

## Title 18 ZONING

**Chapters:**

**Chapter 18.04 GENERAL PROVISIONS**

**Sections:**

**18.04.010 Short title.**

This title shall be known as and may be cited as the "Zoning Ordinance of the Borough of Freehold."

(Prior code § 19-1)

**18.04.020 Purpose.**

The purpose of this title is to provide rules, regulations and standards concerning the use to which land is put, and the size, shape and placement of buildings on the land in the borough in order to insure the public health, safety, morals and welfare of the municipality. It shall be administered in accordance with this comprehensive plan toward the end of providing adequate light and air and preventing the overcrowding of land or buildings. It shall further be administered with a view of conserving the value of property and encouraging the most appropriate use of land throughout the municipality.

(Prior code § 19-2)

**18.04.030 Districts—Map—Lot and building schedule.\***

A. Districts. For the purpose of this title, the borough is divided into nineteen (19) zoning districts, as follows:

Symbol	Names
R-10	Residential
R-7	Residential
R-6	Residential
R-5	Residential
R-4	Residential
A	Apartment residential
B-1	Office commercial
B-1A	Limited professional office district
B-2	General commercial
B-2A	General commercial
B-2B	General commercial
C-M	Commercial marketing
PRD	Planned residential development
T-H	Townhouse residential
RCR	Residential/commercial redevelopment

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REC	Recreational Zone
MCM	Modified Commercial Manufacturing District
RPO	Residential Professional Office District
SRO	Specialty Retail Office District

B. Maps and Boundaries. The zoning map shall be amended so as to delete Block 77 Lot 36 from the current district designation and so as to incorporate said lot into the REC recreational zone district.

The zoning map shall be amended so as to delete Block 108 Lot 11 and the portion of Lot 12 that is within three hundred (300) feet of Jerseyville Avenue from the current designation and so as to incorporate said lots into the C-M commercial manufacturing zone district.\*\*

C. Map Interpretation. Where uncertainty exists with respect to any of the boundaries as shown on the zoning map, the following rules shall apply:

1. The district boundary lines are intended to follow street center lines and lot or property lines as they existed on December 29, 1969, unless otherwise indicated by dimensions on the zoning map.
2. Where a boundary line is shown as approximately following the center line of a street or highway, a street line or highway right-of-way line, such center line, or such street line or right-of-way line shall be construed to be such boundary.
3. Where a boundary line is shown as approximately parallel to a street, highway, stream or railroad line, such boundary shall be construed as being parallel thereto and at such distance from the center line thereof as indicated on the zoning map.
4. Where a zone boundary line divides a lot at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided the lot has frontage only on a street in the less restricted zone.

D. Schedule. A schedule of area, height and building requirements adopted as part of this zoning title, is deemed to be a part of this title, and the regulations established herein shall be construed as minimum regulations.

(Ord. 2005/24 §§ 1, 2; Ord. 2001/3 § 1; Ord. 27/99 § 1; prior code 319-3)

(Ord. No. 2013/2, § 2, 4-15-13)

\* Editor's Note: The schedule referred to herein may be found at the end of this title.

\*\* Editor's Note: The zoning map referred to herein may be found at the end of this title.

#### **18.04.040 Definitions and interpretation.**

Certain words and phrases are used in this title which, for the purpose hereof, are defined and interpreted as set forth in this section.

- A. Interpretation. The word "lot" includes the word "plot" or "premises;" the word "building" includes the word "structure" or "dwelling;" the word "occupied" includes the words "designated or intended to be occupied;" the word "used" includes the words "arranged, designed, or intended to be used;" the phrase "nonconforming use" includes "nonconforming lots or buildings."
- B. Definitions. Certain words and terms in this title are to be interpreted as defined below:

"Accessory building or use" means building or use of land, the use of which is customarily incidental and subordinate to the principal use of land or buildings, and located on the same lot with such principal use or building.

"Alterations," as applied to a building or a structure, means a change or re-arrangement in the structural parts or in the existing facilities or an enlargement whether by extension of a side or by increasing in height or by moves from one location or position to another. Such structural parts shall include, but not be limited to, bearing walls, supporting columns, beams or girders.

"Apartment" means multiple-family dwelling structure so laid out and planned that no unit can be sold independently on a separate parcel of land.

"Bed and breakfast residence" means a private, single-family residence that is year-round owner-occupied, which provides overnight lodging for no more than twelve (12) transient guests as a subordinate use, and provides breakfast only for registered guests and their visitors before noon each day. Multifamily dwellings may be converted to bed and breakfast residences so long as there is only one owner occupant family residing in the residence.

"Billboard" or "signboard" means any structure or portion thereof situated on private premises on which lettered or pictorial matter is displayed for advertising purposes other than those on a building or its grounds giving the name and occupation of the user of the premises, the nature of the business conducted thereon, or the products primarily sold or manufactured thereon.

"Boarding house" means any dwelling in which more than three persons either individually or as families are housed or lodged for hire with or without meals. A rooming house or furnished room house shall be deemed a boarding house.

"Building" means a combination of materials to form a construction adapted to permanent, temporary or continuous occupancy and having a roof. Decks, patios or raised platforms without roofs over eighteen (18) inches above grade shall be considered as part of the building and must comply with all building setback requirements.

"Building area" means the total of areas of outside dimensions on a horizontal plane at ground level of the principal building and all accessory buildings. Fifty (50) percent of the area of unroofed porches, terraces, steps, decks, patios or raised platforms having a vertical face of less than eighteen (18) inches above the level of the ground from which the height of the building is measured shall be counted toward the building area.

"Building coverage" shall mean the percentage of lot area covered by building area.

Building, Front Line of. "Front line of building" means the line of that face of the building nearest the street line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed but does not include steps.

Building, Height of. "Height of building" means the vertical distance measured from the mean elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Building, Principal. "Principal building" means a building in which is conducted the main or principal use of the lot on which the building is situated.

"Buildings" means any structure having a roof supported by columns or posts or by walls and intended for the shelter, housing or enclosing of persons, animals, or goods including tents, lunch wagons, and trailers.

"Business office" means a business establishment which does not offer a product or merchandise for sale to the public but offers a service to the public. However, personal services, such as barber and beauty

shops and repair services, such as radio and television repair shops, shall not be included within the definition of business services.

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

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

"Common open space" means an open space area within a site designated as a planned residential development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complemented structures and improvements as are necessary and appropriate for the use or of enjoyment of residents and owners of the development.

"Cul-de-sac" means a dead-end public street having a circular or other turnaround at its closed end.

"Density" means the permitted number of dwelling units per gross acre of land to be developed. Lands within a one hundred (100) year flood plain as determined by the N.J.D.E.P. or by the borough engineer shall not be considered as land to be developed.

"Dwelling" means a building or portion thereof, but not an automobile house trailer, designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, and multiple-family dwellings, but not hotels or motels.

Dwelling, Multiple-Family. "Multiple-family dwelling" means a building designed for or occupied exclusively by three or more families living independently of each other.

Dwelling, Single-Family or One-Family. "Single-family or one-family dwelling" means a detached building designed for or occupied exclusively by one family.

Dwelling, Two-Family. "Two-family dwelling" means a building designed for or occupied exclusively by two families living independently of each other.

"Dwelling unit" means one or more rooms arranged for the use of one or more individuals living together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

"Family" means one or more persons customarily living together as a single housekeeping unit, related to each other by birth or marriage or not to exceed four unrelated individuals, as distinguished from a group occupying a boarding house, lodging house or hotel.

"Fence" means an artificially constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials erected for the enclosure of yard areas.

"First Floor Area" shall be measured by using the outside dimensions of the residential portion of a building, excluding the area of an attached garage. For split level or tri-level dwelling, the area shall be considered to be the sum of the areas of two adjoining levels.

Garage, Private. "Private garage" means a detached accessory building or portion of a main building for the parking or storage of automobiles of occupants of the main building for the storage of not more than three motor vehicles, and wherein not more than one commercial vehicle not to exceed two tons in net weight is parked or stored.

Gasoline Station. See "Motor vehicle service station."

"Grocery/grocery store/convenience store" means a store selling food products which might also sell various household and sundry items directly to consumers.

"Gross habitable floor area" means the sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy. The areas shall be measured between the inside face of exterior walls, or from the center line of walls separating two dwelling units. The areas shall not include areas below the average level of the adjoining ground, garage space, utility rooms or building space.

"Guest room" means a room or combination of rooms in a bed and breakfast residence which is occupied, arranged or designed to be occupied by no more than four guests, and which contains no cooking facilities.

"Home occupation" means an occupation or activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit.

Home occupations shall conform to the following standards:

1. No changes in the exterior appearance of the dwelling shall be made.
2. No signs advertising the home occupation are permitted.
3. No client visits are permitted.
4. There shall be no retail sales of goods.
5. There shall be no mechanical equipment used except that which is ordinarily used for housekeeping purposes or for any purpose normal to the habitation of a dwelling.
6. Not more than one person who is a non-resident of the dwelling unit may be employed.
7. One additional off-street parking space shall be provided for an outside employee. This shall be in addition to the normal residential parking requirement for the subject property.
8. The maximum floor area devoted to the home occupation shall be limited to twenty (20) percent of the total habitable square footage of the dwelling exclusive of any basement or attics.
9. There shall be no outside storage of materials or equipment.
10. A resident who intends to conduct a home occupation must apply for and obtain a zoning permit prior to commencement of the home occupation.

"Hotel" means a building designed and used exclusively for the provision of sleeping accommodations at a daily rate for the general public as transient guests for periods not to exceed thirty (30) consecutive days, with full-time, on-site management. Each room shall contain at least one bedroom, one bathroom, and one closet and must provide maid or cleaning services on a daily basis. None of the rooms or suites shall have a full kitchen, and none shall have a gas/electric range or oven, but they may provide a sink, microwave oven, and/or mini-refrigerator. Ancillary facilities may include restaurants, cocktail lounges, guest services shops (for newspapers, magazines, personal goods, souvenirs, sundries and similar types of items customarily provided in a motel or hotel facility), meeting rooms, banquet rooms, exercise rooms and computer rooms provided same are located within the building.

Hotels must meet all design criteria as set forth in this chapter.

"Junk yard" means any area or structure used or intended to be used for the conducting and operating of selling, buying, storing, or trading in used or discarded metal, glass, paper, cordage or any used or disabled

fixtures, vehicles or equipment of any kind. The storage or other use of temporarily disabled licensed vehicles in conjunction with a public garage shall not be considered a junk yard.

"Lot" means a piece of parcel of land, abutting on a street, whose area, in addition to the parts thereof occupied or which may be hereafter occupied by the principal building and its accessory buildings, is sufficient to provide the yard spaces required by the latest official records, maps or ordinances.

"Lot area" means an area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a street right-of-way shall not be included in calculating lot area.

"Lot corner" means a parcel of land at the junction of and fronting on two or more intersecting streets.

"Lot coverage" means that percentage of the lot area which is overlain by buildings, building area, or structures and/or materials which results in the reduction and/or prevention of absorption of water into the ground and the lot area expressed in terms of a percentage of the total lot area. For purpose of calculating lot coverage, the total area of the water surface of in-ground swimming pools, patio pavers with non-mortar joints and a minimum of one-fourth inch joint, and above ground decks shall be calculated at fifty (50) percent of the total area of such. Non-compacted gravel shall be calculated at eighty (80) percent of the total area of gravel.

"Lot depth" means a mean horizontal distance between the front and rear lot lines, measured at right angles to the street at two equidistant points on the front lot lines and in the general direction of the lot lines.

Lot, Interior. "Interior lot" means a lot other than a corner lot.

Lot Line, Front. "Front lot line" means that boundary of a lot which is along an existing or dedicated public street, or where no public street exists, is along a public way, except that within a residential district, the front line of a corner lot shall be along the street or road on which it has the least frontage. When a corner lot shall have equal frontage on both streets or roads, or shall have more than required lot depth on both streets or roads, the owner may elect which street or road he desires to front on.

Lot Line, Rear. "Rear lot line" means that boundary of a lot which is most distant from and is most nearly parallel to the front lot line.

Lot Line, Side. "Side lot line" means any boundary of a lot which is not a front lot line or a rear lot line.

"Lot width" means the horizontal distance between the side lot lines measured at right angles to its depth, and at a point which constitutes the rear line of the required front yard space.

"Manufacturing" means the treatment or processing of raw materials and the production of articles or finished products from raw or prepared materials by giving them new forms or qualities.

"Motel" or "hotel" means a building containing rooms used, rented, or hired out to be occupied for sleeping purposes by guests and where no cooking or dining facilities are provided except a central facility which may be open to all guests or to the general public.

"Motor vehicle service station" means a building or use which is designed or intended to be used for the supply of gasoline, oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, dry cleaning or otherwise cleaning or servicing such motor vehicles, but not including a conveyor type car wash or auto laundry.

"Nonconforming building" means a building or structure or portion thereof lawfully existing on December 29, 1969, which was designed, erected or structurally altered or located in a manner that does not conform to the dimension or area regulations of the district in which it is located.

"Nonconforming lot" means a lot record existing on December 29, 1969, which does not have the minimum width or contain the minimum area for the zone in which it is located.

"Nonconforming use" means any use of land, buildings or structures which does not comply with all of the regulations of this title governing uses for the zone in which such use is located.

"Nuisance factors" means an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion or disturbance of another's right, including the actual or potential emanation of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, or any other characteristic detrimental to the value or use of an adjacent property, such as:

1. Noise;
2. Dust;
3. Smoke;
4. Fumes;
5. Odor;
6. Glare;
7. Flashes;
8. Vibration;
9. Shock waves;
10. Heat;
11. Electronic or atomic radiation;
12. Objectionable effluent;
13. Noise of congregation of people, particularly at night;
14. Passenger traffic;
15. Transportation of things by truck, rail or other means;
16. Invasion of non-abutting street frontage by parking;
17. The obscuring or masking of adjacent or nearby property by projecting signs, marquees, or canopies;
18. Any adverse effect on value or desirability of nearby property caused by such matters as incongruous appearance, exposed storage of inoperable automobiles, junk, materials, and neglect or dilapidation of land or buildings, exposed parking of commercial vehicles on residential lots;
19. Unusual risks of fire or explosion, such as manufacture or storage of wood, fuel, or explosives;
20. Similar matters covered by other ordinances;
21. Parking of motor vehicles in required front yards, on other than established driveways.

"Open space" means an unoccupied space open to the sky on the same lot with a principal or accessory building.

"Parking space" means an off-street space available for the parking of a motor vehicle and which in this title is held to be an area ten (10) feet wide and twenty (20) feet long, exclusive of passageways and driveways appurtenant thereto and giving access thereto.

"Planned residential development" means an area with a specified minimum contiguous acreage of five acres or more to be developed as a single entity according to a plan containing one or more residential clusters, which may include public or quasi-public uses all primarily for the benefit of the residential development.

"Restaurant" means any establishment, however designated, at which food is sold for consumption on the premises, but normally to patrons seated within an enclosed building. However, a snack bar at a public or a community playground, playfield, park, or swimming pool operated solely by the agency or group operating the recreational facilities, and for the convenience of patrons of the facility, shall not be deemed to be a restaurant.

Restaurant, Drive-In. "Drive-in restaurant" means an establishment where patrons are served food, soft drinks, ice cream, and similar confections for principal consumption outside the confines of the principal building or in automobiles parked upon the premises, regardless of whether or not, in addition thereto, seats or other accommodations are provided for the patrons.

"Room" includes living rooms, dining rooms, kitchens and bedrooms. Kitchenettes, which do not include space for eating and dining areas in which one full wall is open into a living room area shall be counted as one-half room. Baths shall not count as rooms.

Setback Line. See "Building, Front Line of."

"Sign" means 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, badge, or insignia or any public, quasi-public, civic, charitable or religious groups.

"Sign area" means the area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign, the area shall be defined by a projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines the sign.

Sign, Identification. "Identification sign" means any sign which shall be used to advertise and identify the business conducted on the premises where the sign is located.

Sign, Lighted. "Lighted sign" means a sign which is provided with a light shining on it so that it may be read after dark, but does not include lighting by neon tubes, or internal illumination.

"Site plan" means a plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings, and any other information deemed necessary by the planning board in unusual or special cases.

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

Story, Half. "Half story" means that portion of a building under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such half-story.

"Street" means a public thoroughfare which has been dedicated or deeded to the public for public use which has been improved in accordance with municipal standards.

"Street lines" means the line which separates the publicly owned or controlled street right-of-way from the private property which abuts upon the street, as distinct from a sidewalk line, curb line or edge of pavement line. On a street or highway shown on the adopted master plan of the borough, the street line shall be considered to be the proposed right-of-way for the street.

"Structure" means a combination of materials to form a construction that is safe and stable and includes among other things, stadiums, platforms, radio towers, sheds, storage bins, fences and display signs.

Swimming Pool, Private. "Private swimming pool" means a private swimming pool associated with a residential dwelling unit or units and located on an individual residential lot.

"Townhouse" means a single-family dwelling with one or more party walls on a lot with street frontage and susceptible to individual sale.

1. A "townhouse dwelling unit" is one of a series of single-family dwelling units which may be attached by a common wall between it and the adjacent unit or units, together with individual front and rear yards designed as an integral part of each unit, and having been constructed in conformity with applicable rules, regulations, and ordinances of the borough.
2. A "townhouse dwelling structure" is a structure containing two or more townhouse dwelling units.
3. A "townhouse complex" is an integrated scheme of townhouse dwelling structures and common lands or facilities.
4. A "townhouse parcel" is an entire tract upon which a townhouse complex shall be built.
5. A "townhouse lot" is a parcel of land intended to be conveyed in fee simple to an individual purchaser, together with a townhouse dwelling unit constructed thereon.

"Use" means the specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

"Yard" means an open space on the same lot with a main building unoccupied and unobstructed from the ground upward, except as otherwise provided in this title.

Yard, Front. "Front yard" means an open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front of the building and the street line. Covered porches whether enclosed or unenclosed shall be considered as part of the main building and shall not project into a required front yard.

Yard, Rear. "Rear yard" means an open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot, or the entire line of the alley, if there be an alley, and the rear line of the building.

Yard, Side. "Side yard" means an open unoccupied space on the same lot with a main building situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the front boundary of the side yard is to be the front line of the lot and if no rear yard is required, the rear boundary of the side yard shall be the rear line of the lot.

"Zoning officer" means the officially established zoning officer of the borough.

"Zoning permit" means a permit stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this title for the zone in which it is located or is to be located.

(Ord. 2006/19 § 1; Ord. 16/96 § 2; prior code § 19-20)

(Ord. No. 2013/2, § 2, 4-15-13; Ord. No. 2018/1, § 1, 3-19-18)

### **18.04.050 Amendments.**

All amendments to this title and to the zoning map which forms a part hereof shall be adopted in accordance with the provisions of the New Jersey Revised Statutes, as most recently amended.

The applicable provisions of the revised statutes are set forth below for information, but shall not constitute a part of this title:

40:55-34

No zoning ordinance or ordinance authorized under The "Municipal Planned Unit Development Act (1967)" shall be adopted, amended, or repealed until after public hearing thereon by the governing body or board of public works, at which parties in interest and citizens shall have an opportunity to be heard. Said ordinance and notice of the time and place of hearing thereon shall be published at least once in an official newspaper, if there be one or otherwise in a newspaper of general circulation in the municipality, and such publication shall take place ten (10) or more days prior to such hearing.

Within 30 days after the adoption of any such ordinance or amendment thereto, a copy of said document shall be transmitted to the county planning board for its information and files.

The municipal clerk shall notify the county planning board of the introduction of any revision or amendment of any such ordinance which affects lands adjoining county roads or other county lands, or lands lying within two hundred (200) feet of a municipal boundary, or proposed facilities or public lands shown on the county master plan or official county map. Such notice shall be given to the county planning board at least ten (10) days prior to the public hearing thereon by personal delivery or by certified mail of a copy of the official notice of the public hearing together with a copy of the proposed ordinance.

40:55-35.

Such regulations, limitations and restrictions may be amended, changed, modified, or repealed, and the boundaries of such districts may be changed, by ordinance, but no amendment or change shall become effective unless the ordinance proposing such amendment or change shall first have been submitted to the planning board, when such board exists, for approval, disapproval or suggestions, and the planning board shall have a reasonable time, not less than thirty (30) days, for consideration and report, and in the case of an unfavorable report by the planning board such amendment shall not become effective except by a favorable vote of two-thirds of the governing body. In case of a protest against such proposed change signed by the owners of twenty percentum (20%) or more either of the area of the lots or land included in such proposed change, or of the lots or land in the rear thereof extending one hundred (100) feet therefrom, or of the lots or land on either side thereof or directly opposite thereto extending one hundred (100) feet therefrom (exclusive of street space), such change shall not become effective except by the favorable vote of two-thirds of all the members of the governing body or board of public works of such municipality.

(Prior code § 19-26)

## **Chapter 18.06 SPECIAL IMPROVEMENT DISTRICT AND DESIGNATION OF A DISTRICT MANAGEMENT CORPORATION**

### **Sections:**

#### **18.06.010 Purpose.**

The purposes of this chapter are as follows:

- A. Promote economic growth and employment within the downtown business district;
- B. Foster and encourage self-help programs to enhance the local business climate;
- C. Create a self-financing special improvement district to assist in meeting local needs, goals and objectives.
- D. Designate a district management corporation to assist in managing self-help programs and in carrying out local needs, goals, and objectives.

(Ord. No. 28/91, § 1, 9-16-91)

#### **18.06.020 Definitions.**

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

- A. "Special improvement district" (sometimes also referred to as "district") means an area within the Borough of Freehold designated by this chapter as an area in which a special assessment on property within the district shall be imposed for the purposes of promoting the economic and general welfare of the district and the municipality.
- B. "District management corporation" means the Freehold Center Management Corporation, (also referred to as "management corporation"), an entity incorporated pursuant to Title 15A of the New Jersey Statutes and designated by this chapter to receive funds collected by a special assessment within the special improvement district, as authorized by this chapter and any amendatory supplementary ordinances.

(Ord. No. 28/91, § 2, 9-16-91)

#### **18.06.030 Findings.**

The mayor and council find and declare:

- A. The central business areas of the Borough of Freehold have special needs and require special services that can best be achieved through a private public partnership implemented by a special improvement district and managed by a district management corporation.
- B. The creation of a special improvement district and the designation of the district management corporation will promote economic growth and employment, foster and encourage business vitality expansion and self-help; enhance the local business climate and otherwise be in the best interest of the property owners in the district and in the overall municipality.

- C. That the area within the Borough of Freehold and as described by lot and block numbers and by street addresses as set forth in Schedule A of the ordinance [from which this chapter derived] will benefit from being designated as a special improvement district.
- D. That a district management corporation would provide administrative and other services to benefit the businesses, employees, residents, and consumers in the special improvement district. Also, the management corporation will assist the borough in promoting economic growth and employment.
- E. That a special assessment shall be imposed and collected by the borough with the regular property tax payment or payment in lieu of taxes or otherwise, and that all or a portion of these payments shall be transferred to the district management corporation to effectuate the purposes of this chapter and to exercise the powers given to it by this chapter.

(Ord. No. 28/91, § 3, 9-16-91)

#### **18.06.040 Creation of district.**

- A. There is hereby created and designated within the Borough of Freehold a special improvement district to be known as the Freehold Special Improvement District consisting of the properties designated on the map prepared by Cranmer Engineering entitled "Special Improvement District" attached hereto as Schedule "A" and on file in the borough clerk's office. The special improvement district shall be subject to special assessments on all affected property within the district which assessment shall be imposed by the Borough of Freehold for the purposes of promoting the economic and general welfare of the district and the municipality.
- B. All business and income-producing properties within the special improvement district are deemed included in the assessing and taxing provisions of this chapter and are expressly subject to potential tax or assessment made for special improvement district purposes. Tax exempt, public housing facilities and non-rental residential properties shall be excluded from the assessing and taxing provisions of this chapter and are expressly not subject to potential tax or assessment made for special improvement district purposes.
- C. All properties within the special improvement district that are tax exempt or used strictly for non-rental residential purposes, are deemed excluded from the assessing or taxing provisions of this chapter and are expressly exempt from any tax or assessment made for special improvement district purposes.
- D. Those portions of mixed use properties that are owner-occupied residences, or residences occupied by immediate family members of the owner at a nominal rent are deemed excluded from the assessing or taxing provisions of this chapter and are expressly exempt from any tax or assessment made for special improvement district purposes.
- E. Any property owner claiming exclusion from the assessing or taxing provisions of this chapter by virtue of tax exemption or non-rental residential uses as set forth in [Subsections] C. and D. above shall provide an annual certification evidencing the continuing tax exemption or non-rental residential use to the tax assessor on or before September 15 of each calendar year.

The assessor shall submit the list of exempt or excluded properties to the district management corporation by October 1 of each year. The district management corporation and any other interested party shall have until November 1 of each year to file an objection to the exclusion of any property from the assessing and taxing provisions of the district. Said objection must be in writing, with notice to the affected property owner, setting forth in detail the basis for the objection. The decision of the assessor shall be final, subject to the filing of a tax appeal by any interested party.

Any property losing its exempt status shall be included in the assessing and taxing provisions of this chapter as soon as practicable.

(Ord. No. 28/91, § 4, 9-16-91; Ord. No. 34/94, § 1, 8-15-94; Ord. No. 2006/27, § I, 9-5-06; Ord. No. 2012/2, § I, 2-6-12)

#### **18.06.050 Assessments.**

- A. It is hereby determined that the operation and maintenance of the district may involve annual costs relating to services peculiar to the district that are distinguished from operation and maintenance services normally provided by the borough outside of the district. Those annual costs shall be assessed or taxed to the benefited properties or businesses pursuant to this chapter and N.J.S.A. 40:56-65 et seq. The properties to be assessed or taxed to provide for the payment of such annual costs are described in Section 18.06.040 hereof.
- B. Each year, when the mayor and council shall have acted on the estimated costs and/or on the budget of the district, the assessor shall prepare an assessment roll setting forth, separately, the amounts to be specially assessed against the benefited and assessable properties in the district. Description of such properties, and the names of the then current owners of such properties, so far as names are available shall be included in each annual assessment roll. The assessment roll, when so prepared, shall be filed in the office of the municipal clerk and be there available for inspection. The mayor and council shall annually meet to consider objections to the amount of such special assessments at least ten (10) days after a notice of hearing has been published once in the official newspaper and mailed to the named owners of all tracts, parcels and lots of property proposed to be assessed. The notice shall set forth the time and place of the meeting, and set forth the purpose of such meeting, but may refer to the assessment roll for further particulars. When the governing body shall have approved the amounts of the special assessments set forth therein, or as may be changed by it, the municipal clerk shall forthwith certify a copy of the assessment roll to the Monmouth County Tax Board.

(Ord. No. 28/91, § 5, 9-16-91)

#### **18.06.060 The designated district management corporation.**

- A. The non-profit corporation, the Freehold Center Management Corporation, New Jersey, Inc., trading as the Freehold Center Partnership, is hereby designated as the district management corporation for the district. This management corporation, in addition to acting as an advisory board to the mayor and council, shall have all powers necessary and requisite to effectuate the purposes of this chapter and the district, including, but not limited to:
  - 1. Adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties.
  - 2. Employ such persons as may be required, and fix and pay their compensation from funds available to the corporation.
  - 3. Apply for, accept, administer and comply with the requirements respecting an appropriation of funds or a gift, grant or donation of property or money;
  - 4. Make and execute agreements which may be necessary or convenient to the exercise of the powers and functions of the corporation, including contracts with a person, firm, corporation, governmental agency or other entity;
  - 5. Administer and manage its own funds and accounts and pay for its own obligations;

6. Borrow money from private lenders for periods not to exceed one hundred eighty (180) days and from governmental entities for longer periods.
  7. Fund the improvement for the exterior appearance of properties in the district through grants or loans;
  8. Fund the rehabilitation of properties in the district.
  9. Accept, lease or manage property in the district.
  10. Enforce the conditions of any loan, grant, sale or lease made by the corporation.
  11. Provide security, sanitation and other services to the district supplemental to those provided normally by the municipality.
  12. Undertake improvements designated to increase the safety or attractiveness of the district to businesses which may wish to locate there or to visitors to the district, including but not limited to, litter cleanup and control, landscaping, parking areas and facilities, recreational and rest areas and facilities, pursuant to pertinent regulations of the Borough of Freehold.
  13. Publicize the district and the businesses included within the district boundaries.
  14. Recruit new businesses to fill vacancies in, and to balance the business of, the district.
  15. Organize special events in the district.
  16. Provide special parking arrangements for the district.
  17. Provide temporary decorative lighting in the district.
  18. Advise the council in connection with the acquisition and construction of improvements in the special improvement district, the making of a plan therefore, and to meet and furnish recommendations or comments and requests of members of the public and of owners and occupants of property included within the special improvement district.
- B. 1. In order to receive any funds or exercise any of the powers granted herein, the board of trustees/directors of the Freehold Center Management Corporation ("management corporation"), trading as Freehold Center Partnership and/or Downtown Freehold shall include as voting members the mayor or a designee named by the mayor and a member of the borough council as selected by the council.
2. a. Membership in the management corporation shall be open to all property owners and business operators located within the defined area.
- b. The board of trustees/directors may include up to three residents nominated by the board of trustees/directors.
  - c. The board of trustees/directors shall include a representative/designee of the board of chosen Freeholders as a nonvoting member.
  - d. Representatives/designees of nonprofit organizations may be nonvoting members of the management corporation.
  - e. Residents of Freehold Borough may participate in the management corporation in a nonvoting capacity.
  - f. Other than as specifically set forth herein, nonresidents who are not property or business owners within the defined area may not be voting or nonvoting members of the management corporation.
- C. Elections for the board of directors shall take place annually at the annual meeting.

1. Notice of the election shall be made by posting on the borough and management corporation website and by mailing to all property owners and registered business operators in the defined area at least fourteen (14) calendar days prior to the election. The borough clerk shall send out the notices at the expense of the management corporation. The management corporation and the borough clerk shall confer and approve the list of eligible business owners.
  2. Voting shall take place at borough hall between the hours of eight-thirty a.m. to four-thirty p.m. on the two business days prior to the annual meeting and on the day of the annual meeting between the hours of eight-thirty a.m. to four-thirty p.m. and five-thirty p.m. to six-thirty p.m.
  3. Voting may be in person or by vote by mail. Forms of vote by mail ballots shall be available from the office of the borough clerk at least twenty-one (21) days prior to the election and shall be received by the borough clerk no later than six-thirty p.m. on the day of the election. No vote by mail ballots shall be issued unless the recipient has been verified by the clerk as an eligible voter. Each vote by mail ballot shall be numbered sequentially and the clerk shall record the name of the recipient of each ballot and the assigned ballot number. Votes will be tallied by the borough clerk or the clerk's designee.
  4. Every property owner in the designated area will be entitled to one vote, regardless of the number of properties owned.
  5. Every business owner in the designated area will be entitled to one vote, regardless of the number of businesses owned.
- D. The Freehold Center Management Corporation shall file with the borough clerk a certified copy of the adopted bylaws of the corporation, which shall be in substantial conformity with the terms of this section and which shall be subject to the approval of the governing body. The Freehold Center Management Corporation shall have the right to amend its bylaws from time to time provided that they remain in substantial conformity to the terms of the enabling ordinance and subject to the approval of the governing body.

(Ord. No. 28/91, § 6, 9-16-91; Ord. No. 2016/4, § 1, 5-16-16)

#### **18.06.070 Municipal powers retained.**

- A. Notwithstanding the creation of a special improvement district, the Borough of Freehold expressly retains all its powers and authority over the area designated as within the special improvement district.
- B. Nothing contained herein shall be interpreted or construed to be a vacation, in whole or in part, of any municipal street or part thereof.
- C. The district management corporation shall not make or enter into any contracts for the improvement of any publicly-owned or operated facility or property within the special improvement district, nor adopt any regulations relating to public property in such district.
- D. The district management corporation shall comply with all applicable ordinances or regulations of the Borough of Freehold.

(Ord. No. 28/91, § 7, 9-16-91)

#### **18.06.080 Annual budget.**

- A. The fiscal year of the district shall be July 1 through June 30.

- B. The district management corporation shall submit to the mayor and council a detailed annual budget for the upcoming fiscal year by May 1.
- C. The budget shall be submitted with a report which explains how the budget contributes to goals and objectives for the special improvement district. The budget shall be reasonably itemized and shall include a summary of the categories of cost properly chargeable as follows:
1. The amount of such costs to be charged against the general funds of the municipality, if any.
  2. The amount of costs to be charged and assessed against properties benefited in the district in proportion to benefits which shall be the aggregate of costs of annual improvements to be made in the district during the ensuing year.
  3. The amount of costs, if any, to be specially taxed against properties in the district.
- D. The budget shall be introduced, approved, amended and adopted by resolution passed by not less than a majority of the full membership of the governing body.
- The procedure shall be as follows:
1. Introduction and approval;
  2. Public advertising;
  3. Public hearing;
  4. Amendments and public hearings, if required;
  5. Adoption.
- E. The budget shall be introduced in writing at a meeting of the governing body. Approval thereof shall constitute a first reading, which may be by title.
- Upon the approval of the budget by the governing body, it shall fix the time and place for the holding of a hearing upon the budget.
- F. The budget shall be advertised after approval. The advertisement shall contain a copy of the budget and shall set forth the date, the time, and the place of the hearing. It shall be published at least ten (10) days prior to the date fixed therefore, in the official newspaper of the Borough.
- G. No budget shall be adopted until a public hearing has been held thereon and all persons having an interest therein shall have been given an opportunity to present objections.
- The hearing shall be held not less than twenty-eight (28) days after the approval of the budget.
- H. The public hearing shall be held at the time and place specified in the advertisement thereof, but may be adjourned from time to time until the hearing is closed.
- I. The budget, as advertised, shall be read at the public hearing, in full, or it may be read by its title if:
1. At least one week prior to the date of the hearing, a complete copy of the approved budget as advertised shall be posted in the borough hall, in the clerk's office and is made available to each person requesting same during the week and during the public hearing; and
  2. The governing body shall, by resolution passed by not less than a majority of the full membership, determine that the budget shall be read by its title and declare that the conditions set forth in paragraph 1. have been met.

- J. After closing the hearing, the governing body may adopt the budget by title, without amendments, or may approve amendments, as provided in this section, before adoption.
- K. The governing body may amend the budget during or after the public hearing. No amendment by the governing body shall be effective until taxpayers and all persons having an interest therein shall have been granted a public hearing thereon, if the amendment shall:
  - 1. Add a new item in an amount in excess of one percent of the total amount as stated in the approved budget; or
  - 2. Increase or decrease any item by more than ten (10) percent; or
  - 3. Increase the amount to be raised pursuant to section 16 of P.L. 1972, c. 134 (C.40:56-80) or Section 19 of this amendatory and supplementary Act by more than five percent, unless the same is made pursuant to an emergency temporary appropriation only.

Notice of hearing on an amendment shall be advertised at least three days prior to the date set therefore. The amendment shall be published in full in the original publication and shall be read in full at the hearing and before adoption.

- L. Final adoption shall be by resolution, adopted by a majority of the full membership of the governing body, and may be by title.

(Ord. No. 28/91, § 8, 9-16-91; Ord. No. 13/92, § 1, 5-4-92)

#### **18.06.090 The designated district management corporation.**

- A. Moneys appropriated and collected for the annual costs of operating and maintaining a special improvement district shall be credited to a special account. The mayor and council may incur the annual costs of improving, operating, and maintaining a special improvement district during any fiscal year though not specifically provided for by line item or other category in an approved estimate for such fiscal year, if in its discretion it shall be deemed necessary to provide for such annual improvements or operation or maintenance prior to the succeeding fiscal year, and so long as the total amount of the account as approved for that year is not exceeded by that expenditure. Any balances to the credit of the account and remaining unexpended at the end of the fiscal year shall be conserved and applied towards the financial requirements of the succeeding year.

The mayor and council may retain a portion of the collected special assessment proceeds to offset the direct costs incurred in the required assessment and budget processes.

The mayor and council shall, by resolution, direct the finance officer to pay over the funds collected to the management corporation on a quarterly basis thirty (30) days from the date that taxes are due for each quarter.

- B. The district management corporation shall, within thirty (30) days after the close of each fiscal year, provide an annual activity and finance report to the governing body detailing the activities undertaken by the corporation for the previous year, the costs and expenses for same and how the activities further the goals and objectives of the special improvement district. The report shall be presented by the management corporation to the governing body at a regular council meeting within thirty (30) days after the close of each fiscal year.
- C. The district management corporation shall, at its own expense, cause an annual certified audit of its books, accounts and financial transactions to be conducted in accordance with generally accepted government auditing standards and filed with the mayor and council. For that purpose, the corporation shall employ a certified public accountant with experience performing municipal or government audits. The audit shall

embrace the books, accounts and transactions of the corporation and shall include a verification of all cash and bank balances as of the date of the audit.

The audit report will set forth instances or practices which violate statute or sound financial practice and make recommendations for changes in procedures.

The annual audit shall be completed and filed with the governing body within six months after the close of the fiscal year of the corporation.

In the event the audit is not performed in accordance with the requirements of this chapter, Freehold Borough reserves the right to have an independent audit conducted by a certified public accountant at the expense of the special improvement district.

(Ord. No. 28/91, § 9, 9-16-91; Ord. No. 2016/4, § 2, 5-16-16; Ord. No. 2020/6, § 1, 3-2-20)

#### **18.06.100 No limitations of powers.**

Nothing contained herein shall prevent the council at anytime subsequent to the adoption of this chapter by ordinance from abandoning the operation of the special improvement district, changing the extent of the 'special improvement district, supplementing or amending the description of the district to be specially assessed or taxed for annual costs of the special improvement district, changing or repealing any plan, rules, requisitions or limitations adopted for the operation of the special improvement district or rescinding the designation of or redesignating a district management corporation.

(Ord. No. 28/91, § 10, 9-16-91)

#### **18.06.110 Implementation.**

The special improvement district shall become operable when the bylaws of the Freehold Center Management Corporation are adopted by a vote of the eligible participants in the manner provided for in the draft bylaws on file with the borough clerk.

(Ord. No. 28/91, § 11, 9-16-91)

### **Chapter 18.07 FREEHOLD CENTER CORE REDEVELOPMENT PLAN (FCC)**

#### **18.07.010 General provisions.**

Each parcel is to be rehabilitated and/or redeveloped in a manner that is complementary to the surrounding environment. To that end, the proposed land use for each parcel will contain an appropriate mixture of commercial and residential uses designed in accordance with the standards contained in this plan, which are primarily intended to create a pedestrian oriented, development, where residents, visitors, and area workers can easily access parking, and walk to residences, restaurants, retail establishments, and offices.

The borough council will act as the redevelopment entity for the FCC. The borough engineer will make an initial review of all concept plans provided by redevelopers and property owners to determine whether the proposed development, use or uses are consistent with and in accordance with the permitted uses and design requirements as set forth in this plan. The engineer will prepare a report to the mayor and council and to the applicant. This will allow the applicant to adjust the plans to bring same into compliance before submission to the borough planning board. This process will help ensure that redevelopers are following the use and design standards of this plan appropriately. Any plan which is not in accordance with the permitted uses cannot be submitted to the planning board prior to the plan being reviewed by the mayor and council. Deviations from the

use requirements, affordable housing provisions or deficiencies from parking requirements where the deficiency is in excess of ten (10) parking spaces can only be addressed as an amendment to the redevelopment plan.

In addition, through this redevelopment plan, the borough will be able to offer five-year tax abatements as an added incentive for restoration and rehabilitation of older structures and actively seek public funding to assist owners in preserving and restoring historic properties.

(Ord. No. 2013/13, § 2, 10-7-13)

### **18.07.020 Waivers.**

Any deviations from the use requirements or affordable housing provisions shall be addressed as an amendment to the redevelopment plan rather than via use variance relief through the zoning board of adjustment or planning board of the Borough of Freehold.

The planning board may grant variances from the bulk requirements set forth in Section 18.07.030 and design exceptions or design waivers from the design standards set forth in this redevelopment plan as applicable to site plan and subdivision applications for projects in the Freehold Center Core Redevelopment Plan Area if the exception, variance or waiver is reasonable and within the general purpose and intent of the provisions for site plan and subdivision review in the Borough of Freehold Land Use Ordinance and in this redevelopment plan, and if the literal enforcement of one or more provisions of this redevelopment plan or the Borough of Freehold Land Use Ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question. In the event the application for proposed development or use is deficient by ten (10) or more parking spaces, such exception, waiver or variance may only be addressed as an amendment to the redevelopment plan rather than via variance, exception or waiver relief through the zoning board of adjustment or planning board of the Borough of Freehold, provided however, that this parking requirement shall not apply to existing churches, synagogues, houses of worship and similar religious facilities provided that the facility is on its own site and not part of a mixed use building or combined with any other use.

(Ord. No. 2013/13, § 2, 10-7-13; Ord. No. 2016/11, § 2, 9-6-16; Ord. No. 2018/12, § 2, 11-5-18)

### **18.07.030 Bulk requirements.**

Parking. Parking facilities in the Freehold Center Core Revitalization Zone shall comply with all of the following standards:

- A. Parking shall be based upon the sum of the parking required for the various uses contained in a proposed development, based upon New Jersey Residential Site Improvement Standards (RSIS) for residential uses and the Borough of Freehold Zoning Ordinance for nonresidential uses.
- B. In the case of a development proposal in which there are efficiencies derived by shared parking for uses which have complementary peak demands, the applicant shall submit parking generation data, based upon standard methodology (such as that published by the Urban Land Institute) sufficient for the reviewing board of jurisdiction to determine the appropriate reduction.
- C. In the case of a development proposal consisting solely of two or more contiguous uses of the same classification, the reviewing board of jurisdiction may permit a reduction of the aggregate amount of required parking based upon a determination that greater efficiency is effected by joint use of a common parking area, but in such case the required number of off-street parking spaces shall not be reduced by more than twenty-five (25) percent.
- D. In determining any proposed reduction in parking requirements, the applicant shall affirmatively demonstrate the parking spaces will be made available to share among the multiple uses and that the

shared parking spaces will be distributed over the site in a manner to ensure that all spaces will be situated at a reasonable distance for the intended users of the parking spaces.

- E. For major redevelopment projects on tracts larger than five acres, no more than ten (10) percent of the total number of off-street parking spaces provided shall be located or situated in off-street surface parking lots (i.e. at least eighty (80) percent of the total number of off-street parking spaces shall be contained within a structured multi-level parking deck or private enclosed parking garage).
- F. No parking space shall be permitted in the area between the build-to line and the edge of pavement of a street or roadway, except for parking spaces situated along an alley and serving a townhouse with a rear-loaded garage.
- G. The parking plan may also take into account the proximity of mass transit and the potential for pedestrian access.

Deviations from the parking requirements shall require variance relief pursuant to the Freehold Borough Zoning Ordinance, subject to the provisions of Section 18.07.020 herein. Any application for proposed development or use which is deficient by ten (10) or more parking spaces, such exception, waiver or variance may only be addressed as an amendment to the redevelopment plan rather than via variance, exception or waiver relief through the zoning board of adjustment or planning board of the Borough of Freehold.

- H. In the case of a change in use of an existing building, additional parking is required when the parking requirements of the new use is higher than the requirements of the previous use. The differential in parking spaces between the old and new uses shall be provided to comply with this section. The parking requirement for the use prior to the change in use shall be "grandfathered" and deducted from the parking requirements for the new use.
- I. Deviations from the parking requirements shall require variance relief pursuant to the Freehold Borough Zoning Ordinance, subject to the provisions of Section 3.03.02 herein. Any application for proposed development or use which is deficient by ten (10) or more parking spaces, such exception, waiver or variance may only be addressed as an amendment to the redevelopment plan rather than via variance, exception or waiver relief through the zoning board of adjustment or planning board of the Borough of Freehold.
- J. A parking requirement for a use may be satisfied through the provision of dedicated parking at an off-site location. The off-site location shall be located within a quarter mile (1,320) foot radius of the property whose parking requirement is being satisfied. The parking arrangement shall be formalized through a legal instrument such as a deed, lease, or easement deemed acceptable by the borough zoning officer.
- K. The bulk requirements for parking in the Freehold Center Core Revitalization Zone shall not apply to existing churches, synagogues, houses of worship and similar religious facilities provided that the facility is on its own site and not part of a mixed use building or combined with any other use. Any new churches, synagogues, houses of worship and similar religious facilities must comply with the parking requirements of the zone.

(Ord. No. 2013/13, § 2, 10-7-13; Ord. No. 2016/11, § 2, 9-6-16; Ord. No. 2018/12, § 2, 11-5-18)

#### **18.07.040 Superseding provisions.**

The "Visioning and Revitalization Plan for the Freehold Center Core Redevelopment Plan Area" is incorporated as part of the zoning ordinance of the Borough of Freehold. In the case where a particular land use or site standard is not covered in this redevelopment plan however, compliance with the remainder of the zoning

ordinance or other applicable municipal code or ordinance will be required, as deemed appropriate by the planning board of the Borough of Freehold.

(Ord. No. 2013/13, § 2, 10-7-13; Ord. No. 2019/4, § 3, 3-6-19)

#### **18.07.050 Conflict.**

Wherever there is a conflict between other parts of the zoning ordinance of the Borough of Freehold and the standards in this plan, the standards in this plan shall apply.

(Ord. No. 2013/13, § 2, 10-7-13; Ord. No. 2019/4, § 3, 3-6-19)

### **Chapter 18.08 R-10 SINGLE-FAMILY RESIDENTIAL DISTRICT**

#### **Sections:**

#### **18.08.010 Applicability.**

The following regulations shall apply to all R-10 districts.

(Prior code § 19-4 (part))

#### **18.08.020 Principal uses and buildings permitted.**

- A. The only principal uses and buildings permitted within the R-10, R-7, R-5 and R-4 residential zones are detached single-family dwelling units.
- B. Community residences for the developmentally disabled, community shelters for victims of domestic violence, community residences for the terminally ill, and community residences for persons with head injuries, as defined in N.J.S.A. 40:55d-66.1, shall be a permitted use in all residential zones of the municipality provided they meet all development standards, property maintenance code requirements and BOCA requirements as that which a single-family residence would be required to meet.

(Ord. 7/99 § 1; prior code § 19-4.1)

#### **18.08.030 Permitted accessory uses and buildings.**

- A. Private garages, provided that total garage capacity be limited to a maximum of three vehicle spaces, and that no vehicle so housed may exceed two tons in gross weight;
- B. Private swimming pools;
- C. Signs subject to the provisions of Chapter 15.16.

(Prior code § 19-4.2)

#### **18.08.040 Uses permitted with a conditional use permit.**

The following uses may be permitted with a conditional use permit subject to the provisions of this title:

- A. Public utilities: facilities other than customarily required for providing individual service;
- B. Private outdoor parks, playgrounds and recreation areas;
- C. Public, parochial or private schools;

- D. Churches and places of worship;
- E. Community residences for the developmentally disabled (as defined in N.J.S.A. 40:55D-66.2(a)) housing more than six, but less than sixteen (16) persons, exclusive of resident staff;
- F. Community shelters for victims of domestic violence (as defined in N.J.S.A. 40:55D-66.2(b)) housing more than six, but less than sixteen (16) persons, exclusive of resident staff;
- G. Bed and breakfast residences as defined in Section 18.04.040(B) and 18.84.090;
- H. Any group home, community residence, halfway house or other group residence not protected by the Americans with Disability Act, the Fair Housing Amendments Act, and N.J.S.A. 40:55d-66.1.

(Ord. 7/99 § 2 (part); Ord. 16/96 § 3; Ord. 5/96 § 1; prior code § 19-4.3)

### **18.08.050 Height, area and building requirements.**

As specified in Schedule I, set out at the end of this title.

(Prior code § 19-4.4)

## **Chapter 18.12 R-7 RESIDENTIAL DISTRICT**

### **Sections:**

#### **18.12.010 Applicability.**

The following regulations shall apply to all R-7 districts.

(Prior code § 19-5 (part))

#### **18.12.020 Principal uses and buildings permitted.**

As specified for the R-10 residential district.

(Prior code § 19-5.1)

#### **18.12.030 Permitted accessory uses and buildings.**

As specified in the R-10 residential district.

(Prior code § 19-5.2)

#### **18.12.040 Uses permitted with a conditional use permit.**

As specified in the R-10 residential district.

(Prior code § 19-5.3)

#### **18.12.050 Height, area and building requirements.**

As specified for the R-7 District in Schedule I, set out at the end of this title.

(Prior code § 19-5.4)

## **Chapter 18.16 R-5 RESIDENTIAL DISTRICT**

**Sections:**

**18.16.010 Applicability.**

The following regulations shall apply to all R-5 districts.

(Prior code § 19-6 (part))

**18.16.020 Principal uses and buildings permitted.**

As specified for the R-10 residential district.

(Prior code § 19-6.1)

**18.16.030 Permitted accessory uses and buildings.**

As specified in the R-10 residential district.

(Prior code § 19-6.2)

**18.16.040 Uses permitted with a conditional use permit.**

As specified in the R-10 residential district.

(Prior code § 19-6.3)

**18.16.050 Height, area and building requirements.**

As specified for the R-5 District in Schedule I, set out at the end of this title.

(Prior code § 19-6.4)

## **Chapter 18.20 R-6 RESIDENTIAL DISTRICT**

**Sections:**

**18.20.010 Applicability.**

The following regulations shall apply to all R-6 districts.

(Prior code § 19-6A (part))

**18.20.020 Principal uses and buildings permitted.**

Detached single-family dwelling units.

(Prior code § 19-6A.1)

**18.20.030 Permitted accessory uses and buildings.**

As specified in the R-10 residential district.

(Prior code § 19-6A.2)

**18.20.040 Height, area and building requirements.**

- A. Minimum size of lot: seven thousand two hundred (7,200) square feet.
- B. Minimum required yards:
  - 1. Front yard: twenty-five (25) feet.
  - 2. Rear yard: twenty-five (25) feet.
  - 3. Any one side yard: five feet.
- C. Maximum percentage of lot coverage: twenty-five (25) percent.
- D. Maximum building height: in stories two and one-half, in feet thirty (30' ).

**Chapter 18.24 R-4 RESIDENTIAL DISTRICT**

**Sections:**

**18.24.010 Applicability.**

The following regulations shall apply to all R-4 districts:

(Prior code § 19-7 (part))

**18.24.020 Principal uses and buildings permitted.**

As specified for the R-10 residential district.

(Prior code § 19-7.1)

**18.24.030 Permitted accessory uses and buildings.**

As specified in the R-10 residential district.

(Prior code § 19-7.2)

**18.24.040 Uses permitted with a conditional use permit.**

As specified in the R-10 residential district.

(Prior code § 19-7.3)

**18.24.050 Height, area and building requirements.**

As specified for the R-4 district in Schedule I, set out at the end of this title.

(Prior code § 19-7.4)

**Chapter 18.28 RCR RESIDENTIAL/ COMMERCIAL REDEVELOPMENT ZONE**

**Sections:**

### **18.28.010 Purpose.**

The purpose of this chapter is to encourage the redevelopment and full utilization of certain lands and existing industrial/manufacturing buildings within the borough, the use of which has been discontinued, through the employment of mixed use development, unique architectural treatments and innovative development approaches so as to incorporate portions of the existing structures into a cohesive blend of active residential and commercial uses.

(Prior code § 19-7A.1)

### **18.28.020 Definitions.**

Unless otherwise expressly herein provided, all terms used in this chapter shall have the same meanings as set forth in Section 18.04.040.

- A. "Project" means any proposed development of mixed uses in an RCR zone pursuant to this chapter.
- B. "Project site" means the lot or lots upon which the project is intended to be developed.

(Prior code § 19-7A.2)

### **18.28.030 Principal uses permitted.**

- A. Multiple-family dwellings containing dwelling units of all types, including apartments and townhouses, which are initially developed and marketed on a nonrental basis by the developer as "for-sale" dwelling units, evidenced by a public offering statement filed with the New Jersey Department of Community Affairs pursuant to the Planned Real Estate Development Full Disclosure Act (N.J.S.A. 45:22A-21) (the "P.O.S."); provided, however, that such restriction shall not continue to apply to dwelling units which are unable to be transferred on a "for-sale" basis ninety (90) days or more following the effective date of the P.O.S. (hereinafter referred to as "residential use");
- B. The following described commercial uses (hereinafter referred to as "commercial use"):
  - 1. Business, professional, administrative and executive offices,
  - 2. Any principal use permitted in the following districts:
    - a. B-1 office commercial district (Section 18.36.020),
    - b. B-2 General Commercial District (Section 18.44.020):
      - i. Motels and hotels,
      - ii. Restaurants and cocktail lounges,
      - iii. Retail shopping malls,
      - iv. Banks and financial institutions,
      - v. Training institutes,
      - vi. Research and scientific laboratories,
      - vii. Television and radio studios,
      - viii. Wholesale operations;

- C. Prior to the receipt by developer of final approval for a project in the RCR Zone, any use which is a permitted use in the C-M zone may be performed in the RCR zone.

(Prior code § 19-7A.3)

**18.28.040 Permitted accessory uses.**

- A. Parking facilities;
- B. Loading facilities;
- C. Improved common areas including benches, tables, fountains, information booths, recreation facilities, waiting areas and similar facilities intended for the convenience of residents, guests, patrons and business invitees;
- D. Game rooms;
- E. Day care facilities;
- F. Swimming pool;
- G. Other customary uses and structures incidental to any permitted principal use.

(Prior code § 19-7A.4)

**18.28.050 Development requirements.**

In order to achieve the intended purpose of the RCR zone, no minimum lot area or dimension or yard requirements shall be imposed and no maximum lot coverage or building density or floor area ratio requirements shall be imposed in an RCR zone. However, any project proposed to be developed in an RCR zone shall comply with each of the following regulations:

- A. Height Limitation. No building shall exceed seventy-five (75) feet in height.
- B. Parking Facilities. All parking facilities must be located off-street but may be provided in open or covered parking lots which may be located at, above or below grade and may be part of a principal building in the project or may be located on lots which are not part of the project site and which are reserved for use by the project.
- C. Parking Ratios. Each project shall provide parking spaces as follows:
  - 1. Off-street parking requirements for each dwelling unit in the project shall be as follows:

Number of Parking Spaces	Number of Bedrooms
1.75	1
2.0	2
2.25	3 or more

- 2. Five parking spaces for each one thousand (1,000) square feet of floor area to be developed as commercial use in the project and located within an enclosed store or office leased or otherwise occupied or utilized, exclusively by the tenant or owner, excluding all hallways, stairwells, elevators, mechanical equipment and other similar common space used to serve more than one store or office.

- D. **Parking Space Design.** Each individual parking space shall be not less than nine feet in width and eighteen (18) feet in length with aisles having a width of not less than twenty-five (25) feet. Curb overhangs shall not be included in determining the length of a parking space.
- E. **Required Commercial Use.** Any project proposed for development in an RCR zone shall be of mixed use in design and character and shall contain space dedicated for commercial use with an area of the lesser of: (i) ten (10) percent of the gross habitable floor areas in all buildings comprising the project; or (ii) thirty thousand (30,000) square feet; provided, however, that a developer, at his or her option, may increase the amount of space in a project intended for commercial use.
- F. **Trash Collection.** Any project in an RCR zone shall provide for private contract garbage and trash collection services.
- G. **Street Setback.** All buildings in a project shall be set back a distance of four feet from the curb line of any existing public street so as to provide an area for pedestrian passage.
- H. **Dwelling Units.** No dwelling unit in a project shall contain: (i) less than six hundred (600) square feet of gross habitable floor area; nor (ii) more than four bedrooms.
- I. **Signs.** Signs in and for the project and its occupants shall be permitted as follows:
  - 1. One free-standing sign for each three hundred (300) feet of street frontage with a maximum area on each side of one hundred fifty (150) square feet.
  - 2. One facade sign per wall of building with a maximum area equal to ten (10) percent of the total area of the facade to which the sign is affixed.
  - 3. Directional signs and traffic control signs as needed to provide proper ingress, egress and traffic circulation.
  - 4. Other than the foregoing requirements which shall govern and control all signs for a project in an RCR zone, the design standards contained in the borough's sign ordinance shall apply.
- J. **Street Lights.** All street lights and lighting along pedestrian walkways and in parking areas shall be shaded and installed on ornamental standards with underground wiring. They shall be of a style and design compatible with street lighting standards developed and adopted by the borough.
- K. **Historical Preservation.** Consistent with the project plan, interesting or significant historical architectural features shall be preserved and incorporated into the design of the project.
- L. **Drainage.** Adequate provisions shall be made for the disposal of storm water drainage and runoff.
- M. **TV Service.** Provisions shall be made for master TV antenna or cable TV service and no individual antenna shall be permitted on the exterior of any building.
- N. **Underground Utilities.** All utility services within the territorial area of the project shall be underground.
- O. **Exterior Maintenance.** Adequate facilities shall be provided for the removal of snow and for general maintenance of the exterior of the project.

(Prior code § 19-7A.5)

### **18.28.060 Development approval procedures.**

Any project in an RCR zone shall be required to receive final site plan approval pursuant to Chapter 18.84 as a precondition to the issuance of a building permit. Any developer of a proposed project may, prior to making application for preliminary site plan approval, either: (a) apply to the planning board for approval of the project

development plan; or (b) enter into a developer's agreement with the governing body of the borough. A project development plan shall show: (i) the boundaries of the project site; (ii) the general location of all principal buildings; (iii) the proposed areas within the buildings for residential use and commercial use; (iv) the locations of all proposed access drives; and (v) the general location of all proposed parking facilities. Each project development plan shall be accompanied by a schedule showing: (i) total building area; (ii) total area intended for residential use; (iii) total area intended for commercial use; and (iv) total number of parking spaces comprising the project. The approval of a project development plan by the planning board or a developer's agreement with the governing body of the borough shall confer upon the developer the following rights for a period of two years from the date of such approval or developer's agreement:

- A. That the use requirements as permitted by this chapter and the development requirements hereunder shall not be changed as to the project and the project site; and
- B. That the developer may submit an application for preliminary site plan approval for the project on or before the expiration date which substantially conforms to the approved project site plan.

(Prior code § 19-7A.6)

#### **18.28.070 Effect of preliminary and final approvals.**

Upon the request therefor by the developer of a proposed project involving one hundred thousand (100,000) square feet or more of building space made in conjunction with applications for preliminary and/or final approval, the planning board may grant an enlarged initial protective period for preliminary approval under N.J.S.A. 409:55D-49 for up to six years.

(Prior code § 19-7A.7)

#### **18.28.080 Exclusive requirements.**

No minimum or maximum requirement appearing elsewhere in the section and pertaining to a residential use or commercial use shall be deemed to apply to any project in an RCR zone unless such requirement is specifically incorporated in this chapter.

(Prior code § 19-7A.8)

#### **18.28.090 Improvements.**

The requirements of Chapter 17.16, shall not apply to a project in an RCR zone.

(Prior code § 19-7A.9)

#### **18.28.100 Certificates of occupancy.**

A separate certificate of occupancy shall be required to be issued for each residential dwelling unit and for each area of contiguous commercial use comprising the project.

(Prior code § 19-7A.10)

### **Chapter 18.32 A APARTMENT DISTRICT**

#### **Sections:**

**18.32.010 Applicability.**

The following regulations shall apply to all A districts.

(Prior code § 19-8 (part))

**18.32.020 Principal uses and buildings permitted.**

- A. Any residential use permitted in the R-10 district;
- B. Garden and mid-rise apartments.

(Prior code § 19-8.1)

**18.32.030 Accessory uses and buildings permitted.**

- A. For one-family dwellings, all accessory uses and buildings permitted in the R-10 district;
- B. For apartments:
  - 1. Private garages to serve the residents of the apartments,
  - 2. Custodial, utility, laundry or other similar and customary apartment building accessory facilities, provided that their service is restricted to the residents of the apartments,
  - 3. Swimming pool, provided that its use is primarily restricted to residents of the apartments, and that its operation and sanitation methods meet the standards established by the department of health and the state of New Jersey, and any pertinent ordinances which may be in effect or be subsequently adopted or amended by the borough. In addition, all pool areas shall be screened from any public street by a solid fence of not less than four or more than seven feet in height.

(Prior code § 19-8.2)

**18.32.040 Area, yard and building requirements.**

- A. For single-family dwellings, as specified for the R-5 district in Schedule I;
- B. For all apartments, as specified for the A district in Schedule I, set out at the end of this title, subject to the following provisions and requirements:
  - 1. The size of individual dwelling units shall be limited as follows:
    - a. No unit shall have more than four and one-half rooms or more than two bedrooms.
    - b. At least eighty (80) percent of the units shall have no more than three and one-half rooms or more than one bedroom.
  - 2. No part of any building on any apartment site shall be located less than fifteen (15) feet from any other building on the site.
  - 3. No driveway providing access to an apartment site shall be located less than one hundred twenty (120) feet from a major arterial street or a heavily traveled intersection, or so as to create any other hazardous condition.
  - 4. The entire area shall be attractively landscaped and seeded. In addition, landscape screens may be required along property lines of adjacent residential properties to protect the value and convenience of use of such properties.

5. In an apartment site of more than two acres, a recreation area or areas shall be provided at the rate of two thousand five hundred (2,500) square feet per ten (10) dwelling units, and shall include the installation of outdoor play equipment of an amount and variety sufficient to serve the occupants of the apartment site.
6. Adequate provision shall be made for the installation by the owner or developer of water mains of not less than six inches in size to connect with existing water mains of the borough and likewise of sewer mains to connect with existing sewer mains of the borough. All water used in connection with the project is to be metered, the meters to be furnished by the borough, paid for by the developer, with the installation to be subject to the approval of the borough engineer or other agency of the borough having jurisdiction thereof, and that necessary fire hydrants as may be required by the fire chief and the borough engineer to likewise be furnished and installed, such fire hydrants to be of the type normally used by the borough. All costs in connection with the laying and installation of the mains, installation of meters and fire hydrants shall be paid for by the owner or developer and the work shall be done with the approval and under the supervision of the borough engineer or other supervisory agency having jurisdiction thereof in the borough.
7. All structures or buildings in the apartment district may be required by the borough to be constructed in traditional colonial design or other architecture harmonious to the area, and site and building plans may be further referred for further review to such municipal committee for design review that may be in existence in the borough at the time of application. The site shall be suitably landscaped. Plans and specifications for planting, top soiling, lawn making and other landscape work shall be prepared by a competent landscape architect and be a part of the plans submitted for approval. All planting shall be in place and in a satisfactory condition at the time of issuance of a certificate of occupancy or an adequate bond shall be posted therefor. All exterior wall surfaces shall be of brick or stone.
8. All garden apartment buildings shall provide not less than two exterior exposures for each family unit, the same properly pierced by windows or other openings so as to provide through ventilation or cross-ventilation for the unit.
9. A mid-rise apartment shall not exceed a height of seventy five (75) feet.

(Prior code § 19-8.3)

#### **18.32.050 Conflict of standards.**

Where there is conflict between the standards for construction or occupancy under the terms of this title and standards for construction or occupancy of the Federal Housing Authority, a division of the government of the United States, in relation to any of the zoned area specifically set forth in Section 1 of Ord. No. 580, dated October 5, 1970, the standards of construction or occupancy as set forth by the Federal Housing Authority shall apply.

(Prior code § 19-8.4)

#### **18.32.060 Uses permitted with a conditional use permit.**

- A. Community residences for the developmentally disabled (as defined in N.J.S.A. 40:55D-66.2(a)) housing more than six, but less than sixteen (16) persons, exclusive of resident staff.
- B. Community shelters for victims of domestic violence (as defined in N.J.S.A. 40:55D-66.2(b)) housing more than six, but less than sixteen (16) persons, exclusive of resident staff.

(Prior code § 19-8.5)

## **Chapter 18.36 B-1 OFFICE COMMERCIAL DISTRICT**

### **Sections:**

#### **18.36.010 Applicability.**

The following regulations shall apply to all B-1 districts.

(Prior code § 19-9 (part))

#### **18.36.020 Principal uses in buildings permitted.**

- A. The office of a member of a recognized profession such as physicians, attorneys, dentists, ministers, chiropractors, architects, engineers, accountants, insurance agents, real estate brokers, stock brokers and other generally recognized professional service personnel and organizations;
- B. Banks, funeral homes, photography studios, music, dance, art studios and public institutions of higher education.

(Prior code § 19-9.1)

#### **18.36.030 Accessory uses and buildings permitted.**

Private garages, provided such structures shall not provide space to exceed space for six automobiles, or three automobiles and three commercial vehicles of not more than two tons each in gross weight.

(Prior code § 19-9.2)

#### **18.36.040 Uses permitted with a conditional use permit.**

- A. Public utility facilities other than customarily required for providing individual service;
- B. Private outdoor parks, playgrounds and recreation areas.

(Prior code § 19-9.3)

#### **18.36.050 Height, area and building requirements.**

As specified in Schedule I, set out at the end of this title.

(Prior code § 19-9.4)

#### **18.36.060 Prohibited uses and buildings.**

Any use not set forth in Sections 18.36.020 and 18.36.030, and specifically uses such as barber shops, beauty parlors and other uses generating traffic and parking and uses primarily engaged in the sale of merchandise from the premises; provided any article produced on the premises, or any item incidental to instruction or business which is permitted and carried on as the principal use, may be sold from the premises provided that there is no advertising of such article or item as for sale to the general public.

(Prior code § 19-9.5)

**18.36.070 Committee for design review.**

- A. Creation of Committee. Within the office commercial district no building shall be constructed or altered so as to be inconsistent with the residential character of the adjacent residential areas. Building design shall be subject to review and recommendation by such officially-appointed committee for design review, or similar body, as may be in existence in the borough at the time of application for approval of site and building plans for the intended use. The committee for design review shall adopt such rules and regulations as it may deem necessary to govern its procedure, and shall render all decisions and findings in writing.
- B. Membership—Term. The building inspector of the borough, in passing upon a building permit to be issued in the office commercial district shall be controlled and bound by the determination and decision of majority of the five members of the committee for design review consisting of the building inspector, the borough engineer, an architect, a resident of the borough, and a member of the borough council, all appointed by the mayor annually for a term of one year.
- C. Nonresidential Construction. The following types of constructions shall be considered not to be residential in character:
  - 1. Store front types of construction;
  - 2. Garage doors, larger than needed for passenger automobile and commercial vehicles of two tons gross weight;
  - 3. Concrete block or cinder block wall surfaces.

(Prior code § 19-16)

**Chapter 18.40 B-1A LIMITED PROFESSIONAL OFFICE DISTRICT**

**Sections:**

**18.40.010 Applicability.**

The following regulations shall apply to all B-1A districts.

(Ord. 27/99 § 3 (part); prior code § 19-9A) (part))

**18.40.020 Principal uses and buildings permitted.**

- A. Single-family residences as existing at the effective date of the adoption of this chapter;
- B. Professional offices including:
  - 1. Attorneys and counselors at law,
  - 2. Accountants and certified public accountants,
  - 3. Architects,
  - 4. Real estate brokers,
  - 5. Engineers, land surveyors and planners,
  - 6. Insurance brokers,
  - 7. Stockbrokers,

8. Travel agents,
9. Marriage counselors licensed by the state of New Jersey,
10. Psychologists,
11. Other low visitor volume offices where it can be demonstrated that on-site parking is adequate.

(Ord. 27/99 § 3 (part); prior code § 19-9A.1)

#### **18.40.030 Accessory uses and buildings permitted.**

- A. Parking areas and private garages, provided that total garage capacity be limited to a maximum of three vehicle spaces;
- B. Signs subject to the provisions of Chapter 15.16, Appendix B — Office Commercial District, B1 Zone.

(Ord. 27/99 § 3 (part); prior code § 19-9A.2)

#### **18.40.040 Height, area and building requirements.**

- A. Minimum lot width: sixty (60) feet.
- B. Minimum size of lot: seven thousand two hundred (7,200) square feet.
- C. Minimum required yards (principal building):
  1. Front yard: twenty-five (25) feet.
  2. Rear yard: twenty-five (25) feet.
  3. Side yard: five feet.
- D. Maximum percentage of lot coverage: twenty-five (25) percent.
- E. Maximum building height, in stories two and one-half; in feet: thirty (30).
- F. Accessory building setbacks:
  1. Side yard: three feet.
  2. Rear yard: three feet.

(Ord. 27/99 § 3 (part); prior code § 19-9B.4)

#### **18.40.050 Prohibited uses and buildings.**

Specifically excluded shall be medical and dental offices, veterinary offices and similar offices, which have a high volume of visitors.

(Ord. 27/99 § 3 (part); prior code § 19-9B.5)

#### **18.40.060 Parking requirements.**

- A. Off-street parking shall be provided in accordance with Section 16.24.030.
- B. Parking areas shall be set back a minimum of eight feet from any residential zone boundary line. The setback area shall contain an evergreen screen planting, solid fence, wall or combination thereof, no less than five

feet in height and of sufficient density so as to obscure the view of automobile headlights from adjoining residential properties throughout the year.

(Ord. 27/99 § 3 (part); prior code § 19-9B.6)

## **Chapter 18.44 B-2 GENERAL COMMERCIAL DISTRICT**

### **Sections:**

#### **18.44.010 Applicability.**

The following regulations shall apply to all B-2 districts.

(Prior code § 19-10 (part))

#### **18.44.020 Principal uses and buildings permitted.**

- A. The sale of retail goods such as but not necessarily limited to the following types: meat and poultry stores, drug stores, variety stores, glass and aluminum stores, drygood stores, baked good stores, packaged liquor stores and taverns, flower stores, confectionery stores, household supply stores, stationery supplies stores, haberdashery, apparel stores and department stores;
- B. The provision of service establishments such as but not limited to the following types: barber or beauty shops, clothes cleaning and laundry pick-up establishments, shoe repair shops, restaurants, luncheonettes and eating places, the office of a member of a recognized profession such as physicians, attorneys, dentists, ministers, chiropractors, architects, engineers, accountants, insurance agents, real estate brokers, stock brokers and other generally recognized professional service personnel and organizations, banks, funeral homes, photography studios, music, dance and art studios;
- C. Automobile parking areas;
- D. Shopping center developments containing the types of retail and service establishments as listed above, including automobile parking areas;
- E. Hotel;
- F. Public institutions of higher education.

(Prior code § 19-10.1)

(Ord. No. 2013/2, § 2, 4-15-13)

#### **18.44.030 Accessory uses and buildings permitted.**

- A. All accessory uses permitted in the B-1 district;
- B. Garages to house commercial vehicles normally associated with the types of businesses listed in Section 18.44.010.

(Prior code § 19-10.2)

#### **18.44.040 Uses permitted with a conditional use permit.**

- A. Public utility facilities other than customarily required for providing individually service;

- B. Community theaters and/or playhouses, provided that performances occur evenings and/or on weekends and holidays when public parking is available; unless the owner/operator can provide off-street parking in compliance with Section 16.24.030(A)(18).
- C. Grocery/convenience stores.
- D. Taxi and limousine services, provided that there is one parking space for each vehicle owned and/or operated by the service, either on-site or at an off-site location.

(Ord. 32/97 § 1; prior code § 19-10.3)

(Ord. No. 2013/2, § 2, 4-15-13)

#### **18.44.050 Height, area and building requirements.**

As specified in Schedule I, set out at the end of this title.

(Prior code § 19-10.4)

#### **18.44.051 Design standards for hotel use.**

- A. All buildings intended for hotel use must meet the following design standards:
  - 1. Guest rooms must contain no less than three hundred (300) square feet in area.
  - 2. A minimum of four thousand (4,000) square feet of restaurant space must be provided.
  - 3. Parking requirements shall be as follows:
    - a. One parking space per guest room, plus;
    - b. One parking space per each employee. The shift having the most employees shall be used to calculate employees' parking needs, plus;
    - c. One parking space for every three seats in the restaurant and lounge and conference/banquet space, or one space for every fifty (50) square feet devoted to such uses, whichever is greater, plus;
    - d. One space for every two hundred (200) square feet of retail space.
- B. Other bulk requirements (height, setbacks, lot coverage) shall be in accordance with the zone in which the hotel is located.

(Ord. 2006/19 § 2)

#### **18.44.052 Design standards for taxi and limousine services.**

In addition to the parking requirements for office use, one parking space for each vehicle owned and/or operated by the taxi or limousine service must be provided. The taxi/limousine parking may be provided at a location within the borough, off site from the location of the taxi/limousine office/dispatch office. Proof of off-site parking arrangements within the borough must be provided by the taxi/limousine service.

(Ord. No. 2013/2, § 2, 4-15-13)

**18.44.060 Prohibited uses and buildings.**

- A. Outside storage uses of any kind;
- B. Any use including clothes cleaning or laundry establishments, where processing other than collection and delivery is conducted on the site; provided that this restriction does not apply to cooking in restaurants or to personal services;
- C. Warehousing without retail use, manufacturing and truck terminals.

(Prior code § 19-10.5)

**Chapter 18.48 B-2A GENERAL COMMERCIAL DISTRICT**

**Sections:**

**18.48.010 General provisions.**

The same limitations and restrictions included in the B-2 district are to be included in the B-2A district with the addition of a fifteen (15) foot setback in the B-2A district to the limitations and restrictions.

(Prior code § 19-10A)

**18.48.020 Uses permitted with a conditional use permit.**

- A. Grocery/convenience stores.
- B. Taxi and limousine services, provided that there is one parking space for each vehicle owned and/or operated by the service, either on site or at an off-site location.

(Ord. No. 2013/2, § 2, 4-15-13)

**Chapter 18.52 B-2B GENERAL COMMERCIAL DISTRICT**

**Sections:**

**18.52.010 Principal uses and buildings permitted.**

- A. The sale of retail goods, such as but not necessarily limited to the following types: meat and poultry stores, drug stores, variety stores, glass and aluminum stores, drygood stores, baked good stores, packaged liquor stores and taverns, flower stores, confectionery stores, household supply stores, stationery supplies stores, haberdashery, apparel stores and department stores;
- B. The provision of service establishments such as but not limited to the following types: barber or beauty shops, clothes cleaning and laundry pick-up establishments, shoe repair shops, business and professional offices, restaurants, luncheonettes and eating places;
- C. Automobile parking areas;
- D. Shopping center developments containing the types of retail and service establishments as listed above, including automobile parking areas;
- E. Indoor theaters, bowling alleys, and other similar indoor recreational facilities;

- F. Hotel;
- G. Billboards.

(Ord. 2000/19 § 1; prior code § 19-10B.1; Ord. No. 2013/2, § 2, 4-15-13)

**18.52.020 Accessory uses and buildings permitted.**

- A. All accessory uses permitted in the B-1 district;
- B. Garages to house commercial vehicles normally associated with the types of business listed in Section 18.52.010.

(Prior code § 19-10B.2)

**18.52.030 Uses permitted with a conditional use permit.**

Public utility facilities other than customarily required for providing individual service; grocery/convenience stores; taxi and limousine services, provided that there is one parking space for each vehicle owned and/or operated by the service, either on site or at an off-site location.

(Prior code § 19-10B.3)

(Ord. No. 2013/2, § 2, 4-15-13)

**18.52.040 Height, area and building requirements.**

As specified in Schedule I, set out at the end of this title.

(Prior code § 19-10B.4)

**18.52.041 Design standards for hotel use.**

- A. All buildings intended for hotel use must meet the following design standards:
  - 1. Guest rooms must contain no less than three hundred (300) square feet in area.
  - 2. A minimum of four thousand (4,000) square feet of restaurant space must be provided.
  - 3. Parking requirements shall be as follows:
    - a. One parking space per guest room, plus;
    - b. One parking space per each employee. The shift having the most employees shall be used to calculate employees' parking needs, plus;
    - c. One parking space for every three seats in the restaurant and lounge and conference/banquet space, or one space for every fifty (50) square feet devoted to such uses, whichever is greater, plus;
    - d. One space for every two hundred (200) square feet of retail space.
- B. Other bulk requirements (height, setbacks, lot coverage) shall be in accordance with the zone in which the hotel is located.

(Ord. 2006/19 § 3)

**18.52.042 Design standards for taxi and limousine services.**

In addition to the parking requirements for office use, one parking space for each vehicle owned and/or operated by the taxi or limousine service must be provided. The taxi/limousine parking may be provided at a location within the borough, off site from the location of the taxi/limousine office/dispatch office. Proof of off-site parking arrangements within the borough must be provided by the taxi/limousine service.

(Ord. No. 2013/2, § 2, 4-15-13)

**18.52.050 Prohibited uses and buildings.**

- A. Outside storage uses of any kind;
- B. Any use including clothes cleaning or laundry establishments, where processing other than collection and delivery is conducted on the site; provided that this restriction does not apply to cooking in restaurants or to personal services;
- C. Warehousing without retail use, manufacturing and truck terminals.

(Prior code § 19-10B.5)

**Chapter 18.56 C-M COMMERCIAL MANUFACTURING DISTRICT**

**Sections:**

**18.56.010 Applicability.**

The following regulations shall apply to all C-M districts, which districts are intended for uses involving the inoffensive creation of end products by research, engineering, development and manufacture from previously prepared raw materials, and administrative work of offices to which the public does not need immediate and frequent access. It is intended to prohibit all uses which are characterized by actual or potential nuisance factors other than congregation of employees and truck or rail transportation.

(Prior code § 19-11 (part))

**18.56.020 Principal uses and buildings permitted.**

- A. Research laboratories;
- B. Product development laboratories;
- C. Manufacture of items from previously prepared raw materials, such as pharmaceuticals, electronic equipment, jewelry and watches;
- D. Administrative and other clerical offices;
- E. Publishing houses;
- F. Eating facilities incidental to the above and not open to the public;
- G. Warehousing, including self-storage;
- H. The sale of retail goods such as but not necessarily limited to the following types: meat and poultry stores, drug stores, variety stores, glass and aluminum stores, drygood stores, baked good stores, flower stores,

confectionary stores, household supply stores, stationery supplies stores, haberdashery, apparel stores and department stores;

- I. The provision of service establishments such as but not limited to the following types: barber or beauty shops, clothes cleaning and laundry pick-up establishments, shoe repair shops, the office of a member of a recognized profession such as physicians, attorneys, dentists, ministers, chiropractors, architects, engineers, accountants, insurance agents, real estate brokers, stock brokers and other generally recognized professional service personnel and organizations, banks, funeral homes, photography studios, music, dance and art studios. Restaurants and eating places are specifically excluded;
- J. Auto repair and auto body shops;
- K. Contractor's storage yards.

(Ord. 2005/24 § 3; Ord. 2004/15 § 1; prior code § 19-11.1)

(Ord. No. 2013/2, § 2, 4-15-13)

#### **18.56.030 Accessory uses and buildings permitted.**

Garages to house vehicles normally associated with the types of businesses listed above.

(Prior code § 19-11.2)

#### **18.56.040 Uses permitted with a conditional use permit.**

Public utility facilities other than customarily required for providing individual service; grocery/convenience stores; taxi and limousine services, provided that there is one parking space for each vehicle owned and/or operated by the service, either on site or at an off-site location.

(Prior code § 19-11.3)

(Ord. No. 2013/2, § 2, 4-15-13)

#### **18.56.041 Design standards for taxi and limousine services.**

In addition to the parking requirements for office use, one parking space for each vehicle owned and/or operated by the taxi or limousine service must be provided. The taxi/limousine parking may be provided at a location within the borough, off site from the location of the taxi/limousine office/dispatch office. Proof of off-site parking arrangements within the borough must be provided by the taxi/limousine service.

(Ord. No. 2013/2, § 2, 4-15-13)

#### **18.56.050 Height, area and building requirements.**

As specified in Schedule I, set out at the end of this title.

(Prior code § 19-11.4)

#### **18.56.060 Prohibited uses and buildings.**

- A. Residential uses;

- B. All uses which have nuisance factors other than passenger traffic and the transportation of items by truck or rail.

(Prior code § 19-11.5)

### **18.56.070 Conflict of standards.**

Where there is conflict between the standards for construction or occupancy under the terms of this title and standards for construction or occupancy of the Federal Housing Authority, a division of the government of the United States, in relation to any of the zoned area specifically set forth in Section 2 of Ord. No. 580, dated October 5, 1970, the standards for construction or occupancy as set forth by the Federal Housing Authority shall apply.

(Prior code § 19-11.6)

## **Chapter 18.60 T-H TOWNHOUSE ZONE**

### **Sections:**

### **18.60.010 Applicability.**

The following regulations shall apply to all T-H districts.

(Prior code § 19-13 (part))

### **18.60.020 Principal uses and buildings permitted.**

- A. All uses and buildings permitted and as regulated in the R-10, R-7 and R-5 districts;
- B. Townhouse complexes with the following characteristics pertaining to design and occupancy may be developed:
1. Varied designs, architectural modes and setbacks for the purpose of presenting aesthetically desirable townhouse residences with varied elevations, designs and structural appearances,
  2. Development on a nonrental basis by the original developer or sponsor so that each individual townhouse dwelling unit, when initially built, shall be available for sale,
  3. Common tracts or facilities for the benefit of townhouse dwelling unit owners and their families and guests, which common tracts and facilities shall be owned and maintained by the developer, the townhouse dwelling unit owners, or an association comprised of the owners of the townhouse dwelling units, and the same shall be subject to liens of the municipality chargeable to the townhouse dwelling unit owners,
  4. Each townhouse complex shall contain at least five acres,
  5. There shall be no more than eight townhouse dwelling units per gross acre,
  6. No more than six townhouses shall be attached in a series,
  7. No more than two contiguous townhouse dwelling units shall be located on the same setback line,
  8. Variations in front setbacks between contiguous townhouse dwelling units, except as provided in subsection (B)(7) of this section, shall not be less than two feet,

9. No townhouse dwelling unit or other structure in any townhouse complex shall exceed thirty-five (35) feet in height and shall be limited to two habitable stories and an uninhabitable attic,
10. No townhouse structure shall be closer than thirty-five (35) feet to any other townhouse structure, measured perpendicular to the building walls, and shall not be closer than forty (40) feet from perimeter boundaries of the townhouse parcel,
11. Off-street parking facilities for the use of residents and guests shall be provided at a ratio of one and one-half parking spaces for each townhouse dwelling unit. Garages, where provided, may be considered as the equivalent of one parking space for the purposes of this provision,
12. The developer or sponsor of any townhouse complex shall make proper and adequate provision for the installation of roads, drives, walkways, parking facilities, public water, sewerage and drainage facilities and such other desirable and necessary facilities in accordance with the requirements of the municipal authorities of the borough having jurisdiction, control and supervision over the respective items mentioned herein. The installation of all improvements herein required shall be the responsibility of the developer or sponsor, and no building permit shall be issued unless and until the developer or sponsor shall, in accordance with the applicable laws, enter into an agreement and post the necessary bond to secure the installation of all site improvements including water and sewerage lines, roadways and installation of the necessary fire hydrants as may be required by the borough,
13. No townhouse unit shall contain more than three bedrooms and not more than forty (40) percent of the townhouse units shall contain three bedrooms and not less than sixty (60) percent of the townhouse units shall contain less than three bedrooms,
14. Those portions of any townhouse development complex which are not utilized for the location of townhouse dwelling units or required accessory uses shall be devoted to one or more of the following uses:
  - a. Private recreational facilities such as parks and playgrounds; pedestrian walkways; golf courses and country clubs; private swimming pools and swimming clubs; tennis courts,
  - b. Privately maintained woodland conservation areas, gardens or similar green, open space areas,
  - c. Such other uses as may be approved by applicable governmental authorities having jurisdiction thereof,
15. The land and facilities comprising the aforementioned approved private recreational or conservation uses shall be owned and operated by an association of the owners of the townhouse dwelling units comprising each townhouse complex, and the maintenance of the land and facilities shall be the responsibility of the association, and all such responsibility shall be in accordance with and subject to all statutes and regulations of the state of New Jersey and all provisions of this chapter and other ordinances of the borough including, but not limited to, liens against the townhouse unit property owners in favor of the borough.

(Prior code § 19-13.1)

### **18.60.030 Accessory uses and buildings permitted.**

As specified in the R-10 residential district.

(Prior code § 19-13.2)

**18.60.040 Uses permitted with a conditional use permit.**

As specified in the R-10 residential district.

(Prior code § 19-13.3)

**18.60.050 Height, area and building requirements.**

As specified in Schedule I, set out at the end of this title.

(Prior code § 19-13.4)

**Chapter 18.61 AR ZONE**

**Sections:**

**18.61.010 Applicability.**

The following regulations shall apply to all AR districts.

(Ord. 2006/39 (part))

**18.61.020 Principal uses and buildings.**

- A. All uses and buildings permitted as regulated in the R-5 district.
- B. Age restricted condominium complexes or condominiums with the following characteristics pertaining to design and occupancy may be developed.
  - 1. Varied designs, architectural modes and setbacks for the purpose of presenting aesthetically desirable residences with varied elevations, designs and structural appearances.
  - 2. Development when initially built shall be available for sale.
  - 3. Common tracts or facilities for the benefit of dwelling unit owners and their families and guests, which common tracts and facilities shall be owned and maintained by the developer, the dwelling unit owners, or an association comprised of the owners of the dwelling units, and the same shall be subject to liens of the municipality chargeable to the dwelling unit owners.
  - 4. Each condominium complex shall contain at least five acres.
  - 5. There shall be no more than six units per acre.
  - 6. No more than thirty (30) units shall be attached in a series.
  - 7. The unit shall not be less than twenty (20) feet from right-of-way of an approved street, or railroad right-of-way.
  - 8. The unit shall not be set back less than fifteen (15) feet from the rear yard line.
  - 9. No unit shall exceed three stories in height.
  - 10. Four stories may be permitted where parking is provided under the structure.
  - 11. Building Coverage. Building coverage shall not exceed twenty (20) percent of the gross lot area.
  - 12. Impervious Coverage. Impervious coverage shall not exceed fifty (50) percent of the gross lot area.

13. Off-Street Parking. Off-street parking facilities for the use of the residents and guests shall be provided at a ratio of two parking spaces for each dwelling unit. Garages, where provided, may be considered the equivalent of one parking space for the purposes of this provision.
14. One hundred (100) percent of the on-street parking along the roadway frontage of the site may be included in the calculation for parking as provided by N.J.A.C. 5:21-3.1.
15. The developer or sponsor of the complex shall make proper and adequate provision for the installation of all roads, drives, walkways, parking facilities, public water, sewage, drainage facilities and such other desirable and necessary facilities in accordance with the requirements of municipal authorities of the borough having jurisdiction, control and supervision over the facilities mentioned herein. Installation of all improvements herein required shall be the responsibility of the developer or sponsor and no building permit shall be issued unless and until the developer or sponsor shall in accordance with the applicable laws enter into an agreement and post necessary bonds, security, installation of all site improvements, including water and sewage lines, roadways and installation of any necessary fire hydrants as may be required by the borough.
16. No unit shall contain more than two bedrooms.
17. The land comprising any private, recreational or conservation uses shall be owned and operated by an association of the owners of the townhouse or condominium dwelling units comprising the complex. The maintenance of the land and facilities shall be the responsibility of the association, and all such responsibilities shall be in accordance with and subject to all statutes and regulations of the state of New Jersey and all provisions of this chapter and other ordinances of the borough including, but not limited to, liens against the units of the property units in favor of the borough.

(Ord. 2006/39 (part))

**18.61.030 Accessory uses and buildings permitted as specified in the R-5 district.**

(Ord. 2006/39 (part))

**18.61.040 Uses permitted with conditional use permit as specified in the R-5 residential district.**

(Ord. 2006/39 (part))

**Chapter 18.64 PRD PLANNED RESIDENTIAL DEVELOPMENT ZONE**

**Sections:**

**18.64.010 Applicability.**

The following regulations shall apply to all planned residential development districts.

(Prior code § 19-13A (part))

**18.64.020 Principal uses and buildings permitted.**

As specified for the R-10 residential district.

(Prior code § 19-13A.1)

**18.64.030 Permitted accessory uses and buildings.**

As specified in the R-10 residential district.

(Prior code § 19-13A.2)

**18.64.040 Height area and building requirements.**

As specified for the R-10 residential district.

(Prior code § 19-13A.3)

**18.64.050 Uses permitted with a conditional use permit.**

- A. As specified in the R-10 residential district in accordance with the conditions and requirements found in Chapter 18.84.
- B. Planned residential developments in accordance with the conditions and requirements found in Section 18.84.080 and the following specific requirements:
  - 1. Minimum tract size, twenty-five (25) contiguous acres.
  - 2. Maximum density, seven dwelling units per gross acre.
  - 3. Vehicular access shall be limited to ingress and egress from East Main Street and First Street.

(Prior code § 19-13A.4)

**Chapter 18.68 REC RECREATIONAL ZONE**

**Sections:**

**18.68.010 Purpose.**

The purpose of this chapter is to encourage the development and full utilization of certain lands within the borough for recreational purposes, and/or for parking lot purposes so as to alleviate congestion in the Market Yard Parking Area and other downtown parking areas, and to actively encourage new recreational uses within the borough.

(Ord. 2001/3 § 3 (part); prior code § 19-13B.1)

**18.68.020 Definitions.**

Unless otherwise expressly herein provided, all terms used in this chapter shall have the same meanings as set forth in Section 18.04.040.

(Ord. 2001/3 § 3 (part); prior code § 19-13B.2)

**18.68.030 Principal uses and buildings permitted.**

- A. Permitted uses in the recreational zone include buildings and recreational areas and facilities including club houses, parks, playgrounds, swimming pools, tennis courts, basketball courts, handball courts, volleyball courts, ice and roller hockey rinks, driving range, miniature golf course, pitch and put course, golf training center, and other such activities, but not to include carnival-type activities. At the time of a site plan

application and review, the applicant shall be required to demonstrate to the planning board that the site is to be utilized solely for recreation and recreation type uses and that the operator shall comply with all borough and state regulations for private or nonprofit recreational facilities. Recreational uses shall not include nursery school, child care facilities or overnight facilities.

- B. Parking Lot Areas. Permitted uses in this zone include parking lots and parking areas either in conjunction with the recreational uses or which stand alone provided that the parking lot area complies with all development regulations of the borough.

(Ord. 2001/3 § 3 (part); prior code § 19-13B.3)

#### **18.68.040 Height, area and building requirements.**

Except for stand-alone parking areas:

- A. Minimum lot size: one acre.
- B. Minimum required yards (principal building):
  - Front yard: twenty-five (25) feet.
  - Rear yard: twenty-five (25) feet.
  - Side yard: twenty-five (25) feet.
- C. Maximum percentage of lot coverage: twenty-five percent (25%)
- D. Maximum building height:
  - In stories: two and one-half.
  - In feet: thirty (30) feet.
- E. Accessory building setbacks:
  - Side yard: ten (10) feet.
  - Rear yard: ten (10) feet.

(Ord. 2001/3 § 3 (part); prior code § 19-13B.4)

#### **18.68.050 Parking facilities.**

- A. All parking facilities must be located off street but may be provided in open or covered parking lots which may be located at, above or below grade and may be part of a principal building or may be located on lots which are not part of the project site and which are reserved for use by the project.
- B. Parking areas shall be set back a minimum of ten (10) feet from any residential zone boundary line. The setback area shall be landscaped.

(Ord. 2001/3 § 3 (part); prior code § 19-13B.5)

### **Chapter 18.69 MCM MODIFIED COMMERCIAL MANUFACTURING ZONE**

#### **Sections:**

**18.69.010 Principal uses and buildings permitted.**

- A. Research laboratories;
- B. Product development laboratories;
- C. Manufacture or assembly of items from previously prepared raw materials, such as but not limited to pharmaceuticals, electronic equipment, jewelry and watches, wood, leather, paper, textiles, plastic, stone and tile and storage and/or distribution of same provided there is no outside storage;
- D. Administrative and other clerical offices;
- E. Self-storage facilities;
- F. Document storage facilities;
- G. Retail sale of objects and goods manufactured, designed, assembled or fabricated on-site.

(Ord. 2005/24 § 4 (part))

**18.69.020 Accessory uses and buildings permitted.**

Garages to house vehicles normally associated with the types of businesses listed in Section 18.69.010 of this chapter.

(Ord. 2005/24 § 4 (part))

**18.69.030 Uses permitted with a conditional use permit.**

Public utility facilities other than customarily required for providing individual service.

(Ord. 2005/24 § 4 (part))

**18.69.040 Height, area and building requirements.**

Shall be the same as the CM zone district as specified in Schedule I, set out at the end of this title.

(Ord. 2005/24 § 4 (part))

**18.69.050 Prohibited uses and buildings.**

- A. Residential uses;
- B. All uses which have nuisance factors other than passenger traffic and the transportation of items by truck or rail.

(Ord. 2005/24 § 4 (part))

**Chapter 18.70 RPO RESIDENTIAL PROFESSIONAL OFFICE ZONE**

**Sections:**

### **18.70.010 Definitions.**

Unless otherwise expressly provided in this section, all terms used in this chapter shall have the same meanings as set forth in Section 18.04.040 of this title.

"Family home occupation" means any activity operated for pecuniary gain in, or directed from, a residential dwelling or unit by one or more family members residing within that dwelling or unit as described in the "Family Home Occupation Act," Assembly Bill No. 1118, pre-filed for introduction in the 2004 session.

"Home-based office" means a family home occupation which receives clients as visitors.

(Ord. 2005/24 § 5 (part))

### **18.70.020 Principal uses and buildings permitted.**

- A. The only principal uses and buildings permitted within the RPO residential zone are detached single-family dwelling units.
- B. Community residences for the developmentally disabled, community shelters for victims of domestic violence, community residences for the terminally ill, and community residences for persons with head injuries, as defined in N.J.S.A. 40:55d-66.1, shall be a permitted use in all residential zones of the municipality provided they meet all development standards, property maintenance code requirements and BOCA requirements as those which a single-family residence would be required to meet.

(Ord. 2005/24 § 5 (part))

### **18.70.030 Permitted accessory uses and buildings.**

- A. Private garages, provided that total garage capacity be limited to a maximum of three vehicle spaces, and that no vehicles so housed may exceed two tons in gross weight;
- B. Private swimming pools;
- C. Signs subject to the provisions of Chapter 15.16 of this code.

(Ord. 2005/24 § 5 (part))

### **18.70.040 Uses permitted with a conditional use permit.**

The following uses may be permitted with a conditional use permit subject to the provisions of this title:

- A. Public utilities: facilities other than customarily required for providing individual service;
- B. Private outdoor parks, playgrounds and recreational areas;
- C. Public, parochial or private schools;
- D. Churches and places of worship;
- E. Community residences for the developmentally disabled (as defined in N.J.S.A. 40:55D-66.2(a)) housing more than six, but less than sixteen (16) persons, exclusive of resident staff;
- F. Community shelters for victim of domestic violence (as defined in N.J.S.A. 40:55D-66.2(b)) housing more than six, but less than sixteen (16) persons, exclusive of resident staff;
- G. Bed and breakfast residences as defined in Sections 18.04.040(B) and 18.84.090 of this title;

- H. Any group home, community residence, halfway house or other group residence not protected by the Americans with Disability Act, the Fair Housing Amendments Act, and N.J.S.A. 40:55d-66.l

(Ord. 7/99 § 2 (part); Ord. 16/96 § 3; Ord. 5/96 § 1);

- I. Home-based offices provided that the following conditions are met:
1. The home-based office is located in a single-family dwelling;
  2. Medical, dental, massage therapy and real estate offices shall not be permitted as home offices;
  3. In addition to the family members occupying the dwelling containing the home office, there shall not be more than one outside employee in the home office;
  4. Permitted signage area is limited to one facade or freestanding sign not exceeding three square feet and four feet from the ground;
  5. The home office shall not be more than twenty-five (25) percent of the total habitable square footage of the dwelling exclusive of any basement, and shall not exceed five hundred (500) square feet;
  6. All exterior aspects of the home office operation shall not disrupt the residential integrity;
  7. Off-street parking shall be provided for a minimum of five passenger vehicles.

(Ord. 2005/24 § 5 (part))

#### **18.70.050 Height, area and building requirements.**

Shall be the same as the R-7 zone district as specified in Schedule I, set out at the end of this title.

(Ord. 2005/24 § 5 (part))

### **Chapter 18.71 SRO SPECIALTY RETAIL OFFICE DISTRICT**

#### **Sections:**

#### **18.71.010 Purpose.**

The purpose of this chapter is to adopt an appropriate zoning scheme for the Freehold Raceway property in anticipation of the possibility that harness racing may cease to be the principal use of the property at some future date. A mixed-use zone is appropriate for this property given its excellent highway access and the commercial nature of nearby properties in Freehold Township. The zoning anticipates and encourages the development of a "lifestyle center" to include specialty retail, office, restaurants, hotels, and entertainment uses, walking paths, public spaces, and landscape elements all designed in a uniform manner with consistent architectural elements.

(Ord. 2005/24 § 6 (part))

#### **18.71.020 Definitions.**

Unless otherwise expressly provided in this section, all terms used in this chapter shall have the same meanings as set forth in Section 18.04.040 of this title.

"Entertainment uses" means establishments engaged in providing entertainment for a fee, including such activities as dance halls, studios, movie theaters, theatrical productions, musical entertainment and amusement arcades.

"Service establishments" means establishments primarily engaged in providing assistance as opposed to products, to individuals, business, industry, government, and other enterprises. Includes personal, business, repair, health, legal, engineering, and other professional services; educational services; membership organizations; and other miscellaneous services.

(Ord. 2005/24 § 6 (part))

**18.71.030 Principal uses and buildings permitted.**

- A. The sale of retail goods but only in mixed-use buildings and provided that the area devoted to each individual retail use is less than twenty-five thousand (25,000) square feet;
- B. The provision of service establishments including health clubs;
- C. Table-service restaurants, coffee shops, taverns and cocktail lounges;
- D. Business, professional, administrative and executive offices;
- E. Hotels;
- F. Entertainment uses including movie theaters and nightclubs.

(Ord. 2005/24 § 6 (part))

**18.71.040 Accessory uses and building permitted.**

- A. Parking lots and parking garages;
- B. Loading facilities;
- C. Improved common areas including walking paths, benches, squares, fountains and similar areas for the convenience of the public.

(Ord. 2005/24 § 6 (part))

**18.71.045 Uses permitted with a conditional use permit.**

- A. Convention and conference centers (See 18.84.100 for standards).
- B. Auto dealerships (See 18.84.110 for standards).
- C. Banks (See 18.84.120 for standards).
- D. Pharmaceutical research (See 18.84.130 for standards).
- E. Light assembly (See 18.84.140 for standards).
- F. Public storage (See 18.84.150 for standards).
- G. Warehouses (See 18.84.160 for standards).
- H. Those uses permitted in the REC recreational zone provided that the height, area and building requirements of the REC zone are met.
- I. Grocery/Convenience Stores

(Ord. No. 2013/2, § 2, 4-15-13)

#### **18.71.050 Development requirements.**

In order to achieve the intended purpose of the SRO zone, the minimum lot size requirement shall be twenty-five (25) acres and any development shall be comprehensively planned at one time as a "lifestyle center" with a unified design theme and complementary architectural elements.

- A. Height Limitations. No building shall exceed sixty-five (65) feet in height.
- B. Floor area ratio shall not exceed 0.30.
- C. Impervious lot coverage shall not exceed sixty-five (65) percent.

(Ord. 2005/24 § 6 (part))

#### **18.71.060 Development approval procedures.**

Any project in an SRO zone shall be required to receive final site plan approval pursuant to Chapter 18.84 of this title as a precondition to the issuance of a building permit. Any developer of a proposed project shall, prior to making application for preliminary site plan approval, apply to the planning board for approval of a project development plan. A project development plan shall show: (a) the boundaries of the project site; (b) the general location of all principal buildings; (c) the proposed uses within the buildings; (d) the locations of all proposed access drives; and (e) the general location of all proposed parking facilities. Each project development plan shall be accompanied by a schedule showing total building area and total number of parking spaces comprising the project. The approval of a project development plan by the planning board or a developer's agreement with the governing body of the borough shall confer upon the developer the following rights for a period of two years from the date of such approval or developer's agreement:

- A. That the use requirements as permitted by this chapter and the development requirements hereunder shall not be changed as to the project and the project site; and
- B. That the developer may submit an application for preliminary site plan approval for the project on or before the expiration date which substantially conforms to the approved project site plan.

(Ord. 2005/24 § 6 (part))

#### **18.71.070 Effect of preliminary and final approvals.**

Upon the request therefor by the developer of a proposed project involving one hundred thousand (100,000) square feet or more of building space made in conjunction with applications for preliminary and/or final approval, the planning board may grant an enlarged initial protective period for preliminary approval under N.J.S.A. 409:55D-49 for up to six years.

(Ord. 2005/24 § 6 (part))

### **Chapter 18.72 DESIGN AND USE REGULATIONS GENERALLY**

#### **Sections:**

#### **18.72.010 Applicability of regulations.**

Except as hereinafter provided:

- A. No building or land shall after December 29, 1969, be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district or zone in which it is located.
- B. No building after December 29, 1969, shall be erected or altered:
  - 1. To exceed the height;
  - 2. To accommodate or house a greater number of families;
  - 3. To occupy a lesser amount of floor space; or
  - 4. To have narrower or smaller rear yards, front yards, side yards, inner or outer courts, than as specified here for the district or zone in which the building is located.
- C. No part of a yard or other open space required about any building for the purposes of complying with the provisions of this title shall be included as a part of the yard or other open space similarly required for another building.

(Prior code § 19-14.1)

#### **18.72.020 Provisions of existing ordinances and law and their interpretation and application.**

The provisions of this title shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. It is not intended by this title to repeal, abrogate, annul or in any way to impair and interfere with any existing provisions of the law or of any ordinance other than prior zoning ordinances or any rules, regulations, or permits previously adopted or issued or which shall be adopted or issued pursuant to law regulating the use of buildings or premises. Any restrictions or requirements with respect to buildings or land or both which appear in other ordinances of the borough (except existing zoning ordinances) are established by law and which are more restrictive than those set forth herein shall take precedence over those herein.

It is not intended by this title to interfere with or abrogate or annul any easements, covenants or other agreements between parties. However, where this title imposes a greater restriction upon the use of a building or premises or upon the height of the building or requires larger yards, courts or other open spaces than is imposed or required by existing provisions of law or ordinances or by any rule, regulation or permit or by such easements, covenants or agreements, the provisions of this title shall control.

(Prior code § 19-14.2)

#### **18.72.030 Permitted modifications and exceptions.**

- A. Undersize Lots of Record. Any parcel of land with an area or width less than that prescribed for a lot in the zone in which such lot is located, which parcel was under one ownership on December 29, 1969, and the owner thereof owns no adjoining land, may be used as a lot for any purpose permitted in the zone, provided that the minimum area requirements for such lot shall be five thousand (5,000) square feet of lot size and forty (40) feet of lot width; and further provided that all other regulations prescribed for the zone by this title are complied with.
- B. Height. The height limitations of this title shall not apply to silos, church spires, belfries, cupolas, and domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, similar features, and necessary mechanical appurtenances usually carried above the roof level. Such features shall be erected only to such height as is necessary to accomplish the purpose they are to serve. The provisions of this title shall not apply to prevent the erection above the building height limit of a parapet wall or cornice for ornament

(and without windows) extending above such height limit not more than five feet. Public and quasi-public buildings, schools, churches, and other similar permitted uses shall increase the front, rear and side yards by one foot for each foot by which such building exceeds the height limit herein established for such zone in which it is located.

- C. Yards. Open fire escapes may not project more than five feet into any side or rear yard in a residential zone. A paved terrace at ground level shall not be considered in the determination of side or rear yard sizes or lot coverage, provided that such terrace is unroofed and without walls, parapets or other form of enclosure. No paved terrace shall be permitted closer than five feet of any side or rear property line.
- D. Irregularly Shaped Lots. In the case of irregularly shaped lots, the minimum lot frontage specified in Schedule I, set out at the end of this title, may be measured at the rear line of the required front yard, provided that the lot frontage measured at the street right of way line shall not be less than seventy (70) percent of the minimum lot frontage as specified in said schedule. This seventy (70) percent of the minimum lot frontage requirement shall not apply to lots fronting on a cul-de-sac.

(Prior code § 19-14.3)

#### **18.72.040 Preservation of natural features.**

- A. No structure shall be built within fifty (50) feet of the bed of a stream carrying water on an average of six months of the year. No building shall be constructed on land subject to periodic overflow or on land which has an average water table within two feet of the ground surface.
- B. No persons shall strip, excavate, or otherwise remove top soil from any premises in the borough.
- C. Existing natural features such as trees, brooks, drainage channels and views shall be retained. Whenever such features interfere with the proposed use of such property, a retention of the maximum amount of such features consistent with the use of the property shall be required.

(Prior code § 19-14.4)

#### **18.72.050 Other general provisions.**

- A. No lot shall have erected upon it more than one principal residential building. No yard or other open space provided around any building for the purpose of complying with the provision of this title shall be considered to provide a yard or open space for any other building.
- B. An accessory building attached to a principal building shall comply in all respects with the yard requirements of this title for the principal building. Detached accessory building shall be located to the rear of the front building line of the principal building, and if located in a side yard area shall conform to side yard requirements of Schedule I, set out at the end of this title.
- C. Every principal building shall be built upon a lot with frontage upon a public street improved to meet the borough requirements or for which such improvements have been insured by the posting of a performance guarantee pursuant to the land subdivision ordinance of the borough, unless relief has been granted by the board of adjustment.
- D. At the intersection of two or more streets, no hedge, fence or wall (other than a single post or tree) which is higher than three feet above curb level, nor any obstruction to vision, shall be permitted in the triangular area formed by the intersecting street lines and a line joining each thirty (30) feet distant from the intersection along the street lines.

- E. 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. Corner lots shall provide the minimum front yard requirements for the respective zone for both intersection streets, for both principal and accessory buildings.
- F. No front yard area, including driveways in the front yard, shall be used for open storage of boats, recreational vehicles or any other equipment except for vehicular parking on driveways of currently registered automobiles and trucks which are driven on a regular basis. Automobiles or trucks shall not be displayed for sale within the front yard area of any property except on driveways.
- G. Business structures or uses shall not display goods for sale purposes or coin-operated vending machines of any type beyond three feet of the structure in which such business activity is carried on. At no time may any goods, display racks or coin-operated vending machines be located on or in the borough right of way without obtaining a license to do so.

All display racks, equipment and goods must be brought in to the business structure each day at the close of normal business hours. Coin-operated vending machines may remain out of doors within three feet of the structure provided they are not located in the right-of-way.

- H. In any zone, all yards, open space, off-street parking and landscaping shall be contained within that zone.

(Prior code § 19-14.5)

(Ord. No. 2009/15, § 1, 8-10-2009; Ord. No. 2013/2, § 2, 4-15-13)

#### **18.72.060 Utility line installations.**

- A. Utility line installation or utility service lines shall include conduits, cables, pipes, wires, or other conducts, transmitting water, gas, sewage, electricity, telephone service, steam, television transmission, and whether such installation be owned by a public utility or private enterprise.
- B. For all major subdivisions, the applicant shall arrange with the serving utility for the underground installation of the utilities distribution supply lines and service connections in accordance with the provisions of the applicable standard terms and conditions incorporated as a part of its tariff as the same are then on file with the state of New Jersey Board of Public Utility Commissioners and shall submit to the borough engineer and the planning board prior to the granting of final approval a written instrument from each serving utility which shall evidence full compliance with the provisions of this subsection; provided, that in such subdivisions such installations shall be installed underground under the sidewalk paralleling the street and not in the area of the roadway between the curb lines of the street; provided, that in such subdivisions, lots which abut existing streets where overhead electric or telephone distribution supply lines have theretofore been installed on any portion of the streets involved, may be supplied with electric and telephone service from such overhead lines or extensions thereof but the service connections from the utilities overhead lines shall be installed underground.
- C. All new installation of electric lines and equipment under sidewalks shall meet specifications of the National Electrical Code Line and must be installed in conduits or ducts or direct burial cable and every effort shall be made to have easements for such installation in front yards.
- D. Where any above ground utility service lines are being changed to underground service lines, such utility service lines shall be installed under the sidewalks paralleling the street and not in the area of the roadway between the curb lines of the streets.

- E. Where utility service lines are installed beneath existing sidewalks areas, the sidewalks replacing those removed to facilitate the installation shall be of equal or superior quality than those being replaced and must satisfy the standards and requirements as set forth by the borough engineer.
- F. In any particular situation where the applicant can clearly demonstrate that because of unusual topographic conditions or other unusual conditions having to do with the land, the installation of such utilities underground is impracticable or otherwise not feasible due to such conditions, then the borough engineer, in his or her discretion, may waive this requirement for underground installation.
- G. All underground utility work installed under the pavement of the sidewalk shall be laid sufficiently in advance to allow for complete settlement of the trenches and in no event shall construction work be permitted over such excavation which, in the opinion of the borough engineer, has not properly settled.
- H. Where, in the installation of utility service lines under sidewalks, such lines shall pass through existing root systems of trees under jurisdiction of the shade tree commission, the digging and removal of soil must be performed in such manner that the roots are not cut or otherwise injured and inspections during the progress of the installation shall be made by the borough engineer who will apply, in addition to the specifications and requirements of the office of the borough engineer, specifications, requirements, and standards as outlined by the shade tree commission of the borough.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the borough in any district.

(Prior code § 19-14.6)

#### **18.72.070 Street closures.**

Whenever any street, alley or other public way is vacated by official action of the governing body, the zoning district shall be automatically extended to the center of such vacated public way, and all area included in the vacated area in question shall be subject to all appropriate regulations of the extended districts.

(Prior code § 19-14.7)

#### **18.72.080 Corner lot accessory buildings.**

For the purpose of regulating the locations of accessory buildings on corner lots, all portions of a corner lot or a through lot which fronts on a public street shall be subject to the front yard requirements of the zone district in which the corner lot or through lot is located, provided further that no accessory building shall be permitted in any required front yard.

(Prior code § 19-14.8)

#### **18.72.090 Prohibited uses.**

Any use not specifically permitted in a zoning district established by this title is specifically prohibited from that district, and it is further provided that the following uses and activities shall be specifically prohibited in any zone in the borough:

- A. The keeping or raising of swine, horses, cattle or goats;
- B. All billboards, sign boards, advertising signs or devices not expressly related to the business being conducted on the premises or otherwise specifically permitted by Chapter 15.16;
- C. Auction markets;

- D. Junk yards, automobile wrecking or disassembly yards, the sorting or baling of scrap metal, paper, rags, or other scrap or waste material, asphalt plants, concrete plants, asphalt batching plants, concrete batching plants, asphalt mixing plants, concrete mixing plants, asphalt manufacturing plants, concrete manufacturing plants, secondhand or used car lots except as an accessory use to a new car agency;
- E. The keeping or raising of mink, foxes or similar fur-bearing animals;
- F. Trailer courts, trailer coaches as dwellings, offices or storage facilities, or commercial activities related to the outdoor storage or display of trailer coaches except that during periods of construction, transportable or wheeled offices may be permitted specifically limited as to the extent of time of such use; and further provided such trailer coaches or mobile units may be used in conjunction with programs for educational and instructional services to Freehold Borough school children conducted by a state, county, regional or local board of education or agency;
- G. Privately operated dumps for the disposal of garbage, trash, junk, refuse, and similar materials;
- H. Any use of any building or premises in such a manner that the health, morals, safety or general welfare of the community may be endangered;
- I. Any use which emits excessive and objectionable amounts of dust, fumes, noise, odor, smoke, vibration, glare or waste products;
- J. Automobile car lots, salesrooms, and facilities: used car lots, salesrooms and facilities unless the same are accessory to the sale of new cars and unless such used car lot, salesroom or facility is located on the same lot with the principal use. Automobiles shall not be displayed within the front yard.

(Prior code § 19-14.9)

(Ord. No. 2013/2, § 2, 4-15-13; Ord. No. 2020/2, § I, 2-3-2020)

### **18.72.100 Overnight parking.**

- A. No vehicle exceeding the following standards shall be parked overnight in any residential zone:
  - 1. Vehicles containing signs/markings totaling more than eighteen (18) inches by twenty-four (24) inches on any side of the vehicle;
  - 2. Any vehicle which is longer than eighteen (18) feet six inches from bumper to bumper or is more than seven feet six inches from the ground to the uppermost roof, equipment rack, warning beacon or similar attachment;
  - 3. Any vehicle containing equipment, contractor tools, supplies and/or materials exposed to public view with the exception of not more than one ladder or equivalent amount of pipe mounted on a roof or bed rack.
- B. Any and all vehicles exceeding the above standards must be parked in a garage or behind the rear building line.
- C. No more than one vehicle with commercial license plates may be parked in any residential zone unless the vehicles are housed in a garage.
- D. Excluded from the above prohibition are vehicles of agencies providing emergency service while actually engaged in emergency or service calls.
- E. This section must be read in conjunction with Section 10.12.120 and may be enforced either under the zoning ordinance or under the general police regulations.

F. This section shall be enforced by any appropriate official including the police department and zoning officer.  
(Ord. 11/97 § 1; Ord. 21/96 § 1; prior code § 19-14.10)

**18.72.110 Garages and accessory structures.**

- A. All new residential dwelling units constructed in R-10 and R-7 residential zones shall have an attached or detached garage containing a minimum area of two hundred fifty (250) square feet, and shall provide a driveway connecting the garage to the street upon which the lot has frontage.
- B. Conversion of attached garage areas to living space in existing residential structures shall be permitted in all zone districts other than the R-7 and R-10 districts upon the submission of a zoning application evidencing the existence of two off-street parking spaces which meet the site plan design criteria.
- C. In R-4 and R-5 residential zones, all new residential dwellings shall provide for two off-street parking spaces, but shall not be required to provide a garage.
- D. In addition to garages other accessory structures shall be permitted on the same lot. In all residential zone districts the RPO zone and B-1A zone, accessory structures shall be limited to 750 square feet in size with a maximum permitted height of twenty (20) feet to the peak of the roof. In the B-1, B-2 and B-2B zone districts accessory structures shall be limited to one thousand five hundred (1,500) square feet in size with a maximum permitted height of twenty (20) feet to the peak of the roof. No more than two accessory structures exceeding two hundred (200) square feet each shall be permitted on any lot.

(Ord. No. 2013/2, § 2, 4-15-13)

Editor's note(s)—Ord. No. 2013/2, § 2, adopted April 15, 2013, amended § 18.72.110 in its entirety to read as set out herein. Former § 18.72.110 pertained to garages and derived from the prior code § 19.14.11; Ord. 2000/31, § 1; Ord. 2005/19, § 1.

**18.72.120 Billboards.**

The construction, placement or use of billboards is specifically prohibited in any other zone within the borough other than the B-2B zone as set forth in this title.

(Ord. 2000/19 § 2)

**18.72.130 Churches.**

Churches and similar places of worship and religious instruction shall have a minimum lot area of three acres.

(Prior code § 19-14.12)

**18.72.140 Charitable events.**

Nothing in this title shall be construed as limiting local temporary charitable and civic activities, such as firefighter's fairs and the like, provided such use shall not exceed ten (10) days and shall comply with all other ordinances and regulations of the borough.

(Prior code § 19-14.13)

**18.72.150 Disabled vehicles.**

- A. A disabled vehicle is a vehicle that:

1. Is not currently capable of operation or cannot be legally operated on a street or road;
  2. Is in a state of disrepair;
  3. Is not registered or the registration is expired; or
  4. Does not have license plates.
- B. No more than one disabled vehicle may be housed, or located (other than inside an enclosed garage) on private residential or commercial property for more than sixty (60) consecutive days or sixty (60) days in any six-month period of time. No disabled vehicles, other than vehicles of a public entity, may be stored, housed or located on public property.
- C. In the event of a hardship, an application may be made to the code office for an extension of the sixty (60) day period. In no event may the time period be extended beyond one year.

(Ord. 2006/5 § 1: prior code § 19-14.14)

### **18.72.160 Conversion of single-family dwelling units to multifamily dwelling units.**

Should any variance be granted to permit the utilization of any existing structure or new structure in the B-1, B-2, B-2a, C-M, or M-1 zones, the zoning board of adjustment shall apply the standards set forth in Chapter 18.84.

(Prior code § 19-14.15)

## **Chapter 18.73 MINIMUM REQUIRED OFF-STREET PARKING SPACES**

### **18.73.010 Minimum required off-street parking spaces.**

- A. 1. Apartments: one and one-half spaces per dwelling unit, except senior citizens apartment houses, approved by the New Jersey Department of Community Affairs, shall provide not less than four spaces per dwelling unit.
2. One-Family and Two-Family Detached Dwellings: two parking spaces per dwelling unit.
  3. Hotels, Motels, Tourist Homes, Rooming or Boarding Houses: one parking space per sleeping or dwelling unit.
  4. Barber and Beauty Shops: one and one-half parking spaces per beauty chair or barber chair, plus one additional parking space for each employee.
  5. a. Retail Sales and Services, Except When Otherwise Specifically Covered Herein: one parking space for every two hundred (200) square feet of gross floor area of the building or major fraction thereof.
    - b. Places of Assembly, Including Catering or Banquet Halls, Except When Otherwise Specifically Covered Herein: one parking space for every four persons who may legally be admitted therein at one time under the state fire prevention laws.
  6. Stores for the Retail Sale of Furniture or Hardware: one parking space for every five hundred (500) square feet of building area or major fraction thereof plus one additional parking space for each employee.
  7. Grocery/Convenience Stores, Minimum Parking Required: one space for every two hundred (200) square feet of gross floor area in B-2 zone, one space per every one hundred fifty (150) square feet elsewhere.
  8. Laundromats: one parking space for every two washing machines.

9. Restaurants, Cafeterias, Taverns: one parking space for every four seats for customers, plus one space for every two employees.
  10. Banks, Financial and Business Offices and Professional Offices: one parking space for every four hundred (400) square feet of gross floor area of the building or major fraction thereof.
  11. Auditoriums, Churches, Theaters, Stadiums, Assembly Halls, and Similar Places of Public Assembly Having Fixed Seating Facilities, also Dance or Recreation Halls: one parking space for every four persons who may legally be admitted therein at one time under the state fire prevention laws.
  12. Nursing Homes or Other Institutional Uses for Care of the Ill or Aged: one parking space for every four beds, plus one additional parking space for every two employees and members of the staff in the largest working shift.
  13. Mortuaries and Funeral Homes: one parking space for every fifty (50) square feet of floor area in the slumber rooms, parlors or individual funeral service rooms.
  14. Transportation Terminal Facilities: one parking space for every fifty (50) square feet of building space.
  15. Motor Vehicle Service Stations: two parking spaces for each service bay, plus one parking space for each employee, with a minimum of two parking spaces for employees.
  16. Motor Vehicle Sales and Service: one parking space for every two hundred (200) square feet of building area or fraction thereof.
  17. Manufacturers: one parking space for each employee on the maximum work shift or one space for each three hundred (300) square feet of gross floor area, whichever is greater.
  18. Off-Street Loading and Unloading Provisions:
    - a. For every building, structure or part thereof having over five thousand (5,000) square feet of gross building area erected and occupied for commerce, hotel, hospital, laundry, dry cleaning, places of public assembly, industry, and other similar uses involved in the receipt and distribution by vehicles of materials or merchandise, there shall be provided and permanently maintained adequate space for standing, loading, and unloading services in order to avoid undue interference with the public use of streets or alleys. Every building structure or addition thereto having a use which complies with the above definition shall be provided with at least one truck standing, loading, and unloading space on the premises not less than twelve (12) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height. One additional truck space of these dimensions shall be provided for every additional ten thousand (10,000) square feet, or major fraction thereof, of gross area in the building. Off-street loading and unloading areas shall be paved and adequately drained in accordance with standards established by the borough and subject to the approval of the borough engineer.
    - b. Access to a truck standing, loading and unloading space shall be provided directly from a public street or alley or from any right-of-way that will not interfere with public convenience, and that will permit orderly and safe movement of truck vehicles.
    - c. Loading space as required under this section shall be provided as area in addition to off-street parking space and shall not be considered as supplying off-street parking space.
- B. The planning/zoning board may consider requests for design waivers or design deficiency approvals for deficient parking provided at least ninety (90) percent of the parking spaces required by the ordinance are proposed. If less than ninety (90) percent of the required parking spaces are proposed, an application for a bulk variance must be made by the applicant.

- C. Unless specifically waived by the governing body, a contribution to the Freehold Borough Municipal Parking Capital Improvement Fund is required for each required space not provided in the B-1 and B-2 zones. The amount of the parking contribution fee shall be established annually by resolution of the governing body. Each application for a waiver shall stand on its own merits. However, applicants shall be entitled to a credit for previous contributions made to the municipal parking capital improvement fund.
- D. In the case of a change in use of an existing building, additional parking is required when the parking requirements of the new use is higher than the requirements of the previous use. The differential in parking spaces between the old and new uses shall be provided to comply with this chapter. If the parking requirements between the existing use and the new proposed use do not increase, the existing parking provided is deemed to satisfy the parking requirements under the chapter.
- E. A parking requirement for a use may be satisfied through the provision of dedicated parking at an off-site location. The off-site location shall be located within one-quarter mile (one thousand three hundred twenty (1,320)) foot radius of the property whose parking requirement is being satisfied. The parking arrangement shall be formalized through a legal instrument such as a deed, lease, or easement deemed acceptable by the borough zoning officer.

(Ord. No. 2013/2, § 2, 4-15-13; Ord. No. 2016/10, § 1, 9-6-16)

#### **18.73.020 Parking deficiency.**

Any developer who may require a parking space variance from the requirements of Section 18.73.010 shall, as a condition of that variance, make a contribution to the municipal parking capital improvement fund in the amount of one hundred dollars (\$100.00) for each parking space the project is deficient, for a maximum contribution of five thousand dollars (\$5,000.00).

(Ord. No. 2013/19, § 1, 11-18-13)

### **Chapter 18.76 FENCES**

#### **Sections:**

#### **18.76.010 Fence defined.**

"Fence" means any artificially constructed barrier of wood, masonry, stone, wire, plastic, metal or any other manufactured material or combination of these materials, erected for the enclosure of land, and/or dividing one piece from another. Fences shall also include any hedge, tree, evergreen, shrub, bush or other planting when located within a twenty-five (25) foot radius of the corner curb line of the intersection of any two or more streets or roadways.

(Prior code § 19-15.1)

#### **18.76.020 Regulations.**

- A. All fences shall be maintained in a safe, sound and upright condition.
- B. No fence shall be erected, altered, or reconstructed which is imbedded with or made of pieces of glass, sharpened metal, or sharp, protruding or otherwise hazardous materials, nor shall any fence be erected which is likely to injure persons or animals.

- C. Barbed wire fences shall not be permitted except in business or industrial zones and then only consistent with the provision of Section 18.76.040(B).
- D. Electrically charged fences are expressly prohibited in all zones.
- E. The finished side of all fences shall face towards adjacent properties.
- F. The restrictions of this chapter shall not be applied so as to prevent the erection of an open wire fence not exceeding fifteen (15) feet in height above ground level anywhere within a public park, public playground, public school property or around a commercial recreation use where such fence is for the purpose of containing an implement or missile necessary for the conduct of such recreational activity. The restrictions of this chapter shall not be applied so as to restrict the erection of any wall for the purpose of retaining earth, provided that such wall does not exceed a height of three feet to be measured from the ground level of the highest adjacent grade.
- G. No fence shall be erected or maintained at a height in excess of three feet when located within a thirty (30) foot radius of the corner curb line of the intersection of two or more streets or roadways.

(Prior code § 19-15.2)

#### **18.76.030 Fences in residential zones.**

- A. Fences not to exceed four feet in height above ground level may be erected between the front property line and the building line, except that townhouse units and other unit types determined to be of a similar type shall not be permitted to erect fences in the front yard area.
- B. Fences not to exceed five feet in height above ground level may be erected between the front building line and the rear line of the building.
- C. Fences not to exceed six feet in height above ground level may be erected from the rear line of the building to the rear of the property line.
- D. No fence which is more than fifty (50) percent solid shall be permitted in any front yard. No fence which is more than fifty (50) percent solid shall be permitted within ten (10) feet of the front sidewalk, or in the event no sidewalk exists, of the front property line. Any fence located within ten (10) feet of the front sidewalk, or in the event no sidewalk exists, the front property line, shall have at least fifty percent (50%) open.
- E. The provisions of this section shall apply to the following zones: R-10, R-7, R-5, R-4, A, TH, PRD.

(Ord. 2000/22 § 1; prior code § 19-15.3)

#### **18.76.040 Fences in commercial and manufacturing zones.**

- A. Fences in the B-1, B-2, B-2A zones may be erected to a height not to exceed six feet above ground level in any yard. Fences in the C-M and M-1 zones may be erected to a height not to exceed six feet except that open wire fences may be erected to a height not to exceed eight feet above ground level in a side or rear yard.
- B. When used in the C-M and M-1 zones, barbed wire may only be used for security purposes and must be erected on top of a fence having a minimum height of six feet above ground level.

(Prior code § 19-15.4)

### **18.76.050 Permits.**

- A. Application. Whenever a fence is erected under this chapter, a fence permit shall be obtained from the building inspector prior to erection. The applicant shall be responsible for location of fence and the borough shall have no responsibility with regard to such location. Applications for such permits shall be made in writing to the building inspector of the borough and shall set forth the following information:
1. The owner and address of the premises where the fence is to be erected;
  2. The description and specifications of the fence, including size, height, dimensions, material and size and percentage of openings;
  3. A sketch which shall show the location of the fence in relation to all of the structures and buildings and relation to all streets, lot property lines and yards.
- B. Issuance. The building inspector shall issue a permit for and approve the construction of any fence which complies with the provisions of this chapter and provided further any such fence does not endanger the safety of persons lawfully using the public streets.

(Prior code § 19-15.5)

### **18.76.060 Enforcement.**

If the building inspector upon inspection determines that any fence or portion of any fence is not being maintained in a safe, sound and upright condition, or has been erected, altered or reconstructed in any manner inconsistent with the provisions of this chapter, he or she shall notify the owner of the fence in writing of his or her findings and state briefly the reasons for the findings and order such fence or portion of the fence repaired or removed within thirty (30) days of the date of the written notice.

(Prior code § 19-15.6)

### **18.76.070 Violation—Penalty.**

Any owner or owners who shall not repair or remove any fence within thirty (30) days of written notice of a violation of this chapter shall be guilty of a violation of this chapter and upon conviction thereof shall be punished by a fine not exceeding twenty-five dollars (\$25.00). Each day that a violation continues shall constitute a separate offense.

(Prior code § 19-15.7)

## **Chapter 18.77 CLOTHING DONATION BINS**

### **Sections:**

### **18.77.010 Licensing of clothing donation bins.**

Notwithstanding any other provision of law to the contrary, no person shall place, use, or employ a clothing donation bin within the borough for solicitation purposes unless all of the following requirements are met:

- A. The clothing donation bin is owned or sponsored by a charitable organization registered pursuant to P.L. 1994, c. 16 (N.J.S.A. 45:17A-18 et seq.) or is sponsored by any department of the borough;

- B. The registered charitable organization has obtained a permit, valid for a twelve-month period, from the borough's zoning officer in accordance with the following:
1. In its application for such a permit, the registered charitable organization shall indicate:
    - a. The location where the bin is currently situated or proposed to be situated;
    - b. The manner in which the charitable organization anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed and the method by which the proceeds of collected donations would be allocated or spent;
    - c. The name and telephone number of the bona fide office of the charitable organization and any entity which may share or profit from any clothing or other donations collected via the bin; and
    - d. Written consent from the owner to place the bin on its property.
  2. The zoning officer shall not grant a permit to place, use, or employ a clothing donation bin if it determines that the placement of the bin could constitute a safety hazard. Such hazards shall include, but not be limited to, the placement of a clothing donation bin within one hundred (100) yards of any place which stores large amounts of, or sells, fuel or other flammable liquids or gases.
  3. The zoning officer shall impose a fee for such application, in the amount of twenty-five dollars (\$25.00) annually for each bin to offset the costs involved in enforcing this section.
  4. An expiring permit for a clothing donation bin may be renewed upon application for renewal and payment of the applicable annual fee. Such application for renewal shall include information detailing:
    - a. The location where the bin is situated, and, if the person intends to move it, the new location where the bin would be situated after the renewal is granted and written consent from the property owner to place the bin on its property;
    - b. The manner in which the charitable organization has used, sold, or dispersed any clothing or other donations collected via the bin; the method by which the proceeds of collected donations have been allocated or spent; and any changes the charitable organization anticipates it may make in the processes during the period covered by the renewal; and
    - c. The name and telephone number of the bona fide office of the charitable organization and of any entity which shared or profited from any clothing or other donations collected via the bin and of any entities which may do so during the period covered by the renewal.
  5. The permit number and its date of expiration shall be clearly and conspicuously displayed on the exterior of the clothing donation bin in addition to the information required pursuant to subsection 18.77.10 D. of this section.
- C. The registered charity, and any other entity which may share or profit from any clothing or other donations collected via the bin, must present proof that it maintains a bona fide office where a representative of the charitable organization or other entity, respectively, can be reached at a telephone information line during normal business hours for the purpose of offering information concerning the charitable organization or other entity. For the purposes of this subsection, an answering service unrelated to the charitable organization does not constitute a bona fide office.
- D. The following information shall be clearly and conspicuously displayed on the exterior of the clothing donation bin:

1. The name and address of the registered charitable organization that owns or is the sponsor of the bin, and of any other entity which may share or profit from any clothing or other donations collected via the bin;
2. The registered charitable organization's charitable registration number;
3. The telephone number of the registered charitable organization's bona fide office and, if applicable, the telephone number of the bona fide office of any other entity which may share or profit from any clothing or other donations collected via the bin;
4. In cases when any entity other than the entity which owns the bin may share or profit from any clothing or other donations collected via the bin, a notice, written in a clear and easily understandable manner, indicating that clothing or other donations collected via the bin, their proceeds, or both, may be shared or given entirely to, an entity other than the entity which owns the bin, and identifying all such entities which may share or profit from such donations; and
5. A statement, consistent with the information provided to the borough in the most recent permit or renewal application indicating the manner in which the entity anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed, and the method by which the proceeds of collected donations would be allocated or spent.

(Ord. No. 2009/8, § 1, 5-18-09)

#### **18.77.020 Duty to maintain and service bins.**

It shall be the duty of each registered charitable organization issued a permit hereunder to properly maintain and service any clothing donation bin placed within the borough so as to prevent such clothing bin from creating any nuisance, hazardous or unsafe condition.

(Ord. No. 2009/8, § 1, 5-18-09)

#### **18.77.030 Enforcement and limitation on licenses.**

The zoning officer or other person designated by the borough council as a person authorized to enforce the provisions of this section shall, upon receipt of a complaint by a local resident or any other person that a clothing donation bin is causing a nuisance, hazardous or unsafe condition, investigate such complaint and take such enforcement action as is permitted pursuant to N.J.S.A. 40: 48-2.62 and N.J.S.A. 40:48-2.63. The zoning officer shall not be authorized to issue more than ten (10) total clothing donation bin permits within the borough, and no more than two at any given site.

(Ord. No. 2009/8, § 1, 5-18-09)

#### **18.77.040 Violations, penalties and revocation of license.**

Any licensee who violates any provision of this section and fails to cure such violation within forty-eight (48) hours of notice of such violation shall be subject to the following penalties, in addition to those penalties and remedies set forth in N.J.S.A. 40:48-2.62 and 40:48-2.63:

1. For the first offense: \$100.00 per day.
2. For the second offense: \$250.00 per day.
3. For the third offense: Mandatory revocation of permit.

(Ord. No. 2009/8, § 1, 5-18-09)

### **18.77.050 Exemptions.**

The owner of any clothing donation bin which is sponsored by any department of the borough shall be required to comply with the licensure requirements hereof, but shall specifically be exempt from the fee requirement hereof.

(Ord. No. 2009/8, § 1, 5-18-09)

## **Chapter 18.80 WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS**

### **Sections:**

### **18.80.010 Purpose.**

The purpose of these regulations for the siting of wireless telecommunications towers and antennas is to:

1. Protect residential areas and land uses from potential adverse impacts of towers and antennas;
2. Encourage the location of towers in appropriate locations;
3. Minimize the total number of towers throughout the borough;
4. Strongly encourage the joint use of approved tower facilities as a primary option rather than construction of new or additional single-use towers;
5. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
6. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
7. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
8. Consider the public health and safety of communication towers; and
9. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

In furtherance of these goals, Freehold Borough shall give due consideration to the borough master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

(Ord. 2001/23 § 1 (part))

### **18.80.020 Nonapplicability to amateur radio stations and to receive-only antennas.**

The provisions of this chapter shall not govern any antenna that is owned and operated by a federally licensed amateur radio station operator or is used exclusively as a receive-only antenna in accordance with Federal Communications Commission (FCC) regulations.

(Ord. 2001/23 § 1 (part))

**18.80.030 Antennas and towers permitted on borough property.**

Wireless communications towers and antennas which are located on property owned, leased, or otherwise controlled by the borough and which are approved by the borough council, shall be deemed to be permitted as a municipal facility in any zone district.

(Ord. 2001/23 § 1 (part))

**18.80.040 Wireless telecommunications towers, antennas, and transmission facilities on non-municipal property.**

- A. Wireless telecommunications antennas and towers may be allowed as a conditional use on property which is not owned, leased, or otherwise controlled by the borough, in accordance with the minimum standards of the zone district and the standards, regulations and requirements set forth in this chapter, in those zones where public utilities are permitted as a principal or conditional use. Site plan approval shall be required prior to the installation of wireless telecommunications towers, antennas, and transmission facilities on non-borough-owned property.
- B. General, wireless telecommunications towers, antennas, and transmission facilities shall only be permitted on non-borough property where the municipal approving authority has determined the following:
1. There is substantial evidence that there is a significant gap in telecommunications within the borough which the proposed facility will correct;
  2. There is no borough-owned property available or no borough wireless telecommunications towers, antennas, or transmission facilities available where the proposed facility could locate or co-locate that would correct the telecommunications gap;
  3. There are no non-borough wireless telecommunications towers, antennas, or transmission facilities available on which the proposed facility could locate or co-locate that would correct the telecommunications gap;
  4. There is no residential use, school use, or health-care use on the lot on which the proposed facility is located and that the different use of an existing structure on the same lot does not preclude the installation of an antenna or tower;
  5. The application for the proposed facility is the joint application of two or more wireless communications carriers licensed to provide service within the area and the application provides for the co-location of two or more carriers at the site;
  6. The dimensions of the entire lot on which the facility is located are used for the purpose of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements. The dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot;
  7. A plan is submitted for the periodic testing of the facility to ensure ongoing compliance with applicable federal and/or state standards, the plan is subject to the review and approval of the municipal agency.

(Ord. 2001/23 § 1 (part))

### **18.80.050 Inventory of existing site.**

Each applicant for an antenna and/or tower shall provide to the borough as part of the application an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the borough or within two miles of the border thereof, including specific information about the location, height, and design of each tower. The borough may share such information with other applicants applying for approvals under this chapter or other organizations seeking to locate antennas within the jurisdiction of the borough, provided, however that the borough is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(Ord. 2001/23 § 1 (part))

### **18.80.060 Aesthetics.**

Towers and antennas shall meet the following requirements:

- A. Towers shall either maintain a finish or be painted a color approved by the municipal agency, so as to reduce visual obtrusiveness, subject to any applicable standards of the FAA.
- B. At a tower site, the design of the buildings and related structures shall to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- C. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(Ord. 2001/23 § 1 (part))

### **18.80.070 Lighting.**

Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

(Ord. 2001/23 § 1 (part))

### **18.80.080 State or federal requirements.**

All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(Ord. 2001/23 § 1 (part))

**18.80.090 Building codes—Safety standards.**

To ensure the structural integrity of towers the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the borough concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within the thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(Ord. 2001/23 § 1 (part))

**18.80.100 Measurement.**

For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the borough irrespective of municipal and county jurisdictional boundaries.

(Ord. 2001/23 § 1 (part))

**18.80.110 Franchises.**

Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Borough have been obtained and shall file a copy of all required franchises with the borough.

(Ord. 2001/23 § 1 (part))

**18.80.120 Signs.**

No signs shall be allowed on an antenna or tower.

(Ord. 2001/23 § 1 (part))

**18.80.130 Buildings and support equipment.**

Buildings and support equipment associated with antennas or towers shall comply with the requirements as set forth herein.

(Ord. 2001/23 § 1 (part))

**18.80.140 Maximum height.**

The tower shall meet the following height and usage criteria:

- A. One hundred twenty-five (125) feet in height.
- B. A licensed New Jersey Professional Engineer must certify that the tower can structurally accommodate the number of shared users proposed by the applicant.

(Ord. 2001/23 § 1 (part))

**18.80.150 Information required.**

In addition to any information required for applications for site plan review pursuant to this chapter, applicants for approval for a tower shall submit the following information:

- A. A location plan drawn to scale and clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), master plan classification of the site and all properties within the applicable separation distances, set forth herein, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, and parking;
- B. Legal description of the parent tract and leased parcel (if applicable);
- C. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties;
- D. The separation distance from other towers described in the inventory of existing sites submitted shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known;
- E. A landscape plan showing specific landscape materials;
- F. Method of fencing and finished color and, if applicable, the method of camouflage and illumination;
- G. A description of compliance with all of the sections herein and all applicable federal, state or local laws;
- H. A statement by the applicant as to the number of users construction of the tower will accommodate for co-location;
- I. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular or personal communication service sites owned or operated by the applicant in the municipality;
- J. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed tower;
- K. A description of the feasible location(s) of future towers or antennas within the borough based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

(Ord. 2001/23 § 1 (part))

**18.80.160 Factors considered in granting approval for towers.**

In addition to any standards for consideration of site plans pursuant to this chapter, the municipal agency shall consider the following factors in determining whether to issue an approval:

- A. Availability of suitable existing towers other structures or alternative technologies not requiring the use of towers or structures, as discussed hereinabove;
- B. Height of the proposed tower;
- C. Proximity of the tower to residential structures and residential district boundaries;
- D. Nature of uses on adjacent and nearby properties;
- E. Surrounding topography;

- F. Surrounding tree coverage and foliage;
- G. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- H. Proposed ingress and egress.

(Ord. 2001/23 § 1 (part))

**18.80.170 Availability of suitable existing towers, other structures or alternative technology.**

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the municipal agency that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the municipal agency related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- A. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- B. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- C. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- D. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- E. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs not exceeding new tower development are presumed to be reasonable.
- F. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- G. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(Ord. 2001/23 § 1 (part))

**18.80.180 Minimum required setback.**

The following minimum setback requirements shall apply to all towers for which site plan approval is required:

- A. Towers must be set back a distance equal to at least one hundred percent of the height of the tower from any adjoining lot line, but in no event shall the tower be located in the minimum required yard area or buffer area of the zone district.
- B. Guys and accessory buildings and structures must satisfy the minimum zoning district setback and buffer requirements.

(Ord. 2001/23 § 1 (part))

**18.80.190 Minimum separation requirement between uses.**

The following separation requirements shall apply to all towers and antennas for which approval is required under this chapter.

- A. Separation From Off-Site Uses/Designated Areas.
  - 1. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in subsection (A)(2) of this section, except as otherwise provided.
  - 2. Towers shall maintain a separation distance of two hundred (200) feet or three hundred percent (300%) of the tower height, whichever is greater, from residential dwelling units.
- B. Separation Distances Between Towers, Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers or other proposed towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown below in the table of required separation distances between towers:

	Lattice	Guyed	Monopole 75 Ft In Height or Greater	Monopole Less Than 75 Ft. in Height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 ft in height or greater	1,500	1,500	1,500	750
Monopole less than 75 ft in height		750	750	750

(Ord. 2001/23 § 1 (part))

**18.80.200 Security fencing.**

Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device, provided however, that the municipal agency may waive such requirements, as it deems appropriate.

(Ord. 2001/23 § 1 (part))

**18.80.210 Landscaping.**

The following requirements shall govern the landscaping surrounding towers for which site plan approval is required; provided, however, that the municipal agency may waive such requirements if the goals of this chapter would be better served thereby.

- A. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences.
- B. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced.

- C. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(Ord. 2001/23 § 1 (part))

#### **18.80.220 Conditions and alternative tower structure.**

In approving the tower the municipal agency may impose conditions, including the use of an alternative tower structure, to the extent the municipal agency concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties or the neighborhood in which it is located.

(Ord. 2001/23 § 1 (part))

#### **18.80.230 Buildings or other equipment storage—Antennas mounted on structures or rooftops.**

Antennas mounted on buildings or existing elevated structures shall not extend more than thirty (30) feet above the highest point of the building's roof or above the highest point of the structure. The equipment cabinet or structure used in association with antennas shall comply with the following:

- A. The cabinet or structure shall not contain more than two hundred (200) square feet of gross floor area or be more than ten (10) feet in height. In addition, for buildings and structures which are, less than sixty-five (65) feet in height, the related unmanned equipment structure, if over two hundred (200) square feet of gross floor area or ten (10) feet in height shall be located on the ground and shall not be located on the roof of the structure.
- B. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than ten (10) percent of the roof area.
- C. Equipment storage buildings or cabinets shall comply with all applicable building codes.

(Ord. 2001/23 § 1 (part))

#### **18.80.240 Buildings or other equipment storage—Antennas located on towers, utility poles, or light poles.**

Antennas shall not be located on tower utility poles, or light poles within a borough street or right-of-way unless such facilities are approved by the borough council. Antennas proposed on towers, utility poles, or light poles within a street or right-of-way not owned by the borough shall require approval as a conditional use. The related unmanned equipment structure shall not contain more than two hundred (200) square feet of gross floor area or be more than ten (10) feet in height, and shall be located in accordance with the minimum yard and buffer requirements of the zoning district in which located and shall be screened from view of all residential properties.

(Ord. 2001/23 § 1 (part))

#### **18.80.250 Removal of abandoned antennas and towers.**

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the borough notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If

there are two or more users of a single towers, then this provision shall not become effective until all users cease using the tower.

(Ord. 2001/23 § 1 (part))

#### **18.80.260 Pre-existing towers.**

Pre-existing towers which are operating at the time of the adoption of the ordinance codified in this chapter shall be allowed to continue this usage as they presently exist. Routine maintenance is permitted on such pre-existing towers. New construction other than routine maintenance on a pre-existing tower shall comply with the requirements of this chapter. If the use of the tower has terminated and the use is determined to be abandoned, the requirements for removal set forth above shall apply.

(Ord. 2001/23 § 1 (part))

### **Chapter 18.81 TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY**

#### **18.81.010 Short title.**

This chapter is titled the "Telecommunications Facilities in the Public Right-of-Way", and amends all applicable provisions of the Revised General Ordinances of the Borough of Freehold, and any existing local laws, rules, orders, resolutions and ordinances relating to the subject matter of this chapter.

(Ord. No. 2021/4, § 1, 3-15-21)

#### **18.81.020 Purpose.**

It is the intent of this chapter to regulate the placement of telecommunications equipment, including poles, towers, antennas and other infrastructure located on municipal rights-of-way. The placement of telecommunications equipment outside of the municipal right-of-way shall be governed by chapter 18.80, Wireless Telecommunications Towers and Antennas.

It is furthermore intended that this chapter shall control in the event of any inconsistency between the provisions of this chapter and any existing agreements, licenses or franchises in existence and which govern existing small wireless facilities in the municipal right-of-way, and that the prevailing terms of this chapter shall supersede and replace any conflicting terms in said agreements or licenses, and shall govern all future relationships between the borough and the applicable parties in said licenses and agreements.

(Ord. No. 2021/4, § 1, 3-15-21)

#### **18.81.030 Definitions.**

"Administrative review" means ministerial review of an application by the borough relating to the review and issuance of a permit, including review by the designee, a wireless consultant with knowledge beyond the expertise of borough personnel, as well as the construction official, zoning officer, director of public works, engineer, or other borough staff or designees to determine whether the issuance of a permit is in conformity with the applicable provisions of this chapter. Administrative permit issuance is non-discretionary and based on whether an application is in conformity with the provisions of this chapter, as well as any other applicable local, state and federal laws and regulations governing small cell deployment. This process does not involve the exercise of discretion.

"Antenna" means communications equipment that transmits and/or receives over-the-air electromagnetic signals used in the provision of wireless services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

"Applicable codes" means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the borough or otherwise are applicable in the jurisdiction.

"Applicant" means a person or entity who submits an application under this chapter.

"Application" means a written request submitted by an applicant to the borough for a permit:

1. To locate or collocate, or to modify, a communications facility underground or on any existing support structure, pole, or tower; or
2. To construct, modify or replace a new support structure, pole or tower or any other structure on which a communications facility will be collocated.

"Borough" means the Borough of Freehold, or any agency, department, district, subdivision or any instrumentality thereof, including, but not limited to public utility districts, or municipal electric utilities. The term shall not include courts of the state having jurisdiction over the borough or any entities that do not have zoning or permitting authority or jurisdiction. The borough may hereinafter be referred to as the "borough", "the Borough of Freehold", or "Freehold".

"Borough pole" means a pole owned, managed or operated by or on behalf of the borough.

"Collocate" means to install, mount, maintain, modify, operate and/or replace a communications facility on an existing support structure, pole, or tower or any other structure capable of supporting such communications facility. "Collocation" has a corresponding meaning. The term does not include the installation of a new pole, tower or support structure in the public right-of-way.

"Communications facility" means, collectively, the equipment at a fixed location or locations that enables communication between user equipment and a communications network, including: (i) radio transceivers, antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. A communications facility does not include the pole, tower or support structure to which the equipment is attached. A wireless facility is an example of a communications facility.

"Communications service provider" means a cable operator, as defined in 47 U.S.C. § 522(5), a provider of information service, as defined in 47 U.S.C. § 153(24); or a provider of telecommunications service, as defined in 47 U.S.C. § 153(53); or provider of fixed wireless or other wireless services as defined in 47 U.S.C. § 332(c)(7)(C)(i). A wireless service provider is an example of a communications service provider.

"Contract for professional services" means a contract through which the borough has entered into an arrangement with an individual, attorney consultant or firm for same to provide professional consulting services pursuant to this chapter, said contract being in conformance with new jersey public contracts law, pay-to-play laws and other applicable laws governing such contracts and agreements. The contract between the designee and the borough is an example of a contract for professional services.

"Decorative pole" means a borough pole that is specially designed and placed for aesthetic purposes.

"Deployable" means a portable, self-contained wireless facility that can be moved to a specified location or area and provide wireless services on a temporary or emergency basis such as a "cell on wheels" or "COW," "cell on light truck" or "COLT," tethered balloon, tethered drone or other unmanned device.

"Designee" means the person appointed by the borough and contracted for professional services to serve as the point-of-contact and primary consultant and specialist for the borough for all matters concerning this chapter.

"Discretionary review" means review of an application by the borough relating to the review and issuance of a permit, that is other than an administrative review. Discretionary review involves discretion on the part of the borough (subject to any applicable limits on such discretion) in determining whether to issue a permit and may be subject to one or more public hearings or meetings, including appearances before the planning board, zoning board of adjustment and referral to the historic preservation commission for commentary and recommendations. Discretionary review may be subject to provisions of Title 16, Land Use Regulations, and Title 18, Zoning, as well as other applicable provisions as determined by the applicable governing authority.

"Eligible facilities request" means an eligible facilities request as set forth in 47 C.F.R. Section 1.6100(b)(3), as may be amended from time to time.

"FCC" means the Federal Communications Commission of the United States.

"Fee" means a one-time, nonrecurring charge, whether a fixed amount or cost-based amount based on time and expense.

"Historic property" means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register maintained by the United States Secretary of the Interior (in accordance with Section VI.D.1.a.i—v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C) or established pursuant to state historic preservation law.

"Laws" means, collectively, any and all federal, state, or local law, statute, common law, code, rule, regulation, order, or ordinance.

"Occupant" means any occupant of the public right-of-way, including any wireless provider, wireless infrastructure provider, utility company, or public or private entity with a physical presence or right to maintain a physical presence on, under or across the public right-of-way.

"Ordinary maintenance, repair and replacement" means: (i) with respect to a communications facility and/or the associated support structure, pole or tower, inspections, testing, repair and modifications that maintain functional capacity, aesthetic and structural integrity, and (ii) with respect to a communications facility only, the replacement of antennas and/or other components of the communications facility (specifically, such as a swap out of small cell antennas and radio equipment as required by the applicant), with antennas and/or other components substantially similar, in color, aggregate size and other aesthetics to that previously permitted by the borough (and/or consistent with the same height and volume limits for wireless facilities under this chapter), so long as the support structure, pole, or tower will structurally support, or prior to installation will be modified to support, the structural load. modifications are limited to by the structural load analysis supplied by the applicant to the borough, and by the volume limits in section 18.81.110, Design standards.

"Permit" or "small cell permit" means a written authorization (in electronic or hard copy format) required by the borough to initiate, continue, or complete the installation, upgrade or modification of a communications facility, or an associated support structure, pole, or tower.

"Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the borough.

"Pole" means a pole, such as a utility, lighting, traffic, or similar pole, made of wood, concrete, metal or other material, located or to be located within the public right-of-way or utility easement. The term includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached unless the borough grants a waiver for such pole. The term does not include electric transmission poles or structures. A pole does not include a tower or support structure.

"Provider" means a communications service provider or a wireless provider.

"Public right-of-way", "public ROW" or "municipal ROW" means the area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk, alley or similar purpose, but not including a federal interstate highway or other area not within the legal jurisdiction, or within the legal ownership or control of the municipality.

"Rate" means a recurring charge.

"Replace" or "replacement" means, in connection with an existing pole, support structure or tower, or communications facility, as the case may be, to replace (or the replacement of) same with a new structure, similar in design, size and scale to the existing structure and in conformance with current borough building code, zoning provisions and other applicable regulations, in order to address limitations of, or change requirements applicable to, the existing structure to structurally support collocation of a communications facility. In connection with replacement of a pole or tower to support collocation of a wireless facility, similarity in size and scale shall be evaluated consistent with 47 C.F.R. 1.6100(b)(7).

"Small wireless facility" means a wireless facility that meets both of the following qualifications: (i) each wireless provider's antenna (including, without limitation, any strand-mounted antenna) could fit within an enclosure of no more than three cubic feet in volume; and (ii) all other wireless equipment associated with the facility is cumulatively no more than twenty-eight (28) cubic feet in volume. The following types of associated, ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for connection of power and other services. The following additional parameters apply to small wireless facilities: (i) Total height of small wireless facility and supporting structure is less than fifty (50) feet, or the small wireless facility is mounted on structures no more than ten (10) percent taller than adjacent structures, or the small wireless facility does not extend the existing structure to a height of greater than fifty (50) feet or by more than ten (10) percent of the original height, whichever is greater.

"State" means the State of New Jersey.

"Support structure" means a building, a billboard, a water tank or any other structure to which a communications facility is or may be attached. support structure does not include a pole or a tower.

"Tower" means any structure built for the sole or primary purpose of supporting a wireless facility, such as a self-supporting tower, a monopole, a lattice tower or a guyed tower. Tower also includes a structure designed to conceal from the general public the wireless facility. A tower does not include a pole or a support structure.

"Utility easement" means the area on, below, or above privately-owned property that has been designated for use as or is used for a specific utility purpose (such as for electric, cable or other utility purpose), and is evidenced by a recorded instrument in the public land records pursuant to a recorded plat, easement or right-of-way or is otherwise a legally enforceable easement, and does not include any portion of a public right-of-way.

"Wireless facility" means a communications facility installed and/or operated by a wireless provider. The term does not include: (i) the support structure, tower or pole on, under, or within which the equipment is located or collocated; or (ii) coaxial, fiber-optic or other cabling that is between communications facilities or poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. A small wireless facility is one example of a wireless facility.

"Wireless infrastructure provider" means any person, including a person authorized to provide telecommunications service in the state, that builds or installs and/or operates wireless facilities or poles, towers or support structures on which wireless facilities are or are intended to be used for collocation, but that is not a wireless services provider.

"Wireless provider" means a wireless infrastructure provider or a wireless services provider.

"Wireless services" means any wireless services including, without limitation, personal wireless services as that term is defined in 47 U.S.C. § 332(c)(7)(C)(i).

"Wireless services provider" means a person who provides wireless services.

(Ord. No. 2021/4, § 1, 3-15-21)

### **18.81.040 General provisions of agreement for access to the public ROW.**

- A. Applicability. Except as otherwise provided herein, the placement, installation, modification, replacement, repair and upgrade of any communications facilities, including small wireless facilities, as well as the associated poles, towers or support structures, in the public right-of-way shall be governed by this chapter.
- B. Notice Prior to Any Non-Emergency Work.
  - 1. Designee. The designee will serve as the initial point of contact for the borough for all matters pertaining to this chapter.
  - 2. Notice Required. No action, application, installation, alteration, upgrade, replacement or modifications by applicant contemplated by this chapter shall be commenced without first giving notice to the borough designee.
  - 3. This notice requirement does not pertain to ordinary maintenance, repairs, and like-for-like equipment swap outs that do not increase the dimensions or electromagnetic profile of the small wireless facility. This work may be performed without giving notice to the designee.
  - 4. Emergency Work. Work that is of an urgent and immediate nature, such as a network outage or an imminent safety hazard, shall not be required to meet the notice provisions of this subsection, subject only to providing notice to the designee as soon as is practicable for the emergency work either about to be performed, currently underway or having been performed, and then providing a brief summary of the work completed, including the replacement or removal of any components of the applicable small wireless facility or facilities. Any such emergency work shall be subject to administrative review, after the fact, only if the nature and scope of said work exceeds that which may be reasonably construed as maintenance and repair work. The below terms and conditions utilized for notice for ordinary maintenance shall govern after-the-fact review for emergency work in these instances.
  - 5. Notice for Ordinary Maintenance. As noted in section 3 above, notice to the designee is not required for ordinary maintenance and repairs. However, designee reserves the right to inspect applicant's small wireless facilities at any time in order to determine if the existing configuration matches the configuration contained in the most recently issued small cell permit, and any applicable right-of-way agreement and the attached schedules. Applicant shall bear no costs for said inspections. However, if it is determined that an existing small wireless facility is found to be larger than the dimensions specified in the most recently issued applicable small cell permit, then applicant shall be in violation of this chapter pursuant to section 18.81.150. Applicant shall receive notice from the borough and, upon receipt of such notice, be required to restore the site within ten (10) days to the configuration of the most recently approved small cell permit or removed or retroactively apply for administrative approval for the unapproved modifications. In such instances, applicant will be responsible for costs and fees incurred by the borough designee to perform inspections and review.
- C. Municipal Agreement. Prior to receiving a permit to install one or more communications facilities in the public ROW, each applicant shall be required to enter into a municipal agreement (e.g., right-of-way access agreement, pole attachment agreement, license agreement) between the borough and the applicant, on

terms and conditions substantially the same for all applicants and existing occupants of the public ROW. The terms and conditions of such municipal agreement will include the following:

1. Fees and Rates. As consideration to the borough for entering into the municipal agreement and also as a condition precedent for the issuance of any required permits and approvals to install the applicable communications facilities in the public right-of-way, the applicant shall pay the required fees and rates as set forth in Schedule A of this chapter, and which may be amended or modified from time to time per revision and modification to local, state and federal laws and regulations. Said fees shall include application or one-time fees and recurring right-of-way occupancy rates.
2. The small cell permit application escrow, as described in Schedule A, shall be paid upon submission of an application and shall be held in escrow and billed against actual incurred one-time fees and costs to process an application, also as described below and in Schedule A of this chapter. If said small cell permit application escrow is insufficient to cover incurred one-time fees as described below and in Schedule A, then any amount in excess of the escrow shall be invoiced to applicant directly upon completion.
  - a. Reasonable approximation: All one-time event fees will be a reasonable approximation of objectively reasonable costs.
  - b. One-time fees apply to all work: One-time fees and event fees apply to the initial installation of facilities as well as to any subsequent upgrade, replacement, modification or alteration of same, with each instance of an upgrade or repair being a separate project subject to one-time fees. Ordinary maintenance and repairs does not trigger any one-time fees.
    - i. Annual ROW occupancy rate shall be as specified in Schedule A of this chapter and shall be paid within thirty (30) days of the issuance of the applicable permit and annually thereafter, with payment being due on the anniversary of the first payment date for the balance of the term. However, under no circumstances shall the rate be remitted later than ninety (90) days after the full execution of the applicable municipal agreement between borough and applicant.
    - ii. Annual attachment rate, equal to an amount that represents a reasonable approximation of the objectively reasonable costs incurred by the borough for the attachment of each small wireless facility to borough-owned structures in the public right-of-way. This amount shall be paid within thirty (30) days of issuance of the applicable permit(s) and annually thereafter. The annual rates combined shall not exceed two hundred seventy dollars (\$270.00) annually per small wireless facility location.
    - iii. All fees and rates will be applied in a non-discriminatory manner to all communications service providers.
    - iv. Make-ready fee, shall be determined on a site-specific, engineering basis, for work reasonably necessary to make a particular borough pole suitable for attachment of the applicable communications facility shall be paid upon submission of the application as more particularly described in subsection 18.81.060.E below.

D. Other Terms.

1. Term. Unless otherwise agreed to in writing by the borough and applicant, the agreement term shall be ten (10) years.

2. Safety and Accessibility. The applicant will demonstrate compliance with applicable safety and accessibility requirements, including those under Americans with Disabilities Act ("ADA"), OSHA and similar laws.
3. The municipal agreement shall include, as an appendix thereof, a schedule containing the location of all proposed small wireless facilities in the public right-of-way, which the borough and applicant may update as necessary without the need for additional review. Said locations shall be as specific as possible and shall include, but not be limited to, latitude, longitude, the nearest proximate address, cross streets as well as lot and block numbers, if available. Applicants shall also provide for inclusion in the municipal agreement information indicating the horizontal and approximate vertical location, relative to the boundaries of the public ROW, of all equipment which it owns or over which it has control and which is located in any public right-of-way.
4. RF Safety Reports. Applicant shall provide, as part of the initial request to install small wireless facilities via municipal ROW agreement and any associated application, a copy of a health and safety report evidencing compliance with FCC requirements concerning electromagnetic radiation emissions. Along with any application to modify, enhance or add equipment to a small wireless facility that alters that facility's electromagnetic emissions profile, applicant will provide an updated health and safety report which reflect the most recent electromagnetic emissions levels.
5. Indemnification and Insurance Requirements.
  - a. Insurance. The applicant shall at all times maintain a commercial general liability insurance policy with a single amount of at least one million dollars (\$1,000,000.00) per occurrence and in the aggregate covering liability for any death, personal injury, property damage or other liability arising out of the construction and operation contemplated herein, and an excess liability policy (or "umbrella") policy in the amount of five million dollars (\$5,000,000.00) per occurrence and in the aggregate. The applicant may use any combination of primary and excess insurance to meet the total limits required. Such coverage shall be primary, non-contributory and shall contain a waiver of subrogation. Evidence of same shall be provided prior to the commencement of any work of any kind by the applicant. Prior to the commencement of any work pursuant to this chapter the applicant shall file with the borough, a certificate(s) of insurance with any required endorsements evidencing the coverage provided by said liability and excess liability policies. The borough shall notify applicant within fifteen (15) days after the receipt of any claim or demand to the borough, either by suit or otherwise, made against the borough on account of any of applicant or its sub-contractors, agents, employees, officers, servants, designees, guests and invitees, activities pursuant to the rights granted in this chapter. Applicant shall notify the borough clerk within fifteen (15) days of receipt of any claim or demand of applicant or its subcontractors, agents, employees, officer, servants, designees, guests or invitees by any aggrieved party for any work or action made pursuant to this chapter.
  - b. Indemnification. Applicant, its successors, assigns, contractors, sub-contractors, agents, servants, officers, employees, designees, guests and invitees, hereby indemnify, defend and hold harmless the borough, its successors and assigns, elected officials, officers, employees, servants, contractors, designees and invitees from and against any and all personal injury and property damage claims, demands, suits, actions at law or equity or otherwise, or related judgments, arbitration determinations, damages, liabilities, decrees of any person(s) or entities claiming to be or being harmed as a result of applicant's actions under this chapter and costs in connection therewith except to the extent that such claims, demands, suits, or actions are the result of the negligence or willful misconduct of the Borough, its successors, assigns, elected officials, officers, employees, servants, contractors, designees or invitees. This indemnification shall specifically

include, but not be limited to, any and all costs, reasonable attorneys' fees, court costs and any other expenses that may be incurred by the borough in connection with any and all claims, demands, suits, actions at law or equity or otherwise and/or arbitration proceedings which may arise in connection with applicant's activities pursuant to the rights granted in this chapters. This indemnification shall also specifically include that the borough retains the right to choose its own defense counsel in regard to any action at law or equity pursuant to this chapter.

6. Reliable 24/7 emergency notification contact information will be provided by the applicant to the borough and incorporated into the agreement.
7. Additional Agreement Terms. Additional terms, such as for termination, assignment and sublicensing rights, shall be as negotiated between the applicant and borough.
8. Nondiscriminatory. Applications will be processed on a nondiscriminatory basis.

(Ord. No. 2021/4, § 1, 3-15-21)

**18.81.050 Permitted communications facility uses/administrative review; application.**

- A. Permitted Use. The following uses within the public ROW shall be a permitted use, subject to the entering into of a municipal agreement between applicant and borough as set forth in section 18.81.040.C above, and administrative review and the issuance of a small cell permit as set forth in this section. All such uses shall be in accordance with all other applicable provisions of this chapter, including without limitation, those set forth in section 18.81.110 below.
  1. Collocation of a small wireless facility.
  2. Collocation that qualifies as an eligible facilities request.
  3. Modification of a pole, tower or support structure or replacement of a pole, for collocation of a communications facility that qualifies as an eligible facilities request or involves a small wireless facility that does not exceed the maximum limitations set forth in section 18.81.110, Design standards below.
  4. Construction of a new pole or a monopole tower (but no other type of tower) to be used for collocation of a small wireless facility that does not exceed the maximum height and other applicable design standards set forth in this chapter.
  5. Construction of a communications facility, other than those set forth in subparagraphs 1., 2. or 3. in this subsection 18.81.050.A, involving the installation of coaxial, fiber-optic or other cabling, that is installed underground (direct buried or in conduit) or aboveground between two or more poles or a pole and a tower and/or support structure, and related equipment and appurtenances.
  6. Any upgrade, replacement, modification or alteration of a communications facility, with each instance of alteration, modification or upgrade being a separate instance subject to administrative review.
  7. The borough reserves and retains the general right to subject any installation or modification contemplated in this chapter to discretionary review subject to the sixty (60) and ninety (90) day shot clock guidelines specified in FCC-18-133A. This may include public hearings and zoning board of adjustment approval. The shot clock guidelines will be adhered to for any discretionary review process unless compelling and extraordinary circumstances suggest otherwise.
  8. All other installations, modifications and replacements not subject to administrative review and that do not qualify as a permitted use are subject to discretionary review under Title 18, Zoning, and Title 16, Land Use Regulations.

- B. Permit Required. No person shall place any facility described in section 18.81.050.A above in the public ROW without first filing an application for administrative review for same and obtaining a permit thereof, except as otherwise expressly provided in this chapter. The permit application may be in substantially the same form as attached to this chapter 18.81 as Schedule B.
- C. Proprietary or Confidential Information in Application. The borough shall make accepted applications publicly available by reasonably available means such as a request pursuant to the Open Public Records Act ("OPRA"). Notwithstanding the foregoing, applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each portion of such materials accordingly, and the borough shall treat the information as proprietary and confidential, subject to applicable state and local "freedom of information" or "sunshine" laws and the borough's determination that the applicant's request for confidential or proprietary treatment of an application material is reasonable. Confidential and proprietary information shall not include any information which is by law, regulation, ordinance, OPRA procedure and regulations or this chapter, open and available for public inspection, including proposed communications facilities' site locations.
- D. Administrative Review Application Requirements. The application shall be made by the applicable wireless service provider or its duly authorized representative and shall contain the following:
  - 1. The applicant's name, address, telephone number, and e-mail address, including emergency contact information for the applicant.
  - 2. The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application.
  - 3. A general description of the proposed work and the purposes and intent of the proposed facility or facilities. The scope and detail of such description shall be appropriate to the nature and character of the physical work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed.
  - 4. Detailed construction drawings regarding the proposed facility, as required by the Uniform Construction Code of the State of New Jersey, or as otherwise stated and required under applicable borough ordinances.
  - 5. Demonstration of compliance with RF health and safety measures, as established by the TCA and FCC, via an RF Health and Safety Report. Applicant may utilize the RF Safety Reports provided in connection with the municipal agreement per section 18.81.040.C for the section for administrative review and permit issuance.
  - 6. Applicant shall demonstrate compliance with section 18.81.110, Design standards, as they pertain to appearance, siting and height of the proposed communications facilities and their support poles, towers or other structures.
  - 7. To the extent the proposed facility involves collocation on a pole, tower or support structure, a structural report performed by a qualified engineer evidencing that the pole, tower or support structure will structurally support the collocation (or that the pole, tower or support structure will be modified to meet structural requirements) in accordance with applicable codes.
- E. Applicant shall demonstrate compliance with applicable environmental, historical and landmark laws, rules and regulations, including SHPO and NEPA approval, as needed or applicable, including obtaining any necessary permits and approvals from the appropriate local, state or federal department agency or other governing body.

- F. Information Updates. Any material change to information contained in an application shall be submitted in writing to the borough within thirty (30) days after the condition necessitating the change.
- G. Application Fees. Unless otherwise provided by applicable laws, all applications pursuant to this chapter shall be accompanied by the escrow amounts required under section 18.81.040.C.2 above and Schedule A which shall be used to cover one-time fees associated with application review and processing, and for which amounts in excess of the escrow shall be billed directly to the applicant.

(Ord. No. 2021/4, § 1, 3-15-21)

### **18.81.060 Action on administrative review applications.**

- A. Review of Applications for Administrative Review.
  - 1. The borough shall review the application in light of its conformity with applicable provisions of this chapter, and shall issue a small cell permit on nondiscriminatory terms and conditions, subject to the following requirements:
    - a. The borough must act consistent with the following shot clock dates:
      - i. Review of an application to collocate a small wireless facility using an existing structure: Sixty (60) days.
      - ii. Review of an application to collocate a facility other than a small wireless facility using an existing structure: Ninety (90) days.
      - iii. Review of an application to deploy a small wireless facility using a new structure: Ninety (90) days.
      - iv. Review of an application to deploy a facility other than a small wireless facility using a new structure: One hundred fifty (150) days.
    - b. Tolling period: Unless a written agreement between the applicant and the borough provides otherwise, the tolling period for an application (if any) is as set forth in paragraphs 1. through 3. of this section:
      - i. For an initial application to deploy small wireless facilities, if the borough notifies the applicant on or before the 10th day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the borough to render the application complete.
      - ii. For all other initial applications, the tolling period shall be the number of days from:
        - (1) The day after the date when the borough notifies the applicant in writing that the application is materially incomplete and clearly and specifically identifies the missing documents or information that the applicant must submit to render the application complete and the specific rule or regulation creating this obligation; until
        - (2) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;

- (3) But only if the notice pursuant to paragraph b.ii(1) of this subsection is effectuated on or before the 30th day after the date when the application was submitted; or
  - iii. For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from:
    - (1) The day after the date when the borough notifies the applicant in writing that the applicant's supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the borough's original request under paragraph b.i. or ii. of this section; until
    - (2) The date when the applicant submits all the documents and information identified by the borough to render the application complete;
    - (3) But only if the notice pursuant to paragraph b.iii(1) of this subsection is effectuated on or before the 10th day after the date when the applicant makes a supplemental submission in response to the borough's request under paragraph b.i. or ii. of this subsection.
    - (4) Final Decision by Borough. The borough must advise the applicant in writing of its final decision, and in the final decision document the basis for a denial, including referencing specific code provisions and/or regulations upon which the denial was based, including any federal law, or local or state laws and regulations, provided said local and state laws and regulations do not conflict with federal law. Denial may include lack of conformity with the borough codes, ordinances and regulations, as well as local, state and federal environmental, landmark and historical regulations. A decision to deny an application shall be in writing and supported by clear evidence contained in a written record, publicly released, and sent to the applicant. The written decision, supported by such substantial evidence, shall constitute final action by the borough. The review period or "shot clock" shall run until the written decision, supported by substantial evidence, is released and sent to the applicant contemporaneously. The subsequent review by the borough shall be limited to the deficiencies cited in the original denial and any material changes to the application made to cure any identified deficiencies.
- B. Undergrounding Provisions. The borough shall administer undergrounding provisions in a non-discriminatory manner. It shall be the objective of the borough and all public ROW occupants to minimize disruption or discontinuance of service of all kinds to consumers, through mutual obligation to coordinate and timely complete such projects. An occupant, including the applicant, as the case may be, shall comply with non-discriminatory borough undergrounding requirements that 1) are in place and published prior to the date of initial filing of the application, and 2) prohibit electric, telecommunications and cable providers from installing above-ground horizontal cables, poles, or equivalent vertical structures in the public ROW; and the borough may require the removal of overhead cable and subsequently unused poles. In areas where existing aerial utilities are being moved underground, wireless providers shall retain the right to remain in place, under their existing authorization, by buying out the ownership of the pole(s), subject to the concurrence of the pole owner and consent of the borough (which consent may not be unreasonably withheld, conditioned or delayed) or, alternatively, the wireless service provider may reasonably replace the existing pole(s) or vertical structure locations for antennas and accessory equipment, as a permitted use, within fifty (50) feet of the prior location, unless a minimally greater distance is necessary for compelling public welfare. In

neighborhoods or areas with existing underground utilities that do not have small wireless facilities deployed as a permitted use, a new entrant wireless provider applying after utilities have been placed underground shall first seek existing vertical structure locations, if technically feasible for the wireless service to be deployed. To the degree such vertical structures are not available, and upon receiving an approved permit, the applicant shall be entitled to place poles or vertical structures as necessary to provide the wireless service using vertical structures commensurate with other vertical structures in the neighboring underground utility area. In neighborhoods or areas with existing underground utilities that do have small wireless facilities deployed as a permitted use, a new entrant wireless provider applying after utilities have been placed underground shall first seek existing vertical structure locations, if technically feasible for the wireless service to be deployed. To the degree such vertical structures are not available, and upon receiving an approved permit, the applicant shall be entitled to place poles or vertical structures as necessary to provide the wireless service using vertical structures commensurate with other vertical structures of wireless providers in the neighboring underground utility area. In neighborhoods with underground utilities, whether being converted from overhead utilities or initially underground, microwireless devices, typically strand-mounted, shall be treated like other small wireless facilities in the public ROW, requiring administrative review permitted use status, and subject to non-recurring and recurring fees and rates.

C. Effect of Permit.

1. Authority Granted; No Property Right or Other Interest Created. A small cell permit from the borough authorizes an applicant to undertake only certain activities in accordance with this chapter, and does not create a property right or grant to the applicant to impinge upon the rights of others who may already have an interest in the public ROW.
2. Duration. Any permit for construction issued under this chapter shall be valid for a period of six months after issuance, provided that the six month period shall be extended for up to an additional six months upon written request of the applicant, made prior to the end of the initial six-month period if the failure to complete construction is delayed as a result of circumstances beyond the reasonable control of the applicant.

D. Removal, Relocation or Modification of a Communications Facility in the ROW.

1. Notice. Within ninety (90) days following written notice from the borough, a provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any communications facility within the public ROW whenever the borough has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any borough improvement in or upon, or the operations of the borough in or upon, the public ROW, or pursuant to any redevelopment plan made pursuant to the Municipal Land Use Law contained in N.J.S.A. 40:55D, or any council resolution that approves any redevelopment plan for work that is performed by a private company other than the borough. The borough shall apply the same standards to all utilities in the public ROW.
2. Emergency Removal or Relocation of Facilities. The borough retains the right and privilege to cut power to or move any communications facility located within the public ROW of the borough, as the borough may determine to be necessary, appropriate or useful in response to any public welfare emergency, or safety emergency. If circumstances permit, the borough shall notify the provider and provide the provider an opportunity to move its own facilities prior to cutting power to or removing the communications facility and in all cases shall notify the provider after cutting power to or removing the communications facility as promptly as reasonably possible.
3. Structural Reconditioning, Repair and Replacement. From time to time, the borough may paint, recondition, or otherwise improve or repair the borough poles in a substantial way ("reconditioning

work"). The provider shall reasonably cooperate with the borough to carry out reconditioning work activities in a manner that minimizes interference with the provider's approved use of the facility.

- a. Prior to commencing reconditioning work, the borough will use reasonable efforts to provide the provider with at least sixty (60) days prior written notice. Upon receiving that notice, it shall be the provider's sole responsibility to provide adequate measures to cover, remove, or otherwise protect the provider's communications facilities from the consequences of the reconditioning work, including but not limited to paint and debris fallout. The borough reserves the right to require the provider to remove all of the provider's communications facility from the borough pole and surrounding premises during reconditioning work, provided the requirement to remove same is contained in the written notice required by this subsection. All cost associated with the protection measures, including temporary removal, shall be the sole responsibility of the provider. The borough will provide the provider with a date by which its equipment must be protected or removed. The provider may request a modification of the borough procedures for carrying out reconditioning work in order to reduce the interference with provider's operation of its communications facility. If the borough agrees to the modification, the provider shall be responsible for all reasonable incremental cost related to the modification.
- b. If the borough poles need to be replaced ("replacement work"), the borough shall provide provider with at least sixty (60) days written notice to remove its communications facilities. The borough shall also promptly notify provider when the borough poles have been replaced and provider may re-install its equipment. During the replacement work, the provider may maintain a temporary communications facility on or nearby in the public right-of-way, with the specific temporary location to be approved by the borough, or on nearby private property, or on any land owned or controlled by borough, in the vicinity of the property. If alternative locations in the public right-of-way or on nearby public or private property will not accommodate the provider's temporary communications facility or if the parties cannot agree on a temporary location, the provider, at its sole option, shall have the right to suspend the applicable permit, until the replacement pole is installed, upon thirty (30) days written notice to the borough.
- c. If the borough poles need to be repaired due to storm or other damage ("repair work"), the borough shall notify the provider to remove its communications facilities as soon as possible. In the event of an emergency, the borough shall contact the provider by telephone at its emergency contact of record upon or prior to removing the provider's equipment. Once the borough poles have been replaced or repaired, the borough will promptly notify the provider that it can reinstall its equipment. During borough repair work, the provider may maintain a temporary communications facility on the public right-of-way or nearby property, subject to approval of the applicable property owner, or after approval by provider, on any land owned or controlled by the borough in the vicinity of the property. All cost associated with any removal or protection of communications facilities shall be the sole responsibility of the provider, except to the extent caused by third-parties or the borough.

E. Attachment to Borough Poles in the Public ROW.

1. Make-Ready Requirements. For any attachment to borough poles in the public ROW, the borough shall provide a good faith estimate for any make-ready work necessary to enable the borough pole to support the proposed facility, including replacement of the pole if necessary, within sixty (60) days after receipt of a completed application requesting attachment to the borough owned pole, unless a longer period is required in order to comply with New Jersey law, including, but not limited to, Local Public Contracts Law ("LPCL") and the New Jersey Local Unit Pay to Play. Make-ready work including any pole replacement shall be completed within one hundred and twenty (120) days of written

acceptance of the good faith estimate by the provider. Borough will make all reasonable estimates to complete the work within the stated timeframes. Such acceptance shall be signified by payment via check or other commercially reasonable and customary means specified by the borough. If borough does not indicate it is willing to perform the make-ready work within the sixty (60) days after receipt of a completed application requesting attachment to the borough pole, applicant may perform the work itself consistent with borough approval under this chapter.

(Ord. No. 2021/4, § 1, 3-15-21)

#### **18.81.070 Applications requiring discretionary review and approval.**

- A. Discretionary Review Required. All other uses not expressly set forth or referenced in section 18.81.050 above shall require compliance with applicable borough ordinance, including, but not limited to, Chapter 18.80, Wireless Telecommunications Towers and Antennas, and the district zoning regulations and any other applicable laws and ordinances of the borough.

(Ord. No. 2021/4, § 1, 3-15-21)

#### **18.81.080 Other public ROW installation requirements.**

- A. General Principles.
1. Reasonable Placement Limitations. The borough shall have the power to establish reasonable and non-discriminatory limitations on the placement of new or additional facilities within specific congested segments of the public ROW if there is insufficient space to accommodate all of the requests of applicants or other persons to occupy and use the public ROW. In making such decisions, the borough shall to the extent possible accommodate all existing users and potential users (i.e. those who have submitted an application to deploy facilities within the public ROW) of the public ROW, and shall be guided primarily by considerations of the public interest, the width and physical condition of the public ROW, the time of year with respect to essential utilities, the protection of existing facilities in the public ROW and established plans for public improvements and development projects which have been determined to be in the public's interest.
  2. Fewest Possible New Poles/Use of Existing Poles. In compliance with the design standards contained herein, applicant shall use existing poles when possible for the placement of its small wireless facilities and shall minimize the number of new proposed poles in the right-of-way to the fewest possible to meet the coverage and capacity requirements.
  3. Leasing of excess space in ducts, conduits and on poles is a matter between interested parties (subject to any applicable pole attachment regulations and any other applicable statutory, regulatory or contractual obligations); however, lessees or licensees of such physical facilities must still comply with the terms of this chapter, unless otherwise expressly exempted by the borough.
  4. Due Care and Safe Work Practices. An occupant of the public ROW shall employ due care during the installation and maintenance process and comply with all safety and public ROW-protection requirements of applicable federal, state and local laws (and any generally applicable borough guidelines, standards and practices), and any additional commonly accepted safety and public ROW protection standards, methods and devices (to the extent not inconsistent with applicable laws). All facilities on and under the streets of the borough shall be kept and maintained in a safe and well-ordered condition, and in good order and repair. Due care during construction, maintenance and modifications shall include the following:

- a. Any applicant occupying any portion of the public ROW shall erect a barrier around the perimeter of any excavation and provide any and all traffic-control devices, signs and lights appropriate to the level of complexity of the activity in order to protect, warn and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic-control plan in accordance with the manual on uniform traffic control devices, and existing procedures, including the borough work site evaluation process by which the construction office may refer proposed work to the police department in order to develop safety measures to safeguard pedestrian and vehicular traffic as well as property. In the event of any conflict between the provisions of this subsection and the work site evaluation process, the work site evaluation procedures shall control.
  - b. Occupants of the public ROW with open excavations awaiting final restoration shall maintain all devices until the borough notifies the occupant in writing that the borough or the borough's designated contractor is assuming responsibility for traffic control.
  - c. Each occupant shall designate a safety officer. The safety officer shall be responsible for safety-related issues affecting both the public and the occupant's field employees and contractors for all job sites within the public ROW.
5. Interference With Existing Facilities. An occupant of the public ROW shall not place any fixtures or equipment where the same will interfere with any existing facility, and shall locate its lines and equipment in such a manner as not to interfere unnecessarily with the usual traffic patterns (vehicular or pedestrian) or with the rights or reasonable convenience of owners of property that abuts any public ROW.
6. Sharing of Trench Space. In the event that the borough notifies the occupant in advance that it is expressly interested in sharing the trenches or bores at a specific location area where construction is occurring, then the occupant shall allow the borough to place its infrastructure in the occupant's trenches and bores as requested by the borough. In these instances, the borough will bear an incremental share of the costs of trenching, boring and the placement of conduit and infrastructure.
7. Call Before You Dig Provision. Before beginning excavation in any public ROW, an occupant shall contact the regional notification center for subsurface installations (one-number locator service) to determine possible conflicts.
8. Abandonment of Facilities.
- a. Any occupant of the public ROW, including any applicant, wireless provider or wireless infrastructure provider, that intends to permanently discontinue use of any of its communications facilities, poles or support structures within the public ROW shall notify the borough in writing within thirty (30) days prior to abandonment. Such notice shall describe the facilities for which the use is to be discontinued, and the date of discontinuance of use. Upon notification, at its discretion, the borough will choose from the following options within fourteen (14) days or any other agreed upon option, and so notify the occupant of its decision:
    - i. Abandon the facilities in place and the occupant shall further convey full title and ownership of such abandoned facilities to the borough. The occupant will remain responsible for all obligations of the facilities, or other associated liabilities until the conveyance to the borough is completed; or
    - ii. The facilities shall be removed and the occupant shall be liable for removing the facilities at its own cost. If an occupant fails to remove facilities that the borough requires it to remove,

after ninety (90) days notice to the occupant, the borough may perform the work and shall be entitled to collect the cost from the occupant its successors and/or assigns.

B. Additional Requirements.

1. General. All deployments of communications facilities in the public ROW shall comply with the following:
  - a. Compliance with ADA and other applicable federal, state and local laws and standards.
  - b. Pedestrian and vehicular traffic and safety requirements established by the borough.
  - c. Existing public ROW occupancy or management ordinances, not otherwise inconsistent with this chapter.
2. Additional Permits. In addition to obtaining a small cell permit for installation of a communications facility in the public ROW, an applicant must obtain the following additional permits and approvals, as well as provide notice where indicated:
  - a. Notification to borough designee for all work contemplated in this chapter, pursuant to section 18.81.040.B.
  - b. Construction permit (including building and electrical subcodes), per statutory fees established by uniform construction code regulations contained in N.J.A.C. 5:23.
  - c. Zoning permit, if applicable, per this chapter and the applicable provisions of the borough land use regulations, including Title 18, Zoning, and Title 16, Land Use Regulations.
  - d. Street opening permit, if applicable, per borough code Title 12, Streets, Sidewalks and Public Places.
  - e. Telecommunications consultation and review performed by the designee or other such official of the borough or professional contracted by the borough, to include permit review, construction oversight for code and zoning compliance and post-installation inspection to ensure compliance with the technical specifications.
  - f. Engineering review by the borough engineer or outside consultant, as needed or applicable.
  - g. Discretionary Review. For small wireless facility and pole applications not subject to administrative review pursuant to this chapter.

C. Existing Utility Easements in the Public Right-of-Way.

1. Applicants will work with the borough engineer to coordinate and protect existing utilities in the public ROW.
2. Applicants will coordinate with the designee and borough engineer, as applicable, to detail all public safety considerations prior to and during installation in the public ROW to ensure public safety response in the case of gas line, water line or electric borough disturbance.

(Ord. No. 2021/4, § 1, 3-15-21)

**18.81.090 Attachment to and replacement of decorative poles.**

Notwithstanding anything to the contrary in this chapter, the borough may request that applicant install a small wireless facility on a new decorative pole, or replace an existing pole with a decorative pole, or replace an

existing decorative pole with a new decorative pole that is in keeping with the aesthetics of the existing decorative pole or the surrounding streetscape only upon satisfaction of the following additional requirements:

1. Issuance of a permit under section 18.81.050 above.
2. The new decorative pole, small wireless facilities attachment and/or the replacement decorative pole is in keeping with the aesthetics of the decorative pole and surrounding streetscape in the judgement of the borough.

(Ord. No. 2021/4, § 1, 3-15-21)

#### **18.81.100 Batch applications.**

An applicant seeking to construct, modify or replace a network of communications facilities may, at the applicant's discretion and subject to the borough's approval, batch application requirements and file a consolidated application and receive multiple permits or a single small cell permit for multiple communications facilities. The borough's denial of any site or sites within a consolidated application shall not affect other sites submitted in the same application. The borough shall grant a permit(s) for any and all sites in a consolidated application that it does not otherwise deny, subject to the requirements of this chapter.

(Ord. No. 2021/4, § 1, 3-15-21)

#### **18.81.110 Design standards.**

All above-ground communications facilities in the public ROW requiring administrative review shall conform to the following non-discriminatory design guidelines:

- A. Siting and Design Requirements.
  1. Pole Siting Standards. New poles for use as support structures for small wireless facilities shall conform to the following siting standards:
    - a. Height. No proposed pole shall be taller than fifty (50) feet or one hundred ten (110) percent of the height of poles in the surrounding streetscape, whichever is higher. This maximum height includes the pole and any associated small wireless facility or antenna.
    - b. Location, Safety and Aesthetics. No proposed pole shall be erected in the right-of-way unless it:
      - i. Is approved pursuant to the provisions of this chapter;
      - ii. Replaces an existing pole; or
      - iii. Does not inhibit any existing sight triangles or sight distances; and
      - iv. Allows adequate room for the public to pass and re-pass across, along and through the right-of-way; and
      - v. Is finished and/or painted and/or otherwise camouflaged, in conformance with best available stealth technology methods, so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties.
      - vi. Is compliant with Chapter 12, Streets, Sidewalks and Public Places, as well as any applicable local and state laws and regulations pertaining to the installation of utility pole structures in the right-of-way, including promulgated by the

board of public utilities requiring approval of proposed locations prior to installation.

3. Fewest Poles Possible. Applicant shall minimize the number of new proposed poles in the right-of-way to the fewest possible to meet its coverage and capacity requirements of its client. In addition, to the maximum extent possible while remaining compliant with engineering and structural requirements, applicant shall make any proposed pole available to the maximum number of additional wireless providers.
- B. Ground Level Cabinet Siting Standards. Ground level cabinets shall conform to the following siting standards:
1. Ground level cabinets are prohibited in the public right-of-way in residential zones and any future residential zones.
  2. Ground level cabinets are permitted in non-residential zones provided that such ground level cabinet:
    - a. Is less than twenty-eight (28) cubic feet in volume; and
    - b. Is finished and/or painted so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
    - c. Does not inhibit any existing sight triangles or sight distance; and
    - d. Allows adequate room for the public to pass and repass across, along and through the municipal right-of-way.
    - e. Is a minimum of one hundred fifty (150) linear feet from any other existing or proposed small wireless facility, excluding the small wireless facility for which the ground level cabinet will provide telecommunications functionality.
  3. Fewest Ground Level Cabinets Possible. Applicant shall minimize the number of ground mounted cabinets and shall affirmatively demonstrate that any applicable pole or support structure is incapable of supporting the proposed equipment cabinet.
- C. Pole Mounted Antenna and Pole Mounted Cabinet Siting Standards.
1. Pole mounted antennas are permitted on existing poles, provided that each pole mounted antenna:
    - a. Does not exceed three cubic feet in volume; and
    - b. Is finished and/or painted and/or otherwise camouflaged, in conformance with best available stealth technology methods, so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
    - c. Does not increase the height of the proposed or existing pole by ten (10) percent or five feet, whichever is greater, to a maximum permitted height of fifty (50) feet or one hundred ten (110) percent of the height of existing poles in the surrounding streetscape, whichever is greater; and
    - d. Is a minimum of one hundred fifty (150) linear feet from any other existing or proposed small wireless facility; and
    - e. Does not inhibit any sight triangles or sight distance; and

- f. Allows adequate room for the public to pass and repass across, along and through the public right-of-way.
  - g. Pole mounted cabinets are permitted on existing poles in all residential zones and non-residential zones provided that each pole mounted cabinet:
    - i. Does not exceed sixteen (16) cubic feet; and
    - ii. Is finished and/or painted and/or otherwise camouflaged, in conformance with best available stealth technology methods, so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
    - iii. Does not inhibit any sight triangles or sight distance; and
    - iv. Allows adequate room for the public to pass and repass across the public right-of-way.
2. Fewest Small Wireless Facilities Possible. Applicant shall minimize the number of new proposed small wireless facilities in the right-of-way to the fewest possible to meet its coverage and capacity requirements of its client.
- D. Additional Provisions for Small Wireless Facilities on Existing Utility Distribution Poles.
- 1. Small wireless facilities, subject to administrative review, may be placed in the public right-of-way on top of existing utility poles in excess of the height requirements specified in the above design standards subject to the following requirements:
    - a. Each small wireless facility and its associated supporting utility pole shall not exceed five above the tallest existing pole or utility pole within five hundred (500) feet in place as of the application date, or shall not exceed ten (10) feet above same, only if required pursuant to electrical utility pole separation requirements.
    - b. In no event shall the combined height of the small wireless facility and its associated utility distribution pole exceed fifty-five (55) feet in height.
    - c. Any proposed height above fifty (50) feet shall be subject to administrative review by the zoning board of adjustment and planning board.
    - d. Discretionary approval is required for any proposed small wireless facility that does not meet the above standards.

(Ord. No. 2021/4, § 1, 3-15-21)

### **18.81.120 Preexisting sites and municipal agreements.**

Any communications facilities in the public rights-of-way existing at the time of the adoption of the provisions of this chapter, whether or not a municipal agreement exists or is in force and effect with regard to same, shall be required to comply with the provisions of this chapter.

Any municipal agreements entered into between the borough and any provider regarding communications facilities in the public rights-of-way shall be required to conform to the provisions and standards of this chapter. To the extent the provisions of any existing municipal agreement conflict with this chapter, said provisions shall be replaced and superseded by the applicable terms of this chapter.

(Ord. No. 2021/4, § 1, 3-15-21)

### **18.81.130 New Jersey One Call.**

In addition to compliance with the applicable provisions of this chapter, prior to the start of any installation of poles, support structures, small wireless facilities or other communications facilities that requires excavation, applicant shall contact New Jersey One Call at 811 at least three full business days prior to the commencement of work.

(Ord. No. 2021/4, § 1, 3-15-21)

### **18.81.140 "Dig once" requirements.**

For all installations of communications facilities and small wireless facilities that require the installation of above ground and underground communications and power cabling and conduit, along the public ROW as well as utility easements and private property, the borough's department of public works or construction office may request that the project developer publicly offer to coordinate with providers who operate, or have applied for facilities in the borough through the department of public works or other applicable department or agency to ensure the public ROW and any planned utility easements are adequate to accommodate the deployment of both aboveground and underground communications facilities. Specifically, planned utility easements should allow for an adequate number of huts, utility poles and other structures, as well as belowground conduit, to adequately serve current and anticipated communications facilities. Access to easements should be provided to providers on a non-discriminatory basis and at a reasonable cost, or pursuant to applicable laws.

(Ord. No. 2021/4, § 1, 3-15-21)

### **18.81.150 Violation of this chapter.**

Violation of any of the provisions of this chapter shall be a simple citation punishable with a civil penalty of five hundred (\$500.00) for each violation which continues more than ten (10) days after written notice of such violation is provided to the applicant. Each day, after such notice, that a violation occurs or is permitted to exist by the applicant constitutes a separate offense.

(Ord. No. 2021/4, § 1, 3-15-21)

### **18.81.160 Governance of deployments outside of the public right-of-way.**

This chapter is intended to govern the installation, placement, maintenance, modification, upgrade and repair of communications facilities, including small wireless facilities, in the public right-of-way. The placement of telecommunications equipment outside of the public right-of-way shall be governed by Chapter 18.80, Wireless Telecommunications Towers and Antennas, as well as by other applicable codes and ordinances of the borough.

(Ord. No. 2021/4, § 1, 3-15-21)

### **18.81.170 Waiver.**

The borough council, or other borough person, agency or department with the authority to do so, may waive any provision or standard set forth in this chapter where it is demonstrated that the strict enforcement of said standard:

1. Will prohibit or have the effect of prohibiting any telecommunications service pursuant to 47 U.S.C. 253(a); or

2. Will prohibit or have the effect of prohibiting personal wireless service pursuant to 47 U.S.C. 332(c)(7)(B)(i)(II); or
3. Will violate any requirement set forth in the FCC Order entitled "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment," WT Docket No. 17-79; "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment," WC Docket No. 17-84; or
4. Will prohibit, or have the effect of prohibiting, the ability of an entity to provide wireless service to any prospective customer within the borough.

(Ord. No. 2021/4, § 1, 3-15-21)

### **18.81.180 Wireless consultant contact information.**

As specified in section 18.81.040.B herein, the designee shall be the initial point of contact for the borough for all matters concerning this chapter.

(Ord. No. 2021/4, § 1, 3-15-21)

## **Chapter 18.84 CONDITIONAL USES**

### **Sections:**

#### **18.84.010 Conditional use permits.**

- A. Guiding Principles. Recognizing that certain uses, activities and structures are necessary to serve the needs and provide for the convenience of the citizens of the borough and at the same time, appreciating the fact that they or any one of them may be or may become inimical to the public health, safety and general welfare of the community if located without due consideration to the existing conditions and surroundings, such uses are designated as conditional uses subject to the standards and regulations established by this chapter. These standards and regulations are intended to provide the reviewing board with a guide for reviewing applications for conditional uses as provided for by this title. As a result of the review procedure, the applicant may be required to meet additional standards and regulations imposed by the reviewing board during the site plan review which are in keeping with and will further the intent of these standards and regulations. Such standards and regulations shall be provided for and maintained as a condition of the establishment and maintenance of any use to which they are a condition of approval.
- B. General Provisions. In acting upon an application for conditional use approval, the reviewing board shall be guided by the following general provisions:
  1. The use for which an application is being made is specifically listed as a conditional use within the zone where the property is located.
  2. 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 following:
    - a. The compatibility of the proposed use(s) and/or structure(s) within the existing neighborhood;
    - b. The potential effect that the proposed use(s) and/or structure(s) will have upon property values;
    - c. The adequacy of the proposed parking and traffic circulation for the use(s) and/or structure(s) and the potential for traffic congestion and/or the creation of undue traffic hazards;

- d. The need for such facility or use(s) to serve the area in which it is to be located;
  - e. The adequacy of proposed drainage facilities which will serve the use(s) and/or the structure(s);
  - f. The adequacy of plans for screening any adverse aspects of the use(s) and/or structure(s) from adjoining properties;
  - g. The adequacy of proposed outdoor lighting;
  - h. Compliance with the standards, principles and objectives of the master plan;
  - i. Compliance with the design standards, general provisions, submission requirements and other appropriate provisions of this title.
3. All conditional uses shall also be required to obtain site plan approval, unless otherwise specified in this title.
  4. Conditional uses shall adhere to the additional standards specified for the particular use under this chapter except where no additional standards are specified herein.
  5. No use specified within this chapter shall be considered a conditional use unless it is specifically listed as a conditional use in the zone district regulations.

(Prior code § 19-18)

#### **18.84.020 Public utilities.**

No conditional use permit shall be issued unless the board of adjustment determines that:

- A. The proposed installation in a specific location is necessary and convenient for the efficiency of the public utility system of 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, buffer areas and other safety devices shall be provided.
- D. Sufficient landscaping including shrubs, trees and lawns are provided and shall be periodically maintained.
- E. Adequate off-street parking shall be provided.
- F. All the area, yard and building coverage requirements of the respective zone shall be met.

(Prior code § 19-18.2)

#### **18.84.030 Public, parochial or private schools.**

Public, parochial or private schools, including institutions of higher learning, but not trade or business schools, may be permitted in a residential zone district with a conditional use permit. Application for a permit shall be made to the zoning board of adjustment. The application shall include a site plan drawn to scale, indicating overall dimensions, topographical conditions, before and after the location and intended use of existing and proposed buildings, location of recreational areas, the relationship of the proposed use to highways, streets and adjacent properties, and such physical features as might present any deterrent to the protection of the health and safety of the pupils. The application shall include a complete set of architectural plans and specifications and

existing and proposed buildings and structures, and a statement setting forth in general terms the proposed courses of instruction. This statement shall indicate the grade levels of the pupils to be housed in the building or buildings, the planned pupil capacity of such building or buildings, and the contemplated eventual enrollment of the school.

Before authorizing the building inspector to issue a permit, the zoning board of adjustment shall determine that the following standards are met:

- A. The curriculum of the proposed school shall be approved by the New Jersey Department of Education.
- B. The minimum lot area for an elementary school shall be five acres, plus one additional acre for each two hundred (200) pupils. The minimum lot area for an intermediate school, high school or institution of higher learning shall be six acres, plus one acre for each one hundred (100) pupils. No more than twenty (20) percent of the site shall be covered by buildings.
- C. Off-street parking shall be provided in the following ratios: elementary and intermediate schools shall provide one parking space for each staff member or employee plus adequate space for school visitors and for buses and delivery vehicles. All other schools shall provide one parking space for each staff member or employee, plus one parking space for each twenty (20) pupils, plus adequate space for buses and delivery vehicles. These requirements may be increased if, in the judgment of the board of adjustment, such consideration as the unavailability of bus services or a relatively high percentage of pupils driving their own car make such increased requirements desirable.
- D. No driveway shall open onto a public street or road within one hundred fifty (150) feet of an intersection of such street or road with another public street or road. In determining the suitability of proposed or existing driveways upon the site, the board shall consider such factors as grade and site clearance, the number and pattern of driveways, the number, location and design of ingress and egress points, the volume of traffic which may be anticipated on the site and upon adjoining roads, and the condition and width of pavement of adjoining roads.

(Prior code § 19-18.3)

#### **18.84.040 Parks, playgrounds and recreation areas.**

Parks, playgrounds and recreation areas and facilities, including club houses, parks, playgrounds, swimming pools, tennis courts, and other such activities, being quasi-public and operated by nonprofit membership organizations are permitted in certain districts with a conditional use permit. Before authorizing the building inspector to issue a permit, the zoning board of adjustment shall determine that the following standards are met:

- A. A set of architectural plans, specifications and plot plans, a statement setting forth full particulars on the operation of the use and a complete list of the proposed charter membership, including names and residence addresses, shall be filed with the zoning board of adjustment in triplicate;
- B. It is ascertained by the board of adjustment that the proposed use is a bona fide nonprofit organization operated solely for the recreation and enjoyment of the members of the organization;
- C. It is ascertained by the board of adjustment that the proposed use in the proposed location will not adversely affect the safe and comfortable enjoyment of property rights or otherwise adversely affect the value of adjacent properties, that the design of any structures erected in connection with such use are in keeping with the general character of the area, and that sufficient landscaping, including trees, shrubs, and lawn, are provided to serve as a buffer between said use and adjoining properties, and to insure an attractive appearance for the use;

- D. The zoning board of adjustment finds that any parcel upon which such use is proposed, contains at least two acres of land; that buildings will not occupy more than twenty-five (25) percent of the lot area; that all other requirements as set forth in this title 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 use proposed will serve a useful purpose to the general welfare of the borough;
- E. That front, rear and side yards shall be increased one foot for each foot by which such building exceeds the height limit herein established for the zone in which it is located, but in no case shall any building exceed a height greater than fifty (50) feet;
- F. That the appropriate area and number of off-street parking spaces have been established and met;
- G. Signs may be illuminated but nonflashing and limited in area to not more than fifteen (15) square feet on any one side. The number and location of signs shall be determined by the board of adjustment.

(Prior code § 19-18.4)

#### **18.84.050 Motor vehicle service stations and public garages.**

Motor vehicle service stations may be permitted in any district where specifically noted herein as being a permitted use with a conditional use permit. Before authorizing the building inspector to issue a permit, the planning board shall determine that the following standards are met:

- A. In addition to the information required in the site plan as spelled out in this title, 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 accessory buildings to be constructed, the number of automobiles which are to be garaged.
- B. No motor vehicle service station shall be permitted within one thousand (1,000) feet of any other motor vehicle service station as measured along the center line of the street from center line to center line of the lots.
- C. No motor vehicle service station shall be permitted within five hundred (500) feet of any of the following:
  - 1. A public school, public playground or athletic field;
  - 2. A duly organized school giving instruction at least five days per week (holidays excepted) for eight or more months per year;
  - 3. A church or any house of worship of any religious faith;
  - 4. A nursing home or rest home;
  - 5. A public library;
  - 6. Theater or other building used for public entertainment in which more than fifty (50) persons congregate.
- D. Motor vehicle service stations shall have a lot area of not less than twenty thousand (20,000) square feet with a minimum lot frontage of one hundred twenty-five (125) feet. No building shall be located closer than fifty (50) feet from the street right-of-way. The building shall have a floor area of at least seven hundred fifty (750) square feet.

- E. Driveways shall not be more than twenty-four (24) feet wide at any point. Driveways shall be at least ten (10) feet from any side lot line, and twenty-five (25) feet from the intersection of street lines. No more than two driveways shall be permitted for each one hundred (100) feet of street frontage.
- F. The entire area of the site travelled by motor vehicles shall be paved in accordance with the requirements of the borough and subject to the approval of the borough engineer.
- G. Accessory goods for sale may be displayed on the pump island and building island only in suitable stands or racks. Display of loose items not in stands or racks is prohibited. A maximum of two outdoor vending machines shall be permitted on the building island.
- H. All fuel pumps shall be located at least thirty (30) feet from any street or property line and shall be attendant operated.
- I. All lubrication, repair, painting, or similar activities shall be performed within a completely enclosed building.
- J. No automobile, truck or trailer standing on the property may have any advertising matter thereon to the effect that such motor vehicle, truck or trailer is for rent or sale.
- K. Sign Regulations for Motor Vehicle Service Stations. Notwithstanding any other provisions of this chapter, gasoline service stations, where permitted, may display only the following signs which are deemed customary and necessary to their respective businesses:
  - 1. One freestanding sign advertising the name of the station, including any special company or brand name, insignia, or emblem, and price information provided that the total area of such sign shall not exceed thirty-six (36) square feet in area on each side, or exceed six feet by six feet. Such sign shall be placed not less than ten (10) feet within the property line and no portion of said sign shall be more than twenty (20) feet above the ground.

For any such sign located within the core redevelopment zone, one freestanding sign advertising the name of the station, including any special company or brand name, insignia, or emblem, and price information provided that the total area of such sign shall not exceed sixteen (16) square feet in area on each side, or exceed four feet by four feet.
  - 2. Facade signs for up to two faces of any building (including any convenience stores) fronting on a road or street, not in excess of ten (10) percent of the wall area or forty (40) square feet, whichever is the lesser. Any awning shall be considered part of the face of the building for these purposes.
  - 3. Directional signs or lettering displayed over individual entrance doors or bays, consisting only of the words "washing", "lubrication", "repairs", "mechanic on duty", or other words closely similar in import, provided that there shall be not more than one such sign over each entrance or bay; the letters thereof shall not exceed twelve (12) inches in height, and the total area of each sign shall not exceed three (3) square feet.
  - 4. Customary lettering on or other insignia which are a structural part of a gasoline pump, consisting only of the brand name of gasoline sold, lead warning sign, a price indicator, and any other sign required by law, and not exceeding a total of two square feet on each pump.
  - 5. One temporary sign located inside the property line and specifically advertising special seasonal servicing of automobiles, provided that such sign does not exceed six square feet in area.
  - 6. Brand name signs on canopies over pump islands on up to three sides of the canopy each sign not to exceed sixteen (16) square feet in area.

- L. One parking space shall be provided for each employee on the largest shift and three spaces shall be provided for each service bay. In addition to the above, if there is a convenience store on the property additional parking shall be provided at the rate of one parking space for every one hundred fifty (150) square feet of building area devoted to convenience store use. No "For Sale" vehicles shall be parked on site.
- M. All freestanding canopies shall adhere to the following design parameters:
  - 1. The canopy structure shall relate to the main building with respect to materials, massing, and overall design.
  - 2. Fascias of the canopy shall be finished to match the main building material and color.
  - 3. All canopy supports shall be clad in brick masonry construction, wood or similar covering for at least the lower half of the support.
  - 4. All canopy downspouts and related hardware shall be integrated into the structure.
  - 5. Canopy Lighting.
    - a. Lighting luminaries mounted under the canopy structures shall be recessed or shielded such that the lamp source is not visible and glare is not created.
    - b. The maximum sustained illumination levels at the ground surface under the canopy shall not exceed thirty-five (35) fc (footcandles).
    - c. Striping, whether illuminated or not, neon, and illuminated panels are not permitted on the canopy.

(Prior code § 19-18.5)

(Ord. No. 2013/2, § 2, 4-15-13)

#### **18.84.060 Churches and other places of worship.**

Churches and other places of worship may be permitted in any residential zone only upon receipt of a conditional use permit and provided that the following standards are met, together with any other requirements deemed necessary by the board of adjustment, and any other applicable requirements of this title.

- A. The minimum area shall be three acres and a minimum frontage shall be three hundred (300) feet.
- B. The site shall have direct access to a street classified as a major collector or a secondary arterial road in the borough master plan, as amended.
- C. Maximum site coverage shall be twenty (20) percent.

(Prior code § 19-18.6)

#### **18.84.070 Community residences.**

Community residences or shelters, other than permitted community residences for the developmentally disabled, community shelters for victims of domestic violence, community residences for the terminally ill and community residences for persons with head injuries, as defined in Section 18.08.020, having more than six but less than sixteen (16) persons, exclusive of resident staff, may be permitted in any residential zone only upon receipt of a conditional use permit from the planning board. Residences requiring a conditional use permit shall include, but not be limited to, halfway houses for drug and alcohol patients, halfway houses for persons convicted

of a crime or other group homes other than as set forth above. The planning board shall issue such a conditional use permit only after the following requirements have been complied with:

- A. Applicants receipt of site plan approval pursuant to Freehold Borough site plan ordinance;
- B. No group home, residence or shelter (other than those as permitted and defined above in Section 18.08.020 for developmentally disabled, victims of domestic violence, terminally ill and persons with head injuries) shall be located within one thousand five hundred (1,500) feet of an existing such community residence shelter or group home. Any measure made pursuant to this subsection shall be from the respective lot lines and not from the structures themselves.
- C. No group home, community residence or shelter, other than as permitted hereinabove in Section 18.08.020, shall house more than fifteen (15) residents.
- D. The maximum number of occupants for any community residence, shelter or group home, other than those defined in Section 18.08.020 accepted hereinabove, shall be fixed at the time of application, and shall be commensurate to the amount of land to be used and the square footage of house. No further expansion of such occupancy limit shall be made unless supplemental approval is granted by the planning board.
- E. In order that the health and safety of the occupants shall not be endangered by heavy traffic volumes, community residences, shelter and group homes, except as defined in Section 18.08.020, shall not be located on any street other than those classified as local streets in the master plan of the borough.
- F. Such community residences, shelters and group home, except as defined in Section 18.08.020, shall not have any entrance or exit on the same side of the street and within two hundred (200) feet of any entrance or exist to a public-or private school, garage or service station, theater, rescue squad, fire station, park or playground, except where and when the property is in another block or another street which the lots in question does not abut.
- G. Sufficient off street area is to be provided for the pick up and discharge of occupants by vans or other vehicles serving the residents.
- H. No community residences, shelters or group homes, except those permitted accepted hereinabove in Section 18.08.020, shall be permitted if the number of residents within the borough exceeds fifty (50) persons or five percent of the population which ever greater.
- I. All such community residences, shelters or group homes, except those permitted hereinabove in Section 18.08.020 shall continue to resemble single-family homes and retain the aesthetic characteristics of the neighborhood.
- J. All such community residences, shelters or group homes, as defined herein except for those permitted hereinabove in Section 18.08.020, shall have a minimum floor area of three hundred (300) square feet per resident.
- K. All such community residences shelters or group homes, except those defined hereinabove in Section 18.08.020, shall have .75 parking space for each resident thereof. The planning board shall give due consideration to provisions for visitation and the number of resident staff in order to ensure that there is ample parking facilities in order that no motor vehicle shall be required to back out onto a street by reason of a deficiency in the available parking. The planning board may, in its discretion, require more parking spaces than .75 per resident or may, if the evidence so warrants, waive the strict adherence of that standard.
- L. No sign denoting the nature of the facility shall be allowed on the premises of a community residence, shelter, group home, except those defined hereinabove in Section 18.08.020.

- M. Buffering and screening shall be required by the community residence or shelter or group home except for those defined hereinabove in Section 18.08.020 and adjoining residential property. In determining the height and density of such buffering or screening, the planning board shall give due consideration to the proximity of the residence or shelter to adjacent dwelling units.

(Ord. 7/99 § 2 (part): prior code § 19-18.7)

### **18.84.080 Planned residential development.**

A planned residential development may be permitted in the zone(s) specified only upon receipt of a conditional use permit. The planning board shall issue such a conditional use permit only after the following requirements have been met:

- A. Objectives. In order that the public health, safety, moral and general welfare be served in an era of increasing demand for housing of all types and design; to encourage innovation, variety in type, design and layout of buildings, conservative and efficient use of land; to create a setting for housing combined with recreational facilities; in aid of these purposes; to provide a procedure which can relate the type, design and layout of residential development to the particular site and area in a manner consistent with the preservation and upgrading of property value within established residential areas and; to insure that the increased flexibility of substantive regulations over land development authorized herein be subject to such administrative standards and procedures as herein contained.
- B. Findings for Planned Residential Developments. Prior to the approval of any planned residential development, the review board shall find, as required by N.J.R.S. 40:55D-45, the following facts and conclusions:
1. That departures by the proposed development from zoning regulations otherwise applicable to the subject property conforms to the zoning standards applicable to planned residential developments;
  2. That the proposals for maintenance and conservation of the common open space are reliable and that the amount, location and purpose of the common space are adequate;
  3. That provisions through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic and amenities of light and air, recreation and visual enjoyment are adequate;
  4. That the proposed planned residential development will not have an unreasonably adverse impact upon the area in which it is proposed to be established;
  5. In the case of a proposed development which contemplates construction over a period of years, that the terms and conditions intended to protect the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development are adequate.
- C. Conditions and Standards.
1. Principal uses and buildings permitted:  
Single-family dwellings and townhouses, as determined by the planning board to be similar in character to the above type units.
  2. Accessory uses permitted:
    - a. As specified in subsection (C)(3) of this section for each residential unit;

- b. Off-street parking;
  - c. Recreational facilities exclusively serving the residents of the planned residential development.
3. Standards for residences:
- a. Single-family detached residences:
    - i. Area and yard requirements:
      - Minimum lot size: eight thousand (8,000) square feet.
      - Minimum lot width: eighty (80) feet.
      - Minimum front setback: five feet.
      - Minimum rear setback: twenty-five (25) feet.
    - ii. Building height shall be limited to a maximum height of thirty (30) feet and two and one-half stories.
    - iii. Accessory structures shall be prohibited in any front yard area. Accessory structures shall maintain a minimum side and rear yard setback of three feet.
    - iv. Fences shall comply with the provisions of Section 18.76.030;
  - b. Townhouses.
    - i. The minimum setback for all dwelling units from any street right-of-way or any common parking area shall be twenty (20) feet.
    - ii. No more than eight townhouses shall be attached in a series.
    - iii. No more than two contiguous townhouse dwelling units shall be located on the same setback line. Variations in front setback between contiguous dwelling units shall not be less than eleven (11) nor greater than twenty (20) feet.
    - iv. The roof-lines of at least thirty (30) percent of the number of units which are attached in a structure having a single linear plane shall be staggered in height by not less than five percent of the height of the roof-lines of the remaining units in such structure.
    - v. No townhouse structure shall be closer than thirty-five (35) feet to any other townhouse structure, measured perpendicular to the building walls.
    - vi. Building heights shall be limited to a maximum of thirty-five (35) feet.
    - vii. Accessory structures shall be prohibited. Each unit is to be so designed to provide adequate space within the unit for the storage of personal exterior maintenance and landscaping equipment. Tool and storage sheds are specifically prohibited.
    - viii. Each unit shall be provided at the time of construction an exterior screened private or semi-private outdoor living area designed for the recreational use of the occupants of the dwelling unit. Such area shall not be less than three hundred (300) square feet in area, may be at ground level or elevated and may be composed of any materials designed to create a patio surface or may be a wood deck area or other surface or structure or combinations thereof, in whole

or in part. Adequate visual screening from neighboring dwelling units, patios, adjacent parking areas and roadways shall be provided which may consist of plantings, masonry structures or wood fencing. Architectural elements, such as masonry walls and fences, shall be compatible in both style and materials with the dwelling unit of which it is a part.

- ix. No fencing or walls shall be erected except in accordance with subsection (C)(3) of this section.
4. Open Spaces and Common Recreation Lands. Not less than one acre plus twenty (20) percent of the total land area of any planned residential development shall be designated for common open space or common recreation lands. Such designated open space shall consist of land in a natural state or land developed for specific recreational purposes and shall be specified as to its intended use, including areas for wildlife preservation. Parcel size shall be a minimum of two contiguous acres, which may be irregularly shaped. Such designated open space shall not include yard areas of lots in private individual ownership, land area within the right-of-way of a public or private street and buildings wherein the principal use of such lands is to provide pedestrian access to and from buildings. Such open space shall be dedicated to a homeowner's association or trust, which incorporation and bylaws shall be approved by the reviewing board.
  5. Public Improvements.
    - a. The developer shall install or cause to have installed, at his or her own expense, all public improvements, as required in accordance with the standards and conditions of the borough.
    - b. All public utilities shall be installed in accordance with the borough land subdivision ordinance standards; all planned residential developments shall be serviced by approved and adequate public sanitary sewerage and water systems and underground electric, telephone and cable systems.
  6. Circulation.
    - a. The street system must be designed to provide clarity of movement. The design shall provide a minimum of two points of access to primary arterial or secondary arterial streets.
    - b. All entrance and exit roads shall be located to afford maximum safety to traffic, provide for safe and convenient ingress and egress to and from the site, and to minimize conflict with the flow of traffic.
    - c. Where pedestrians must cross service roads or access roads to reach parking areas, crosswalks shall be clearly designated by pavement markings or signs. Crosswalk surfaces may be raised slightly to designate them to drivers unless drainage problems would result. A one-way car movement (to the left or counter-clockwise) should be encouraged. A major loop should be developed around the parking area and parking bays should run perpendicular of the road.
    - d. Pedestrian sidewalks shall be provided in such locations, including entrances and exits to the development, where normal pedestrian traffic will occur. Where appropriate, bikeways may be provided instead of sidewalks. Provisions for bikeways and requirements for sidewalks and pathways shall be made upon determination by the review board.
  7. Parking.
    - a. Off-street parking requirements shall be as follows:

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No. Spaces	No. Bedrooms
1.75	1
2.00	2
2.25	3 or more

For purposes of determining compliance with this chapter, a maximum of one parking space per unit may be located within a garage.

- b. All common off-street parking areas shall be transferred to the ownership of a homeowner's association for maintenance and repairs. All garages to be provided shall be an integral part of the townhouse dwelling units and not separate structures. Garages shall be applied to the off-street parking requirements in accordance with their capacity.
8. Solid Waste Storage. Adequate provisions shall be provided for refuse accumulation and private pick up in a convenient and properly concealed location.

Solid wastes, if stored outdoors, shall be placed in metal receptacles within a screened refuse area.

- a. The screened refuse area shall not be located within any front yard area.
  - b. The refuse storage area shall be surrounded on at least three sides by a solid uniform fence or wall not less than six feet in height.
  - c. A four-foot minimum width landscaping area shall be provided along the fence or wall enclosing the refuse storage area. The landscaping to be provided shall be shown on the site plan submitted for the reviewing board approval.
  - d. The opening in the enclosed refuse area shall be located to minimize the view of refuse from adjoining properties public streets.
  - e. If located within or adjacent to a parking area or access drive, the enclosed refuse area shall be separated from such parking area or access drive by curbing and shall not be located so as to interfere with traffic circulation or the parking vehicles.
  - f. There shall be provided at least one outdoor refuse storage area of at least one hundred (100) square feet for each ten thousand (10,000) square feet of floor area. The refuse storage area shall be suitably located and arranged for access and ease of collection and shall not be located farther than three hundred (300) feet from the entrance to any unit which it is intended to serve.
9. Landscaping. A landscaping plan shall be submitted with each site plan application. The plan shall identify existing and proposed trees, shrubs, plant material, ground cover, and natural features. It shall show where they are or will be located and the planting details. The following principles shall be followed:
- a. All nonpaved areas on properties used for any purpose other than farming shall be suitably landscaped with trees, shrubs, grass, and other suitable landscaping materials.
  - b. Landscaping shall be provided in public areas, recreation sites, and adjacent to buildings.
  - c. Deciduous trees should have at least two and one-half inch caliper at planting and evergreen trees should be at least six feet tall. Shrubs should be at least two feet at planting.

- d. Street trees shall be planted at intervals depending on the type: large trees, 50-70 feet; medium trees, 40-50 feet; small and ornamental trees, 30-40 feet.
  - e. Existing large trees shall be saved by not varying the grade around the trees by no more than six inches to twelve (12) inches construction of tree wells, and erecting protective fences.
  - f. In parking lots, at least ten (10) percent of the parking area shall be landscaped. The landscaping should be located in protected areas, along walkways, center islands, and at the end of bays. One tree for each ten (10) stalls should be provided to create a canopy effect in the parking lot. An island shall be placed after every tenth stall.
  - g. Wherever medial grass strips or other landscaped areas are proposed which will be visible to the general public within the development, the covenants and/or agreements of the maintenance of such areas by that association shall apply to the area.
10. Buffers.
- a. Buffering shall be located, as specified below, on the site to minimize glare from headlights of vehicles, to minimize noise, to shield light from structures, to shield the movement of people and vehicles from adjacent property and to shield activities from adjacent properties. Buffers are fences, landscaping, berms, and mounds used to minimize any adverse impacts or nuisance on the site from adjacent areas. The applicant shall incorporate into its landscaping plan submitted with the site plan a buffer design plan which shall incorporate the following principles:
  - b. Buffers shall be located along property and zone or use lines shielding various uses from each other. No parking or above surface structures shall be permitted in the buffer area.
  - c. Buffer areas shall consist of lawn areas and massed evergreen and deciduous trees and shrubs planted in a manner that will provide a continuous visual screen throughout the entire year within a period of two growing seasons following the plantings of the buffer.
  - d. Evergreen and deciduous shrubs shall have a minimum height of two feet when planted and shall be of suitable varieties. Evergreen trees shall have a minimum height of five feet when planted and of appropriate density for the use involved; be nursery stock, free of insects and disease.
  - e. The height of shrubs planted in a buffer area shall be measured from the ground level around the base of shrub to the topmost part of the shrub, once the shrubs have been properly planted in the ground.
  - f. Where an area required for a buffer is already wooded, it shall be left in its natural state, and existing growth shall be supplemented with additional plant material where necessary to bring the buffer area up to minimum requirements of this title.
  - g. All parking areas, exclusive of ingress and egress drives, having a capacity of more than four vehicles, garbage collection areas, and loading and unloading areas, shall be screened from adjacent properties by a buffer strip at least fifteen (15) feet in width.
  - h. Landscape mounds or berms are recommended for screening purposes in areas where existing vegetation is not sufficient or desirable. Such mounds shall be constructed with maximum slopes of 3:1 having a four-foot wide flat area at the top and be of adequate height for screening purposes. All such mounds shall be provided with maintenance free ground cover and suitable trees and shrubs to provide an irregular visual pattern. Free form

mounds or berms are encouraged to further reduce visual impact and provide a natural appearance.

11. Signs. Signs for project identification, traffic control, and direction shall be designed so as to be aesthetically pleasing, harmonious with other signs on the site, and located so as to achieve their purpose without constituting hazards to vehicles and pedestrians. Each site plan application shall include a sign plan showing the specific design, location, size, construction and method of illumination.
12. Street Furniture. The site plan shall provide for those elements of street furniture appropriate to the particular use. These are the functional elements of the environment and include benches, planting boxes, mail and meter boxes, lighting standards, directional signs, bollards (posts), fire hydrants, fences, and walls, water fountains and pools, drinking fountains, trash receptacles, bike racks, sculpture, paving and steps, and bus shelters. The street furniture plan shall include location, size, lighting, and design relationship.
13. Environmental Considerations.
  - a. All development shall be in conformity with the master plan and shall account for all relevant environmental factors as outlined in Monmouth County Natural Resource Inventory. Any proposal for development that would vary with the environmental review criteria as found within that study must be justified by appropriate soils documents, engineering information and other environmental data. Additional on-site investigation may be necessary and may be required as part of the submission to the reviewing board. Such additional information would include, but not be limited to, test borings for geologic factors, detailed topography (no less than two-foot contour intervals) and such other similar information as may be required by the review board.
  - b. Building and other surface coverings should be limited to the extent possible, to the incorporation of increased building height up to the maximum permitted, the use of parking in or under buildings, reduction of excess pavement for roadways, the use of permeable surfaces for paving wherever possible and the utilization of open space areas for aquifer recharge. Nonpoint source pollutants should be handled by the use of drainage swales in combination with retention facilities in an attempt to reduce the amount of potential pollutants entering the aquifer. Such swales should be seeded with appropriate vegetative materials satisfactory to the review board to filter silt and other potential pollutants to the surface and underground water supply systems. Natural surface drainage structures should be utilized wherever possible. All applications must be submitted to the soils conservation service for review and recommendations. All such structures should be set back at least fifty (50) feet from any stream course or natural drainageway unless floodplain information indicates that there should be a further setback. Swamp and steep slope areas should not be developed but should be included as open space areas. All trees over six inches in caliper shall be shown on the development plans by the methods approved by the planning board.

(Prior code § 19-18.8)

#### **18.84.090 Bed and breakfast residences.**

- A. The Bed and Breakfast Residence shall be an existing residential structure originally constructed for single-family residential purposes and shall be of a Federal, Victorian, Colonial, Greek Revival, Georgian, Italianate, or Queen Anne architectural type. The conversion of such a residence to a bed and breakfast use in

accordance with this title is intended to result in the preservation, maintenance and continuation of residential structures of the architectural type disclosed in this title; and therefore, for so long as any residential structure is used as a bed and breakfast residence pursuant to this title the residential exterior facade of the approved bed and breakfast residence shall not be altered except for repainting and normal repair and maintenance. Any proposed alteration to the exterior shall be limited to that which results in the preservation or enhancement of the qualifying architectural style of the building and shall only be undertaken after application to and approval by the Freehold planning board.

- B. Minimum lot requirements of the zone in which the bed and breakfast residence is located must be compiled with or, where applicable, the more restrictive provisions of this chapter; except for each pre-existing building front or side yard setback nonconformity, which nonconformity shall not be increased by the proposed use. Notwithstanding the above, however, there shall be a minimum lot frontage of fifty (50) feet on an adjoining street.
- C. One off-street parking space shall be provided for each nonresident employee and two spaces shall be provided for the own-er/occupant family. One off-street parking space shall be provided for each guest room. Parking shall be arranged so that no motor vehicle shall need to back out into a public street to exist the premises. Off-street parking areas shall be constructed to contain and dispose of all parking area drainage on site, or otherwise properly detain and dispose of the drainage in accordance with the requirements of the drainage standards contained in the borough ordinance or as permitted by the planning board. The off-street parking requirements can be met on-side or off-site by written lease agreements or easements for utilization of rear yard or existing off-street parking areas of contiguous property, proof of which must be submitted to the planning board for review and acceptance.
- D. All off-street parking provided shall be a minimum of ten (10) feet from any property line, except where the lot width in the parking area is fifty-five (55) feet or less, in which event the parking area shall be a minimum of seven and one-half feet from any property line and shall be screened from view of the immediately adjoining residential property utilizing year round landscaping.
- E. Lighting shall be required for off-street parking areas and shall be consistent with the residential character of the neighborhood. Driveway and walkway lighting shall be down lighting not more than three feet high. Parking area lighting shall be colonial or victorian in appearance and not more than ten (10) feet high. Times of lighting operation shall be as determined by the planning board and shall include provision of movement or heat sensor controlled lighting for security and safety purposes. All lighting fixtures in parking areas, driveways and walkways shall be shielded to contain all light on the subject property, so as not to allow spill-over of light or glare to adjacent residential properties. The planning board shall consider the layout of the bed and breakfast applicant's site, the existing and proposed buffer to the bed and breakfast residence itself and/or other residential structures in the area, and the provisions of this title, in considering the adequacy of the exterior lighting plan proposed.
- F. All guest entrances shall be in the front or rear yard of the main building, unless the distance of a side entrance from the nearest property line exceeds fifteen (15) feet, in which case one guest entrance may be a side building entrance.
- G. Occupancy by any guest within the bed and breakfast residence shall be limited to fourteen (14) consecutive nights and not more than twenty-one (21) nights in any period of fifty (50) consecutive days.
- H. Signage for a proposed bed and breakfast residence shall comply with the requirements set forth by this title rather than the requirements of the Freehold Borough sign ordinance. The bed and breakfast residence may identify itself with either one free-standing sign in the front yard or one wall-mounted sign. In addition, there may be a sign at each entrance identifying that door as the entrance into the common areas of the facility.

All signage shall be shown on the site plan submitted to the board and is subject to specific review and approval by the board.

The following sign rules and requirements shall apply to bed and breakfast residences:

- a. The free-standing sign shall be located in the front yard of the facility, provided that the sign is set back at least four feet from the building side of the sidewalk and does not interfere with the line of sight for any intersecting streets. It shall be constructed out of wood, sign foam or a similar material to look like wood. Lettering shall be carved or incised into the sign backer or precut lettering at least one-half inch thick attached to the sign backing. The maximum sign area shall be five square feet with a maximum vertical distance from the bottom of the sign to the ground of one foot and a maximum overall height of four feet. The sign may be indirectly lit with a maximum of two white external lights of an intensity not to exceed seventy-five (75) watts each, shielded and directed solely at the sign. The sign shall be supported by two four-inch by four-inch posts. The sign and structure colors shall conform to the coordinated colors listed in Appendix C of the Freehold Borough sign ordinance or shall be painted to match the colors of the bed and breakfast residence.
  - b. The wall sign shall be attached to the facade of the structure and shall be no higher than the first floor entrance door. It shall be constructed out of wood, sign foam or a similar material to look like wood. Lettering shall be carved or incised into the sign backer or precut lettering at least one-half inch thick attached to the sign backing. The maximum size of the sign area shall be five square feet. The sign may be indirectly lit with a maximum of two white external lights of an intensity not to exceed seventy-five (75) watts each, shielded and directed solely at the sign. The sign and structure colors shall conform to the coordinated colors listed in Appendix C of the Freehold Borough sign ordinance or shall be painted to match the colors of the bed and breakfast residence.
  - c. The entrance signs shall be painted on or attached to or adjacent to each door being used as the entrance into the common area of the facility. The sign area shall be no larger than four inches high by twelve (12) inches wide. The sign shall not be illuminated separately from the general illumination required for an entrance doorway.
9. A common area must be provided for the exclusive use of the guests, and must be a minimum of twenty (20) square feet if less than six individual sleeping accommodations are provided, and a minimum of three hundred (300) square feet if six or more individual sleeping accommodations are provided. Common areas may include, but not be limited to, a combination of breakfast or dining rooms, parlors, sitting rooms, libraries, solariums, enclosed and heated porches or like facilities.
  10. A bed and breakfast residence shall obtain site plan approval from the planning board prior to commencing operation to verify compliance with the conditions of this title. The application for site plan approval shall include all information required by this title as well as such information from the site plan ordinance as the planning board shall determine is required.
  11. An applicant seeking site plan approval for a bed and breakfast residence shall also provide proof to the planning board of its compliance with the requirements of the Freehold Borough bed and breakfast residence license ordinance.

(Ord. 16/96 § 4: prior code § 19-18.9)

#### **18.84.100 Convention and conference centers.**

Convention and conference centers are permitted in the SRO specialty retail office district provided that the following conditions are met:

- A. The convention and conference center is associated with a hotel.
- B. Parking is provided at a rate of one parking space per three seats plus one space per employee on the peak shift.
- C. The minimum lot area is five acres.

(Ord. No. 2013/2, § 2, 4-15-13)

#### **18.84.110 New automobile dealerships.**

New automobile dealerships are permitted in the SRO specialty retail office district provided that the following conditions are met:

- A. The minimum lot area shall be five acres.
- B. The minimum lot frontage shall be three hundred (300) feet.
- C. The minimum lot depth shall be three hundred (300) feet.
- D. The maximum lot coverage by building shall be twenty (20) percent.
- E. The minimum open space shall be twenty-five (25) percent of the lot area.
- F. Used cars shall not be sold except as an accessory use to a new car dealer.
- G. There shall be a building in conjunction with the use which shall contain no less than fifteen thousand (15,000) square feet of usable floor area. At least twenty-five (25) percent of said floor area shall be devoted to new car display purposes.
- H. All outdoor display and service areas, including driveways and parking facilities shall be paved.
- I. Display lighting shall be shielded and shall be so located and maintained to avoid light spillage onto adjacent properties and so as not to constitute a hazard or nuisance to the public using the highway or to neighbors. In particular, so-called "string lights" shall not be permitted. The maximum lighting level shall not exceed thirty-five (35) fc (footcandles) for the front display row of for sale vehicles and shall not exceed five fc (footcandles) elsewhere on the property.

(Ord. No. 2013/2, § 2, 4-15-13)

#### **18.84.120 Banks.**

Banks are permitted in the SRO specialty retail office district provided that the following conditions are met:

- A. The minimum lot area shall be one and one-half acres.
- B. The maximum lot coverage by building shall be twenty (20) percent.
- C. The minimum amount of open space shall be twenty-five (25) percent of the lot area.

(Ord. No. 2013/2, § 2, 4-15-13)

#### **18.84.130 Pharmaceutical research.**

Pharmaceutical research facilities are permitted in the SRO specialty retail office district provided that the following conditions are met:

- A. The minimum lot area shall be five acres.

- B. The maximum lot coverage by building shall be thirty (30) percent.
- C. The minimum amount of open space shall be thirty (30) of the lot area.
- D. Parking shall be provided at the rate of one space per seven hundred fifty (750) square feet of gross floor area.

(Ord. No. 2013/2, § 2, 4-15-13)

#### **18.84.140 Light assembly.**

Light assembly uses are permitted in the SRO specialty retail office district provided that the following conditions are met:

- A. The minimum lot area shall be five acres.
- B. The maximum lot coverage by building shall be twenty-five (25) percent.
- C. The minimum amount of open space shall be twenty-five (25) percent of the lot area.
- D. Parking shall be provided at the rate of one space per five hundred (500) square feet of gross floor area.

(Ord. No. 2013/2, § 2, 4-15-13)

#### **18.84.150 Public storage.**

Self-service public storage facilities are permitted in the SRO specialty retail office district provided that the following conditions are met:

- A. The minimum lot area shall be five acres.
- B. The maximum impervious lot coverage shall be seventy-five (75) percent.
- C. The minimum amount of open space shall be twenty-five (25) percent of the lot area.
- D. Parking shall be provided at the rate of one space per every fifty (50) storage units on site.

(Ord. No. 2013/2, § 2, 4-15-13)

#### **18.84.160 Warehouses.**

Warehouse facilities shall be permitted in the SRO specialty retail office district provided that the following conditions are met:

- A. The minimum lot area shall be five acres.
- B. The maximum impervious lot coverage shall be seventy-five (75) percent.
- C. The minimum amount of open space shall be twenty-five (25) percent of the lot area.
- D. Parking shall be provided at the rate of one space per every five thousand (5,000) square feet of gross floor area.

(Ord. No. 2013/2, § 2, 4-15-13)

### **18.84.170 Grocery/convenience stores.**

Grocery stores shall be permitted in the B-2, B-2A, b-2B, C-M, and SRO zones provided that the following conditions are met:

- A. Minimum lot size: ten thousand five hundred (10,500) square feet.
- B. Minimum parking required: one space per two hundred (200) square feet GFA in B-2 zone, one space per one hundred fifty (150) square feet elsewhere.
- C. Distance from residential zone or use: 200 feet.

(Ord. No. 2013/2, § 2, 4-15-13)

## **Chapter 18.88 NONCONFORMING USES**

### **Sections:**

#### **18.88.010 Continuance.**

Except as otherwise provided in this chapter, the lawful use of land or buildings existing on December 29, 1969 may be continued, although such use or building does not conform to the regulations specified by this title for the zone in which such land or building is located, provided:

- A. That no nonconforming lot shall be further reduced in size;
- B. That no nonconforming building shall be enlarged;
- C. That no nonconforming use may be expanded.

(Prior code § 19-21.1)

#### **18.88.020 Abandonment.**

A nonconforming use shall be adjudged as abandoned when there occurs a cessation of any such use or activity by an apparent act or failure to act on the part of the tenant or owner to reinstate such use within a period of one year from the date of cessation or discontinuance. Any future use of the property shall be in conformity with the provisions of this title.

(Prior code § 19-21.2)

#### **18.88.030 Reversion.**

No nonconforming use shall, if once changed into a conforming use, be changed back again into a nonconforming use.

(Prior code § 19-21.3)

## **Chapter 18.92 ADMINISTRATION AND ENFORCEMENT**

### **Sections:**

### **18.92.010 Enforcement.**

The provisions of this title shall be administered and enforced by the building inspector of the borough. In no case shall a permit be granted for the construction or alteration of any building where the proposed construction, alteration or use thereof would be in violation of any provision of this title. It shall be the duty of the building inspector or his or her duly authorized assistants to cause any building, plans or premises to be inspected or examined and to order in writing the remedying of any conditions found to exist in violation of any provision of this title, and he or she shall have the right to enter any building or premises during the daytime in the course of his or her duties.

(Prior code § 19-22.1)

### **18.92.020 Filing plans.**

Applications for building permits shall be made in the manner prescribed in the building code.

(Prior code § 19-22.2)

### **18.92.030 Records.**

It shall be the duty of the building inspector to keep a record of all applications for permits and a record of all permits issued, with a notation of all special conditions involved. He or she shall file and safely keep copies of all plans submitted, and the same shall form a part of the records of his or her office and shall be available for the use of the governing body and of other officials of the borough.

The building inspector shall prepare a monthly report for the governing body summarizing for the period since his or her last previous report all building permits and certificates issued by him or her and all complaints of violations and the action taken by him or her consequent thereon. A copy of each such report shall be filed with the borough tax assessor at the same time it is filed with the governing body.

(Prior code § 19-22.3)

### **18.92.040 Certificates and permits.**

A. Certificate of Occupancy. No building hereafter structurally altered or erected shall be used or changed in use until a certificate of occupancy shall have been issued by the building inspector stating that the building or the proposed use thereof complies with the provisions of this title.

A certificate of occupancy, either for the whole or a part of a building, shall be applied for by the owner or his or her authorized agent coincident with the application for a building permit and shall be issued within ten (10) days after the erection or structural alteration of such building or part thereof shall have been completed in conformity with the provisions of this title.

In case the building inspector declines to issue a certificate of occupancy, his or her reasons for doing so shall be stated on one copy of the application and that copy returned to the applicant.

A certificate of occupancy shall be issued to any owner or authorized agent who shall be held responsible for any violation of this title on the premises. A record of all certificates shall be kept on file by the building inspector and copies shall be furnished to any person having an ownership interest in the building affected, or to the authorized agent of such owner.

No certificate of occupancy shall be required for any building existing on December 29, 1969 except where the character of use of occupancy is changed.

The building inspector shall require the payment of certificate of occupancy fees as provided in Section 15.08.060. Each copy of a certificate of occupancy shall be three dollars.

No certificate of occupancy shall be issued unless a water meter has been properly installed pursuant to the terms and provisions of Chapter 13.04 of this code.

- B. Revocation. On the serving of notice of any violation of any of the provisions or requirements with respect to any building or use thereof or of land, as specified in this title, the certificate of occupancy for such use shall thereupon, without further action, be null and void. A new certificate of occupancy shall be required for any further use of such building or land.
- C. Filing. A monthly report of the certificate of occupancy issued shall be filed with the tax assessor. A record of all certificates of occupancy shall be kept in the office of the building inspector.
- D. Temporary Use Permits. It is recognized that it may be in accordance with the purposes of this title to permit temporary activities for a limited period of time which uses may be prohibited by other provisions of this title. If such uses are of such a nature and are so located that at the time of the petition, they will:
  - 1. In no way exert a detrimental effect upon the uses of land and activities normally permitted in the zone;
  - 2. Contribute materially to the welfare of the borough, particularly in a state of emergency, under conditions peculiar to the time and place involved; then the building inspector may after written application subject to all regulations for the issuance of special permits elsewhere specified, issue a permit for a period not to exceed six months. Such period may be extended not more than once for an additional period of six months.
- E. Zoning Permit Fees. The fee for the issuance of a zoning permit by the zoning officer of the municipality shall be twenty-five dollars (\$25.00).

(Prior code § 19-22.4)

#### **18.92.050 Interpretation.**

In the interpretation and application of the provisions of this title such provisions shall be minimum standards, adopted for promoting the health, safety, comfort, convenience, and general welfare of the borough.

(Prior code § 19-23)

#### **18.92.060 Conflict with other laws.**

Whenever the requirements of this title are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or those imposing the higher standards shall govern.

(Prior code § 19-24)

#### **18.92.070 Violations—Penalties.**

Every person who violates any provision of this title shall be subject to the provisions of Chapter 1.08 of this code.

(Prior code § 19-25)



Freehold, New Jersey, Code of Ordinances  
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**Schedule of Area, Yard and Building Requirements**

**Zoning Ordinance of Borough of Freehold**

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Minimum size of lot					Minimum required yards												
Interior lots			Corner lots		Principal building			Accessory bldg. In rear yard		Maximum height			* Minimum gross habitable	Floor area (in square ft.)			
Zone																	
	Width In Feet	Area In Square Feet	Width In Feet	Area In Square Feet	Front Yard	Side Yard	Rear Yard	Side Yard	Rear Yard	Max. % of lot Coverage	In stories	In Feet	1 Story (efficiency)	1 ½ Story (1 bedroom)	2 Story (2 bedroom)	3 Story (3 bedroom)	3 Story (4 or more bedroom)
R-10	100	12,000	105	12,600	30	10	25	3	3	25	2 ½	30		800	1200	1600	1800
R-7	70	8,400	80	9,600	25	5	25	3	3	35	2 ½	30		700	1050	1400	1600
R-6	60	7,200	75	9,300	25	5	25	3	3	35	2 ½	30		700	1050	1400	1600
R-5	50	6,000	75	9,000	25	5	25	3	3	40	2 ½	30		700	1050	1400	1600
R-4	40	4,800	60	7,200	25	5	25	3	3	45	2 ½	30		600	900	1200	1400
A/Single Family	50	6,000	75	9,000	25	5	25	3	3	40	2 ½	30		700	1050	1400	1600
A* Apt.												75					
B-1	80	8,000	100	10,000	20	8	20	3	3	40	3	35					
B-2	50	5,000	70	7,000	0	0	0	3 ½	10	100	3	35					
B-2a	50	5,000	70	7,000	15	0	0	3 ½	10	85	3	35					
B-2b	50	5,000	70	7,000	0	0	0	3 ½	10	100	3	35					
CM	200	40,000	200	40,000	50	20	50	20	40	30	3	35					
**																	
T-H	5 acres for complex				20	40				40	2	35		600	900	1200	1400
*** RCR												75					

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PRD Single- Family	80	8,000	100	10,000	5	5	25	3	3	35	2½	30					
**** PRD Town- House					20	40	40			40		35					

\* Minimum gross habitable floor area not applied to business and commercial properties.

\*\*\*\* Front Yard: Dwellings shall meet the required front yard setback or if a street is fifty (50) percent or more developed the prevailing average setback of existing dwellings within five hundred (500) feet on the same side of the street.

(Ord. No. 2013/2, § 2, 4-15-13)

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