing the dimensions and square footage of all rooms and storage spaces, and indicating the intended use of all rooms.

b. That one apartment unit (base unit) shall have a minimum habitable floor area of 850 square feet and that all additional apartments shall have minimum habitable floor areas according to the following standards:

Studio apartment	400 square feet
One-bedroom apartment	600 square feet
Two-bedroom apartment	750 square feet
Three-bedroom apartment	1,000 square feet

c. That the minimum lot size shall be larger than the minimum lot size for a detached dwelling for the residential zone in which the lot is situated according to the following:

Base unit & studio apartment	same size
Base unit & one-bedroom apartment	same size
Base unit & two-bedroom apartment	10 percent larger
Base unit & three-bedroom apartment	30 percent larger

d. Document that all plumbing, heating and electrical equipment and facilities are adequate and appropriate for the proposed conversion.

13-8.5 Public Utilities. Public utility uses, such as communication equipment building; dial equipment centers, high voltage transmission lines, towers, and substations, but no service or storage yards; and natural gas regulation stations may be permitted in any zoning district under a conditional use providing that the following standards are met and any other requirements as deemed necessary under site plan review by the planning/zoning board. Communication towers for the purposes of this section are not considered public utility uses.

a. The proposed installation in a specific location is necessary and convenient for the efficiency of the public utility system or the

satisfactory and convenient provision of service by the utility to the neighborhood or area in which the particular use is to be located.

b. The design of any building in connection with such facility conforms to the general character of the area, and will not adversely affect the safe and comfortable enjoyment of property rights of the zone in which it is located.

c. Adequate and attractive fences and other safety devices will be provided.

d. A buffer strip five feet in width and screening are provided and will be periodically maintained as specified in subsections 13-7.2 and 13-7.3.

e. Adequate offstreet parking will be provided.

f. All of the area, yard, and building coverage requirements of the respective zone will be met.

13-8.6 Motor Vehicle Service Stations. Motor vehicle service stations may be permitted for zones indicated in section 13-5 provided that the following standards are met and any other requirements as deemed necessary by the board of adjustment.

a. No motor vehicle service station or public garage shall be located within 500 feet of any public entrance to a school, library, hospital or charitable institution. Such distance shall be measured in a straight line from said public entrance to the lot line nearest said entrance along the street line.

b. In addition to the information required in the site plan as spelled out in subsection 13-10.5, the site plan shall also show the number and location of fuel tanks to be installed, the dimensions and capacity of each storage tank, the depth the tanks will be placed below the ground, the number and location of pumps to be installed, the type of structure and access of buildings to be constructed, the number of automobiles which are to be garaged.

c. For motor vehicle service stations, accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of all cans, and/or anti-freeze and similar products may be displayed on the respective island if provided for in a suitable metal stand or rack.

d. Any repair, washing, drying or servicing of motor vehicles shall be performed in a fully enclosed building and no motor vehicle shall be offered for sale on the site. No motor vehicle parts, or partially dismantled motor vehicles shall be stored outside of an enclosed building.

e. For motor vehicle service stations, all fuel pumps shall be located at least 20 feet from any street or property line and shall be attendant operated.

f. The entire area of the site travelled by motor vehicles shall be hard surfaced.

g. Offstreet parking areas shall be provided exclusive of pump areas or travel lanes. Three parking spaces shall be provided for each service bay.

h. Where such uses abut another property, there shall be a screened buffer strip not less than ten feet in width. Buffer strips and screening shall be in accordance with the standards set forth in subsections 13-7.2 and 13-7.3. Access control shall be provided in accordance with subsection 13-7.4.

i. Accessways shall not be more than 24 feet wide at any point. Accessways must be at least ten feet from any side lot line and 30 feet from the intersection of street lines. No more than two accessways shall be permitted for each 100 feet of street frontage.

13-8.7 Planned Unit Development.

a. Planned Unit Developments shall be permitted in zoning districts as specified in the "SCHEDULE OF DISTRICT REGULATIONS - FAIRFIELD TOWNSHIP".

b. Design standards, improvement requirements, open space management requirements and staging requirements regulating Planned Unit Developments are set forth in Chapter XII, Subdivision and Site Plan Review Regulations. Planned Unit Developments shall comply with all applicable regulations contained therein.

13-8.8 Land Mining, Earth, and Resource Extraction Operations.

a. Subsection 13-8.8 previously entitled "Sand and Gravel Operations", and as amended by Fairfield Township Ordinance Number

246-1988 shall hereby be further amended and known as "Land Mining, Earth, and Resource Extraction Operations". This subsection may be cited as "The 1990 Amended Fairfield Township Resource Extraction Ordinance". The subsection shall be amended as follows:

b. Purpose. The Committee of the Township of Fairfield, Cumberland County, New Jersey, having found and determined that the unregulated and uncontrolled excavation and removal of soil, rock, sand or gravel for sale for use other than on the premises from which they have been removed produces unsightly conditions; results in open pits and cavities dangerous to residents and children in particular; causes excessive noise, dust and dirt having a deleterious effect on surrounding areas; creates conditions detrimental to the public safety, health and general welfare, causing increased hazards of soil erosion and dangers of pollution to surface and subsurface waters; has direct effects, indirect effects and cumulative impact on the township and its residents; and is a substantial deterrent to the efforts of the township to effectuate the general purpose of municipal planning and conservation of land, water, farmland, other recreational areas, and the protection of the pristine nature of the Cohansey River and its aquifer; hereby determine and state that it is the purpose of this subsection to prevent aforesaid conditions and to promote the health, safety and general welfare of the municipality.

c. Definitions. For the purpose of this section, unless from the context a different meaning clearly appears, the following words shall be defined as follows:

"Committee" shall mean the Township Committee of the Township of Fairfield.

"Cumulative impact" shall mean the impact on the environment which results from the incremental impact of the action when added to other past, present and reasonably foreseeable future actions.

"Effects".

1. Includes:

(a) Direct effects, which are caused by the action and occur at the same time and place:

(b) Indirect effects, which are caused by the action and are later in time or further removed in distance but

rated by a road, railroad, brook, stream, existing township lot line, or other natural division.

"Soil" shall include both surface (or top) soil and subsoil, and shall include dirt, stone, gravel, sand, humus, clay, loam, rock, ilmenite and mixtures of any of these.

"Township clerk" shall mean the municipal clerk of Fairfield Township or his or her designee.

d. Prohibition of resource extraction operations. The Township of Fairfield finds that for the public health, safety and general welfare of its citizens, all resource extraction operations are now prohibited throughout the Township of Fairfield. Any lawful existing resource extraction operation that has been in existence prior to the adoption of the original Fairfield Township Sand and Gravel Operations Ordinance in June of 1969 which has lawfully continued operation shall be considered an existing resource extraction operation as defined by this subsection and may continue to operate within the Township of Fairfield subject to the following licensing and regulating requirements.

e. Permit required for existing operations. No person or owner shall cause, allow, permit or suffer any excavation for the removal of soil or otherwise remove soil for sale or for use other than on the premises from which the soil shall be taken without first having obtained a permit therefor approved by the committee. Said permit or true copy thereof shall be conspicuously posted and displayed on the entrance to the premises. Notwithstanding the above, the extraction or mining of soil, other than sand, gravel, clay, and ilmenite, is prohibited in any area designated as Pinelands in Fairfield Township. Additionally, existing resource extraction operations must meet all State requirements, especially those contained in Chapter 4 of the New Jersey Statutes Annotated, and furthermore, must receive all county and State approvals from the Cumberland County Soil Conservation District and/or any other county or State entity that requires said approvals to be issued.

f. Permit application procedures.

1. No person shall excavate or otherwise remove soil, rock, sand or gravel for sale or for use other than on the premises, in the Township of Fairfield from which the soil, rock, sand or gravel shall be taken, until it is shown that said applicant is a "existing resource extraction operation" (as defined in paragraph

are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate and related effects on air and water and other natural systems, including ecosystems.

2. "Effects" and "impacts" as used in this subsection are synonymous. "Effects" include ecological, aesthetic, historic, cultural, economic, social or health, whether direct, indirect or cumulative. "Effects" may also include those resulting from actions which may have both beneficial and detrimental effects, even if, on balance, the permittee believes that the effect will be beneficial.

"Existing resource extraction operation" shall mean a lot or lots which was, at the time of the adoption of the original Fairfield Township Mining Ordinance a valid pre-existing use as determined pursuant to the New Jersey Statutes, Chapter 4 thereof, and by existing New Jersey Case Law, including the Dock Watch Hollow case, and all other mines in Fairfield Township which validly pre-existed the adoption of the original Township Mining Ordinance in June of 1969. Existing operation shall include the entire tract of land on which the operator is validly operating. Adjacent and/or contiguous land not presently under a valid pre-existing use shall not be considered an existing resource extraction operation. Additionally, an entity that is improperly operating, i.e., said entity not having a valid pre-existing use, shall not be considered an existing resource extraction operation.

"Lot" shall mean any partial land or portion thereof, the boundary lines of which can be ascertained by reference to the maps and records, or either, in the office of the Tax Assessor of the Township of Fairfield or in the office of the Cumberland County Register of Deeds.

"Permittee" shall mean one who is issued a permit or a renewal permit under the terms hereof.

"Person" shall include any individual, firm, association, partnership, corporation, company or organization of any kind.

"Premises" shall mean one or more lots or contiguous parcels of land in single ownership, which ownership can be ascertained by reference to the maps and records, or either, in the office of the Tax Assessor of the Township of Fairfield or in the office of the Cumberland County Register of Deeds. Parcels shall not be deemed to be contiguous if sepa-

provisions of this subsection. Said report shall be forwarded to the Fairfield Township Clerk who shall disseminate the same to each member of the committee, the zoning officer, the township planning board chairperson and the township environmental commission chairperson.

7. The planning board shall review the application at the next scheduled meeting of said planning board after submission of the complete application for a permit for an existing resource extraction operation. The planning board shall make findings and recommendations to the committee in writing in regard to said application.

8. The Fairfield Township Environmental Commission shall be called to meet by the chairman thereof to review said application in regard to an existing resource extraction operation. Said commission shall review the application and make such recommendations and suggestions in writing to the committee. The meeting therein required shall be as soon as possible but in no instance, more than 30 days subsequent to the receipt of a completed application for a permit.

9. The Fairfield Township Resource Development Review Board shall stand ready, willing and able to help the Fairfield Township Planning Board, Fairfield Township Environmental Commission, or the committee with regard to the review of said application.

10. The committee shall request that the Cumberland County Soil Conservation District and the Cumberland County Planning Board submit any pertinent comments that they have in regard to the application.

11. Upon receipt of the recommendations from the zoning officer, the township engineer, the Fairfield Township Planning Board and the Fairfield Township Environmental Commission, and any county or State agency, and upon consultation with the township engineer, the committee shall review the application and either issue or deny the permit at its next regular meeting, specifying in writing, the reasons for any denial.

12. Upon receipt of the application, reviewed by the zoning officer, the township engineer with submission of an engineer's report, the township planning board, and the town-

c. of this subsection) and a permit therefor has been issued and become effective, in a manner provided in this ordinance.

2. In any zoning district, as provided in the Schedule of District Regulations, all existing resource operations which plan to excavate sand, gravel, rock, earth, minerals, clay or other sub-soil shall be required to obtain a permit, the procedure to obtain the same which shall be designated by the remaining portions of this section.

3. The application must first be filed with the Fairfield Township Clerk. Said clerk shall immediately forward notice and copies of said application to each member of the committee, each member of the Fairfield Township Planning Board, the Fairfield Township Board of Adjustment chairman, each member of the Fairfield Township Environmental Commission, the Cumberland County Planning Board, the Cumberland County Soil Conservation District, and to each member of the resource development review board as created by paragraph o. of this subsection for their preliminary determination of adequacy, review and recommendation to the committee.

4. The application for the issuance of any permit required by this subsection, the owner of the premises, or his agent, shall have filed with the township clerk 30 copies of the application and supporting documentation requesting such a permit, all applicable fees, evidencing that no taxes or assessments owing and due on the premises are unpaid, and all plans, calculations, reports, and exhibits as required under paragraphs g., h., L, J. et seq. of this subsection.

5. The township zoning officer shall review the same for compliance with the zoning provisions for the township, shall advise the township clerk, the committee and the applicant if, in his opinion, any aspect of the proposal contained in the application and other items does not comply.

6. The township engineer shall review the same and inspect the said premises and, if the application involves the excavation or removal of less than 500 cubic yards of soil, rock, sand or gravel and complies with said zoning provisions shall, within 30 days of receipt of a complete submission, make a complete written report to the zoning officer and committee as to whether the proposal as contained in such application complies with the



ship environmental commission, and all county or State agencies, the committee shall require that the applicant appear before it for a public hearing to explain and comment on the proposed existing operation or to present evidence concerning the permit application; said hearing shall be on 30 day's written notice to the applicant. At least ten day's notice of such hearing shall also be mailed by the township clerk to all owners (as their names and addresses appear on the current tax duplicate of the township) of real property located within 1,000 feet of the premises involved and shall be published by said clerk in the official newspaper of the township. All interested parties may be heard at any hearing required by the committee. See paragraph q. of this subsection.

g. Application information and details required. The application for a mining permit for an existing resource extraction operation shall include the following information:

1. Topographic map. A topographic map at a scale of one inch equals 400 feet, showing the proposed dimensions, location, and operation on the subject property;
2. Quadrangle map. A U.S.G.S. quadrangle map showing the dimensions of the property and an area of at least 1,000 feet beyond such boundary in all directions;
3. Buildings. The location, size and intended use of all buildings;
4. Ingress/egress. The location of all points of ingress and egress;
5. Topographic conditions. The location of all streams, wetlands and significant vegetation, forest associations and wildlife habitants;
6. Streets, roadways and railways. The location of all existing and proposed streets and rights-of-way, including railroad rights-of-way, excluding those included within the area to be mined;
7. Soils map. A soils map;

8. Hours of operation. If operations (other than equipment repair and maintenance) are contemplated other than between Monday through Saturday from 7:00 a.m. to 6:00 p.m., prevailing time, then a schedule of proposed operations listing the days of the week and daily hours of the operation. Operations on Sunday are prohibited without specific permission for said operations from the committee.

9. Protection against hazards. Measures proposed for protection against hazards to the public and to prevent erosion of soil by wind, excessive dust and other nuisance characteristics:

10. Unused surface materials. A written plan showing disposition of all unused surface materials:

11. Review; New Jersey Water Policy Commission. If any stream, body of water, or natural flowing spring shall be affected by any activity of mining or in connection with the mining or as a result of stockpiling of soil or in any way connected with the mining for which application for a permit has been made, a letter from the New Jersey Water Policy Commission stating the effect on said water course:

12. Outline of mining activities. Outline of type of mining activities to be conducted on said site, specifying stripping, underground mining, side hill mining, or any other extraction technique or combination of extraction techniques to be utilized:

13. Tons to be extracted. Maximum number of tons of soil to be extracted per day:

14. Buildings and equipment. Description of the types of buildings and equipment to be utilized in mining operations, including size of buildings and equipment and placement of said buildings and equipment on the site:

15. Use of unused soil. Location of all dumping places of unused soil and ultimate disposition of unused soil:

16. Plan of rehabilitation. Proposed plan for landscaping and rehabilitating the mined area and other areas used in the mining operation, including:

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

h. Exemptions.

1. No permit shall be required for the excavation and removal of soil, rock, sand or gravel in connection with construction or alteration, of a building, structure, off street loading or parking area, street, driveway and normal excavation or normal grading incident thereto, so long as said soil, rock gravel or sand is redistributed and kept (a) on the same premises or (b) with respect to improvements approved as part of a subdivision under the Fairfield Township Development Regulations.
2. This subsection shall not in any way prohibit a farming operation to create, excavate, or remove such soil, rock, sand or gravel as is necessary and in connection with their farming operations, specifically to create irrigation ponds necessary for the operation of their farming operation.
3. This subsection shall not apply to the removal of soil, rock, sand, or gravel in the normal course of business and in connection with a nursery operation, with nursery operation being defined as a business for the growing of trees, shrubbery, flowers, or other ornamentals for the sale to the general public in a wholesale or retail nature.
4. Where mining activities have been fully established and in operation on the effective date of this subsection as defined in paragraph c, on the effective date of this subsection, exceptions may exist for operations and improvements in place on said existing resource extraction operations and a permit may still be issued; (a) without any restrictions as to (1) areas excavated or in which soil is stockpiled greater than 50 feet from any property boundary or (2) amount of soil to be extracted or (3) use

of structures, buildings and equipment that are currently in use but less than 50 feet from a property line because of their distance from the property line.

i. Performance and maintenance guarantees required.

1. Prior to the issuance of a permit for an existing land mining, earth and resource extraction operation, the owner or operator shall file with the township clerk a performance guarantee in sufficient amount to assure proper operation and that all necessary rehabilitation will be performed.

2. Such bond or security shall be accompanied by an agreement signed by the applicant and landowner, if a different individual, granting the township the right of access to make inspections to insure compliance during periods of operation and to perform all necessary rehabilitation of bonded property in the event of forfeiture of the performance guarantee.

3. In the event of default, forfeiture shall be made by the planning board after public hearing on not less than five days written notice made to the principal and the surety at their last known post office addresses, which notice shall be complete upon mailing.

4. The performance guarantee may be released upon satisfactory restoration of the complete project area or portions of the guarantee may be released as proportional stages of restoration or accomplished in accordance with all operation and restoration standards contained in this subsection as well as any approved rehabilitation plan. Release of performance guarantees shall be by resolution drawn by the committee after satisfactory rehabilitation has been completed.

5. The amount of the performance guarantee shall be determined by the committee, township engineer or other qualified individual as designated by the committee as set forth in paragraph s., and planning board after review of the proposed plan by all parties. The amount shall be roughly equal to amount which it is estimated will be expended to reclaim the property mined should the applicant or owner thereof fail to complete said restoration.

3. As an integral part of each resource extraction operation, sufficient arable topsoil shall be stored on site for restoration. Such topsoil stockpiles shall be treated, planted or graded so as to protect same from wind or water erosion.

4. Is fenced or blocked so as to prevent unauthorized entry into the resource extraction through access roads to the satisfaction of the township engineer and committee. Temporary fencing (the entire perimeter to be fenced at the height of seven feet) shall be required for slopes in excess of five feet in depth or for any slope in excess of a minimum slope of three to one.

5. Provides ingress and egress to the resource extraction operation from public roads by way of gravel or porous paved roadways watered or otherwise treated to minimize dust.

6. Is designed so that surface runoff will be maintained on the parcel in a manner that will provide for on-site recharge to groundwater.

7. Will not involve excavation below the seasonal high water table, unless the excavation will serve as a recreational or wildlife resource or a water reservoir for public, agricultural or industrial uses or for any other use authorized in the area in which the site is located; provided that in no case shall excavation have a depth exceeding 65 feet below the natural surface of the ground existing prior to excavation unless it can be demonstrated that a depth greater than 65 feet will result in no significant adverse impact relative to the proposed final use or off-site areas.

8. Will be carried out in accordance with an extraction schedule which depicts the anticipated sequence, as well as anticipated length of time that each 20 acre unit of the parcel proposed for extraction will be worked.

9. Will involve restoration of disturbed areas at the completion of the resource extraction operation in accordance with the provisions of this subsection. See paragraph 1. of this subsection.

10. Will not involve clearing adjacent to ponds in excess of 20 acres or an area necessary to complete scheduled opera-

6. This performance guarantee amount shall be reviewed upon each license renewal as listed in paragraph j. or roughly every two years as required by this subsection.

j. Term of permit and additional application information and details required. Existing resource extraction operations shall be approved for a maximum of two year periods and only if the applicant can demonstrate that the proposed existing resource extraction operation:

1. Is designed so that no area of excavation, sedimentation pond, storage area equipment or machinery or other structure or facility is closer than:

(a) A 200 foot buffer, 350 feet after reclamation to any boundary line.

(b) 200 foot buffer, 350 feet to any residential or non-resource extraction related commercial use which is in existence on the date the permit is issued.

(c) As an explanation of this provision, it is the intent and purpose of the committee that during resource extraction operations, a 200 foot buffer will be sufficient to protect the health, welfare and well being of township residents, but it is the intent of the committee that upon completion of operations of any mine there shall be at least 350 feet or more of reclaimed land that has been returned to its natural vegetative state between the completed mining operation and the nearest property owner. This would require that any remaining pit or sandwash lake be at least 350 feet from any residential or non-resource extraction related commercial use.

2. Any tract of land to be used for an existing resource extraction operation shall, of course, be that size as exists at the time of the adoption of this subsection. It is improper for any contiguous lands not already used by an active land mining operation to be used in existing land mining operation. Unless to coordinate restoration plans, the parcel in question is found by the planning board, township engineer, township zoning officer, and township environmental commission to be necessary to properly complete a restoration plan of a contiguous lot that is used for existing operations.

tions; or will not involve unreclaimed clearing exceeding 150 acres for surface excavation at any time.

k. Standards and regulations for production and processing of extracted resources. The following standards and regulations shall be met in connection with production and processing of extracted resources:

1. All equipment used for mining shall be constructed, maintained and operated in such a manner as to reduce as far as is practical, noise, vibration or dust.

2. No extraction operation shall accumulate or discharge beyond the property lines, any waste matter.

3. The operation must meet the provisions of N.J.S.A. 4:24-39 et seq., specifically N.J.S.A. 4:24-43 as it existed at the time of the passing of this subsection or as it is amended in the future.

4. Other standards and regulations that can be placed on existing resource extraction operations by the committee as requirements and conditions for their issuance of a permit shall include, but not be limited to:

- (a) Proper grading of the operation;
- (b) Rolling topography not to exceed 45 degrees;
- (c) Restriction of the hours of operation;
- (d) Prohibiting Sunday operations see paragraph g. 8;
- (e) Limiting the depth of the operation;
- (f) Creating buffer zones;
- (g) Requiring particular storage of products and equipment;
- (h) Requiring landscape screening;

(1) Such other limitations as the committee shall see fit with their police power to impose.

1. Restoration of parcel. All parcels of land which are used for resource extraction operations shall be restored as per paragraph g, 16. and as follows:

1. Restoration shall be a continuous process, and each portion of the parcel shall be restored within two years after resource extraction is completed for that portion;

2. Restoration shall proceed in the same sequence and time frame set out in the extraction schedule required in paragraph j, 8.

3. All restored areas shall be graded so as to conform to the natural contours of the parcel; the slope of surface of restored surfaces shall not exceed one foot vertical to three feet horizontal except as provided in paragraph 1, 6. of this subsection;

4. Topsoil shall be restored in approximately the same quality and quantity as existed at the time the resource extraction operation was initiated;

5. Drainage flows, including direction and volume, shall be restored to the maximum extent practical to those flows existing at the time the resource extraction operation was initiated, but in no case shall the finished final condition of the area permit stagnant water to collect.

6. Any body of water created by the resource extraction operation shall have a graded shoreline with a slope not to exceed one foot vertical to five feet horizontal.

7. All equipment, machinery and structures, except for structures that are useable for recreational purposes or any other use authorized for the area, shall be removed within six months after the resource extraction operation is terminated and restoration is completed; and

8. Reclamation shall, to the maximum extent practical, result in the re-establishment of the vegetation association which existed prior to the extraction activity and shall include:



(a) The planting of a minimum of 1,000 one-year-old natural native species to the area per acre;

(b) Stabilization of exposed areas by establishing ground cover vegetation;

(c) Cluster planting of characteristic native species to the area, including oak, and such other trees as black-jack oak, bear oak, chestnut oak, black oak, maple, pine, pitch pine, or such other trees as are natural to the area, not limited to those listed herein, and such shrubs, including but not limited to black huckleberry, sheep laurel, and mountain laurel, at a spacing sufficient to ensure establishment of these species.

m. Existing resource extraction operations; procedure to obtain original permit pursuant to this subsection. Existing resource extraction operations shall be defined as:

1. As contained in paragraph c. Definitions.

2. Existing mining operations may continue for no more than 120 days following the adoption of this amendment to the Township Land Mining, Earth and Resource Extraction Operation Ordinance.\*

(a) The township solicitor shall immediately notify all existing mining operations of the requirements as established by this subsection to obtain a permit to continue their operation.

(b) However, after the termination of the 120 days from the effective date of this subsection, such mining operations shall cease unless a permit for the same is granted prior thereto in accordance with the provisions of this subsection.

(c) The committee can, by a majority vote, elect to grant an extension of up to 90 days to the 120 days provided in paragraph m, 2 (b) of this subsection if said com-

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\*Editor's Note: The amendment referred to herein pertaining to the mining, earth and resource extraction operations was adopted August 28, 1990 as Ordinance No. 266.

mittee finds that that time is necessary in order to protect the health, welfare and safety of township residents, and to aid and assist in a proper and complete review of the applicant's permit application.

n. Waiver of conditions by the committee in regard to permit applications.

1. Waivers from strict compliance from the provisions of this subsection can be granted by the committee when said waiver will not impair or reduce the committee's ability to adequately review plans in connection with information or details to be provided in an application, or adversely affect the environment, neighboring properties or the intent of the township master plan in the case of operation and rehabilitation standards.

2. Said waiver will not impair the provision or standards of the Pinelands Comprehensive Management Plan. Any waiver granted from standards which reflect the requirements of the CMP shall be granted subject to the review and action of the Pinelands Commission if applicable.

o. Resource development review board.

1. In recognition of the fact that there may rise, in connection with this subsection, problems of such a nature that some degree of expertise is required in order to best evaluate such problems in light of the purpose of this subsection and the public interest, there shall be established a body to be known as the resource development review board, which body shall consider such problems as may arise under this subsection and shall be referred to it by the planning board, environmental commission, or the committee. Subsequent to such a request by the planning board, environmental commission, or committee, said resource development review board shall make recommendations to said planning board or committee in connection with any action to be taken, which recommendations may include the advisability of the granting of a waiver or waivers. The township planning board or committee shall in no way, be bound by the recommendations of this board, which shall, at all times, act exclusively in an advisory capacity.

2. The resource development review board shall consist of five members appointed by the mayor, with the approval of

the committee, one of whom shall be a member of the board. The other members of the board shall include: one who shall be a member of the board of adjustment; one who shall be a member of another township board or agency; and two who shall be actively engaged in the business of resource extraction in the township. If there are not two individuals actively engaged in resource extraction in the township, then general members of the public may be appointed to these positions. The mayor, with the concurrence of the committee, shall also appoint two alternative members to the board. The alternate members shall serve in those cases in which the regular members of the board who are engaged in resource extraction, have a conflict of interest, due to the nature of the problem before the board. The committee shall determine when such a conflict exists in any given case. It is not required that a member of this board be a township resident.

3. All public agency members of the board shall serve for periods identical to their terms on their respective agencies or board. Other board members and alternatives of the resource development review board shall serve for a term of three years. Upon the death, resignation or removal for cause of any member of the board during his term, the mayor shall appoint a successor with the approval of the committee to complete the unexpired term of the member creating the vacancy. The board shall elect a chairperson from its members and a secretary who may, but need not be a member of the board. The board shall reorganize each year at the time of the first meeting held in any given year.

p. Review of the application by township officials and entities.

1. As previously stated in paragraph f, 7. and upon receipt of the completed application for a permit that satisfies and provides all of the information contained in the above paragraphs of this subsection, said application shall be scheduled before the Planning Board of Fairfield Township, for their review and recommendations at their next scheduled meetings. Said recommendations shall be in writing to the committee.

2. Also as previously stated in this subsection in paragraph f, 8, upon receipt of a completed application, said application shall be reviewed by the Fairfield Township Environmental Commission who shall review the same within 30 days of receipt of a completed application. Said environmental com-

mission shall make in writing their recommendations and suggestions to the committee.

3. Upon review by the Fairfield Township Planning Board, the Fairfield Township Environmental Commission, the township zoning officer, the township engineer, and all county and State entities required to review such application, the township clerk shall notify the committee which shall then examine the application and all recommendations and suggestions from the above entities. The committee may further consult with the township engineer and any other township official, including the resource extraction review board designated by the committee. The township engineer or other qualified individual as set forth in paragraph f, 6, shall make recommendations to the committee pertaining to all engineering matters, and the zoning officer shall make recommendations pertaining to potential health hazards including, but not limited to, pollution of air and surface and subterranean waters. To do this, the township zoning officer may consult with such health officer or other public official as is necessary to make said determination.

4. A copy of the application shall also be submitted on behalf of the committee by the township clerk to the Cumberland County Planning Board for their recommendations.

5. A copy of the application shall also be submitted by the township clerk on behalf of the committee to the Cumberland County Soil Conservation District for their recommendations.

6. Upon completion of the study and within 45 days after receipt of a completed application, the committee shall review the same. The committee may require the applicant to submit additional data information pertaining to the site mining operations and accessory or incidental operations related thereto and the plan of restoration. If, in fact, additional information is required the review period may be extended up to an additional 45 days so that a 90 day total time period may elapse from the time of a completed application from the time same is acted upon by the committee.

7. Such request for additional information shall be in writing addressed to the applicants setting forth the information required. Upon receipt of the same from the applicant, the mat-

ter shall again be reviewed by the township committee and the applicant notified of the date of hearing which shall be within 30 days of receipt of said additional information requested, and at no time greater than 90 days subsequent to the time of the receipt of the initial completed application unless the committee and applicant agree that more time is necessary to fully prepare for a complete review of said application.

8. The committee shall schedule a hearing as required by paragraph q. of this subsection.

q. Granting of permit/public hearing.

1. After the application is reviewed by the township planning board, the township environmental commission, the township engineer, the township zoning officer, and all necessary county and State entities, the committee shall review all suggestions and recommendations provided by the above entities and shall hold a public hearing on the application. No permit for an existing mining operation shall be granted or denied by the committee until after a public hearing has been held thereon. Notice of the public hearing shall be given by the committee by publication in a newspaper published in the County of Cumberland and having a general circulation in the township. Such notice shall be published twice, the first publication being not more than ten days and not less than seven days prior to the date set for public hearing and the final notice not more than three days and not less than two days prior to the hearing. The notice shall set forth the date of the hearing, the time of the hearing, the place of the hearing, the purpose for which said hearing is to be held. Proof of publication of said notice shall be filed by the clerk of the township on or before the public hearing date. The township clerk on behalf of the committee shall cause this publication to be made. The expense of said publication shall be born by the applicant (see paragraph r. of this subsection).

2. Additionally, as previously stated in the subsection (see paragraph f, 12.) all property owners within 1,000 feet of an existing mining operation shall be notified of the public hearing in regard to said mining operation. Said notice shall include the same information as required to be published as listed above. The obligation to provide said notice shall be with the applicant. Said applicant must provide proof of mailing to all property owners within a 1,000 feet radius on a list which shall be ordered

and prepared by the township tax assessor. The cost for the ordering of said list shall be twenty-five (\$25.00) dollars.

3. Upon review of the committee of all materials provided, and a public hearing, the committee shall then review all information provided and issue a permit for the operation proposed by a majority vote of said committee. The permit so issued shall be for the time period of two years.

r. Permit fee. There shall be a permit application/fee of one thousand five hundred (\$1,500.00) dollars. This amount shall be used solely and exclusively to cover all expenses incurred by the township in regard to the application. The expenses to be paid shall include, but not be limited to, all engineer fees in regard to the review of the application, attorney's fees to the township, publication fees and any and all other incidental costs in regard to the application. An itemized bill of said expenses shall be made by the clerk and submitted to the applicant within 30 days of the committee's licensing hearing in regard to the application. If the expenses incurred by the township exceed the application fee, said expenses shall be charged to and paid by the applicant within 30 days of the receipt of the itemized bill. If the expenses are less than the permit fee the balance shall be returned to the applicant within 30 days.

s. Licensing fee. The committee hereby determines that the mining and extraction of soil, rock, sand or gravel causes the natural resources of the township to be diminished and that the transport of said materials and other side effects of such an operation have a negative effect on the public safety, health and general welfare of township residents.

The committee therefore establishes a licensing fee of five hundred (\$500.00) dollars per acre to be mined per year shall be paid to the township. The approximate acreage mined shall be determined by the committee through the zoning officer and submitted to the license holder on or before April 15th of any given year. The licensee shall then be required to make payment of five hundred (\$500.00) dollars per acre mined during that year to Fairfield Township on or before June 30th of that year. Notice of the determination of the committee shall be forwarded to the license holder on or before May 1st of the year, and the holder shall have the amount of 60 days to make application to the committee for a review of said determination. Said fee shall be established and become due beginning with the calendar year 1991. For the calendar

year 1990 the licensing fee per acre shall remain at two hundred (\$200.00) dollars per acre mined.

t. **Renewal of permits.** At the expiration of a two year period for which a permit has been issued, the permittee must make application to the Committee of Fairfield for a renewal of the permit for an additional two year period. Application for renewal together with a renewal application fee of seven hundred fifty (\$750.00) dollars shall be filed with the township clerk at least 60 days prior to the expiration of the current permit and shall contain the following:

1. Sworn statement that the applicant for renewal is the same person to whom the original permit was issued and, if a corporation, the names and addresses of all officers and directors of the corporation, name and address of the registered agent in New Jersey upon whom process may be served, and, if the applicant is other than an individual or corporation, the names and addresses of all persons having an interest in the business of the applicant.

2. Any actual or proposed changes in the area utilized in the mining, change in the schedule of operations, changes in the program of landscaping and any other deviation from the program of activities for mining and landscaping set forth in the documents accompanying the original application for permit.

3. Such other additional data and information pertaining to the site, mining operations and accessory and incidental operations related thereto, and the plan for landscaping as may be required by the committee.

4. The application to renew a permit shall consist of 30 copies to be filed with the township clerk who shall forward those copies to those entities as required in paragraph f, 3. Said entities may make comment on the renewal of said permit should they feel that it is appropriate for them to do so.

5. A public hearing pursuant to paragraph q. of this subsection shall be required for the renewal of the permit and the committee shall either deny same or grant same either with or without additional requirements, limitations, conditions as may be necessary inimical to the public health, welfare and safety as provided for in this subsection.

6. The application for renewal of a permit shall be accompanied by a written guarantee in the form approved by the committee by the applicable standards set forth in this subsection and in the developmental regulations of Fairfield Township, its amendments or supplements or any other ordinance of the township which has bearing upon land mining, earth, and resource extraction operations. In the event the committee has reasonable doubt about the applicant's financial responsibility to perform the promise, it may request the applicant to submit reasonable satisfactory evidence of financial responsibility which will be reviewed on a confidential basis and not made public in any manner. In the event that there is not reasonably satisfactory evidence of the applicant's financial responsibility to perform the promise, the township may require as a condition of the granting of the permit or permit extension, a deposit, pledge, place in escrow or in some other fashion, including the possible use of a surety bond, certain reasonable amounts of security with right to substitution for the faithful performance standards set forth in this subsection, rehabilitation plan, the Developmental Regulation Ordinance of Fairfield Township or any other applicable ordinances of the township. Any securities so required shall be held or continued for the term of the permit while the land is rehabilitated or until adequate evidence of financial responsibility is presented. Any promise or any security required herein shall be terminated 45 days after the applicant or others on his behalf have delivered to the committee the certificate of a registered professional engineer or licensed surveyor or professional planner setting out that the area upon which release of the security is sought has been rehabilitated in substantial compliance with the requirements of the rehabilitation plan or some amended or alternative plan mutually satisfactory to the Planning Board of Fairfield Township, Fairfield Township Environmental Commission, the township engineer, the township zoning officer, and the Committee of Fairfield Township. Any security shall be placed so that if the permit expires as provided herein and the site is not rehabilitated within 18 months thereafter, the security shall be forfeited to pay for the rehabilitation of the site according to the rehabilitation plan.

u. Removal of equipment and buildings. Within six months of the termination of any mining or earth excavation operations, the last permit holder shall, at his own expense, dismantle and remove all equipment, buildings and structures excepting, however, that the permit holder may make application to the planning board, with such notice as



it required under the zoning laws of the Township of Fairfield, and after hearing on same said planning board may designate one or more structures which may be permitted to remain on the premises upon the finding by said planning board that the structure or structures can be used for general purposes in conformance with the designated zone in which said operation took place and in conformance with the orderly growth and development of the area. The permit holder shall be responsible for obtaining a demolition permit for any structure to be demolished if, in fact, such permit is required under existing ordinances and regulations. The Committee of the Township of Fairfield may reserve and may allow that the structures as made during the mining operation remain on the property as part of the restoration plan.

v. Enforcing officer. The township committee hereby designates the municipal zoning official and municipal engineer as individuals, independently or collectively, whose duty it shall be to enforce the provisions of this subsection. Either the municipal zoning officer or municipal engineer or both shall, from time to time, upon their own initiative or when directed by the township committee as a body, inspect the premises for which permits have been granted to insure compliance with the terms of the permit and of this subsection. All violations shall be reported in writing to the township committee and both the municipal zoning officer and/or municipal engineer shall take such actions as may be deemed necessary to protect the intent and purpose of these regulations.

w. Penalties.

1. Any person, firm or corporation violating any of the provisions of this subsection shall be subject to a fine not to exceed one thousand (\$1,000.00) dollars or imprisonment in the county jail for a term not exceeding 90 days, or both. Each and every violation and nonconformance of this subsection, of each day that any provision of this shall have been violated, shall be construed as a separate and distinct violation thereof.

2. In addition to the penalties provided for in paragraph w. 1. of this subsection, the committee may revoke any mining permit or any renewal thereof previously issued upon a finding by said committee that the permit holder, or his agents, servants and employees have willfully and knowingly failed to comply with any provision of this subsection or any condition or limitation placed on the permit holder by the committee provided, however, that no permit shall be revoked without first affording the permit

holder a hearing before the committee which said hearing shall be upon ten day written notice to the permit holder setting forth the date of the hearing and the alleged violations.

x. Inconsistency with zoning ordinance. Nothing contained herein shall be deemed to modify or repeal any of the provisions of the Fairfield Township Zoning Ordinance, but said ordinance and each and every provision thereof shall remain in full force and effect. In the event of any inconsistency between the provisions hereof and the provisions of said Zoning Ordinance, such inconsistency shall be resolved in favor of the enforcement of said Zoning Ordinance except for such variances as exist at the effective date of the ordinance. Provided, however, that a person obtaining a permit under this subsection who has given notice to the public hearing to adjoining property owners in like manner as required by the Zoning Ordinance and related statutes shall not be required to obtain a special use permit under the Zoning Ordinance but may be issued such a permit by the committee.

y. Variation. Anything contained in this subsection to the contrary notwithstanding, the committee shall have the right in a proper case and for good cause shown to vary any requirement contained herein, provided that the notice of public hearing provided for in this subsection contains a statement that the applicant will request at said public hearing the committee to vary one or more of said requirements and setting forth the nature of the variance which will be requested. No variance shall be granted by the committee if said variance would be injurious to the public health, safety and general welfare of the municipality or adversely affect the purpose of this subsection.

z. Severability. If any paragraph, sentence, clause, phrase or portion of this subsection is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

aa. When effective. This subsection shall take effect immediately upon final passage and publication as provided by law.

13-8.9 Cluster Development

a. Cluster development shall be permitted in those districts indicated and as further specified on the "SCHEDULE OF DISTRICT REGULATIONS - FAIRFIELD TOWNSHIP."

c. Off-street parking space shall be only in the side or rear yard areas, not within ten feet of any property line, and shall be provided in accordance with the following standards: hospitals and convalescent homes shall provide one off-street parking space for each two beds; and philanthropic and eleemosynary uses shall provide one space for each three beds, where beds are a function of the use, or one off-street parking space for each 150 square feet of gross floor area where beds are not a function of the use; all off-street parking provided within 30 feet of any property line shall be protected from adverse impact upon adjacent properties through a visual screen of planting not less than four feet on center of a type or types of planting approved by the township engineer.

d. Sign regulations in regard to these uses shall be as defined and provided in the Fairfield Township Code, subsection 13-7.6. Signs of Type D, Type E, and Type F, shall be permitted.

e. All other requirements as set forth in the code for the zone in which the proposed use is to be located shall be observed, and the planning board may grant a special use permit upon determination that the proposed structure and use will serve a useful purpose to the general welfare of the township and will in no way be detrimental to the surrounding property values.

13-9 NONCONFORMING USES.

13-9.1 Continuance. Except as otherwise provided in this section, the lawful use of land or buildings existing on June 30, 1969 may be continued, although such use or building does not conform to the regulations specified by this chapter for the zone in which such land or buildings are located, provided however:

- a. That no nonconforming lot shall be further reduced in size.
- b. That no nonconforming building shall be enlarged, extended, or increased unless such enlargement would tend to reduce the degree of nonconformance.
- c. That no nonconforming use may be expanded.

13-9.2 Abandonment. A nonconforming use shall terminate upon abandonment at any time. In the case of discontinuance of any nonconforming open land use for a period of 12 consecutive months, the nonconforming open land use shall be presumed to be abandoned and any subsequent use of the land shall conform to the regulations for the district in which such land is located. In addition, when a nonconforming use of a structure, or structure and premises in combination, is discontinued for a period of 24 consecutive months, the nonconforming use shall be presumed to be abandoned and the structure and premises in combination, as the case may be, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

13-9.3 Restoration. A structure which, by reason of restrictions on area, lot coverage, height, or yard, is nonconforming shall not be reconstructed except in conformance with this chapter should the structure be destroyed by any means to an extent of more than 75 percent of its replacement cost at the time of destruction. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe by the construction official.

13-9.4 Reversion. No nonconforming use shall, if once changed into a conforming use, be changed back again into a nonconforming use.

13-9.5 Alterations. A nonconforming building, structure or sign may be reconstructed but not enlarged or extended, unless the building is changed to a building conforming or more nearly conforming to the requirements of this chapter.

13-9.6 Construction Approved Prior to Ordinance. Nothing herein contained shall require any change in plans, construction or designated use of a building, structure or sign for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three months of the date of such permit, and the ground story framework of which including the second tier of beams, shall have been completed within six months of the date of the permit, and which entire building shall be completed according to such plans as filed within one year from June 30, 1969.

13-9.7 Zone Changes. Wherever the boundaries of a zone shall be changed as to transfer an area from one zone to another of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein or created thereby.

#### 13-10 ADMINISTRATION.

13-10.1 Enforcement. The duty of administering and enforcing the provisions of this chapter is hereby conferred upon the zoning officer, who shall have such powers as are conferred upon him by this chapter, and as reasonably may be implied. He shall be appointed by the township committee and shall receive such compensation as the township committee shall determine.

13-10.2 Duties of the Zoning Officer. It shall be the duty of the zoning officer, or his duly authorized assistants, to cause any plans, buildings, or premises to be examined or inspected to determine that they are not in violation of the provisions of this chapter. He shall have the right to enter any building or premises during the daytime in the course of his duties.

a. Where the zoning officer, in the course of his duties determines that any plans, buildings or premises are in violation of the provisions of this chapter, he shall order the responsible party in writing to remedy such conditions. The written order shall specify the nature of the violation found to exist,

the remedy order and the time permitted for such action, the penalties and remedies which may be invoked by the township, and the violator's rights of appeal; all as provided for by this chapter and the Laws of the State of New Jersey. On the serving of notice by the zoning officer to the owner of any violation of any of the provisions of this chapter, the certificate of occupancy for such building or use shall be held null and void. A new certificate of occupancy shall be required for any further use of such building or premises.

b. The zoning officer shall maintain a permanent record of all matters considered and all action taken by him. Such records shall form a part of the records of his office and shall be available for the use of the township committee and other officials of the township, county and State. The records to be maintained shall include at least the following:

1. Application file. An individual permanent file for each application for a zoning permit, including uses included in clustered developments and PUD's, as provided for by this chapter, shall be established at the time the application is made. The file shall contain one copy of the application and all supporting documents, maps and plans; notations regarding pertinent dates and fees, communications with the applicant or his representative as appropriate; a copy of any resolution resulting from any action taken by a municipal agency required in connection with the application; and date the permit applied for was issued or denied by the zoning officer.

2. Monthly report. The zoning officer shall prepare a monthly report for the township committee. The report shall cite all actions taken by the zoning officer including all referrals made by him, all permits and certificates issued and denied; and all complaints of violations received and all violations found by him, and the action taken by him consequent thereon. A copy of this monthly report shall also be transmitted by the zoning officer to the tax assessor, planning board and board of adjustment at the same time it is transmitted to the township committee.

13-10.3 Certificates and Permits. The certificates and permits required herein are established for the equitable enforcement and administration of the provisions of this chapter. A zoning permit, temporary use permit or conditional

use permit shall be a prerequisite to the issuance of a building permit as prescribed by the Uniform Construction Code.

a. Zoning permit. The zoning officer is hereby empowered to issue a zoning permit for any plans regarding the construction or alteration of any building, or the change in the use of any land or building or part thereof (including buildings and uses which are part of cluster developments or planned unit developments), after he has determined that such plans are not in violation of any of the provisions of this chapter.

b. Temporary use permit. Upon written direction of the board of adjustment, the zoning officer is hereby empowered to issue a temporary use permit. A temporary use permit shall only be effective for a period not to exceed six months; except that such permit may be extended by the zoning officer if authorized by the board of adjustment not more than once for an additional period not to exceed six months.

c. Conditional use permit. A conditional use permit shall be issued by the zoning officer upon written direction of a municipal approval agency authorized by law and municipal ordinance to review and approve applications for such permits. In the case of the failure of a municipal agency to act within the time periods prescribed, the zoning officer shall issue a zoning permit on presentation by the applicant of a certificate of final approval issued by the administrative officer of the municipal agency involved as provided by law.

d. Certificate of occupancy. The zoning officer is hereby empowered to issue a certificate of occupancy which shall certify that all provisions of this chapter have been complied with in respect to the location and use of the building, structure or premises in question.

#### 13-10.4 Application Procedures.

a. Procedures for a zoning permit. All applications for zoning permits shall be made to the zoning officer in such detail as described in subsection 13-10.5. Where the proposed use does not require site plan review by the planning board, (as set forth on the SCHEDULE OF DISTRICT REGULATIONS - FAIRFIELD TOWNSHIP or in subsection 12-3.2 of Chapter XII, Subdivision and Site Plan Review Regulations,) the zoning officer shall carefully consider the application and supporting documents for compliance with this chapter and

either issue or deny the zoning permit applied for. When the application is for a use for which site plan review is required, the zoning officer shall, prior to issuance of any zoning permit, transmit the required number of copies of such plans, drawings and statements to the administrative officer of the planning board according to specifications and time constraints contained in Chapter XII, Subdivision and Site Plan Review Regulations; and Chapter XV, Development Procedures. Applications for zoning permits requiring site plan review shall contain all of the information required for site plan submission contained in Chapter XII, Subdivision and Site Plan Review Regulations. No zoning permit shall be issued without evidence of approval by a municipal agency having authority to act on site plans in accordance with applicable regulations contained in Chapter XV, Development Procedures, and Chapter XII, Subdivision and Site Plan Review Regulations.

Pursuant to the provisions of N.J.S.A. 40:55D-1 et seq., an applicant may make application directly to the planning board or board of adjustment in cases requiring approval by said boards. In the event application is made in this manner, the administrative officer of the respective board shall provide the zoning officer with a copy of the application and all supporting documentation together with an indication of the date on which said application was determined to be complete. The zoning officer shall then establish an application file as specified in subsection 13-10.2, b, 1.

b. Procedures for temporary use permits. All applications for temporary use permits shall be made to the zoning officer. The zoning officer after determining that an application is complete, shall transmit one copy of the application and all supporting documentation to the administrative officer of the board of adjustment for its action thereon. Applications for temporary use permits shall be acted upon by the board of adjustment in accordance with the same time constraints specified for conditional uses in subsection 13-10.4, d, of this chapter, and Chapter XII, Subdivision and Site Plan Review Regulations. Upon approval of an application for temporary use, or upon certification of failure to act from the administrative office of the board of adjustment, the zoning officer shall issue a temporary use permit as provided in subsection 13-10.3, b.

c. Procedures for a certificate of occupancy. A certificate of occupancy shall be issued on a form provided by the



long as the use of the building or premises for which it was issued continues to conform to the requirements of this chapter. A record of all certificates shall be kept on file in the office of the zoning officer and copies of all certificates issued shall be forwarded to the township tax assessor.

d. Procedures for conditional use permit. Recognizing that certain uses, activities and structures are necessary to serve the needs and convenience of the township and, at the same time, recognizing that such uses may be or may become harmful to the public health, safety and general welfare if located and operated without proper consideration of existing conditions and the character of surrounding environment and uses, such uses are hereby designated conditional uses and listed as such under the appropriate zone district classification on the SCHEDULE OF DISTRICT REGULATIONS - FAIRFIELD TOWNSHIP. In addition to other powers conferred by this chapter, the planning board or zoning board of adjustment shall have the power to authorize the granting of a permit for a conditional use after site plan approval under the terms established in this chapter; Chapter XV, Development Procedures, Chapter XII, Subdivision and Site Plan Review Regulations; and in accordance with the following general stipulations and guidelines:

The use for which application is being made is specifically authorized as a conditional use for the district in which it is proposed. The design, nature and arrangement of the particular use is such that the public health, safety and welfare will be protected. Reasonable consideration is afforded the conservation of property values; the avoidance of congestion; the avoidance of unnecessary hazards; and the preservation and enhancement of the character of the neighborhood and district in which the use will be located.

1. All applications for conditional uses shall be made either to the zoning officer or to the administrative officer of the planning board (in which case formal notification to the zoning administration officer of application filing shall be forwarded to the zoning officer), except where the board of adjustment hears such an application as part of a variance application pursuant to subsection 15-3.8, b of Chapter XV, Development Procedures. The completeness of an application for conditional use permit shall be determined by the

zoning officer. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof, hereinafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure or to continue the use of a building, structure or premises as a legal, nonconforming use until a certificate of occupancy shall have been issued therefore by the zoning officer, stating that the proposed use of the building or land conforms to the requirements of this chapter.

1. Following the completion of construction, reconstruction or alteration of any building or structure, or prior to any change in the use of any building, structure or land, the applicant shall transmit, by registered mail, to the zoning officer a letter stating that such construction has been completed or that a new or changed use is being proposed. All applications for certificates of occupancy shall be accompanied by the required fee. Within ten days of the receipt of such a letter, the zoning officer shall make all necessary inspections of the completed structure and/or proposed use to determine conformance with the terms of this chapter and either issue a certificate of occupancy or a letter of denial stating the reasons therefore. On the serving of notice by the zoning officer to the owner of any property on which a violation of any of the provisions or requirements of this chapter exist, the certificate of occupancy for such use shall be deemed to be null and void and the person responsible for the violation shall be subject to the penalties hereinafter prescribed. A new certificate of occupancy shall be required for any further use of such land or building.

2. The zoning officer shall, upon proper application accompanied by necessary proof or documentation, issue certificates of occupancy for uses existing as of the effective date of this chapter in order to officially validate: (1) Legal conforming uses. (2) Legal nonconforming uses. (3) Legal status of uses previously approved by board of adjustment action.

3. A certificate of occupancy shall be issued only if the zoning officer finds that the requirements of this chapter are applicable supplementary actions or requirements by the board of adjustment, planning board or township committee have been complied with. Any certificate of occupancy shall be continued in force only so

triplicate with accompanying site plan. The materials to be submitted with each application shall clearly show the conditions on the site at the time of the application, the features of the site which are to be incorporated into the proposed use or building and the appearance and function of the proposed use or building.

a. Minimum application details. As a minimum, the application for any zoning permit or temporary use permit shall include the following information and plans for both "before" and "after" conditions:

1. The location, use, design, dimensions and height of each use and structure.
2. Building or structure setback distances from all property lines.
3. The relation to proposed uses or structures to existing uses and structures on adjoining lots.
4. The location and arrangement of vehicular accessways and the location, size and capacity of all areas used for off-street parking, loading and unloading.
5. The location and dimensions of sidewalks, walkways and other areas established for pedestrian use.
6. The location, size, material and landscape species of any structures or plants proposed for areas within 50 feet of the intersection of any vehicular driveway with a public road or street.
7. The size, type and location of any proposed sign.
8. Provisions for water supply, sewage disposal and storm drainage.
9. Such other data and plans as the zoning officer may require to properly take action on the application.

b. Applications requiring site plan review. Any application for a conditional use or other use or structure requiring site plan review as specified on the Schedule of District Regulations shall comply with all of the submission requirements

approving authority concurrently with his determination of the accompanying site plan application. The approving authority shall grant or deny an application for a conditional use within 95 days of submission of a complete application, or within such further time as may be consented to by the applicant.

2. A properly noticed public hearing on each application for a conditional use permit shall be held, concurrently with any required public hearing on an accompanying site plan, pursuant to the rules and requirements as contained in Chapter XV, Development Procedures.

3. Failure of the approving authority to act within the period prescribed shall constitute approval of the application and a certificate issued by the administrative officer, on request of the applicant, attesting to the failure of the approving authority to act shall be satisfactory authorization for the issuance of a zoning permit.

4. In approving an application for a conditional use permit, the approving authority may impose any modifications or conditions it deems necessary to carry out the intent of this ordinance or to protect the health, safety or general welfare of the public. Any permit for a conditional use shall be issued only in accordance with applicable requirements contained in this ordinance, Chapter XV, Development Procedures; Chapter XII, Subdivision and Site Plan Review Regulations; or that may be imposed by the approving authority in its action.

e. Duration of certain permits. If, after a zoning permit or special use permit has been authorized by the zoning board, the applicant has not obtained the permit within a period of six months from the date of such authorization shall be null and void and no permit shall be issued thereunder; unless the applicant shall have, prior to the expiration of the aforesaid six month period, made written application for an extension. Such extension shall be granted by the zoning board, for a period of not to exceed six months, upon good cause having been shown by the applicant.

13-10.5 Application Details. Each application for a zoning permit or a temporary use permit shall be made in

set forth in section 12-5 of Chapter XII, Subdivision and Site Plan Review Regulations.

13-10.6 Construction Code Fee Schedule. The fee for a construction permit shall be the sum of the basic construction fee plus all applicable special fees, and shall be paid before the permit is issued. Each fee shall be rounded up to the nearest dollar.

a. Plan review fee. The fee for plan review shall be 20 percent of the construction permit fee.

b. Training and certification fees. The Department of Community Affairs training and certification fees shall be \$0.0016 per cubic foot of volume.

c. Building subcode fees. The building subcode fee shall be:

1. The fee for new construction shall be \$0.025 per cubic foot of volume for buildings and structures. The fee for new construction of residential one-story garage or storage building shall be \$0.015 per cubic foot of volume.

2. The fee for new construction other than residential per cubic foot of volume shall be \$0.027 first 50,000 and \$0.02 from 50,001 to 1,000,000 and \$0.013 from 1,000,001 to 5,000,000 and \$0.006 from 5,000,001 and over.

3. Manufactured homes. In accordance with N.J.A.C. 5:23-4.18 (c), there are no fees for the factory built portion of the home. The fee shall be fifty-five (\$55.00) dollars per one thousand (\$1,000.00) dollars estimated cost of site construction associated with the installation of the manufactured home.

4. Farm structures. The fee for qualified farm structures shall be \$0.009 per cubic foot of volume with a maximum fee of eight hundred fifty (\$850.00) dollars per structure. The structure must be used exclusively for farm use and must be located on a qualified farm pursuant to the Farmland Assessment Act of 1964.

5. For renovation, alterations and repairs. Fifty (\$50.00) dollars for the first one thousand (\$1,000.00) dollars of estimated cost and fifteen (\$15.00) dollars per one thousand (\$1,000.00) dollars or fraction thereafter.

6. Swimming pools. For installation of swimming pools, above ground fifty (\$50.00) dollars and inground one hundred (\$100.00) dollars.

7. Underground storage tanks. Installation of underground storage tanks fifteen (\$15.00) dollars per 1,000 gallons.

d. Elevator subcode fees. The elevator subcode fees shall be computed in accordance with N.J.A.C. 5:23-4.20.

e. Fire subcode fees. Fire subcode fees are as set forth below:

1. Fire subcode fees for one and two family dwellings including certificate of occupancy, thirty-five (\$35.00) dollars minimum, 15 percent of building subcode fee and certificate of occupancy fee.

2. Fire subcode fees for all other structures except one and two family dwellings including certificate of occupancy, fifty (\$50.00) dollars, 10 percent of building subcode fee and certificate of occupancy fee.

3. Sprinkler and standpipe fees:

(a) NFPA 13 D sprinkler systems	\$30.00
(b) NFPA 13 R sprinkler systems	
First three units	50.00
Each additional unit	15.00
(c) NFPA 13 sprinkler systems	
First 20 heads	40.00
Each additional head	.40
Each riser	30.00

(d)	Standpipe system only	\$100.00
(e)	Standpipe system part of sprinkler system	25.00
(f)	Fire pump only	100.00
(g)	Fire pump - part of sprinkler system	50.00
4. Special suppression systems:		
(a)	Range hoods - Residential	15.00
(b)	Range hoods - Commercial	
	First one	35.00
	Each additional	20.00
(c)	Large systems	
	Carbon dioxide	
	1 - 75 lbs.	40.00
	Over 75 lbs. (per lb.)	.02
	Halogenated systems	
	1 - 35 lbs.	40.00
	Over 35 lbs. (per lb.)	.50
(d)	Large automatic cylinders	
	First	20.00
	Each additional	5.00
5. Fire alarms:		
(a)	Single station line voltage or residential system:	
	First 5 devices	25.00
	Each additional device	5.00

(b) Automatic commercial alarm system:

First 10 devices	\$ 50.00
11 to 50 devices	2.50 each
Over 50 devices	2.00 each

6. Exit signs and emergency lighting per floor (when not part of new construction) \$25.00

7. Heat producing devices, wood stoves and fireplaces:

One and two family	\$25.00
As part of new building	10.00

8. Removal of underground storage tanks:

First tank	\$50.00
Each additional tank	10.00

9. Installation of underground or above ground storage tanks:

Each tank	\$100.00
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10. For any item not listed above a special fee shall be determined by the construction official and the fire protection subcode official.

f. Fees for certificates and other permits. The fees for certificates and other permits are as follows:

1. Demolition of residential structures or accessory buildings.	\$ 75.00
All other use groups	
First 20,000 sq. ft.	125.00
Each additional 20,000 sq. ft or part thereof	50.00



2. Sign permits:

Per square foot	\$ .75
Minimum	35.00

3. Occupancy certificate for new construction:

Residential	\$50.00
All others	100.00

4. Relocate building or structure to new location (flat fee): \$500.00

This section is applicable to structures exceeding 300 square feet.

5. Reinstatement of permit:

Fifty (\$50.00) dollars applicable after one year of issuance date plus volume increase if applicable at time of reinstatement.

6. Lead abatement fees:

For permit	\$140.00
For clearance certificate	28.00

7. Asbestos abatement fees:

For permit	\$140.00
For clearance certificate	28.00

8. Zoning permit. The fee for all zoning permits issued by the township shall be fifteen (\$15.00) dollars;

9. Occupancy permit for existing dwellings. The fee for occupancy permits of existing dwellings issued by the township shall be fifty (\$50.00) dollars.

g. Fee schedule for electrical subcode.

1. Outlets:

(a) Fixtures, receptacles, switches, detectors, light poles, fractional hp-motors, emergency and exit lights, communication points, alarm devices/F.A.C. panel, thermostats.

1 - 50 in number	\$33.00
Each additional 25 outlets	5.00

2. Pool permit/with UW lights:

(a) Permanent above ground	\$33.00
(b) In ground pool including bonding	48.00
(c) Pool UW light and/or receptacle	10.00

\*NOTE—Sub panel for pools (by AMP size as listed above)

3. Storable pool (18 feet x 42 inches high)/spa/hot tub hydro-massage bathtubs, whirlpool, therapeutic pool, water fountain	\$15.00
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4. KW electric ranges/receptacles:

(a) 1 - 10 kW	\$9.00
(b) Over 10 kW	43.00

5. KW oven/surface unit:

(a) 1 - 10 kW	\$9.00
(b) Over 10 kW	43.00

6. KW electric water heater:

(a) 1 - 10 kW	\$9.00
(b) Over 10 kW	43.00

7. KW electric dryer/receptacles:

(a) 1 - 10 kW \$9.00

(b) Over 10 kW 43.00

8. KW dishwasher:

(a) Up to 10 kW \$9.00

(b) Over 10 kW	\$43.00
9. HP garbage disposal:	9.00
10. KW central A/C units:	
(a) Up to 5 ton or 10 kW	\$ 9.00
(b) Over 5 ton or 10 kW	43.00
11. HP/KW space heater/air handler/heat pump:	
(a) Up to 10 hp/1-10 kW	\$ 9.00
(b) 11 - 50 hp/11-45 kW	43.00
(c) 51 - 100 hp/112 kW	85.00
(d) Over 100 hp/over 112.5kW	423.00
12. KW baseboard heat:	
(a) Single unit	25.00
(b) Each additional unit	5.00
13. HP motors/pumps 1 + hp:	
Commercial refrigeration, walk-in units, display and storage units:	
(a) 1 - 10 hp	\$ 9.00
(b) 11 - 50 hp	43.00
(c) 51 - 100 hp	85.00
(d) Over 100 hp	423.00
14. KW transformer/generator:	
(a) Up to 10 kW	\$ 9.00
(b) 11 - 45 kW	43.00

(c) 46 - 112 kW \$ 85.00

(d) Over 112.5 kW 423.00

15. AMP service/sub-panels/motor control center/temporary:

(a) Up to 200 amps \$43.00

(b) 201 - 1000 amps 85.00

(c) Over 1000 amps 423.00

16. KW electric sign/outline lighting:

(a) Up to 10 kW \$ 9.00

(b) 11 to 45 kW 43.00

17. Capacitors:

(a) One unit \$30.00

(b) Each additional unit 5.00

Group capacitors—Charge as per motor schedule.

Note: Motors equipped with capacitors installed with original installation NO CHARGE .

18. Minimum fee: \$43.00

(a) Additional inspections:

(1) If a separate trench inspection is requested or necessary an additional fee of fifteen (\$15.00) dollars per inspection.

(2) All re-inspections of work covered under the National Electric Code and/or Uniform Construction Code for noncompliance, omission or addition (after required inspection), shall be performed for an additional fee of 50 percent of the

original fee or a minimum fee of fifteen (\$15.00) dollars per such inspection.

(b) For any item not listed above a special fee shall be determined by the construction official and the appropriate subcode official.

The fees charged herein shall be for each living unit or each multiple dwelling, apartment house or building and structures containing separate living units and all other building structure classifications.

h. Plumbing subcode fees. For each application the fees are as follows, but not limited to, see other paragraph.

1. Fixtures and appliances connected to the plumbing system:	\$9.00
(a) Water closet/bidet urinals	\$9.00
Bath tub	9.00
Lavatory	9.00
Shower/floor drain	9.00
Sink	9.00
Washing machine	9.00
Dishwasher	9.00
Commercial dishwasher	9.00
Water heater	9.00
Hose bibs	9.00
Water cooler	9.00
Garbage disposal	9.00
Indirect connection	9.00
Vent stack	9.00
2. Special devices:	
(a) Grease traps	\$60.00
Oil separators	60.00
Water-cooled air conditioners	60.00
Refrigerator units	60.00
Water utility connection	60.00
Sewer utility connection	60.00
Gas utility connection	60.00
Back flow preventers with test parts	60.00

Steam boilers/domestic boilers	\$60.00
Hot water boilers	60.00
Active solar systems	60.00
Sewer pumps	60.00
Interceptors	60.00
Fuel oil piping	60.00

3. Provided that the minimum plumbing fee shall be \$43.00.

Lawn sprinklers required	\$60.00
Back flow preventors	9.00

The fee shall be sixty (\$60.00) dollars per special device for the following, including grease traps, oil separators, water cooled air conditioning units, refrigeration units, utility connections, back flow preventors, steam boilers, hot water boilers, (excluding those for domestic water heating), gas piping, active solar systems, sewer pumps, interceptors and fuel oil piping, but not limited to.

13-10.7 General Provisions.

a. Amendments. The regulations, restrictions and boundaries set forth in this chapter may, from time-to-time, be amended, supplemented, changed or repealed in accordance with procedures established by applicable New Jersey statutes.

b. Penalties. Any person violating any of the provisions hereof shall, upon conviction, be subject to a penalty, either by imprisonment for not more than 90 days or by a fine not exceeding five hundred (\$500.00) dollars or both, in the discretion of the Court. Each and every day any violation continues shall be considered a separate offense, punishable by a like fine or penalty.

c. Effective date. This chapter shall take effect immediately upon final passage and publication in the manner prescribed by applicable New Jersey statutes.

the indoor temperature control from a single point, and nine hundred seventy-five (\$975.00) dollars for all other structures.

n. Application fee for variation. The fee for an application for a variation in accordance with N.J.A.C. 5:23-2.10 shall be four hundred twenty-three (\$423.00) dollars for class one structures (as defined by New Jersey Administrative Code) and eighty-five (\$85.00) dollars for class two and class three structures (as defined by the New Jersey Administrative Code). The fee for resubmission of an application for a variation shall be one hundred sixty-three (\$163.00) dollars for a class one structure and forty-six (\$46.00) dollars for class two and class three structure.

o. Annual permits. The fee to be charged for an annual construction permit shall be charged annually. This fee shall be a flat fee based upon the number of maintenance workers who are employed by the facility and who are primarily engaged in work that is governed by a subcode. Managers, engineers, and clerical shall not be considered maintenance workers for the purposes of establishing the annual construction permit fee. Annual permits may be issued for buildings/fire protection, electrical and plumbing. Fees shall be as follows: one to 25 workers (including foreman) four hundred twenty-five (\$425.00) dollars per worker; each additional worker over 25, one hundred sixty-five (\$165.00) dollars per worker.

Prior to the issuance of the annual permit, a training registry fee of one hundred (\$100.00) dollars per subcode shall be submitted by the applicant to the department of community affairs, a construction code element, training along with a copy of the construction permit (New Jersey State Form F-170). Checks shall be made payable to "Treasurer, State of New Jersey".

p. Miscellaneous provisions. Periodic inspections: Fee for periodic departmental or township official reinspection of equipment and facilities granted a certificate of approval for a specific duration in accordance with N.J.A.C. 5:23-2.23 shall be as follows:

For elevators, escalators and moving walks requiring reinspection every six months, the fee shall be sixty-five (\$65.00) dollars, except for each five year inspection and witnessing of tests on elevators, for which the fee shall be two hundred eight (\$208.00) dollars.



For dumbwaiters requiring reinspection every twelve months, the fee shall be twenty-six (\$26.00) dollars.

For cross connections and back flow preventers that are subject to testing, requiring reinspection every three months, the fee shall be thirty-three (\$33.00) dollars. For each device when they are tested (thrice annually), and eighty-five (\$85.00) dollars for each device when they are broken down and tested (once annually).

Reinspections: All reinspections of work covered under this code and made necessary by noncompliance, omission or addition (after inspection), shall be performed for an additional fee of 50 percent of the appropriate fee or a minimum fee of fifteen (\$15.00) dollars per such inspection.

All fees are to be rounded off to the nearest dollar. Checks are to be made payable to "Township of Fairfield".

Notes: For any item or system not listed above, a special fee shall be determined by the construction code official and the appropriate subcode official.

The fees herein shall be for each living unit or multiple dwelling, apartment house or building and structure classifications.

#### 13-10.7 General Provisions.

a. **Amendments.** The regulations, restrictions and boundaries set forth in this chapter may, from time-to-time, be amended, supplemented, changed or repealed in accordance with procedures established by applicable New Jersey statutes.

b. **Penalties.** Any person violating any of the provisions hereof shall, upon conviction, be subject to a penalty, either by imprisonment for not more than 90 days or by a fine not exceeding five hundred (\$500.00) dollars or both, in the discretion of the Court. Each and every day any violation continues shall be considered a separate offense, punishable by a like fine or penalty.

c. **Effective date.** This chapter shall take effect immediately upon final passage and publication in the manner prescribed by applicable New Jersey statutes.