

Chapter 96

UNIFIED DEVELOPMENT

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[Adopted by the Township Committee of the Township of Elk 9-7-2000 by Ord. No. O-006. Amendments noted where applicable.]

Affordable Housing Board — See Ch. 3.	Right to farm — See Ch. 63, Art. II.
Environmental Commission — See Ch. 17.	Flood damage prevention — See Ch. 65.
Housing Authority — See Ch. 22.	Land development fees — See Ch. 70.
Municipal Utilities Authority — See Ch. 38.	Mobile homes — See Ch. 73A.
Affordable housing — See Ch. 40.	Parks and playgrounds — See Ch. 76.
Uniform construction codes — See Ch. 54.	

ARTICLE I

Purpose; Scope; Interpretation; Short Title**§ 96-1. Purpose.**

The purpose of this chapter is to regulate the nature and extent of the uses of land and of buildings and structures thereon for the purposes set forth in the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) and to exercise the power to zone and regulate land development granted to municipalities of the State of New Jersey.

§ 96-2. Scope.

From and after the effective date of this chapter, the use of all land and every building or portion of a building erected, altered with respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in the Township of Elk, shall be in conformity with the provisions of this chapter.

§ 96-3. Interpretation.

- A. In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this chapter impose greater restrictions than those of any statute, other ordinance, or regulation, the provisions of this chapter shall be controlling.
- B. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this chapter, the provisions of such statute, other ordinance or regulation shall be controlling.

§ 96-4. Short title.

This chapter shall be known and may be cited as "The Elk Township Unified Development Ordinance of 2000."

ARTICLE II
Definitions

§ 96-5. Definitions of terms. [Amended 4-3-2003 by Ord. No. O-2003-3; 6-3-2004 by Ord. No. O-2004-5; 7-20-2004 by Ord. No. O-2004-6; 5-5-2005 by Ord. No. O-2005-2; 8-3-2006 by Ord. No. O-2006-2; 5-3-2007 by Ord. No. O-2007-3; 6-7-2007 by Ord. No. O-2007-7; 10-2-2008 by Ord. No. O-2008-13; 12-18-2008 by Ord. No. O-2008-14; 4-1-2010 by Ord. No. O-2010-5; 4-1-2010 by Ord. No. O-2010-7; 4-1-2010 by Ord. No. O-2010-9; 6-3-2010 by Ord. No. O-2010-35; 8-5-2010 by Ord. No. O-2010-41; 8-4-2011 by Ord. No. O-9-2011; 5-3-2012 by Ord. No. O-5-2012; 6-21-2022 by Ord. No. O-3-2022; 7-21-2025 by Ord. No. O-20-2025; 4-21-2026 by Ord. No. O-7-2026]

- A. For the purpose of this chapter, any words used in the present tense include the future. The singular number includes the plural and the plural the singular; the word "lot" includes the word "plot"; and the word "building" includes the word "structure"; the word "zone" includes the word "district"; the word "occupied" includes the word "designed" and the phrase "intended to be occupied"; the word "use" includes the words "arranged," "designed" and the phrase "intended to be used"; and the word "shall" is always mandatory.
- B. The term "such as," where used herein, shall be considered as introducing a typical or illustrative rather than an entirely exclusive designation of permitted or prohibited uses, activities, establishments or structures. As used in this chapter, the following words, terms and phrases shall have the meaning indicated.

- C. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

ABANDONMENT — The relinquishment of property or a cessation of the use of a property by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.

ACCESSORY USE, STRUCTURE OR BUILDING — A use, structure or building that is customarily incidental and subordinate to that of the principal and on the same lot. No accessory use shall form the basis for a claim of right to a principal or main use.

ACTIVE RECREATION — Recreational activities which require physical participation including sports such as soccer, baseball, softball, tennis, basketball, field hockey, football, lacrosse and street hockey; and facilities including playground equipment of all types.

ACUTE-CARE FACILITY — A facility providing nursing care to sick, invalid, infirm, disabled or convalescent persons in addition to lodging and board or health-related service, or any combination of the foregoing.

ADMINISTRATIVE OFFICER — The Clerk of Elk Township, or any other municipal official designated by ordinance.

ADULT — Persons over the age of 18.

ADULT BOOKSTORE — A commercial establishment which, as one of its principal business purposes, offers for sale for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed material or photographs, films, motion pictures, videocassettes, DVDs or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
- (2) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

ADVERSE EFFECT — Conditions or situations creating, imposing, aggravating or leading to impractical, unsafe or unsatisfactory conditions on a subdivided property, property subject to development or off-tract property, such as, but not limited to, improper circulation and drainage rights-of-way; inadequate drainage facilities; insufficient street widths; unsuitable street grades; unsuitable street locations to accommodate prospective traffic or coordinate and compose a convenient system; locating lots in a manner not adaptable for the intended purposes without danger to health or peril from flood, fire, erosion or other menace; providing for lots of insufficient size and neither providing nor making future allowance for access to the interior portion of the lot or for other facilities required by this chapter.

AFFORDABLE HOUSING PLAN — The document required to be submitted to and approved by the Planning Board on an application for inclusionary development. The plan should include, at a minimum, the number of low- and/or moderate-income units within the development, their location within the development, their phasing within the development and their adherence to all appropriate regulations of Elk Township and the Council on Affordable Housing.

AFFORDABLE UNIT — A housing unit in the Township, the sales or rental of which is established in accordance with this chapter and which shall be occupied by a low- or moderate-income household in accordance with this chapter.

AGENT — One or more persons designated to represent the applicant before either the Planning Board or Zoning Board.

AGE-RESTRICTED COMMUNITY (ARC) — A facility which has a primary purpose of providing housing and continuing care for people 55 years of age or older or where either the husband or wife is 55 years of age or older, and consists of independent apartment units, assisted-living units, and single-family detached and attached residential dwelling units and which must include ARC accessory uses.

AGE-RESTRICTED COMMUNITY (ARC) ACCESSORY USES — Within an ARC, any use reasonably necessary for, or incidental to, the operation of the facility or for the benefit or convenience of the residents and their guests including, but not limited to, kitchen and dining facilities; exercise and vocational rooms; places of worship; indoor and outdoor recreational buildings and uses including swimming pools; retail and banking facilities; beauty saloons and barber shops; gift shops; classrooms; security facilities; conference rooms; common areas; guest rooms; administration, general, medical and other offices associated with the ARC; postal center; pharmacy; maintenance facilities; hobby, craft and music rooms; library; computer and television rooms; heating and cooling equipment structures; and off-street parking and loading areas as required for the use of occupants of the ARC; signs as permitted; and garages, provided that the ARC accessory use is for the use and benefit of the ARC.

AGRICULTURE — The production, keeping or maintenance for sale, lease or personal use, of plants and animals useful to man, including but not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock including but not limited to beef cattle, sheep, swine, horses, ponies, mules or goats or any mutations of hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

AIRPORT — Any area of land or water, or both, designed and set aside for the landing and taking-off of fixed-wing aircraft, utilized or to be utilized by the general public for such purposes, publicly or privately owned, and licensed by the Commissioner of Transportation as a public use airport or landing strip.

ALLEY — A public or private street primarily designed to serve as secondary access to the side or rear of the properties whose principal frontage is on some other street.

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

APARTMENT BUILDING —

(1) **LOW-RISE APARTMENT BUILDING** — Any apartment having one to three floors.

(2) **MID-RISE APARTMENT BUILDING** — Any apartment having four or five floors.

(3) **HIGH-RISE APARTMENT BUILDING** — Any apartment having six or more floors.

APPLICANT — Any person or entity submitting an application for any permit or approval pursuant to Article VI.

APPLICATION FOR DEVELOPMENT — The application form and all accompanying documents required by ordinance for approval of a subdivision, plan, planned development, conditional use, zoning variance, permit to build in a mapped area or for a structure not related to a street, or any other use or approval permitted under Article VI.

APPROVING AUTHORITY — The Planning Board of the municipality, unless a different agency is designated by ordinance, when acting pursuant to the authority of this chapter.

ARCHITECTURAL DETAIL — A prominent or significant part or element of a building, structure, sign or site.

AREA, BUILDING — See “floor area.”

ASSISTED-LIVING UNIT (ALU) — A dwelling unit varying in square feet from 200 to 500 square feet that provides a residential living environment assisted by congregate meals, housekeeping and personal services, for persons 55 years of age or older, who have temporary or periodic difficulties with one or more essential activities of daily living, such as feeding, bathing, dressing or mobility. ALUs shall be located in a facility that may include accessory uses including dining rooms, bathing areas, common areas, offices and other space necessary to provide the above services. The definition of "ALU" shall include any partially assisted and fully assisted living units.

AUTOMOBILE TRAILER, MOBILE HOME, TRAILER COACH or TRAILER — Any vehicle or structure designed and constructed in such manner as will permit occupancy thereof as sleeping quarters for one or more persons or the conduct of any business or profession, occupation or trade (or use as a selling or advertising device), and designed that it is or may be mounted on wheels and used as a conveyance on highways or streets, propelled or drawn by its own or other motive power, excepting devices used exclusively upon stationary rails or tracks.

AUTO REPAIR SHOP — A business that provides diagnostic, mechanical and routine maintenance and/or repair services to motor vehicles having a GVWR not exceeding 10,000 lbs.

AWNING — A rooflike cover that projects from the wall of a building for the purpose of shielding an entrance, doorway or window from the elements. For purposes of determining if setback requirements are met, setbacks are measured from the end of the awning.

BACKYARD AREA — The area of usable land between the rear building wall of the primary structure on the property and the closest of the rear property line, wetlands buffer, or if no buffer is provided, the wetlands line, or the boundary of any conservation or other restricted area. Utility easements located outside of the rear yard setback line, which permit the use of the land above or

below such utility installation for nonstructural improvements, are not considered restricted areas for purposes of this definition.

BASEMENT — That portion of a building that is partly or completely below grade.

BEDROOM — A private room planned and intended for sleeping, separable from other rooms by a door, and accessible to a bathroom without crossing another bedroom or living room.

BICYCLE-COMPATIBLE ROADWAY — A road designed to accommodate the shared use of the roadway by bicycles and motor vehicles.

BICYCLE PATH — Bikeway physically separated from motorized vehicular traffic by an open space or barrier, and either within the highway right-of-way or within an independent right-of-way or easement.

BIKEWAY — Any road, path, or way in some manner that is specifically designated as being open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes.

BIOMASS — An agricultural crop, crop residue, or agricultural by-product that is cultivated, harvested or produced on the farm and which can be used to generate energy in a sustainable manner.

BLOCK — An area bounded by streets.

BODY ART — The practice of physical body adornment in establishments operated by licensed operators utilizing, but not limited to, the following techniques: body piercing; tattooing; and permanent cosmetics.

BODY ART STUDIO — Any premises, operated by a licensed operator(s), utilizing, but not limited to, the following techniques: body piercing; tattooing; and permanent cosmetics for a fee or other consideration.

BUFFER — An area within a property or site, generally adjacent to and parallel with the property line, either consisting of trees, shrubs or other landscaping and/or berms, designed to continuously limit the view and control other impacts of the site from adjacent sites, properties or roadways.

BUFFER LANDSCAPING — Landscaping, including permitted fencing, placed within designated buffers.

BUILDABLE AREA — The central portion of any lot lying inward from all required setback lines.

BUILDING — Any structure or extension thereof or addition thereto having a roof supported by columns, posts, piers or walls and intended for the shelter, housing or enclosure of any person, animal, process, equipment, goods or materials of any kind or nature.

BUILDING HEIGHT — The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the roof deck to the deck line of a mansard roof and to the average height between the plate and ridge of a gable, hip or gambrel roof.

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

BUILDING SEPARATION — The distance between two buildings measured from the face of the outer walls. Minor architectural features such as chimneys, roofs, overhangs, decks and window bays shall not be considered the face of a building, provided that such features do not extend more than six feet into the minimum building separation area (measured from the face of the foundation wall).

BUSINESS, RETAIL — An establishment with the set purpose of selling commodities or goods in relatively low quantities to ultimate consumers for personal or household consumption.

BUSINESS, WHOLESALE — An establishment with the set purpose of selling commodities or goods in large quantities typically to a retail merchant for resale.

CAMPER —

- (1) A self-propelled, vehicular structure built as a single unit on a chassis and designed for temporary living or travel, recreation, vacation or other short-term uses which may contain cooking, sleeping and sanitary facilities;
- (2) An immobile structure containing cooking and sleeping facilities for travel, recreation, vacation or other short-term use and designed to be attached to the body of another vehicle for transporting from one location to another;
- (3) A portable, vehicular structure built on a chassis, designed for camping, the body of which is basically rectangular with a flat top not more than four feet above the surface of the ground. The camper is designed to have a temporary tent erected above the four-foot level for camping activities; or
- (4) A portable structure built on a chassis, designed for towing and as a temporary dwelling for travel, recreation, vacation and other short-term uses and having an outside body width not exceeding eight feet and a length not exceeding 30 feet and which may contain cooking, sleeping and sanitary facilities.

CAMPGROUND — Any park, trailer park, trailer court, camp, site, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location for occupancy by camping units as a temporary living quarters for children or adults, or both, for recreation, education or vacation purposes and includes all buildings used or intended for use as part of the equipment thereof, whether a charge is made for the use of the camping unit and its facilities or not.

CAMPING UNIT — A tent, trailer, cabin, lean-to, recreational vehicle or similar structure established, maintained and operated in a campground as a temporary living quarters for recreation, education or vacation purposes.

CAMPSITE — An area specifically marked on a campground map and numbered, lettered or otherwise designated as a site to accommodate either one or two camping units to provide temporary accommodations.

CANNABIS — All parts of the plant *Cannabis sativa* and *Cannabis indica*, whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with P.L. 2021, c. 16 (C. 24:6I-31 et al.) for use in cannabis products, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product.

CANNABIS BUSINESS — Any person or entity that holds any of the six classes of licenses established under P.L. 2021, c. 16, the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act" (CREAMMA).

CANNABIS CULTIVATOR — Any licensed person or entity that grows, cultivates, or produces cannabis, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 cannabis cultivator license.

CANNABIS DELIVERY SERVICE — Any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer. This person or entity shall hold a Class 6 cannabis delivery license.

CANNABIS DISTRIBUTOR — Any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities. This person or entity shall hold a Class 4 cannabis distributor license.

CANNABIS ESTABLISHMENT — A cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

CANNABIS ESTABLISHMENT LICENSE — An establishment with one or many of the licenses to operate as defined by the CREAMMA Act:

- (1) Class 1: Cannabis cultivator license, for facilities involved in growing and cultivating cannabis;
- (2) Class 2: Cannabis manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- (3) Class 3: Cannabis wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- (4) Class 4: Cannabis distributor license, for businesses involved in transporting cannabis plants in bulk from one licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- (5) Class 5: Cannabis retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- (6) Class 6: Cannabis delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

CANNABIS MANUFACTURER — Any licensed person or entity that processes cannabis items in this state by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 2 cannabis manufacturer license.

CANNABIS PRODUCT — A product containing usable cannabis, cannabis extract, or any other cannabis resin and other ingredients intended for human consumption or use, including a product intended to be applied to the skin or hair, edible cannabis products, ointments, and tinctures. "Cannabis product" does not include: (1) usable cannabis by itself; or (2) cannabis extract by itself; or (3) any other cannabis resin by itself.

CANNABIS RETAILER — Any licensed person or entity that purchases or otherwise obtains usable

cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer. This person or entity shall hold a Class 5 cannabis retailer license.

CANNABIS WHOLESALER — Any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers. This person or entity shall hold a Class 3 cannabis wholesaler license.

CANOPY — A permanent ornamental roof-like structure, or a permanent covered area which extends from the walls of building, protecting an entrance, doorway or windows from the elements.

CAPITAL IMPROVEMENT — A governmental acquisition of real property or major construction project.

CARPORT — A nonenclosed accessory roofed structure providing space for the parking of motor vehicles.

CARTWAY — That area of a street within which vehicles are permitted, including travel lanes and parking areas but not including shoulders, curbs, sidewalks or swales.

CEILING HEIGHT, MINIMUM — The minimum ceiling height shall not be less than seven feet, six inches for all residential structures.

CELLAR — A story partly underground which has less than half its height above ground level.

CHANGEABLE COPY — A sign that is designed so that the message on the sign can be easily and periodically altered.

CIRCULATION — Systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits, and the handling of people and goods by such means as terminals, stations, warehouses, and other storage buildings or transshipment points.

CLEAR-SIGHT DISTANCE — A line of unobstructed vision from a point 3 3/4 feet above the center line of a street to a point on the same center line.

CLEAR-SIGHT TRIANGLE — A triangular area at a street intersection with another street, alley, or driveway where vision from an automobile is unobstructed, formed by the intersecting street lines and a line drawn between points on the street center lines located a required distance in feet from the intersection of the center lines.

CLUSTER or CLUSTERING — The grouping of buildings or lots by reducing the minimum lot size for subdivisions or situating buildings closer together, provided that the total development density does not exceed that which could be constructed on the site under conventional zoning subdivision regulation unless a density bonus is provided. The additional land that remains undeveloped is then preserved as open space, recreational land and as an environmental resource.

COMMERCIAL BILLBOARD — An advertising sign, structure or symbol erected and maintained by an individual or corporation engaged in the sale or rental of space thereon to a clientele of manufacturing, service or commercial enterprises, upon which space is displayed, by means of painting, posting or other means, advertising copy describing products or services which are not made, produced, assembled or sold from the premises on which the advertisement is displayed.

COMMON PROPERTY — A parcel or parcels of land or an area of water, or a combination of land and water, together with the improvements thereon and designed and intended for the ownership, use and enjoyment shared by the residents and owners of the development. Common property may contain such complementary structures and improvements as are necessary and appropriate for the benefit of the residents and owners of the development.

COMPLETED APPLICATION — An application which has met all of the requirements of this chapter. In order to be complete, an application must be accompanied by all required fees and all escrow deposits. In addition, real estate taxes and municipal assessments, if any, must be paid up to and including the date of application by the developer for the application to be deemed as complete. No application for a planned unit development will be considered complete until the applicant has calculated and delineated the area of wetlands based upon a wetlands delineation approved by the Department of Environmental Protection.

CONDITIONAL USE — A use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in this chapter, and upon the issuance of an authorization by the Planning Board.

CONGREGATE-CARE FACILITIES — A congregate-care facility may include residential units and common dining facilities, recreational activities, and other accessory uses for the exclusive benefit of its residents, regulated by N.J.A.C. 8:33H and 8:36-1 et seq.

CONSERVATION AREA or CONSERVATION EASEMENT — A designated area of land which is intended to be preserved and managed for the protection of its natural resources, and where appropriate, opened to the public for passive enjoyment of natural resources.

CONSTRUCTION CODE OFFICIAL — The official appointed by the Township Committee who holds such position pursuant to and in accordance with Article III.

CONTIGUOUS — Lands that abut each other or are separated only by streets or roads (public or private, including limited access highways), ways, easements, pipelines, electric power lines, public open space, conduits or rights-of-way, owned in fee or less than fee, by third parties.

CONTINUING-CARE RETIREMENT COMMUNITY (CCRC) — A facility which has a primary purpose of providing housing and continuing care for people 55 years of age or older or where either the husband or wife is 55 years of age or older, and consists of independent apartment units, assisted-living units, skilled-care nursing units and/or CCRC accessory uses, all as defined herein and as regulated by N.J.S.A. 52:27D-330 through 357, known as the "Continuing Care Retirement Community Regulation and Financial Disclosure Act." For purposes of this chapter, "continuing care" means the provision of lodging, nursing, medical or other health-related services at the same or another location to an individual pursuant to an agreement effective for the life of the individual or for a period greater than one year, including mutually terminable contracts, and in consideration of the payment of an entrance fee with or without other periodic charges to an individual who is 55 years of age or older or where either the husband or wife is 55 years of age or older.

CONTRIBUTION — Every loan, gift, subscription, advance or transfer of money or other things of value, including any item of real property or personal property, tangible or intangible (but not including services provided without compensation by individuals volunteering a part or all of their time on behalf of a candidate, committee or organization), made to or on behalf of any candidate, candidate committee, joint candidates committee, political committee, continuing political committee or political party committee and any pledge, promise or other commitment or assumption of liability to make such a transfer.

CONVENIENCE COMMERCIAL — Uses and facilities designed to serve residents in their immediate vicinity.

CONVENIENCE STORE — A retail establishment offering for sale prepackaged food products, household items and other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet.

CONVENTIONAL — A development other than planned development.

COUNTY MASTER PLAN — Means a composite of the Master Plan for the physical development of the county in which the municipality is located, with accompanying maps, plats, charts and descriptive and explanatory matter adopted by the County Planning Board.

COVERAGE —

- (1) **BUILDING COVERAGE** — The building area covered by all buildings on a lot, including all roofed areas on a lot, fixed or temporary, expressed as a percentage of the total lot area.
- (2) **TOTAL COVERAGE** — The building coverage plus the area of paved surfaces which cover a lot such as required parking spaces and necessary maneuvering areas, passageways/driveways giving access thereto, services areas, accessways, streets, walkways, patios and plazas.

CUL-DE-SAC — A residential street with access closed at one end by a vehicular turn around.

CURB LEVEL — The average level of the curb in front of the lot.

DATA CENTERS — "Data Centers" as commonly known, and as sometimes referred to as "internet data centers" or "cloud data centers" (and any and all functionally equivalent but differently named uses, structures and facilities) that house computer systems and include associated components such as telecommunication and data storage systems; redundant or "backup" power and data storage components; electrical transformers, substations, and other power supply infrastructure; data communication connections; environmental and safety controls for building climate, equipment cooling, and fire suppression; and security devices, systems, and installations, to serve as off-site or remote accessory facilities available and accessible to users via telecommunication or internet utilities for the purpose of aggregating collective computing demands for cloud services, video streaming, blockchain and crypto mining, artificial intelligence and machine learning, virtual reality, and other internet, telecommunication, computing, and data storage, maintenance, processing, and transmission purposes.

DAY-CARE CENTER/NURSERY SCHOOL/CHILD-CARE CENTER — A building or structure where care, protection and supervision are provided on a regular schedule at least twice a week to four or more children between two and five years of age and which is licensed or approved to operate as a child-care center.

DAYS — Calendar days.

DECK — An open-floor-type structure having neither roof, walls, nor enclosing features except for safety handrails.

DENSITY — The permitted number of dwelling units per gross acre of land on a particular tract.

DEPENDENT TRAILER COACH — A trailer coach which does not have a toilet and a bathtub or shower.

DETENTION BASIN — A man-made or natural stormwater management collector facility designed to collect surface and subsurface water in order to impede its flow and to release the same gradually at a rate not greater than that prior to the development of the property into natural or man-made outlets.

DEVELOPABLE AREA — All lands exclusive of wetlands and wetland buffers and other nonusable acreage as certified by the Department of Environmental Protection or other agency.

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

DEVELOPMENT — The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alterations, relocation or enlargement of any building or other structure or of any mining excavation or landfill; and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to this chapter.

DEVELOPMENT REGULATION — A zoning, subdivision, plan, unified development ordinance, or other Township regulation of the use and development of land, or amendment thereto.

DRAINAGE — The removal of surface water or groundwater from land by drains, grading or other means as retention or detention basins and includes control of runoff to minimize erosion and sedimentation during and after construction or development and means necessary for water supply preservation or prevention or alleviation of flooding.

DRAINAGE RIGHT-OF-WAY — The lands required for the installation of stormwater sewers or drainage ditches or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage in accordance with Chapter One of Title 58 of the New Jersey Revised Statutes.

DWELLING — A building having one or more rooms providing living facilities for one family including equipment for cooking or provisions for the same; provided, however, that trailers or campers as defined herein shall not be considered as buildings or dwellings within the scope of this chapter. Dwellings shall include but not be limited to the following types:

- (1) **SINGLE-FAMILY DETACHED DWELLINGS** — A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other dwelling by any means.
- (2) **TWO-FAMILY DWELLING** — A freestanding building on one lot, or within a lot held in common ownership serving two families, with private entrances to each dwelling.
- (3) **SINGLE-FAMILY (DUPLEX — HORIZONTAL) SEMIDETACHED DWELLING** — Dwellings on adjacent lots or held in common ownership with one common vertical party wall, or dwellings with two party walls within which walled open courtyards or patios are provided for each dwelling.
- (4) **SINGLE-FAMILY ATTACHED DWELLING** — A single-family dwelling in a row of at least three such dwellings in which each dwelling has its access to the dwelling and is separated from any other dwelling by one or more fire-resistant walls.
- (5) **MULTIFAMILY DWELLINGS** — Three or more dwellings located within a single building, with a private entrance to each dwelling, not more than three stories above ground level.
- (6) **ZERO-LOT LINE DWELLING** — A single-family detached dwelling unit with one of its sides directly on a lot line and with its remaining three sides fronting on yard areas.
- (7) **TRIPLEX** — A dwelling unit containing three dwellings, each of which has direct access to the outside or to a common hall.

- (8) **TOWNHOUSE** — A one-family dwelling in a row of at least three such units in which each has its own front and rear access to the outside, no unit is located over another unit, and each is separated by one or more common fire-resistant walls.
- (9) **GARDEN APARTMENT** — A multifamily structure with access from a common hall or through individual entrances. Dwelling units can be located on top of each other and also back to back.
- (10) **UNIT** — One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

EASEMENT — A grant of one or more of the property rights by the owner to, or for the use by, the public, a corporation, or another person or entity.

EFFICIENCY STRUCTURE — A one- or two-story structure housing two or more dwelling units designed only for residential occupancy on a cooperative or rental basis, which units include complete minimum housekeeping facilities for a family group.

ENVIRONMENTAL COMMITTEE — A municipal advisory body.

EROSION — The detachment and movement of soil or rock fragments by water, wind, ice and gravity.

FACADE — The total wall surface, including door and window area, of a building's principal face. In the case of corner buildings which front on more than one street, only one face shall be used to calculate the facade area.

FAMILY — One or more persons occupying a dwelling unit as a single nonprofit housekeeping unit, who are living together as a stable and permanent living unit, being a traditional family unit or the functional equivalency thereof.

FARM — A tract of land at least five acres in size used for the growing and harvesting of crops and the raising and breeding of certain animals, including truck farms, fruit farms, nurseries and greenhouses, dairies and livestock fodder.

FARMHOUSE — Dwelling on farm property qualifying for farmland assessment and housing the owner or operator of said farm.

FARMING — Agricultural activity or the raising of livestock, poultry or small animals as a major source of income and if conducted on a lot or plot of not less than three acres in area.

FARM MARKET — A facility used for the wholesale or retail marketing of the agricultural output of a commercial farm and products that contribute to farm income. At least 51% of the sales area must be dedicated to the sale of products from the particular commercial farm, and 51% of the sales must be the product of the particular commercial farm. The facility may be operated seasonally or year round and may consist of a temporary or permanent structure.

FAST-FOOD OPERATIONS — A business establishment where food and drink are sold ready for consumption and where customers consume the food and drink either inside or outside the confines of the establishment.

FENCE — A vertical enclosure, or partial enclosure solid or partially open, to prevent straying from within or intrusion from without (or merely decorative purposes). A fence over seven feet in height is also considered a structure for purposes of this chapter.

FINAL APPROVAL — The official action of the reviewing board taken on a preliminary approved

major subdivision or site plan after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guaranties properly posted for their completion, or approval conditioned upon the posting of such guaranties.

FINAL PLAT — The final map of all or a portion of the subdivision that is presented to the Planning Board for final approval in accordance with this chapter and which if approved shall be filed with the proper County Recording Officer.

FINANCIAL INSTITUTIONS — Any structure wherein business of primarily a financial nature is transacted, such as banks, savings and loans companies, mortgage companies and similar institutions.

FLAG LOT — A lot which has a narrow pole with less than the required frontage from an existing right-of-way to a large flag area. These lots shall be prohibited throughout the Township.

FLOOD FRINGE AREA — The portion of the flood hazard area outside of the floodway.

FLOOD HAZARD AREA — Land in the floodplain subject to a 1% or greater chance of flood in any given year.

FLOODPLAIN — The area adjoining any natural stream and including any water or drainage course or body of water subject to periodic flooding or overflow based on the one-hundred-year or 1% flood.

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the one-hundred-year flood without cumulatively increasing the water surface elevation more than one foot at any point.

FLOOR AREA (also referred to as “GROSS FLOOR AREA”) — The gross horizontal area of the floor, or the sum of the gross horizontal area of several floors, of an enclosed building or structure used for residential, business or commercial activities. The area is measured from the exterior face of exterior walls or from the center line of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles or any space where the floor-to-ceiling height is less than six feet. The gross floor area of retail stores, service shops and banks shall be equal to gross leasable area less any areas devoted exclusively to staff facilities or storage of inventory.

FLOOR AREA RATIO — The sum of the area of all floors of buildings or structures compared to the total area of the site.

GARAGE, PRIVATE — A building or space used as an accessory to the main building which provides the storage of motor vehicles or other personal property and in which no occupation, business or service for profit is carried on.

GARAGE, PUBLIC or COMMERCIAL — A building or space other than a private garage, for the storage of motor vehicles exclusively or for the storage of motor vehicles at which filling station service, sales of accessories or repairs, other than body or collision repairs and appointing and refinishing, are permitted. This term does not include motor vehicle showrooms for new or used motor vehicles.

GENERAL DEVELOPMENT PLAN — A comprehensive plan for the development of a planned development as provided in N.J.S.A. 40:55D-45.1 et seq.

GENERAL OFFICE — A building comprised of more than 10,000 square feet in which at least 50% is rented or occupied by noncorporate or nonprofessional service-oriented business concerns.

GOLF COURSE — A tract containing a full-size, professional golf course, together with appropriate accessory uses and structures such as clubhouses, dining and refreshment facilities, driving ranges and miniature golf courses, providing the operation of such is incidental and subordinate to the operation of the golf course.

GOVERNMENT AGENCY — Any department, commission, independent agency or instrumentality of the United States of America, of a state, county, incorporated or unincorporated municipality, township, authority, district or other governmental unit.

GRADE — The slope of a road, path, driveway, swale or other surface or the average finished ground elevation adjoining a building at project completion.

GREENHOUSE — A building or structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of fragile or out-of-season plants for subsequent sale or for personal enjoyment.

GROSS LAND AREA — An area of land which is determined by property lines bounding the tract of land proposed for development within any given zone and which is always expressed in terms of square feet or acres. Any portion of a tract included in an existing public or private right-of-way shall not be included in calculating gross land area.

HISTORIC SITE — Any real property, man-made structure, natural object or configuration or any portion or group of the foregoing of historical, archaeological, cultural, scenic or architectural significance.

HOME OCCUPATION OR BUSINESS — An accessory use of a dwelling unit for gainful employment which is:

- (1) Clearly incidental and subordinate to the use of the dwelling unit as a residence;
- (2) Carried on solely within the main dwelling and does not alter or change the exterior character or appearances of the dwelling;
- (3) Located in a residential district; and
- (4) Created and operated as a sole proprietorship, except that should the owner/operator be substantially physically disabled, a nonresident may be employed to assist the owner/operator in his/her work to the extent required to compensate for the aforesaid disability condition.

HOSPITAL — An institution in a building or a series of buildings providing public health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities, such as out-patient and emergency departments, conference, training, diagnostic and central service facilities, cafeteria, gift shop, pharmacies, administrative and staff offices and employee day care, which are integrated with the hospital facilities or complex.

HOTEL — A facility offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms and recreational facilities.

HOUSEKEEPING UNIT — One or more persons living together in one dwelling unit on a nonseasonal basis and sharing living, sleeping, cooking and sanitary facilities on a nonprofit basis.

IMMEDIATE FAMILY — Includes father, mother, husband, wife, son and daughter but no other person.

IMPERVIOUS SURFACE — A surface that has been covered by buildings, structures or compacted or covered with a layer of materials so that it is highly resistant to infiltration by water.

INDEPENDENT APARTMENT UNIT — A dwelling unit containing living areas, bedroom areas, kitchen areas and bathrooms, including studio-style apartments, with a minimum of 350 square feet, which house one or more people 55 years of age or older, or where the husband or wife is 55 years of age or older, in a manner in which they may live independently while receiving one or more meals per day in a congregate setting.

INDEPENDENT TRAILER COACH — A trailer coach that has a toilet and a bathtub or shower.

INTENSIVE FOWL OR LIVESTOCK FARM — A farm on which are kept more than the amount indicated in § 96-46 of this chapter of adult large animals or small animals. Large animals shall include beef and dairy cattle, horses and mules, emus, ostriches, llamas and alpacas. Small animals shall include pigs, sheep, goats and calves up to an age of one year.

INTERESTED PARTY — Any person, whether residing within or outside the Township, whose right to use, acquire, or enjoy property is, or may be, affected by actions taken under this chapter or whose rights to use, acquire, or enjoy property under this chapter have been denied, violated or infringed by an action or a failure to act under this chapter.

JUNKYARD — Any area or structure used or intended to be used for the conducting and operating of the business of selling, buying, storing or trading in used or discarded metal, glass, paper, cordage or any used or disabled fixtures, vehicles or equipment of any kind.

KENNEL — Any structure, premises, or refuge wherein or whereon the business of boarding or selling or breeding of small animals is carried on; included shall be such establishments as animal shelters and animal hospitals.

LAND — Real property including improvements and fixtures on, above or below the surface.

LANDOWNER — The legal or beneficial owner(s) of land, the holder(s) of an option or contract to purchase or other person(s) having an enforceable proprietary interest in such land shall be deemed to be a landowner for the purpose of this chapter.

LANDSCAPE AREA — An area of land restricted to landscape items which may also include such elements as natural features, earth berms, sculpture and furniture, signs, lighting, accessways, bikeways and pedestrian walkways, but not including motor vehicle parking extending along the entire lot line where they are required. The width of a landscape area shall be measured at right angles to the lot line.

LIVING SPACE — An area within a dwelling unit.

LOADING SPACE — An off-street space or berth on the same lot with a building or group of buildings for the temporary parking of a commercial vehicle while loading or unloading, with 15 feet of vertical clearance.

LOFT — The unpartitioned area below the roof of a structure which is not intended for human habitation or occupancy. A loft may include a floor, but no HVAC or utilities, except for lighting.

LOT — A designated parcel, tract or area of land established by a plat or otherwise, as permitted by law and to be used, developed or built upon as a unit.

LOT AREA — An area of land which is determined by the limits of the lot lines bounding that area, and is always expressed in terms of square feet or acres. Any portion of a lot included in a public or private right-of-way shall not be included in calculating lot area.

LOT, CORNER — A lot or parcel of land abutting on two or more intersecting streets when the interior angle of intersection does not exceed 135°. Each corner lot shall have two front yards, a minimum of one side yard and one rear yard.

LOT COVERAGE — That percentage of a lot covered by buildings and impervious surfaces, such as concrete or asphalt.

LOT DEPTH — A mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines.

LOT FRONTAGE — That side of a lot abutting on a street; the front lot line. That portion of a lot abutting and extending along the front property line. This definition shall apply to all lots, including, but not limited to, odd-shaped lots, triangular lots and lots having curved or irregular front lines.

LOT, INTERIOR — A lot other than a corner lot.

LOT LINE — A line of record bounding a lot that divides one lot from another or from a public or private street or any other public space.

LOT SIZE — The total horizontal area included within the lot lines. Where the front lot line is the center line of a street or lies in part or in whole in the street area, the lot area shall not include that part of the lot in use or to be used as a right-of-way.

LOT WIDTH — The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

LOW-INCOME UNIT — Housing affordable, according to Federal Department of Housing and Urban Development or other recognized standards, for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to 50% or less of the median gross household income for households within the housing region in which Elk Township is located, and is subject to affordability controls.

MAINTENANCE GUARANTY — Any security which may be accepted by a municipality for the maintenance of any improvements required by this chapter, including but not limited to surety bonds, letters of credit and cash, as more specifically addressed in § 95-13 of this chapter.

MAJOR SITE PLAN — Any site plan not classified as a minor site plan.

MANUFACTURED HOME —

(1) A unit of housing which:

- (a) Consists of one or more transportable sections which are substantially constructed off site and if more than one section are joined together on site.
- (b) Is built on a permanent foundation.
- (c) Is designed to be used, when connected to utilities, as a dwelling on a permanent foundation.
- (d) Is manufactured in accordance with the standards promulgated for a manufactured home by the Secretary pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, Pub. L. 93-383 (42 U.S.C.: 5401 et seq.) and the standards promulgated for a manufactured home pursuant to the State Uniform Construction Code Act, P.L.1975, c.217 (N.J.S.A. 52:27D-119 et seq.).
- (e) Is at least 22 feet wide.
- (f) Is permitted under the category of single-family detached dwellings.

(2) This does not include trailers, campers, mobile homes or similar structures.

MANUFACTURING — The treatment or processing of raw materials and the production of articles of finished products from raw or prepared materials by giving them new forms or qualities. Also, an activity which involves the fabrication, reshaping, reworking, assembly or combining of products from previously prepared materials and the synthesis of chemical or chemical products or the

processing of any raw materials. Light manufacturing includes light industrial operations such as electronic, machine parts and small component assembly, as opposed to heavy industrial operations such as automobile assembly, milling or forge activities.

MASTER DEVELOPMENT PLAN — A schematic land use plan for the integrated development of a planned unit development (PUD) containing the general location of proposed public streets; the proposed use of each section, including the maximum number of dwelling units and gross square feet of nonresidential floor space; common open space and other public facilities, together with a proposed ownership and maintenance of common open space; a phasing or staging plan schedule showing the order of development; any studies that will determine the feasibility of the development and its potential impact on the Township; and the date of the anticipated completion of the PUD.

MASTER PLAN — The Master Plan for the Township of Elk as adopted by the Elk Township Planning Board in accordance with N.J.S.A. 40:55D-28.

MEAN ELEVATION — The average of the ground level measurements computed at the four extreme corner points of any existing or proposed building.

MINIMUM TRACT SIZE — The minimum amount of the gross acreage of the entire tract prior to any subdivision or development.

MINIWAREHOUSE — A structure or group of structures for storage of customers' goods and wares where individual stalls or lockers are rented out to different tenants for storage and where one or more stalls or lockers has less than 500 square feet of floor area.

MINOR SITE PLAN — A minor plan shall be as specified hereunder and an applicant may prepare a minor plan application drawn according to the standards and conditions specified in this chapter if the proposed building, the conversion of an existing building from one use to another, or the enlargement of an existing building or any combination of same does not exceed 5,000 square feet for retail commercial uses, exceed 10,000 square feet for industrial uses, nor require more than 25 new parking spaces as prescribed by this chapter. All residential development requiring site plan approval shall comply with the major site plan submission requirements. All other plans shall be major plans.

MOBILE HOME PARK — Any park, trailer park, trailer court, court, camp, site, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any trailer coach or trailer coaches and upon which any trailer coach or trailer coaches are parked, and includes all buildings used or intended for use as part of the equipment thereof, whether a charge is made for the use of the mobile home park and its facilities or not. "Mobile home park" shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

MODERATE-INCOME UNIT — Housing affordable, according to Federal Department of Housing and Urban Development or other recognized standards, for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to or more than 50%, but less than 80%, of the median gross household income for households within the housing region in which Elk Township is located, and is subject to affordability controls.

MUNICIPAL AGENCY — The Planning Board, Board of Adjustment or governing body, or any agency created by or responsible to one or more municipalities, when acting pursuant to N.J.S.A. 40:55D-1 et seq.

MUNICIPAL RESIDENT — A person who is domiciled in the municipality.

NONCONFORMING LOT — A lot which in its area, dimension, or location does not conform to the regulations of the chapter for the district in which it is located.

NONCONFORMING STRUCTURE — A structure which in its size, design, or location upon a lot does not conform to the regulations of the chapter for the district in which it is located.

NONCONFORMING USE — A use or activity which fails to conform to the requirements of the zoning district in which it is located.

NURSING HOME — An extended- or intermediate-care facility licensed or approved to provide full-time convalescent or nursing care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

NURSERY, RETAIL — The growing, cultivation, storage, and sale of garden plants, flowers, trees, shrubs and fertilizers, as well as the sale of garden tools and similar accessory and ancillary products to the general public. Also known as "garden centers."

NURSERY, WAREHOUSE — The growing, cultivation, storage, and sale of garden plants, flowers, trees, and shrubs to landscapers, developers, builders, and retail nurseries.

OBLIGOR — One that places himself under a legal obligation.

OFFICIAL MAP — A map adopted by ordinance pursuant to Article 5 of the Municipal Land Use Law.¹

OFF SITE — Located outside the lot lines of the lot in question but within the property (of which the lot is a part) which is the subject of a development application, or within a contiguous portion of a street or right-of-way.

OFF-STREET PARKING SPACE — An interior or exterior storage area for a motor vehicle that is directly accessible to an access aisle, and that is not located on a dedicated street right-of-way.

OFF TRACT — Not located on the property which is the subject of a development application nor on the closest half of the abutting street or right-of-way.

ON SITE — Located on the lot in question and excluding any abutting street or right-of-way.

ON-STREET PARKING SPACE — A temporary storage area for a motor vehicle which is located on a dedicated street right-of-way.

ON TRACT — Located on the property which is the subject of a development application or on the closest half of an abutting street or right-of-way.

OPEN FENCE — Any fence or barrier that is not more than 75% solid. Examples of such fencing include, but are not limited to, wire, chain link, picket, post-and-rail, staggered board-on-board, louvered or a similar-type fence.

OPEN SPACE — An unoccupied space open to the sky on the same lot with a principal or accessory building. Open space includes the following types:

- (1) **COMMON OPEN SPACE** — A parcel or parcels of land or an area of water, or a combination of land and water within the site designated for a planned unit development or a cluster development, and designed and intended for the use or enjoyment of residents and owners of the planned unit development or cluster development. Common open space excludes land areas within the rights-of-way of streets to be located within a planned unit development unless exclusively designed for access to open space. A legally constituted organization of the property owners with authority to place liens on property shall be formed for the maintenance of the common areas and facilities, or this common open space may be deeded to the Township if

1. Editor's Note: See N.J.S.A. 40:55D-32.

accepted by the Township for use by all residents of the Township.

- (2) **USABLE OPEN SPACE** — Usable open space shall consist of either common or public open space which is either landscaped or developed and maintained for recreational purposes, readily available, or improved for such recreational purpose, and excludes that portion of the area consisting of officially designated wetlands, streets, drives, space utilized for off-street parking or loading purposes. Where usable open space is required in the chapter, it shall be designated on plans submitted as required.
- (3) **PUBLIC OPEN SPACE** — Public open space means an open space conveyed or otherwise dedicated to a municipality, municipal agency, Board of Education, state or county agency, or other public body for educational, recreational, or conservation uses.
- (4) **REQUIRED OPEN SPACE** — That type and percentage of common, usable or public open space that must be provided in particular zoning districts, in cluster developments, or in planned unit developments, according to the provisions of this chapter.

OPEN SPACE ORGANIZATION — An incorporated, nonprofit organization operating in a planned development under recorded land agreement through which each owner is automatically a member; each occupied dwelling unit is automatically subject to a charge for a proportionate share of the expenses for the organization's activities and maintenance, including any maintenance costs levied against the association by the Township; and each owner and tenant has the right to use the common property.

OWNER — Any individual, firm, association, syndicate, copartnership or corporation having a proprietary interest in the land sought to be subdivided.

PARKING SPACE — An area provided for the parking of one motor vehicle.

PASSIVE OPEN SPACE or PASSIVE RECREATION AREAS — An unimproved area of land which may include water set aside, dedicated, designated, or reserved for public or private use and enjoyment which utilizes and depends on the natural environment and requires no modifications of the environment other than to provide access. It permits such low-impact uses as hiking, fishing, canoeing, nature study, horseback riding, and bicycling. Passive open space typically includes wooded areas, streams, lakes, and other varieties of natural vegetative areas. For the purpose of this definition, detention and retention basins represent a developed use of the land and are not considered passive open space.

PERMANENT CAMPING UNIT — Any camping unit utilizing a foundation of any nature or which is incapable of being entirely removed and entirely reassembled in a different location by one person in a single day.

PERMITTED USE — Any use of land or buildings as permitted by this chapter.

PERVIOUS SURFACE — Any surface that permits a significant portion of surface water to be absorbed.

PERFORMANCE GUARANTY — Any security which may be accepted by a municipality, including cash, provided that the municipality shall not require more than 10% of the total performance guaranty in cash in accordance with N.J.S.A. 40:55D-53 et seq.

PERSON — Includes person, partnership, firm, company, corporation, tenant, owner, lessee or licensee, and their agents, heirs or assigns.

PHASE — Period of time allocation for the completion of a particular section or stage. The Planning Board may extend such period in accordance with N.J.S.A. 40:55D-52. In the event that the applicant

seeks to substantially modify the proposed phasing schedule, such modification shall require the approval of the Planning Board. The Planning Board shall, in deciding whether or not to grant approval of the modification, take into consideration prevailing economic and market conditions, anticipated and actual needs for residential units and nonresidential space within the municipality and the region, the availability and capacity of public facilities to accommodate the proposed development and the terms of any grant of substantive certification.

PLANNED DEVELOPMENT — A planned unit development (PUD), planned unit residential development or residential cluster, or planned commercial development as those terms are defined in N.J.S.A. 40:55D-6 of the Municipal Land Use Law, but only to the extent not inconsistent with the provisions of this chapter.

PLANNED INDUSTRIAL DEVELOPMENT — An area of minimum contiguous or noncontiguous size as specified by ordinance to be developed according to a plan as a single entity containing one or more structures with appurtenant common areas to accommodate industrial uses and any other uses incidental to the predominant use as may be permitted by ordinance.

PLANNED UNIT DEVELOPMENT COMMITTEE — A committee, appointed by the Mayor of the Township, for the purposes of reviewing applications prior to action by the entire Board to provide objectives and input and examine whether such applications comply with all ordinance provisions and to perform such other duties relating to development which may be conferred on this committee by the Planning Board. This committee shall consist of seven members; three of the appointees shall be members of the Planning Board at the time of their appointment, and the balance of the members shall be residents of the Township of Elk.

PLANNING BOARD — The Planning Board of Elk Township.

PLAT — The map of a subdivision.

PRELIMINARY APPROVAL — The conferral of certain rights prior to final approval after specific elements of a development plan have been agreed upon by the Planning Board and the applicant.

PRELIMINARY FLOOR PLANS AND ELEVATIONS — Architectural drawings prepared during early and introductory stages of the design of a project illustrating in a schematic form, its scope, scale and relationship to its site and immediate environs.

PRELIMINARY PLAT — The preliminary map indicating the proposed layout of the subdivision and site improvements that is submitted to the Township for Planning Board consideration and preliminary approval and meeting the requirements of § 96-26 of this chapter.

PRINCIPAL BUILDING OR USE — A building or buildings in which is conducted the main or principal use of the lot on which said building is situated or the open land of which such use is made or upon which such activity is carried out.

PROFESSIONAL — Any person or entity whose principals are required to be licensed by New Jersey law and who supply legal representation, engineering services, planning services, expert testimony or written reports in support of an application. Professionals shall include both any individuals supplying the representation, testimonies or reports and the firms or entities in which such individuals practice.

PROFESSIONAL OFFICE — The office of a member of a recognized profession or occupation, including architects, artists, authors, dentists, doctors, lawyers, planners, veterinarians, ministers, musicians, optometrists, engineers, realtors and similar professions and occupations.

PUBLIC AREAS — Public parks, playgrounds, trails, paths and other recreational areas; and other public open spaces; scenic and historic sites; and sites for schools and other public buildings and

structures.

PUBLIC DEVELOPMENT PROPOSAL — A master plan, capital improvements program or other proposal for land development adopted by the appropriate public body, or any amendment thereto.

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

PUBLIC PURPOSE USES — The use of land or buildings by the governing body of the Township or any officially created authority or agency thereof.

PUBLIC WATER AND PUBLIC SEWERAGE — Centralized municipal or municipally operated water and sewerage system, or water and sewerage system franchised or approved by the Township in accordance with the Township sewer and water plan. "With sewer and water" as used in this chapter means that public water and public sewerage shall be provided in order for the use to be permitted in the zone district.

QUORUM — The majority of the full authorized membership of any agency.

RECREATIONAL VEHICLE or CAMP CAR — A portable structure without permanent foundation that can be towed, hauled or driven, with or without wheels, primarily designed as temporary living accommodations for recreational, camping and travel use and including but not limited to travel trailer, truck campers and self-propelled motor homes. No such structure shall be used for a primary or accessory building or use on any lot.

REGIONAL SHOPPING CENTER — A unified development of not less than 50 stores, shops or other commercial establishments, together with areas for internal circulation, parking and other accessory uses consisting of one or more lots under the same self-reliant ownership, and having therein a building or group of buildings containing not less than 600,000 square feet of net floor area.

RENEWABLE ENERGY FACILITY — A facility that engages in the production of electric energy from solar technologies, photovoltaic technologies or wind energy.

RESEARCH LABORATORY — A building or group of buildings in which are facilities for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

RESIDENTIAL AGRICULTURE — The growing and harvesting of plant life and the keeping of farm animals for the enjoyment of the residents on the property and not primarily for commercial purposes.

RESIDENTIAL CLUSTER — An area to be developed as a single entity according to a plan containing residential housing units which have a common or public open space as an appurtenance.

RESIDENTIAL SITE IMPROVEMENT STANDARDS (RSIS) — As promulgated by the New Jersey Department of Community Affairs in N.J.A.C. 5:21-1 through 8.

RESTAURANT — A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in nondisposable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

RESTAURANT, DRIVE-IN — Any restaurant, refreshment stand, snack bar, dairy bar, hamburger stand or hot dog stand where food is served primarily for consumption at counters, stools, tables or bars outside the building or primarily for consumption in automobiles parking on the premises

whether brought to said automobiles by the customer or by employees of the restaurant, regardless of whether or not additional seats or other accommodations are provided for customers inside the building. All such drive-in restaurants and refreshment stands are specifically prohibited in all districts.

RESTAURANT, FAST-FOOD — An establishment which may have a drive-in/walk-up window that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried, or grilled quickly or heated in a device such as a microwave oven. Orders are not generally taken at the customer's table and food is generally served in disposable wrapping or containers.

RESUBDIVISION — The further division of a lot or the adjustment of a lot line or lot lines.

RETENTION BASIN — A man-made or natural stormwater management collector facility designed to collect surface water and to retain some or all of the water that drains into it.

REVERSE FRONTAGE LOT — A lot which fronts upon two parallel streets and is not accessible from one of the parallel streets.

REVIEWING BOARD — The Planning Board or Board of Adjustment, whichever Board has jurisdiction over the particular application.

RIGHT-OF-WAY — The land and space required on the surface, subsurface and overhead for the construction and installation of materials necessary to provide passageway for vehicular traffic, pedestrians, utility lines, poles, conduits and mains, signs, hydrants, trees and shrubbery.

ROAD SIDE STAND — A commercial use on an agricultural property exclusively for the sale of products produced on the property. A small roadside produce stand associated with the residential agricultural use shall be permitted provided that the produce is not grown primarily for commercial purposes; the stand is not furnished with permanent heating facilities; the floor area of the stand does not exceed 100 square feet; the stand is set back from all street cartways and side property lines at least 15 feet; and that sufficient on-site, off-street parking is provided. One unlighted sign not exceeding four square feet in area shall be permitted and shall be either attached flat against the front facade of the stand or freestanding. If freestanding, the sign shall not exceed 10 feet in height; shall be located to achieve the greatest sight distance for oncoming traffic; and shall be set back at least 10 feet from the cartway edge.

SEASONAL RESORT COTTAGE — A type of dwelling unit designed for residence only during portions of a year, restricted to the RR Zone (see § 96-75). A seasonal resort cottage shall not include trailers, camper, mobile homes or similar structures.

SECTION/STAGE — Describes the physical boundaries, geophysical areas and land uses which are proposed for development.

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

SELF-SERVICE STORAGE — A warehouse-type structure containing relatively small storage spaces usually of varying sizes which are leased or rented individually. Individuals are typically permitted to access their storage spaces directly without appointment during business hours. Also known as “miniwarehouses.”

SENIOR CITIZEN — A person 55 years of age or older. A senior citizen will not lose his/her status as a senior citizen if the spouse or immediate member of the family (other than a child under the age of 18 years) of a senior citizen, a live-in domestic, companion or nurse, regardless of his/her age, is a permanent resident living with such senior citizen.

SERVICE STATION — Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tuneups, lubrication and minor repairs are conducted, and other accessory services to the motoring public are provided. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting and body fender work are conducted.

SETBACK — The required minimum horizontal distance between the building line and the related front, side or rear property line. For front yard setbacks, the setback shall be measured from the right-of-way line or easement line.

SHOPPING CENTER — A grouping of retail business and service uses on a single site planned, constructed and managed as a total entity with customer and employee parking provided on site, provisions for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

SIGHT EASEMENT AT INTERSECTION — A triangular-shaped area established at intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct sight distance of motorists entering or leaving the intersection.

SIGN — Any visible object, device display or structure or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service event, location or position by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

SIGN AREA — That area defined by the frame or edge of a sign. Where no frame or edge exists, the area shall be defined by a projected enclosed four-sided (straight sides) geometric shape which most closely outlines said sign. Where a sign has more than one side, sign area shall be construed to include the total area used for advertisement or identification.

SIGN FUNCTIONS — These may include, but not be limited to, the following:

- (1) **ADVERTISING** — A sign directing attention to a business commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is maintained.
- (2) **BUSINESS** — A sign directing attention to a business, commodity, service, or entertainment conducted, sold or offered upon the same premises as those upon which the sign is located.
- (3) **DIRECTORY** — A sign of permanent character, but with interchangeable letters, words or numerals, indicating the names of persons associated with, or events conducted upon, or products or services offered upon the premises whereon a sign is maintained.
- (4) **IDENTIFICATION** — A sign giving the nature, logo, trademark or other identifying symbol, address, or any combination of the name, symbol and address of a building, business, development or establishment on the premises where it is located.
- (5) **INSTRUCTIONAL** — A sign conveying instructions with respect to the premises on which it is maintained, such as parking lot entrance or exit signs and danger signs.
- (6) **NAMEPLATE** — A sign indicating the name, address and/or profession or occupation of a person.
- (7) **PUBLIC** — Signs of a noncommercial nature and in the public interest, erected by, or on the order of, a public officer in the performance of his duty, such as safety signs, danger signs, memorial plaques or citations, official court and public notices, signs of historical interest, and

the like.

- (8) TEMPORARY — A sign which is designed to advertise or announce, for a limited period, a particular event or series of events, to solicit political support, or to announce the availability for sale of a particular item or items.
- (9) (Reserved)²
- (10) INTERIOR — Any sign that is affixed to or painted on the interior of a window or any sign located inside and within three feet of the face of the window which is designed to be visible from the window's exterior.
- (11) OFFICIAL — Any sign, symbol or device, erected and maintained by a federal, state, county or local governmental agency for the purpose of informing or guiding the public or for the protection and promotion of health, safety, convenience and general welfare.

SIGN HEIGHT — The greatest vertical dimension between the top of a sign and the ground.

SIGN ILLUMINATION — A sign illuminated by or exposed to artificial lighting, either by lights on or in the sign or directed to the sign.

- (1) External: illumination of a sign that is affected by an artificial source of light not contained within the sign itself.
- (2) Internal: a light source that is concealed or contained within the sign and becomes visible in darkness through a translucent surface.
- (3) Indirect: a source of external illumination, located away from the sign that lights the sign but is not itself visible to persons viewing the sign from the adjacent street, sidewalk or property.

SIGN, NONCONFORMING — A sign lawfully erected and maintained prior to the adoption of the current ordinance that does not conform with the requirements of the current ordinance.

SIGN TYPES — These may include, but not be limited to, the following types:

- (1) GROUND — A freestanding sign supported by uprights or braces in or upon the ground and not attached to any part of a building.
- (2) HANGING — A sign designed to project beyond the front face and perpendicular to it over a public walkway.
- (3) INTEGRAL — A sign carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent-type construction and made an integral part of the structure.
- (4) MARQUEE — A sign attached to or hung from a marquee, canopy or other covered structure projecting from and supported by the building.
- (5) ROOF — A sign which is erected, constructed or maintained on, above or as part of the roof of any building.
- (6) WALL — A sign which is attached directly to the building and is parallel to the building.
- (7) FREESTANDING — A sign supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structures.

2. Editor's Note: The former definition of "identification" was repealed 7-20-2004 by Ord. No. O-2004-6.

SITE PLAN or PLAN (PRELIMINARY/FINAL) — A development plan of one or more lots on which is shown the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, floodplains, marshes and waterways; the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, and screening devices; and any other information that may be reasonably required in order to make an informed determination pursuant to this chapter.

SITE PLAN/PLAN REVIEW — Examination of the specific development plans for a lot. Wherever the term "plan approval" is used herein, it shall be understood to mean a requirement that the plan be reviewed and approved by the Board.

SKETCH PLAT — The sketch map of a subdivision of sufficient accuracy to be used for the purpose of discussion and classification and meeting the requirements of Article VI of this chapter.

SKILLED-CARE NURSING UNIT — A nursing bed or individual room which provides board, shelter and twenty-four-hour skilled nursing and medical care to chronic or convalescent patients. Skilled-care nursing units shall be in a facility that may include accessory uses including dining rooms, bathing areas, common areas, offices, clinics, therapy areas, medical facilities and other space necessary to provide the above services.

SMALL WIND ENERGY SYSTEM — A wind energy conversion system as defined herein that is used to generate electricity, and has a nameplate capacity of 100 kilowatts or less.

SOLAR ENERGY — The radiant energy received from the sun which through photovoltaic technologies or other solar technologies is used to produce electricity.

SOLAR ENERGY COMMERCIAL OPERATION — A solar energy system which exists to generate electricity, heat water and/or produce hot air for use on site, by sites contiguous to the site; and/or off site with electricity delivered by distribution and/or transmission lines.

SOLAR ENERGY SYSTEM — A solar energy system and all associated equipment which converts solar energy into usable electrical energy, heats water or produces hot air or other similar function through use of solar panels.

SOLAR PANELS — A structure containing one or more receptive cells, the purpose of which is to convert solar energy into usable electrical energy by way of a solar energy system.

SOLAR PANELS, SOLAR CELLS and PHOTOVOLTAIC CELLS — Equipment containing one or more receptive cells or other devices mounted on arrays, rooftops or other structures and utilizing solar technologies for the conversion of solar energy into electricity, to heat water, and/or to produce hot or compressed air.

SOLID FENCE — Any fence that is a solid, close-boarded-type fence.

STORY — That portion of a building included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, the space between such floor and the ceiling above it. A basement shall be counted as a story if its ceiling is more than six feet above the average level of the finished ground surface adjoining the exterior walls of such story, or if it is used for business or dwelling purposes.

STORY, HALF — A story, any two exterior sides of which meet a sloping roof not more than two feet above the floor of such story, or that portion of any structure herein defined as a basement.

STREET — Any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way that is an existing state, county, or municipal roadway, street, or way shown upon a plat heretofore approved

pursuant to law or approved by official action of the Township, or a street or way on a plat duly filed and recorded in the office of the County Recording Officer prior to the appointment of the Planning Board and the grant to such Board of the power to review plats. "Street" includes the land between the street lines, whether improved or unimproved, and may comprise pavement shoulders, gutters, sidewalks parking areas and other areas within the street lines. See RSIS N.J.A.C. 5:21-4.

STREET LINE — That line determining the limit of the road, street or highway rights of the public, either existing or contemplated.

STRUCTURAL ALTERATIONS — Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or in the utility system or mechanical equipment of a structure which materially alters its usability, capacity or function.

STRUCTURE — Anything constructed, assembled or erected, the use of which requires location on the ground or attachment to something having location on or in the ground and shall include fences which are more than 50% solid, tanks, towers, advertising devices, bins, tents, lunch wagons, trailers, dining cars or similar structures on wheels or other supports used for business or living purposes. The word "structure" shall not apply to service utilities entirely below the ground.

STRUCTURE, ADVERTISING — Any rigid or semirigid materials with or without advertisement displayed thereon situated upon or attached to real property (outdoors primarily) or principally for the purpose of furnishing a background or base or support upon which an advertisement may be posted or displayed. That portion of any structure, regardless of its primary or principal use, which is used for the display of an advertisement shall be considered an advertising structure and shall be subject to the control exercised in this chapter.

STRUCTURE, TEMPORARY — A structure that has no footing or foundation, no permanent floor, and does not have all of the normal structural components of a structure designed for permanent occupancy of humans or goods, including trailers either with axles or transported on another vehicle.

SUBDIVIDER — Any individual, firm, association, syndicate, copartnership, corporation, trust or any other legal entity commencing proceedings under this chapter to affect a subdivision of land hereunder for himself or for another.

SUBDIVISION — The division of a lot, tract, or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this chapter, if no new streets are created: divisions of land found by the Planning Board, or Subdivision Committee thereof appointed by the Chairman, to be for agricultural purposes where all resulting parcels are five acres or larger in size; divisions of property by testamentary or intestate provisions; divisions of property upon court order, including but not limited to judgements of foreclosure; consolidation of existing lots by deed or other recorded instrument; and the conveyance of one or more adjoining lots, tracts, or parcels of land owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the Tax Map or atlas of the municipality. The term "subdivision" shall also include the term "resubdivision."

SUBDIVISION COMMITTEE — A committee of at least three Planning Board members appointed by the Chairman of the Board for the purpose of classifying subdivisions in accordance with the provisions of this chapter, and such other duties relating to land subdivision which may be conferred on this Committee by the Board.

SUBDIVISION, INDUSTRIAL — A division of a lot, tract, or parcel of land into sites, lots, or other divisions of land for the purpose, whether immediate or future, of sale or building development

for industrial uses. An industrial subdivision shall not be accorded a minor subdivision treatment regardless of the number of lots involved. However, after approval of an industrial subdivision as a result of following the major subdivision procedures, the interior divisions of the aforesaid industrial tract shall be treated as minor subdivisions regardless of the number thereof, providing they shall meet with the criteria set forth under the definition of "subdivision, minor," excluding items thereof which pertain to the number of prior subdivisions. They must comply, however, with the provisions for plan review.

SUBDIVISION, MAJOR — All subdivisions not classified as industrial or minor subdivisions.

SUBDIVISION, MINOR — A subdivision of land that does not involve the creation or alteration of more than two lots in addition to any retained portion of the original lot; does not involve a planned development; does not involve the creation of a new street or any off-tract improvement. In counting the lots to determine whether a proposed subdivision may be considered a minor subdivision, the following shall be counted:

- (1) All lots to be created or altered by the proposed subdivision, including the lots to be retained by the subdivider.
- (2) No lot shall be counted twice, and in the case of a resubdivision or lot line adjustment, any eliminated lots shall be deducted.
- (3) All lots created out of the original parcel by subdivisions since 1956.
- (4) Any lot subdivided from the same tract within the last five years.

SWIMMING POOL — A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an aboveground pool, having a depth of more than 30 inches, designed, used and maintained for swimming and bathing.

SWIMMING POOL, COMMERCIAL — Includes all pools associated with permitted hotel and motel land uses. Commercial swimming pools shall be further classified into types in accordance with their particular use and shall meet the appropriate design standards as set forth by the National Swimming Pool Institute.

SWIMMING POOL, PORTABLE — Portable pools shall not be subject to the requirement of this chapter and are those pools which are not otherwise permanently installed; do not require water filtration, circulation and purification; do not exceed a water surface of 100 square feet; and do not require braces or supports.

SWIMMING POOL, PRIVATE RESIDENTIAL — Includes artificially constructed pools, whether located above or below the ground, having a depth of more than 18 inches and/or a water surface of 100 square feet or more; designed and maintained for swimming and bathing purposes by an individual for use by members of his household and guests; and which is located on a lot as an accessory use to a detached dwelling and shall include all buildings, structures, equipment and appurtenances thereto. Private residential swimming pools shall be further classified into types in accordance with their particular use and shall meet the appropriate design standards as set forth by the National Swimming Pool Institute.

TOWNHOUSE — One or a group of two or more dwelling units divided from each other by vertical walls and each having separate front and rear or front and side entrances from the outside (see "single-family attached dwelling").

TOWNSHIP — Township of Elk, Gloucester County, New Jersey.

TRACT — An area, parcel, site, piece of land, or property which is the subject of a development application.

TRAILER — Any structure or unit designed for short-term human occupancy, the carrying of materials, goods, or objects and standing on wheels, placed on the ground or placed on a structure without wheels. No such structure or unit shall be used as a principal or an accessory building or use on any lot.

TRAILER COACH SPACE — A plot of ground within a mobile home park designed to accommodate one trailer coach. Each trailer coach space shall be not less than 45 feet in width and 90 feet in length or depth.

UNITS, DWELLINGS —

- (1) For single-family detached or attached units, one housekeeping unit equals one unit.
- (2) For condominiums, cooperatives and apartments, one housekeeping unit equals one unit.
- (3) For assisted-living facilities, one housekeeping unit equals one unit.
- (4) For skilled-nursing-care facilities and nursing homes, one bed equals one unit.

USE — The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

USE, PRINCIPAL — The main use of land or structures, as distinguished from a secondary or accessory use.

VARIANCE — A departure from the terms of this chapter authorized by the appropriate municipal agency in accordance with N.J.S.A. 40:55D-70 et seq.

WETLANDS — Those areas meeting the definition of “wetlands” under N.J.A.C. 5:1-1 et seq. and enforced by the NJDEP.

WIND ENERGY SYSTEM — A wind turbine and all associated equipment, including any base, blade, foundation, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component necessary to fully utilize the wind generator.

WIND TURBINE — Equipment that converts energy from the wind into electricity. This term includes the rotor, blades and associated mechanical and electrical conversion components necessary to generate, store and/or transfer energy.

YARD — The area that lies between the principal or accessory building or buildings and the nearest lot line. A yard shall be unoccupied by structures and buildings from the ground upward except as may be specifically provided in this chapter. Improvements below grade are permitted, provided there is no visual evidence of such improvements.

YARD, FRONT — A yard on the same lot with the principal building, extending the full width of the lot and situated between the street line and the front line of a building projected to the side lines of that lot.

YARD, REAR — A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of any building. The depth of a rear yard shall be measured at right angles to the rear line of the lot, or if the lot is not rectangular, then in the general direction of its side building lines.

YARD SIDE — A yard between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard, or in the absence of either of such yards, to the street

or rear lot line as the case may be. The width of a side yard shall be measured at right angles to the side line of the lot.

ZONING BOARD — The Zoning Board of Adjustment of Elk Township.

ZONING DISTRICT — A finite area of land, as designated by its boundaries on the Zoning Map,³ throughout which specific and uniform regulations govern the use of land and/or the location, size and use of buildings.

ZONING OFFICER or ZONING ADMINISTRATION OFFICER — The official appointed by the Township Committee, and responsible for the administration of this chapter as hereinafter set forth.

ZONING PERMIT — A document signed by the Zoning Officer which is required by ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion, or installation of a structure or building and which acknowledges that such use, structure or building complies with the provisions of the municipal zoning ordinance or variance therefrom duly authorized by a municipal agency pursuant to N.J.S.A. 40:55D-60 and N.J.S.A. 40:55D-70.

- D. Whenever a term is used in this chapter which is defined in N.J.S.A. 40:55D-1 et seq., as amended, such term is intended to have the meaning set forth in the definition of such term found in such statute, unless a contrary intention is clearly expressed in the context of this chapter.

3. Editor's Note: The Zoning Map is included at the end of this chapter.

ARTICLE III
Planning Board and Zoning Board of Adjustment

§ 96-6. Elimination of Zoning Board of Adjustment; exercise of its functions and powers by Planning Board.

Pursuant to the authority of N.J.S.A. 40:55D-25c, the Planning Board shall exercise all powers of the Zoning Board of Adjustment, but the Class I (Mayor) and the Class III (Township Committeeperson) members shall not participate in the consideration of applications for development which involve relief pursuant to N.J.S.A. 40:55D-70d.

§ 96-7. Establishment and composition of Planning Board.

- A. A nine-member Planning Board is hereby established, which Board shall exercise, to the same extent and subject to the same restrictions, all of the powers of a Board of Adjustment, but the Class I and the Class III members shall not participate in the consideration of applications for development which involve relief pursuant to N.J.S.A. 40:55D-70d.
- B. The Planning Board shall consist of nine members of the following four classes. All members of the Planing Board except for the Class II members set forth below shall be municipal residents.
- (1) Class I: The Mayor, or in the Mayor's absence, the Mayor's designee.
 - (2) Class II: One of the officials of the municipality, other than a member of the governing body, to be appointed by the Mayor; provided that if there is an Environmental Committee, the member of the Environmental Committee who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be deemed to be the Class II Planning Board member if there is both a member of the Zoning Board of Adjustment and a member of the Board of Education among the Class IV members or alternate members.
 - (3) Class III: A member of the governing body to be appointed by it.
 - (4) Class IV: Other citizens of the Township, to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, position or employment except that one member may be a member of the Zoning Board of Adjustment or Historic Preservation Commission, if established pursuant to N.J.S.A. 40:55D-1, and one member may be a member of the Board of Education. If there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be a Class IV member unless there be among the Class IV or alternate members of the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education, in which case the member common to the Planning Board and Environmental Commission shall be deemed a Class II member of the Planning Board. For the purposes of this section, membership on a Township board or commission whose function is advisory in nature, and the establishment of which is discretionary and not required by statute, shall not be considered the holding of a Township office.
- C. Terms.
- (1) The term of the member composing Class I shall correspond with his or her official tenure. The terms of the members composing Class II and Class III shall be for one year or terminated at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Committee shall be for three years or

- terminate at the completion of his or her term of office as a member of the Environmental Committee, whichever comes first.
- (2) The term of a Class IV member who is also a member of the Board of Adjustment or the Board of Education shall terminate whenever they are no longer a member of such other body or at the completion of his Class IV term, whichever comes first.
 - (3) The terms of all Class IV members first appointed pursuant to this chapter shall be so determined that to the greatest practicable extent the expiration of such term shall be evenly distributed over the first four years after their appointment and as determined by resolution of the governing body; provided, however, that no term of any member shall exceed four years, and further provided that nothing herein shall affect the term of any present member of the Planning Board, all of whom shall continue in office until the completion of the terms of four years except as otherwise herein provided. All terms shall run from January 1 of the year in which the appointment was made.
 - (4) If a vacancy of any class shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for the unexpired term.
- D. Two Class IV alternate members, who shall be municipal residents, shall be appointed to the Planning Board by the Mayor, and shall meet the qualifications of Class IV members of the Planning Board. Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1" and "Alternate No. 2." The terms of the alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that in no instance shall the term of the alternate members first appointed exceed two years. A vacancy occurring otherwise than by expiration of a term shall be filled by the Mayor for the unexpired term only. Alternate members may participate in all matters but may not vote except in the absence or disqualification of a regular member of any class. Participation of alternate members shall not be deemed to increase the size of the Planning Board established by ordinance of the governing body pursuant to Section 14 of P.L. 1975, c.291 (N.J.S.A. 40:55D-23). A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.
- E. The Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV, select a Secretary who may or may not be a member or alternate member of the Planning Board or a municipal employee, and create and fill such other offices as established by ordinance. An alternate member shall not serve as Chairman or Vice Chairman. It may employ, or contract for, and fix the compensation of legal counsel, other than the Municipal Attorney, and experts, and other staff and services as it may deem necessary, not exceeding, exclusive of gifts or grants, the amount appropriated by the governing body for its use. The governing body shall make provision in its budget and appropriate funds for the expenses of the Planning Board.
- F. The Planning Board may also employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary. The Board shall not authorize expenditures which exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.
- G. The Planning Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter.

§ 96-8. Powers and jurisdiction of Planning Board.

The Planning Board shall have the powers listed below in addition to other powers established by law:

- A. Prepare, maintain and administer the Master Plan for the physical development of the Township, including any areas outside its boundaries which, in the Board's judgement, bear essential relation to the planning of the Township.
- B. Administer the provisions of this chapter.
- C. Participate in the preparation and review of programs or plans required by state or federal law or regulations.
- D. Assemble data on a continuing basis as part of a continuous planning process.
- E. Prepare a capital improvements program if authorized by the Township Committee.
- F. Consider and make report to the governing body within 35 days after referral as to any proposed development regulation submitted to it and also pass upon other matters specifically referred to the Planning Board by the governing body.
- G. The Planning Board shall have such other powers as prescribed by law, including, but not limited to, the power to grant the following variances, to the same extent and subject to the same restrictions as the Zoning Board of Adjustment, when the Planning Board is reviewing applications for approval of subdivisions, plans or conditions uses: **[Amended 7-20-2004 by Ord. No. O-2004-6]**
 - (1) Variances pursuant to § 96-8H(3) of this chapter from lot area, lot dimension, setback and yard requirements; provided that relief pursuant to this subsection from lot area requirements shall not be granted if there is an increase in the permitted density requiring a variance pursuant to § 96-8H(4).
 - (2) Direct issuance of a building permit for the construction of a building or structure within the bed of a mapped street or public drainageway, flood control basin or public area as shown on the adopted Official Map (N.J.S.A. 40:55D-34).
 - (3) Direct issuance of a building permit for the construction of a building or structure on a lot not abutting a street which is shown on the adopted Official Map (N.J.S.A. 40:55D-36).
- H. The Planning Board shall also exercise, to the same extent and subject to the same restrictions, all the powers described below which were previously exercised by the Board of Adjustment; however, the Class I and Class III members shall not participate in the consideration of applications for development which involve relief pursuant to N.J.S.A. 40:55D-70d [Subsection H(4) below]. **[Added 7-20-2004 by Ord. No. O-2004-6]**
 - (1) Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in enforcement of this chapter (N.J.S.A. 40:55D-70a).
 - (2) Hear and decide requests for interpretation of the Zoning Map⁴ or this chapter or for decisions upon other special questions upon which such Board is authorized by this chapter to pass (N.J.S.A. 40:55D-70b).

4. Editor's Note: The Zoning Map is included at the end of this chapter.

- (3) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, the strict application of any regulation in this chapter would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application, so as to relieve such difficulties or hardship; provided, however, that no variance shall be granted under this subsection to allow a structure or use in a district restricted against such structure or use, and further provided that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board shall review a request for a variance pursuant to Section 47a of the Municipal Land Use Law of 1975, c. 291, P.L. 1975 (N.J.S.A. 40:55D-70c).
- (4) Grant a variance in particular cases and for special reasons, but only by the affirmative vote of at least 2/3 of the full authorized membership of the Board for any of the following (N.J.S.A. 50:55D-70d):
 - (a) A structure or use in a district restricted against such structure or use.
 - (b) An expansion of a nonconforming use.
 - (c) Deviation from a specification or standard pertaining solely to a conditional use.
 - (d) An increase in permitted floor area ratio.
 - (e) An increase in permitted density, except as applied to the required lot area for a lot or lots for detached one- or two-dwelling unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision.
 - (f) A height of a principal structure which exceeds 10 feet or 10% of the maximum height permitted in the district for a principal structure.
- (5) No variance or other relief may be granted under the provisions of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and this chapter. Any application under any subsection of this section may be referred to any appropriate person or agency, provided that such reference shall not extend the period of time within which the Board shall act.

§ 96-9. Provisions applicable to both Planning Board and Zoning Board of Adjustment.

- A. Conflicts of interest. No member of the Planning Board or Zoning Board of Adjustment shall act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. Whenever any such member shall disqualify himself or herself from acting on a particular matter, they shall not continue to sit with the Board on the hearing of such matter nor participate in any discussion or decision relating thereto.
- B. Meetings.
 - (1) Regular meetings of both the Planning Board and Zoning Board of Adjustment shall be scheduled for the entire calendar year and set for a certain time and place, no less often than once a month, and shall be held as scheduled unless canceled for lack of applications for development to process.
 - (2) Special meetings may be scheduled at the call of the Chairman or on the request of any two

Board members, which shall be held on notice to its members and the public in accordance with all applicable legal requirements.

- (3) No action shall be taken at any meeting without a quorum being present, said quorum to be the majority of the full authorized Board membership.
- (4) All actions shall be taken by majority vote of the members of the Board at the meeting except as otherwise required by N.J.S.A. 40:55D-1 et seq. A member of the Board who was absent for one or more of the meetings at which a hearing was held shall be eligible to vote on a matter upon which the hearing was conducted, provided, however, that such Board member certifies in writing to the Board that he or she has read a transcript or listened to a recording of all of the hearings from which he or she was absent.
- (5) All meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meeting Law, C.231, Laws of New Jersey, 1975.⁵

C. Records.

- (1) Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Planning Board or the Zoning Board of Adjustment, and of the persons appearing by attorney, the action taken by the Planning or Zoning Board, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during the normal business hours at the office of the Board Secretary. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceedings concerning the subject matter of such minutes.
- (2) A verbatim recording shall be made of every hearing. The recording of the proceedings shall be made by either stenographer, mechanical or electronic means. The municipality shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at their expense. Each transcript shall be certified in writing by the transcriber to be accurate.

D. Public hearing.

- (1) The Planning Board or Zoning Board of Adjustment, as the case may be, shall hold a hearing on each application for development. Each Board shall make the rules governing such hearings.
- (2) Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least 10 days before the date of the hearing during normal business hours in the office of the Board Secretary. The applicant may produce other documents, records or testimony at the hearing to substantiate or clarify or supplement the previously filed maps and documents.
- (3) The officer presiding at the hearing, or such person as they may designate, shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law, P.L. 1953, c.38 (N.J.S.A. 2A:67A-1 et seq.) shall apply.
- (4) The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross examination shall be permitted

5. Editor's Note: See N.J.S.A. 10:4-6 et seq.

to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.

- (5) A verbatim recording shall be made of every hearing. The recording of the proceedings shall be made either by stenographic, mechanical or electrical means. The Township shall furnish a transcript or duplicate recording in lieu thereof on request to any interested at their expense, provided that the charge for a transcript shall not exceed the maximum permitted in N.J.S.A. 2A:11-15.⁶ Each transcript shall be certified in writing by the transcriber to be accurate.
- (6) If an applicant desires a certified court reporter, the costs of taking testimony and transcribing it and providing a copy of the transcript to the Township or court shall be at the expense of the applicant, who shall also arrange for the attendance by the reporter. All costs for transcription of the record before the applicable Board shall be the entire and sole obligation of the applicant or appellant, whichever requests the transcript.
- (7) Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.

E. Public notice of a hearing.

- (1) Public notice of a hearing shall be given for the following applications for development:
 - (a) Any request for a variance;
 - (b) Any request for conditional use approval;
 - (c) Any request for the issuance of a permit to build within the bed of a mapped street or public drainageway or on a lot not abutting a street;
 - (d) Any request for major or minor plan approval involving one or more of the aforesaid elements; and
 - (e) Any request for preliminary subdivision approval.
- (2) Public notice of a hearing shall be given for an extension of approvals for five or more years under Subsection d of Section 37 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-49) and Subsection b of Section 40 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-52) for modification or elimination of a significant condition or conditions in a memorializing resolution in any situation wherein the application for development for which the memorializing resolution is proposed for adoption required public notice, and for any other applications for development, with the following exceptions: conventional site plan review pursuant to Section 34 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-46); minor subdivisions pursuant to Section 35 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-47) or final approval pursuant to Section 38 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-50); notwithstanding the foregoing, the governing body may by ordinance require public notice for such categories of site plan review as may be specified by ordinance, for appeals of determinations of administrative officers pursuant to Subsection a of Section 57 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-70), and for requests for interpretation pursuant to Subsection b of Section 57 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-70). Public notice shall also be given in the event that relief is requested pursuant to Section 47 or 63 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-60 or N.J.S.A. 40:55D-76) as part of an application for development otherwise excepted

6. Editor's Note: Former N.J.S.A. 2A:11-15 was repealed by L.1991, c. 119, § 4, effective 4-25-1991.

herein from public notice. Public notice shall be given by publication in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality.

- (3) Notice of a hearing on an amendment to the zoning ordinance proposing a change to the classification or boundaries of a zoning district, exclusive of classification or boundary changes recommended in a periodic general reexamination of the Master Plan by the Planning Board pursuant to Section 76 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-89), shall be given at least 10 days prior to the hearing by the Administrative Officer to the owners of all real property as shown on the current tax duplicates, located, in the case of a classification change, within the district and within the state within 200 feet in all directions of the boundaries of the district, and located, in the case of a boundary change, in the state within 200 feet in all directions of the proposed new boundaries of the district which is the subject of the hearing.
- (4) A notice pursuant to this section shall state the date, time and place of the hearing, the nature of the matter to be considered and an identification of the affected zoning districts and proposed boundary changes, if any, by street names, common names or other identifiable landmarks, and by reference to lot and block numbers as shown on the current tax duplicate in the Municipal Tax Assessor's Office.
- (5) Notice shall be given by serving a copy thereof on the property owner as shown on said current tax duplicate, or his agent in charge of the property, or mailing a copy thereof by certified mail and regular mail to the property owner at his address as shown on said current tax duplicate.
- (6) Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the boundaries of the district which is the subject of the hearing, may be made in the same manner as to a corporation, in addition to notice to unit owners, coowners, or homeowners on account of such common elements or areas.
- (7) The Administrative Officer shall execute affidavits of proof of service of the notices required by this section and shall keep the affidavits on file along with the proof of publication of the notice of the required public hearing on the proposed zoning ordinance change. Costs of the notice provision shall be the responsibility of the proponent of the amendment.
- (8) The Secretary of the Planning Board or Zoning Board of Adjustment, as the case may be, shall notify the applicant at least two weeks prior to the public hearing at which the application will be discussed. Notice of a public hearing requiring public notice shall be given by the applicant at least 10 days prior to the date of the hearing in the following manner and necessary proof of notice shall be submitted to the Secretary at least two days prior to the hearing in question:
 - (a) By publication in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality.
 - (b) To all owners of real property as shown on the current tax duplicate located within 200 feet in all directions of the property which is the subject of the hearing, which notice shall be given by serving a copy thereof on the property owner, as shown on the current tax duplicate, or their agent in charge of the property; or by mailing a copy thereof by certified mail to the property owner at the address as shown on said current tax duplicate. It is not required that a return receipt be obtained. Notice is deemed complete upon mailing

(N.J.S.A. 40:55D-14).

- (c) Notice to a partnership owner may be made by service upon any partner; notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.
 - (d) To the Clerk of any adjoining municipality or municipalities when the property involved is located within 200 feet of said adjoining municipality or municipalities, which notice shall be given by personal service or certified mail.
 - (e) To the County Planning Board when the application for development involves property adjacent to an existing county road or proposed road shown on the County Official Map or the County Master Plan or adjoins other county land.
 - (f) To the Commissioner of the Department of Transportation when the property abuts a state highway.
 - (g) To the Director of the Office of State Planning when the hearing involves an application for development of property which exceeds 150 acres or 500 dwelling units, in which case the notice shall include a copy of any maps or documents required to be on file with the Board Secretary.
 - (h) To the corporate secretary of all public utilities and the general manager of all cable television companies which have registered with the municipality in accordance with N.J.S.A. 40:55D-12.1, possess a right-of-way or easement within the municipality by personal service or certified mail.
 - (i) In addition to any notification requirement otherwise imposed under this chapter, an applicant seeking approval of a development which does not require notice, as provided in § 96-37, shall be required to provide public notice, by personal service or certified mail, to the corporate secretary of any public utility and the general manager of any cable television company that possesses a right-of-way or easement situated within the property limits of the property which is the subject of the application for development approval under this section.
- (9) Upon an applicant's written request, the Tax Assessor shall, within seven days, make and certify a list from said current tax duplicates of names and addresses of owners within the Township to whom the applicant is required to give notice. The applicant shall be charged \$10 for said list and shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner not on the list shall not invalidate any hearing or proceeding. Additionally, the applicant shall be responsible for giving proper notice to all property owners pursuant to § 96-9E(8) above who do not reside within the Township.
- (10) The applicant shall file an affidavit or proof of service with the Planning Board or Zoning Board of Adjustment, as the case may be.
- (11) The notice shall state the date, time and place of the hearing and the nature of the matters to be considered, and an identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the Municipal Tax Assessor's Office, and the location and times at which any maps or documents for which approval is sought are available for inspection.

§ 96-10. Notice of hearing on change in classification or boundaries of zoning districts.

Notice of the hearing on an amendment to this chapter proposing a change to the classification or boundaries of a zoning district, exclusive of classification or boundary changes recommended in a periodic general reexamination of the Master Plan by the Planning Board pursuant to Section 76 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-89), shall be given prior to adoption in accordance with the provisions of Section 2 of P.L. 1995, c. 249 (N.J.S.A. 40:55D-62.1). A protest against any proposed amendment or revision of a zoning ordinance may be filed with the Municipal Clerk, signed by the owners of 20% or more of the area either of the lots or land included in such proposed change, or of the lots or land extending 200 feet in all directions therefrom inclusive of street space, whether within or without the municipality. Such amendment or revision shall not become effective following the filing of such protest except by the favorable vote of 2/3 of all the members of the governing body of the municipality.

§ 96-11. Notice of decisions.

Notice of any decision of the Planning Board or Zoning Board of Adjustment when acting upon an application for development and any decision of the governing body when voting upon an appeal shall be given in the following manner:

- A. A copy of the decision shall be mailed by the Board within 10 days of the date of decision to the applicant or appellant, or, if represented, to his or her attorney without separate charge. A copy of the decision shall also be mailed within 10 days to any interested party who has requested it and who has paid the required fee.
- B. A brief notice of the decision shall be published in the official newspaper of the Township. The cost for such publication shall be charged to the applicant and arranged by either the Secretary of the Planning Board or Zoning Board of Adjustment. The notice shall be sent to the official newspaper for publication within 10 days of the date of decision.
- C. A copy of the decision shall also be filed in the office of the Township Clerk, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the Township and shall also make the copy of the decision available for public inspection during normal business hours.

§ 96-11.1. Time limitations for certain approvals. [Added 8-3-2006 by Ord. No. O-2006-2]

- A. Time limit on variances.
 - (1) Applicable time limit. Any variance granted by the Zoning Board of Adjustment or the Planning Board pursuant to N.J.S.A. 40:55D-70, subsection c or d, shall expire and become null and void two years from the date such variance is granted unless within said period the applicant obtains a building permit or otherwise avails himself of the said approval; provided, however, that in the event that such variance is approved in conjunction with a major subdivision or site plan approval, then such variance shall not expire and become null and void until three years after the preliminary approval for such site plan and/or subdivision is granted and any approved extensions thereof, or if final approval is granted for such development, two years from the date of the final approval and any approved extensions thereof.
 - (2) Varying time periods. Nothing contained herein shall be construed as preventing the applicable municipal agency from specifying a shorter or longer period of time than noted in Subsection A(1) above pursuant to approvals granted to variance applications under N.J.S.A. 40:55D-70, subsection c or d, that are not in conjunction with a major subdivision or site plan approval.

- B. Commencement of time periods. For the purpose of calculating the times provided for in this section, such time periods shall commence on the date the municipal agency memorializes its approval by written resolution.

ARTICLE IV
Improvement Guarantees
[Amended 3-20-2018 by Ord. No. O-3-2018]

§ 96-12. Performance guarantees.

As a condition of final development approval, the reviewing board shall require, for the purpose of assuring the installation of all improvements required under such approval, that the applicant furnish a performance guarantee in accordance with the following standards:

- A. The performance guarantee must run in favor of the Township, and be in an amount not to exceed 120%, rounded to the nearest dollar, of the cost of installation of improvements to be dedicated to the Township, and have not yet been installed, that the Township or reviewing board may deem necessary or appropriate, including, but not limited to, streets, pavement, gutters, curbs, sidewalks, streetlighting, street trees, surveyor's monuments (as shown on the final map and required by the Map Filing Law (N.J.S.A. 46:23-9.9),⁷ water mains, sanitary sewers, community septic systems, drainage structures, public improvements of open space, any grading necessitated by the preceding improvements, and within an approved phase or section of a development, privately owned perimeter buffer landscaping. At the developer's option, a separate performance guarantee may be posted for the privately owned perimeter buffer landscaping.
- B. In the event that the developer shall seek a temporary certificate of occupancy for a development, unit, lot, building, or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate guarantee, referred to herein as a "temporary certificate of occupancy guarantee," in favor of the Township in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, lot, building or phase of development and which are not covered by an existing performance guarantee. Upon posting of a temporary certificate of occupancy guarantee, all sums remaining under a performance guarantee, required pursuant to Subsection A of this section, which relate to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought, shall be released. The scope and amount of the temporary certificate of occupancy guarantee shall be determined by the Zoning Officer, Municipal Engineer, or other municipal official designated by the Township Committee. The Township shall not hold more than one guarantee or bond of any type with respect to the same line item. The temporary certificate of occupancy guarantee shall be released by the Zoning Officer, Municipal Engineer, or other municipal official designated the Township Committee upon the issuance of a permanent certificate of occupancy with regard to the development, unit, lot, building, or phase as to which the temporary certificate of occupancy relates.
- C. Safety and stabilization guarantee.
 - (1) In addition to a performance guarantee required pursuant to Subsection A of this section, a developer shall furnish to the Township a separate guarantee, referred to herein as a "safety and stabilization guarantee," in favor of the Township, to be available to the Township solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:

7. Editor's Note: N.J.S.A. 46:23-9.9 was repealed by P.L. 2011, c. 217, effective 5-1-2012.

- (a) Site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure; and
 - (b) Work has not recommenced within 30 days following the provision of written notice by the Township to the developer of the Township's intent to claim payment under the guarantee. The Township shall not provide notice of its intent to claim payment under a safety and stabilization guarantee until a period of at least 60 days has elapsed during which all work on the development has ceased for reasons other than force majeure. The Township shall provide written notice to the developer by certified mail or other form of delivery providing evidence of receipt.
 - (2) The amount of a safety and stabilization guarantee for a development with bonded improvements in an amount not exceeding \$100,000 shall be \$5,000. The amount of a safety and stabilization guarantee for a development with bonded improvements exceeding \$100,000 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows: \$5,000 for the first \$100,000 of bonded improvement costs, plus 2.5% of bonded improvement costs in excess of \$100,000 up to \$1,000,000, plus 1.0% of bonded improvement costs in excess of \$1,000,000.
- D. No more than 10% of the total performance guarantees shall be in cash, and the balance shall be in the form of a surety bond issued by a bonding company licensed to do business in the State of New Jersey and rated A+ or better by A.M. Best or a letter of credit issued by a banking institution licensed to do business in the State of New Jersey. Such bond or letter of credit must be approved and accepted by the Township governing body. The Township Engineer shall review the improvements required by the reviewing board which are to be bonded and itemize their cost. This itemization shall be the basis for determining the amount of the performance guarantees required by the Township and the inspection fees required by this Code. The Township Engineer shall forward his/her estimate of the cost of improvements to the applicant within 30 days after the date of receipt of a request sent by certified mail for this estimate. Any performance guarantee delivered to the Township Clerk pursuant to this section shall be for an initial term of not less than two years, shall provide for automatic one-year renewals and shall only be terminable on the date of expiration, either of the original period or any renewal period, upon not less than 60 days' advanced written notice. In the event that any of the improvements to be installed are covered by a performance guarantee to another governmental agency, no performance guarantee shall be required from the Township for such improvements.
- E. If, at any time during the period of time between acceptance of the initial performance guarantee and the date of the Township Committee formally releases such performance guarantee, the Township Committee has reasonable cause to doubt the value, legality, enforceability or effectiveness of such guarantee, all development activity for which such guarantee was established shall be discontinued until such time as a substitute guarantee, in form and substance equivalent to the guarantee which was required to be in place at the time the status of the original guarantee was questioned, shall be delivered to and accepted by the Township Committee. By way of illustration and not limitation, the following shall be instances of reasonable cause to doubt the value, legality, enforceability or effectiveness of such guarantees:
- (1) The company issuing the bond shall cease to do business, declare insolvency or bankruptcy or be forced into involuntary bankruptcy.
 - (2) The bank, savings and loan, credit union, mortgage banking company or other banking or banking-like entity issuing a letter of credit shall become insolvent, be taken over by any

governmental or quasigovernmental agency or company or otherwise cease to do business.

- (3) The issuer of any performance guarantee shall serve on the Township notice of termination or cancellation of such guarantee.
- F. The amount of any performance guarantee may be reduced by the Township Committee, by resolution, when portions of the improvements have been certified by the Township Engineer to have been completed. The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the Township Committee by resolution. If the sum of the approved bonded improvements would exceed 70% of the total amount of the performance guarantee, then the Township may retain 30% of the amount of the total performance guarantee to ensure completion and acceptability of bonded improvements, as provided above, except that any amount of the performance guarantee attributable to bonded improvements for which a temporary certificate of occupancy guarantee has been posted shall be released from the performance guarantee even if such release would reduce the amount held by the Township below 30%.
- G. If the required improvements are not completed or corrected in accordance with the finally approved development plans and approvals, the obligor and surety shall be liable thereon to the Township for the reasonable cost of the improvements not completed or corrected, and the Township, either prior to or after the receipt of the proceeds of the performance guarantee, may complete such improvements.
- H. When all of the required improvements have been completed, the obligor shall notify the administrative officer, in writing, by certified mail, with a copy to the Municipal Clerk, of the completion of such improvements and shall send a copy thereof to the Township Engineer. Upon receipt of this notice, the Township Engineer shall inspect all of the improvements and shall file a detailed report, in writing, with the Administrative Officer, indicating either approval, partial approval or rejection of the improvements with a statement of reasons for rejection. If partial approval is indicated, the cost of the improvements rejected shall be set forth.
- I. The Township Committee shall either approve, partially approve or reject the improvements on the basis of the report of the Township Engineer and shall notify the obligor, in writing, by certified mail, of the contents of the Township Engineer's report and the action of the Township Committee with relation thereto not later than 65 days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from all liability pursuant to the performance guarantee except for that portion adequately sufficient to secure completion of the improvements not yet approved. Failure of the Township Committee to send or provide such notification to the obligor within 65 days shall be deemed to constitute approval of the improvements and the obligor and surety, if any, subject to the requirements of § 96-13 below, shall be released from all liability pursuant to such performance guarantee.
- J. If any portion of the required improvements is rejected, the obligor shall complete such improvements, and, upon completion, the same procedure of notification as set forth in this section shall be followed.
- K. The obligor shall reimburse the Township for all reasonable inspection fees paid to the Township Engineer for the foregoing inspection of improvements, pursuant to § 96-15 below.

§ 96-13. Maintenance guarantees.

- A. As a condition of the final release of all performance guarantees posted by an applicant with respect to any development approval within the Township, and/or as identified in § 96-12A, B or C, the

applicant shall deliver to the Township Clerk, for the purpose of assuring that all improvements installed in accordance with such development approval have been installed in a good and workmanlike manner and that all materials are fit for their intended purpose, a maintenance guarantee in accordance with the following standards:

- (1) The maintenance guarantee shall be for a period of two years commencing on the date that the Township Committee finally accepts the improvements as being complete, in an amount not to exceed 15% of the total cost of the installation of the improvements as set forth on the Township Engineer's estimate for such improvements completed with § 96-12A, B or C.
 - (2) The developer shall post with the Township, upon the inspection and issuance of final approval of the following private site improvements by the Township Engineer, a maintenance guarantee in an amount not to exceed 15% of the cost of the installation of the following private site improvements: stormwater management basins, inflow and water quality structures within the basins, and the outflow pipes and structures of the stormwater management system, if any, which cost shall be determined by the Township Engineer according to the method of calculation set forth in Section 15 of P.L. 1991, c.256.⁸
 - (3) In the event that other governmental agencies or public utilities automatically will own the utilities or improvements which are installed or the improvements are covered by a maintenance guarantee provided by the applicant to another governmental agency, no maintenance guarantee in favor of the Township shall be required for such utilities or improvements. Such maintenance guarantee shall be in the form of a surety bond issued by a surety licensed to do business in the State of New Jersey and rated A+ or better by A.M. Best or a letter of credit issued by a banking institution licensed to do business in the State of New Jersey. Such maintenance guarantee shall be approved and accepted by the Township Committee.
 - (4) If at any time prior to the expiration of the maintenance guarantee the Township Committee has reasonable cause to doubt the value, legality, enforceability or effectiveness of such guarantee, the obligor must deliver to the Township Clerk a substitute guarantee, equivalent to the guarantee which was required to be in place at the time the status of the original guarantee was questioned. By way of illustration and not limitation, the following shall be instances of reasonable cause to doubt the value, legality, enforceability or effectiveness of such guarantees:
 - (a) The company issuing the bond shall cease to do business, declare insolvency or bankruptcy or be forced into involuntary bankruptcy.
 - (b) The bank, savings and loan company, credit union, mortgage banking company or other banking or banking-like entity issuing a letter of credit shall become insolvent, be taken over by any governmental or quasigovernmental agency or company, or otherwise cease to do business.
- B. If the Township determines that any improvements which are covered by such maintenance guarantee have not been completed in a good and workmanlike manner, or that any materials which were incorporated into such improvements are not fit for their intended purpose and the obligor, under such maintenance guarantee, has not corrected the improvements to the satisfaction of the Township Engineer within 30 days after written notice of such defect, the obligor and the surety shall be liable on such guarantee to the Township for the reasonable cost of correcting and/or replacing such improvements, and the Township, either prior to or after the receipt of the proceeds of such guarantee, shall have the right, but not the obligation, to complete corrective work or replacements of such

8. Editor's Note: See N.J.S.A. 40:55D-53.4.

improvements which may be required.

§ 96-14. Developer's agreement required.

As a condition of final development approval, the reviewing board shall require the applicant to execute and deliver to the Township, along with the performance guarantee set forth in § 96-12, a developer's agreement in the form prepared by the reviewing board solicitor and approved by the Township Attorney. The time restrictions and conditions set forth in the developer's agreement shall be completed by the reviewing board engineer. All performance guarantees submitted with respect to any particular application shall reference such agreement by name, parties and date of execution. All applicants shall be given a copy of this code section and the then-current draft form of the developer's agreement with the application package. Any revisions to such agreement after the date of same is approved and accepted by the Township Committee shall be completed and approved by the reviewing board and then submitted to the Committee for approval and execution. The developer's agreement and any amendments thereto shall be recorded against the real property which is the subject of the application prior to the issuance of a zoning permit. Evidence in the form of a copy of the developer's agreement time stamped by the County Clerk shall be submitted to the Township Clerk. Upon completion of the improvements, release of the performance guarantee and submission and approval of the required maintenance guarantee, the Township shall execute a release of the developer's agreement, in recordable form. The preparation and recording of such release shall be borne by the applicant.

§ 96-15. Escrows.

A. Application escrow.

- (1) All fees other than application fees, inspection escrows and miscellaneous fees shall be escrow fees to pay the services of any professional personnel employed by the reviewing board or the Township Committee to process, review, inspect, study or make recommendations to such reviewing board or the Township Committee concerning the nature and substance of the applicant's application and/or to pay the services of any such professional personnel and the costs and expenses incurred by such professional personnel, the reviewing board and/or the Township Committee to create, amend or modify, including, but not limited to, the costs and expenses to draft, finalize and publish, the official Tax Map and/or Zoning Map⁹ of the Township, which creation, amendment and/or modification is necessitated by the approval of the applicant's application.
- (2) If during the existence of this escrow account the balance of funds held by the Township shall be insufficient to cover vouchers submitted by the professionals, the applicant shall deposit additional sums with the Township to voucher the amount of the deficit and the anticipated amount to cover all remaining work within 10 days after receipt of written notice from the Township of the amounts owed. In the event that an applicant fails to deposit the additional escrow monies as required within the time set forth in this subsection, the Township, through its agents and employees, shall take whatever action it deems necessary in order to compel the payment of the escrow amount. In addition, the professional personnel may take any action individually as they deem necessary to satisfy the vouchers submitted. Notwithstanding the foregoing, any applicant who does not deposit such additional escrow monies within 30 days after receipt of written notice from the Township of the amounts owed shall be charged a late fee equal to 10% times the amounts owed from the date such sums were due pursuant to such notice until paid in full (including all accrued late fees). No permit, approval or certificate shall

9. Editor's Note: The Zoning Map is included at the end of this chapter.

be issued to any applicant or property owner by the reviewing board, Zoning Officer, Township Committee, Township Clerk or any other agency of the Township unless all amounts owed pursuant to this section by such applicant or owner or with respect to the subject property are paid in full.

- (3) All excess monies in the escrow account will be returned, at the time of final release of maintenance guarantees for improvements completed as part of the development approval, to the applicant with a statement of money expended against the account. If at any time prior to final approval the applicant elects to withdraw his request for approval and abandon the project, any monies remaining in the escrow account, after all proper charges have been paid, will be returned to the applicant with a statement of money expended against the account.
- B. Inspection escrows. The cost of all reasonable inspection fees by the Township Engineer shall be the responsibility of the applicant, and the applicant shall deposit the necessary inspection fees with the Township prior to the issuance of a building permit or zoning permit. The inspection fee escrow shall be in addition to the amount of any required performance or maintenance guarantees, application fees and application escrows and shall consist of a sum in escrow as follows:
- (1) Not to exceed, except for extraordinary circumstances, the greater of \$500 or 5% of the cost of bonded improvements that are subject to a performance guarantee under Subsection A of this section; and
 - (2) Not to exceed 5% of the cost of private site improvements that are not subject to a performance guarantee under Subsection A of this section, which cost shall be determined pursuant to Section 15 of P.L. 1991, c.256 (N.J.S.A. 40:55D-53.4).
 - (3) For those developments for which the inspection fees total less than \$10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited in escrow by a developer shall be 50% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspections, the developer shall deposit the remaining 50% of the inspection fees.
 - (4) For those developments for which the inspection fees total \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited in escrow by a developer shall be 25% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspection, the developer shall make additional deposits of 25% of the inspection fees.
 - (5) If the Township determines that the amount in escrow for the payment of inspection fees, as calculated pursuant to Section 15 of P.L. 1991, c. 256 (N.J.S.A. 40:55D-53.4) is insufficient to cover the cost of additional required inspections, the Township may require the developer to deposit additional funds in escrow, provided that the Township delivers to the developer a written inspection escrow deposit request, signed by the Township Engineer, which: informs the developer of the need for additional inspections, details the items or undertakings that require inspection, estimates the time required for those inspections, and estimates the cost of performing those inspections. Funds which are unexpended after 90 days of the issuance of a certificate of occupancy or a certificate of conformance shall be returned to the applicant upon request, in writing, to the reviewing board. The applicant shall immediately pay upon demand all additional site inspection costs as are necessary and reasonable.

ARTICLE V
Off-Tract Improvements

§ 96-16. Purpose.

This article is intended to ensure a pro rata allocation of the costs for off-tract improvements necessitated by new development.

§ 96-17. Off-tract improvements required.

As a condition of final subdivision or site plan approval, the reviewing board may require an applicant to pay his pro rata share of the cost of providing reasonable and necessary off-tract improvements. These costs may include but, are not limited to, the costs of street improvements, water, sewerage and drainage facilities, and easements therefor, located outside the property limits of the development but necessitated or required by construction or improvements within such development. The proportionate or pro rata amount of the cost of such facilities that shall be borne by each developer or owner within a related or common area shall be based on the criteria established herein.

§ 96-18. Improvements to be constructed at sole expense of developer.

Full allocation: In cases where the reasonable and necessary off-tract improvement or improvements are necessitated or required by the proposed development, and where no other property owners receive a special benefit thereby, the applicant may be required, as a condition of approval, at the applicant's sole expense, to provide for and construct such improvements as if such were an on-tract improvement in the manner provided hereafter and otherwise provided by law.

§ 96-19. Other improvements.

In cases where the need for any off-tract improvement is necessitated by the proposed development application, and where it is determined that properties outside of the development will also be specially benefitted by the improvement, the following criteria shall be utilized in determining the proportionate share of such improvements to the developer.

A. Sanitary sewers. For distribution facilities including the installation, relocation or replacement of collector, trunk and interceptor sewers, and the installation, relocation or replacement of other appurtenances associated therewith, the applicant's proportionate share shall be computed as follows:

- (1) The capacity and the design of the sanitary sewer system shall be based on "Rules and Regulations for the Preparation and Submission of Plans for Sewerage Systems," New Jersey Department of Environmental Protection, except where governed by the Residential Site Improvement Standards, N.J.A.C. 5:21-6, and all Elk Township sewer design standards including infiltration standards, and all other Township sanitary sewer standards.
- (2) The capacity of the existing system to service the entire improved drainage area shall be computed. If the system is able to carry the total developed drainage basin, no improvement or enlargement cost will be assigned to the developer. If the existing system does not have adequate capacity for the total developed drainage basin, the prorated enlargement or improvement share shall be computed as follows:

$$\frac{\text{Total enlargement or improved cost}}{\text{Developer's cost}} = \frac{\text{Total tributary gpd.}}{\text{Development gpd.}}$$

- (3) If it is necessary to construct a new system in order to service the proposed development, the prorated enlargement share to the developer shall be computed as follows:

$$\frac{\text{Total project cost}}{\text{Developer's cost}} = \frac{\text{Total tributary gpd. to new system}}{\text{Developer's tributary gpd.}}$$

- (4) The plans for the improved system or extended system shall be prepared by the developer's engineer. All work shall be calculated by the developer and approved by the Township Engineer.

- B. Roadways. For street widening, alignment, channelization of intersections, construction of barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvements not covered elsewhere, the construction or reconstruction of new or existing streets and other associated street or traffic improvements, the applicant's proportionate cost shall be computed as follows:

- (1) The Township Engineer or Planner shall provide the applicant with the existing and anticipated future peak hour flows for the off-tract improvement.
- (2) The applicant shall furnish a plan for the proposed off-tract improvement which shall include the estimated peak hour traffic generated by the proposed development. The ratio of the peak hour traffic generated by the proposed development to the future additional peak hour traffic anticipated to impact the proposed off-tract improvement shall form the basis of the proportionate share. The proportionate share shall be computed as follows:

$$\text{Developer's cost} = \frac{\text{Total cost of the off-tract improvement}}{\text{Future additional peak hour traffic}} \times \frac{\text{Future peak hour traffic generated by the developer (\%)}}{\text{Future additional peak hour traffic}}$$

- (3) Where the property which is the subject matter of a development application falls within a designated transportation improvement district, as reflected in the circulation element of the Township's Master Plan, the standards to be applied shall be in accordance with § 96-62 of this chapter.
- C. Drainage improvements. For stormwater and drainage improvements including the installation, relocation or replacement of storm drains, culverts, catch basins, manholes, rip-rap or improved drainage ditches and appurtenances thereto and relocation or replacement of other storm drainage facilities or appurtenances associated therewith, the applicant's proportionate share shall be determined as follows:
- (1) The capacity and the drainage system design to accommodate stormwater runoff shall be based on a method described in "Urban Hydrology for Small Watershed Technical Release 55," Soil Conservation Service USDA, current issue, computed by the developer's engineer and approved by the Township Engineer.
- (2) The capacity of the enlarged, extended or improved system required for the subdivision and areas outside of the developer's tributary to the drainage system shall be determined by the developer's engineer subject to approval of the Township Engineer. The plans for the improved system shall be prepared by the developer's engineer and the estimated cost of the enlarged system shall be calculated by the Township Engineer. The prorated share for the proposed improvement shall be computed as follows:

Total enlargement or improved = Total tributary cfs
cost of drainage facilities

Developer's cost Developer's cfs

§ 96-20. Escrow accounts for future improvement.

Where the proposed off-tract improvement is to be undertaken at some future date, the monies required for the improvement shall be deposited to the credit of the Township in a separate interest-bearing account until such time as the improvement is constructed. If the off-tract improvement is not begun within 10 years of deposit, all monies and interest shall be returned to the applicant.

§ 96-21. Pro rata share.

In any case in which an applicant does not provide the approving authority with estimates from a traffic consultant and/or consulting engineer regarding estimated improvement costs and all other information necessary to proportion costs, the approving authority may rely on estimates of the Township Engineer and Planner to determine pro rata costs.

ARTICLE VI
Subdivision and Site Plans

§ 96-22. General requirements.

No development shall take place within the Township nor shall any land be cleared or altered, nor any use or change in the use of any building or other structure, nor shall any watercourse be diverted or its channel or floodplain dredged or filled, nor shall any parking areas, accessory or otherwise, or accessways thereto, be constructed, installed or enlarged, nor shall any building permit, certificate of occupancy or other required permit be issued with respect to any such structure, land or parking area, except in accordance with an approval of such development granted pursuant to this section, unless exempted in accordance with § 96-23.

§ 96-23. Exceptions to application requirements.

The rules, regulations and standards set forth in this section shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Township. However, if the applicant can clearly demonstrate that, because of peculiar conditions pertaining to his land, the literal enforcement of this section is impracticable or will exact undue hardship, the Planning Board may permit such exemption(s) and waiver(s) as may be reasonable within the general purpose and intent of the rules, regulations and standards established by this section.

A. Subdivision exceptions.

- (1) A building permit or certificate of occupancy may be issued if all improvements have been installed or completed except the finish course of the road, and the Township Engineer warrants that completion of the road is in the Township's interest after the subdivider has completed construction of dwellings and structures. The maintenance guaranty required shall not begin until the finish course has been installed.
- (2) The Planning Board may also authorize the issuance of a temporary certificate of occupancy if the following improvements have been bonded but not yet installed: landscaping, sidewalks or other similar improvements.
- (3) The Planning Board, when acting upon an application which includes provisions for low- and moderate-income housing, shall waive those portions of the design standards which create barriers to the construction of low- or moderate-income housing and which are not necessary to protect public health and safety.

B. Plan exceptions.

- (1) Detached single-family dwellings, including accessory uses permitted as a right under applicable zoning districts, but this shall not limit the requirements for submission and approval of subdivision plats as otherwise required by Township ordinances.
- (2) The one-time construction of a parking area for three vehicles or less.
- (3) A proposed development not involving a change in use and not affecting existing circulation, drainage, building arrangements, landscaping, buffering, lighting and other considerations of plan review.
- (4) Customary agricultural buildings such as barns, silos, storage sheds and related structures, provided that the buildings are used for products grown on site only; further provided that no

grading is necessary and the need for new or expanded stormwater management facilities is not required. If a soil erosion and sediment control permit is required from Gloucester County, a copy of said application shall be submitted to the Township Engineer. **[Amended 8-3-2006 by Ord. No. O-2006-2]**

- (5) Normal maintenance or replacement such as a new roof, painting, new siding or similar activity.
- (6) The Planning Board may also waive the requirements of this section if the proposed development secured previous plan approval under the terms of this section.

§ 96-24. Procedure for approval.

- A. All subdivisions and/or site plans shall be formally reviewed except as noted herein in two stages, preliminary and final. An informal discussion and concept review stage is encouraged of applicants seeking site plan approval. Preliminary and final stages may be combined by the applicant. As a condition for combined stage application, the time for approval by the Planning Board shall be the total of the mandated approval time allowed to each review stage as noted herein. An informal discussion and concept plan review stage is encouraged of applicants seeking major subdivision or major plan approval.
- B. This section is adopted pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) and subsequent amendments and supplements thereto in order to establish rules, regulations, standards and procedures for approval of all development other than single-family detached dwellings or uses accessory thereto in order to:
 - (1) Preserve existing natural resources and give proper consideration to the physical constraints of the land.
 - (2) Provide for safe and efficient vehicular and pedestrian circulation.
 - (3) Provide for screening, landscaping, signing and lighting.
 - (4) Ensure efficient, safe and aesthetic land development.
 - (5) Provide for compliance with appropriate design standards to ensure adequate light and air, proper building arrangements, and minimum adverse effect on surrounding property.
 - (6) Develop proper safeguards to minimize the impact on the environment including but not limited to soil erosion and sedimentation and air and water pollution.
 - (7) Ensure the provision of adequate water supply, drainage and stormwater management, sanitary facilities, and other utilities and services.
 - (8) Provide for recreation, open space and public use areas.
 - (9) The applicant or his or her agent shall appear at all regular and special meetings of the Planning Board or Zoning Board whenever the application is being considered. Failure to appear shall give the Planning Board or Zoning Board the right to postpone action on the application for that particular meeting or deny and dismiss the application without prejudice if applicant or his agent's absence deprives the Planning Board or Zoning Board of information necessary to make a decision

§ 96-25. Filing, referral, classification and completeness procedures.

- A. Filing. The applicant shall submit 20 copies of all required exhibits as set forth under the appropriate subdivision/plan review stage of this article together with an application form and all applicable fees to the Board Secretary. The time for the Board's review shall not begin to run until the receipt of a certified complete application with the required fee. **[Amended 8-3-2006 by Ord. No. O-2006-2]**
- B. Referral. The Board Secretary shall forward, upon receipt of a subdivision/site plan application in proper form with requisite fees, one copy of each application to the Board Attorney, Township Planner, Environmental Consultant and Township Engineer for their determination of completeness and classification of the subdivision. The Township Planner and Engineer shall report back to the Planning Board Secretary within 10 days of the filing date whether the application is complete or noting items omitted or other deviations of ordinances, who shall transmit such information to the applicant within the statutory time period.
- C. Completeness. An application for development shall be complete for purposes of commencing the applicable time period for action by a municipal agency when so certified by the above. In the event that the application is not certified to be complete within 45 days of the date of its submission, the application shall be deemed complete upon the expiration of the date of the forty-five-day period for purposes of commencing the applicable time period unless the application lacks information indicated on a checklist adopted by ordinance and provided to the applicant and the municipal agency has notified the applicant, in writing, of the deficiencies in the application. The applicant must request that one or more of the submission requirements be waived, in which event the agency or its authorized committee shall grant or deny the request within 45 days. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that they are entitled to approval of the application. The municipal agency may subsequently require correction of information found to be in error and submission of additional information not specified in the ordinance or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the municipal agency. **[Added 7-20-2004 by Ord. No. O-2004-6]**
- D. Classification. The Planning Board Secretary shall preliminarily determine whether the Planning Board or Zoning Board of Adjustment has approval jurisdiction on the application. The Board Secretary may confer with the Township Attorney in making this determination. The Planning Board Secretary shall classify the application as either a minor or major subdivision. These determinations and classifications by the Secretary are subject to review and final decision by the respective Boards.
- E. Submission checklist. There is adopted by ordinance an official submission checklist which specifies the information that must accompany all applications under this chapter. No application shall be deemed complete under N.J.S.A. 40:55D-10.3 unless these requirements have been met or waived from same requested by the applicant.¹⁰ **[Added 7-20-2004 by Ord. No. O-2004-6; amended 4-3-2008 by Ord. No. O-2-2008]**

§ 96-26. Requirements common to concept, minor, preliminary and/or final plat stages. [Amended 8-3-2006 by Ord. No. O-2006-2]

- A. Map details. All maps or other documents submitted for subdivision plat or site plan review shall contain the following information in addition to specific plat/plan details as required for each review stage noted herein:

10. Editor's Note: The current Land Development Checklist is on file in the Planning and Zoning office.

- (1) Title and location of the property.
- (2) Name and address of landowner and applicant. If a corporation is landowner or applicant, the principal office and name of president and secretary shall be included.
- (3) Name, address and professional license number and seal of the professional preparing documents and drawings. All plats or plans, except those prepared at the sketch stage, shall be signed and sealed by a licensed public engineer, planner, or land surveyor of the State of New Jersey.
- (4) Place for signature of the Chairman and Secretary of the Planning Board.
- (5) Date of plat and any modifications thereto.
- (6) The following legends shall be on the plat map:

(SKETCH)

(PRELIMINARY) or (FINAL)

- a. PLAN OF: _____
 BLOCK: _____ LOT: _____ ZONE: _____
 DATE: _____ SCALE: _____
 APPLICANT: _____
 ADDRESS: _____
 CONTROL NO.: _____
- b. I CONSENT TO THE FILING OF THIS SUBDIVISION PLAT/PLAN WITH THE PLANNING BOARD OF ELK TOWNSHIP.

(Owner)

(Date)

- c. To be signed before issuance of a building permit and incorporated only on a final plat of a major subdivision or final plan (as applicable).

(If Improvements Installed) _____

(Township Engineer)

(Date)

(If Bond Posted) _____

(Township Clerk)

(Date)

- d. The appropriate approval signature block to be incorporated depending on whether subdivision is a minor or a major or plan is receiving preliminary or final approval (check appropriate line).

1. Minor Subdivision _____

2. Major Subdivision _____

3. Preliminary Plan _____

4. Final Plan _____

Approved _____

(Date of Board Approval)

(Chairman)

(Date)

(Planning Board Secretary)

(Date)

e. EXPIRATION OF APPROVAL

Major Subdivision: Preliminary 3 Years

Major Subdivision: Final 2 Years

Minor Subdivision 2 Years

Preliminary Plan 3 Years

Final Plan 2 Years

Date (without extensions): _____

Note: Deed to subdivision must be filed with County Clerk within 190 days of date of adoption of resolutions of Board approval.

- B. Other information. The Planning Board may require such additional information not specified in this section, or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the municipal agency.

§ 96-27. (Reserved)**§ 96-28. Compliance with other ordinances.**

- A. Information and documents required for other Township codes and ordinances such as soil erosion and sedimentation plans or stormwater management plans¹¹ shall be submitted as part of an application for subdivision approval and may be used to comply with subdivision submission requirements for particular stages as applicable.
- B. Waiver of information required. The Planning Board may waive submission of any required exhibits in appropriate cases and for specific subdivision plats. Request for such waivers shall accompany a subdivision application, stating the reasons why such waiver(s) is being requested.

§ 96-29. General development plan requirements.

- A. Applicants of planned developments of at least 100 acres comprised of a minimum of 75 dwelling units, or 150,000 square feet of nonresidential building area, shall have the option of bifurcating preliminary approval into two phases: phase one, general development plan, and phase two, preliminary approval. An applicant may seek variances for density, nonresidential square footage or use at the time of phase one submission. All other variances shall be sought at phase two.
- B. An applicant for planned unit development (PUD), planned residential development (PRD), or planned industrial development (PID) approval shall first submit a general development plan (GDP) for approval by the Planning Board. The GDP shall follow generally the procedures and submission

11. Editor's Note: See Ch. 65, Flood Damage Prevention.

requirements contained in the New Jersey enabling statutes of the Municipal Land Use Law¹² and in this chapter. Fifteen copies of the GDP shall be submitted to the Administrative Officer and shall contain the following information:

- (1) A general land use plan at a scale not less than one inch equals 200 feet indicating the tract area and general locations of the land uses to be included in the planned development. The total number of dwelling units and amount of nonresidential floor area to be provided and proposed land area to be devoted to residential and nonresidential use shall be set forth. In addition, the proposed types of nonresidential uses to be included in the planned development shall be set forth and the land area to be occupied by each proposed use shall be estimated. The density and intensity of the use of the entire planned development shall be set forth, and a residential density and a nonresidential floor area ratio shall be provided.
- (2) Circulation plan showing the general location and types of transportation facilities, including facilities for pedestrian access within the planned development and any proposed improvements to the existing transportation system outside the planned development.
- (3) An open space plan showing the proposed land area and general location of parks and any other land areas to be set aside for conversation and recreational purposes and a general description of improvements proposed to be made thereon, including a plan for the operation and maintenance of said lands.
- (4) A utility plan indicating the need for and showing the proposed location of sewage and water lines, any drainage facilities necessitated by the physical characteristics of the site, proposed methods for handling solid waste disposal and a plan for the operation and maintenance of proposed utilities.
- (5) A stormwater management plan setting forth the proposed method of controlling and managing stormwater on the site.
- (6) An environmental inventory including a general description of the vegetation, soils, topography, geology, surface hydrology, climate and cultural resources of the site's existing man-made structures or features and the probable impact of the development on the environmental attributes of the site.
- (7) A community facility plan indicating the scope and type of supporting community facilities which may include, but not be limited to, educational or cultural facilities, historic sites, libraries, hospitals, firehouses and police stations.
- (8) A housing plan outlining the number of housing units to be provided and the extent to which any housing obligation assigned to the municipality pursuant to P.L. 1985, c. 222,¹³ will be fulfilled by the development.
- (9) A local service plan indicating those public services which the applicant proposes to provide and which may include, but not be limited to, water, sewer, cable and solid waste disposal.
- (10) A fiscal report describing the anticipated demand on municipal services to be generated by the planned development and any other financial impacts to be faced by the municipality or school districts as a result of the completion of the planned development. The fiscal report shall also

12. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

13. Editor's Note: See N.J.S.A. 52:27D-301 et seq.

include a detailed projection of property tax revenues which will accrue to the county, municipality and school districts according to the timing schedule provided under Subsection B(11) of this section and following the completion of the planned development in its entirety.

- (11) A proposed timing schedule in the case of a planned development whose construction is contemplated over a period of years, including any terms or conditions which are intended to protect the interests of the public and of the residents who occupy any section of the planned development prior to the completion of the development in its entirety.
- (12) A municipal development agreement, which shall mean a written agreement between a municipality and a developer relating to the planned development.

C. General development plan (GDP) approval procedure.

- (1) Any developer of a parcel of land greater than 100 acres in size for which the developer is seeking approval of a planned development shall submit a general development plan to the Planning Board prior to the granting of preliminary approval of that development by the Planning Board pursuant to Article VI.
- (2) The Planning Board shall grant or deny general development approval within 95 days after submission of a complete application to the Administrative Officer, or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute GDP approval of the planned development.

D. General development plan; timing schedule; modification.

- (1) If, after the approval of a GDP, the applicant wishes to revise the timing schedule, or wishes to make any variation in the location of land uses within the development, or to increase the density of residential development or the floor area ratio of nonresidential development in any section of the development, the applicant shall be required to gain the prior approval of the reviewing board, except that the applicant may reduce the number of residential units or amount of nonresidential floor space by no more than 15%, or reduce the residential density or nonresidential floor area ratio by no more than 15%; provided, however, that an applicant may not reduce the number of low- and moderate-income residential units to be provided, if any, without the prior approval of the reviewing board, and provided further there shall be no reduction in the level of improvements, off-tract contributions, or similar conditions of the general development plan (GDP) without prior approval of the Board.
- (2) A revision to the timing schedule shall be reviewed by the reviewing board and the granting or denial of any extensions of time shall be based on the degree to which matters are judged to be, or have been, within the reasonable control of the applicant, or the degree to which matters may have been beyond the control of the applicant.
- (3) Upon acquiring a certificate of occupancy for every residential unit and every nonresidential structure in each section of the development as set forth in the approved GDP, the applicant shall notify the Administrative Officer, by certified mail, as evidence that the applicant is fulfilling his obligations under the approved GDP. If the Township does not receive such notification at the completion of any section of the development, the Township shall notify the applicant, by certified mail, in order to determine whether the terms of the approved plan are being complied with.
- (4) If the applicant does not complete any section of development within eight months of the date

provided for in the approved GDP, or if at any time the Township has cause to believe that the applicant is not fulfilling their obligations pursuant to the approved GDP, the Township shall notify the applicant, by certified mail, and the applicant shall have 10 days within which to give evidence that they are fulfilling their obligations pursuant to the approved GDP. The Township thereafter shall conduct a hearing to determine whether the applicant is in violation of the approved GDP. If after the hearing, the Township finds good cause to terminate the approval, it shall provide written notice of same to the applicant, and the approval shall be terminated 30 days thereafter.

- (5) In the event that an applicant who has GDP approval does not apply for preliminary site plan or subdivision approval for the planned development which is the subject of the GDP approval within five years of the date upon which the GDP has been approved by the reviewing board, the Township shall have cause to terminate the approval. For purposes of this article, the application for preliminary approval within the five-year period as required herein will be satisfied by submitting one or more applications for one or more sections of a phased development within this five-year period, and will remain in compliance provided subsequent preliminary plat submissions for further sections of the development are submitted in a timely manner consistent with the timing schedule approved as part of the general development plan (GDP).
- (6) In the event that a development which is the subject of an approved GDP is completed before the end of the term of the approval, the approval shall terminate and the development shall be considered complete on the date upon which the certificate of occupancy has been issued for the final residential and nonresidential structure in the last section of the development in accordance with the timing schedule set forth in the approved GDP and the applicant has fulfilled all his obligations pursuant to the approval.

E. General development plan hearing on modifications required.

- (1) Except as provided hereunder, the developer shall be required to gain the prior approval of the Planning Board if, after approval of the GDP, the developer wishes to make any modification in the location of land uses within the planned development or to increase the density of residential development or the floor area ratio of nonresidential development in any section of the planned development.
- (2) Any modification in the location of land uses or increase in density or floor area ratio proposed in reaction to a negative decision of, or condition of development approval by the New Jersey Department of Environmental Protection (NJDEP), shall be approved by the Planning Board if the developer can demonstrate to the satisfaction of the Planning Board that the modification being proposed is a direct result of such determination by the NJDEP.

F. General development plan (GDP) certification upon completion; general development plan failure to complete or comply; GDP termination of approval.

- (1) Upon the completion of each section of the development as set forth in the approved GDP, the developer shall notify the Board Secretary by certified mail as evidence that the developer is fulfilling his obligations under the approved plan. For the purpose of this section, "completion of any section of the development" shall mean that the developer has acquired a certificate of occupancy for every residential unit or every nonresidential structure, as set forth in the approved GDP. If the municipality does not receive such notification at the completion of any section of the development, the municipality shall notify the developer, by certified mail, in order to determine whether or not terms of the approved plan are being complied with. If a

developer does not complete any section of the development within eight months of the date provided for in the approved plan, or if at any time the municipality has cause to believe that the developer is not fulfilling their obligations pursuant to the approved plan, the municipality shall notify the developer, by certified mail, and the developer shall have 10 days within which to give evidence that they are fulfilling their obligation pursuant to the approved plan. The municipality thereafter shall conduct a hearing to determine whether the developer is in violation of the approved plan. If, after such a hearing, the municipality finds good cause to terminate the approval, it shall provide written notice of same to the developer, and the approval shall be terminated 30 days thereafter.

- (2) In the event that a developer who has general development plan (GDP) approval does not apply for preliminary approval for the planned development which is subject of that GDP approval within five years of the date upon which the GDP has been approved by the Planning Board, the municipality shall have cause to terminate the approval.
- (3) GDP satisfactory completion. In the event that a development which is the subject of an approved GDP is completed before the end of the term of the approval, the approval shall terminate with the completion of the development. For the purpose of this section, a development shall be considered complete on the date upon which a certificate of occupancy has been issued for the final residential or nonresidential structure in the last section of the development in accordance with the timing schedule set forth in the approved GDP and the developer has fulfilled all of his obligations pursuant to the approval.

§ 96-30. Concept site plans for minor or major subdivisions.

- A. Objectives of review. Applicants for preliminary approval are encouraged to submit for review by the Development Review Committee, if adopted or created by Township Committee, concept plans for informal discussions and recommendations. The concept plan shall be reviewed to determine the proposal's compliance with applicable Township ordinances and the general site design concept, including use, location and bulk; buildings and improvements; density; open space; traffic and pedestrian patterns; and other general design components. The concept plan shall be to scale, but detailed dimensions need not be shown.
- B. Concept plans shall be used as a basis for changes and redesign so as to avoid undue expense and delay in preparing more detailed plans and specifications in subsequent review stages. The Review Committee shall not be governed by any statutory time limits in its review of concept plans, and it is expressly understood that compliance with the Review Committee recommendations shall not bind the Board in subsequent deliberations.
- C. Application. Twenty copies of the concept plan, an application in a form approved by the Planning Board, and the requisite fee, if deemed a major subdivision, shall be delivered to the Planning Board Secretary in accordance with the procedures set forth herein. **[Amended 8-3-2006 by Ord. No. O-2006-2]**
- D. Concept plan details. The concept plan may be prepared by the applicant and contain sufficient information for discussion by the Development Review Committee and the applicant.
- E. Minor plan. In addition to the information required for a zoning permit, all minor plans shall fulfill the information requirements of this section prior to review by the reviewing board, which shall be set forth in a checklist and provided to each applicant. Minor plans shall show the proposed improvements, alterations or change of use on a copy of a plan which has been duly approved, if there

be one, or on a plan signed by a New Jersey licensed engineer, architect or land surveyor who prepared it, showing the following:

- (1) Name and address of the property owner and applicant.
 - (2) The proposed addition or modification, the location of parking areas, and the number of parking spaces; all dimensioned and referenced to lot lines and center lines of streets.
 - (3) The existing and proposed use of all buildings, structures or parts thereof.
 - (4) The existing and proposed type of paving.
 - (5) Location and delineation of all freshwater wetlands and freshwater wetland transition areas.
 - (6) The block, lot and Tax Map sheet numbers, as per the Assessor's records.
 - (7) The north designation, by arrow.
 - (8) The names and widths of all abutting streets.
 - (9) The on-site accessways, existing and proposed, with referenced dimensions.
 - (10) The curb openings, existing and proposed, with referenced location, width at curblines and at the property line.
 - (11) The location of all stormwater inlets within 100 feet of the property boundaries.
 - (12) Such other details as may apply to the proposed improvements or change of use.
- F. Minor subdivision plats shall be required to rely only on existing information available from the Township Master Plan documents, natural resource inventory and engineering data available from the Township Engineer.
- G. All plats shall be based on accurate information at a scale of not more than one inch equals 100 feet to enable the entire tract to be shown on one sheet.
- H. Plats shall include the items listed below and be signed by the New Jersey licensed engineer, architect or land surveyor who prepared it, showing the following:
- (1) A location map showing the entire tract to be subdivided, giving the accurate location of all existing and proposed property and street lines, at a scale of one inch equals 2,000 feet or larger scale, showing the entire subdivision and its relation to all features shown on the Official Map and Master Plan and located within 1/2 mile of the extreme limits of the subdivision and the zoning classification of the proposed subdivision and of adjacent land.
 - (2) The location of existing houses, buildings and other structures, with accurate dimensions from all existing and proposed lot lines, wooded areas and isolated trees more than five inches in diameter, and topography with the portion to be subdivided and within 200 feet thereof, at twenty-foot, or smaller, contour intervals. (USGS topographic quadrant maps are acceptable for topography at this stage).
 - (3) The name of the owner, all adjoining property owners and those across existing or proposed streets as disclosed by the most recent Township tax records.
 - (4) The Tax Map sheet, date of revision, block and lot numbers and zone district of the tract

proposed to be subdivided.

- (5) The location of existing or proposed streets, roads, easements, public rights-of-way, streams, bridges, culverts, drainage ditches and natural watercourses in and within 500 feet of the subdivision. Also, indicate all Township Master Plan proposals on-site or off-tract within 500 feet of the proposed subdivision.
 - (6) The original and proposed lot layout, lot dimensions, all required setback lines, and lot area of each lot in square feet and acreage. Lots shall be designated by letters for minor subdivisions and by consecutive numbers for major subdivisions until given official lot number designations by the Township Tax Assessor.
 - (7) As applicable, date of original preparation and date of revision, if any, or plat, as well as old name if submitted previously under different title.
 - (8) Acreage of tract to be subdivided to nearest tenth of acre, and if open space cluster, area of the open space.
- I. Distribution. If classified as a minor subdivision, one copy of the plat shall be retained for the Planning Board file and one copy of the plat shall be forwarded by the Board Secretary to each of the following for review and comment:
- (1) Township Planning Board.
 - (2) Township Planner.
 - (3) Township Tax Assessor.
 - (4) Planning Board Attorney.
 - (5) Township Engineer.
 - (6) Township Construction Official.
 - (7) Fire Chief.
 - (8) Other agencies as may be determined by the Planning Board (e.g., school board secretary, clerk of adjoining township, NJDOT, etc.).
- J. Action.
- (1) The Planning Board shall act within 45 days of the application being certified as a complete application for a minor subdivision or within such further time as may be consented to by the applicant. Failure of the reviewing board to act within the prescribed time period shall constitute approval of the application.
 - (2) The Board shall not approve or conditionally approve the minor subdivision prior to receipt of comments by the above agencies or officials, or before 30 days from the filing date has elapsed without any comments, whichever occurs first. Further, the Planning Board shall have the right to approve or change the classification of the subdivision by a majority vote.
- K. If approved, a notation to the effect shall be made on the plat and it shall be signed by the Planning Board Chairman and the Planning Board Secretary and returned to the subdivider within one week following the memorialization of the Planning Board's official action.

- L. If rejected, the reasons for rejection shall be noted in the resolution adopted by the Board. The Planning Board may attach conditions of approval to any minor subdivision.
- M. Filing with County Recording Officer. If approved as a minor subdivision, a plat drawn in compliance with Chapter 141 of the Laws of 1960¹⁴ or a deed stamped with the date of the Planning Board approval shall be filed by the subdivider with the County Recording Officer and Township Engineer within 190 days from the date on which the resolution of approval was adopted. If not filed within this period, said subdivision approval shall expire.
- N. Approved minor subdivisions; municipal distribution. Before the Construction Official issues a building permit for the approved minor subdivision, the applicant shall provide the Board Secretary with a certificate of filing from the County Clerk's office. The Board Secretary shall distribute copies of the approved subdivision to each of the following:

Distribution	Number of Prints
Township Engineer	2
Tax Assessor	1
Zoning Officer	1
Applicant	1
Planning Board file	1
Construction Official	1 for each lot and block

- O. Effect of minor subdivision approval. The granting of minor subdivision approval shall guarantee the zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision approval was granted, shall not be changed for a period of two years after the date the adoption of resolution of approval, provided the minor subdivision shall have been duly recorded as provided herein. Applicants shall be responsible for necessary approvals prior to development as may be required by other Township codes and ordinances.

§ 96-31. Preliminary approval for major subdivision.

- A. Objectives of review.
 - (1) The preliminary plat shall be reviewed to determine the acceptability of the detailed design concept and shall be in sufficient detail to enable the Board to ascertain compliance with the performance standards and other standards of this section as well as applicable Township ordinances.
 - (2) Applications for planned unit developments or major plans shall have the option of bifurcating preliminary approval into two phases: phase one, general development plan, and phase two, preliminary approval. An applicant may seek variances for density, nonresidential square footage or use along with phase one. All other variances shall be sought at phase two.
- B. Application. Twenty copies of the preliminary plat, an application in a form approved by the Planning Board, and the requisite fee shall be delivered to the Board Secretary in accordance with the procedures set forth herein. **[Amended 8-3-2006 by Ord. No. O-2006-2]**

14. Editor's Note: See N.J.S.A. 46:23-9.9 et seq.

- C. Preliminary plat details. The preliminary plat, notwithstanding any other requirement stipulated by this article, shall be clearly and legibly drawn or reproduced at a scale of not less than one inch equals 100 feet and shall contain or be accompanied by the following information, except the Planning Board may waive any requirement or request additional information where it is clearly appropriate to the particular application:
- (1) A key map at a scale not smaller than one inch equals 2,000 feet showing the relation of the portion to be subdivided to the entire tract, and the relation of the entire tract to the neighborhood for at least 1,000 feet beyond its boundaries.
 - (2) The tract name, Tax Map sheet, block and lot number, date reference meridian, graphic scale and the following names and addresses:
 - (a) Name and address of record owner or owners.
 - (b) Name and address of the subdivider, and if a partnership or corporation, names of all individuals having more than 10% ownership.
 - (c) Name and address of person who prepared plat.
 - (d) Names of adjacent and facing owners.
 - (3) Acreage of tract to be subdivided to nearest tenth of an acre.
 - (4) Contours at five-foot intervals for slopes averaging 10% or greater, and at one-foot intervals for land of lesser slope shall be required. Contours shall be in the United States Coast and Geodetic Control Survey Datum. At least two permanent bench marks for each 50 acres or portion thereof shall be established on opposite ends of the proposed subdivision, and their locations, descriptions and elevations shall be noted on the preliminary plat. For preliminary applications only, the applicant may rely on existing topographic information on file in the Township Engineer's office, provided there have been no major changes in the site's topography, and that if requested by the Township Engineer, specific portions of the site topography will be updated if required, at the applicant's expense, to approve the project's stormwater control drainage plan.
 - (5) The location of existing and required setback lines, streets within 200 feet of the subdivision, the location of existing and proposed buildings, watercourses, floodplains, railroads, bridges, culverts, drain pipes, and all natural features such as wooded areas and rock formations. Also indicate all Township Master Plan proposals on-site or off-tract within 500 feet of the proposed subdivision.
 - (6) When a public sewage disposal system is not available, the current rules, regulations and procedures of the County Board of Health shall be followed in submission of sufficient percolation test and soil log data that will enable the Board of Health to make a recommendation to the Township Planning Board. An adverse report by the County Health Department shall be deemed as sufficient grounds for the Planning Board to disapprove said subdivision or portion thereof. The Planning Board will not reconsider any subdivision, or portion thereof, so disapproved until the requirements of the Board of Health are met.
 - (7) A copy of any protective covenants or deed restrictions applying to the land being subdivided shall be submitted with the preliminary plat.
 - (8) Plans and profiles showing proposed utility layouts (sanitary sewers, storm drains, water, detention basins, etc.) showing feasible connections to existing or proposed utility systems.

Cross sections of streets may be required by the Township Engineer. Locations of fire hydrants and streetlights shall be established with the aid of the Township fire protection official and the Township Engineer, respectively.

- (9) Each block and lot shall be numbered in accordance with the system of numbers which will ultimately be the numbers shown on the Township Tax Map.
- (10) A drainage plan shall be submitted which shall show the existing contours, proposed finished grade elevations at street intersections and breaks in grade, proposed rates of grades of streets, locations of drainage subbasin limits, proposed method of block drainage including proposed (down) slope arrows, all drainage systems and structures, including sizes and invert and casting elevations. The plan shall be accompanied by a set of drainage computations certified by a professional engineer. Where brook or stream channel improvements are proposed or required, the plans for such improvement shall be approved by the Department of Environmental Protection or the Gloucester County Planning Board, where applicable.
- (11) All proposed lot lines, dimensioned in feet and tenths, and the approximate area of all lots in square feet as well as any open spaces proposed to be dedicated for public use.
- (12) When the development of the subdivision or improvements within the subdivision are contingent upon improvements outside the boundaries of said subdivision, information shall be supplied by the subdivider prior to Planning Board consideration for preliminary approval that the improvements outside the subdivision shall be installed and shall be available to the subdivider prior to the issuance of any certificate of occupancy for the project or phase of a project that is the subject of a development application.
- (13) Any open space proposed to be dedicated for public use, playgrounds or other public purpose, and the location and use of all such property shall be shown on the plat.
- (14) When deemed necessary to determine the suitability of the soil to support new construction, the Planning Board may require as a condition of final approval, test holes or borings to be made by a licensed New Jersey engineer or an approved testing laboratory at the expense of the subdivider under the direction of the Township Engineer, prior to the commencement of construction.
- (15) Statement accompanying preliminary plat indicating type of structure(s) to be erected; approximate date of construction start, a phasing plan for the entire subdivision indicating the estimated number of lots on which final approval will be requested for the first section.
- (16) All items as in a full or partial environmental impact statement or statement as to why certain items may not apply.
- (17) A traffic signage plan in conformance with accepted engineering standards.
- (18) Fresh water wetlands certification or Department of Environmental Protection verified determinations.
- (19) All required construction details.
- (20) A landscape plan, prepared by a certified or licensed landscape architect, at a minimum scale of one inch equals 50 feet or larger. Different graphic symbols shall be used to show location and spacing of shade trees, ornamental trees, evergreen trees, shrubs, and ground cover. The size of the symbol must be representative of the size of the plant and shown to scale. The plan shall:

- (a) Illustrate the proposed plan elements as they relate to existing structures and site amenities, including existing woodlands, isolated trees greater than five inches in caliper, existing topographic contours, and any and all other natural environmental features;
- (b) Show the intent, location, and type of all existing and proposed landscaping and buffering;
- (c) Conceptually indicate plant types and general construction materials to be used, as appropriate;
- (d) Provide on-site photographs of existing features and topography, as appropriate;
- (e) Contain a planting schedule, including specific plant botanical and common names, sizes, root, spacing, and comments;
- (f) Indicate all existing vegetation to be saved or removed;
- (g) Show the location, form, height and width of other landscape architectural materials such as berms, fences, walls, site furniture, bridges, and walks. When required, a section to show the effective height of a proposed berm or fence in relation to the height of the area being screened from should be provided (i.e., center line of road to building); and,
- (h) Show all open space areas in adjacent developments on the project location map.

D. Preliminary plat review.

- (1) Preliminary plat review shall be within 45 days of the submission to the Board Secretary of a certified complete subdivision plat application for 10 lots or less, within 95 days of submission of a certified complete application for a subdivision application of more than 10 lots, or within such further time as may be agreed upon by the developer that the Planning Board shall act upon the application.
- (2) Distribution. Upon receipt of a complete application, the Board Secretary shall submit one copy to each member of the Subdivision Committee and one copy of the application to the following professionals and boards:
 - (a) Township Planning Board.
 - (b) Township Planner.
 - (c) Township Tax Assessor.
 - (d) Planning Board Attorney.
 - (e) Township Engineer.
 - (f) Township Construction Official.
 - (g) Township Fire Chief.
 - (h) Fire Inspector. **[Amended 8-3-2006 by Ord. No. O-2006-2]**
 - (i) Chief of Police. **[Added 8-3-2006 by Ord. No. O-2006-2]**
 - (j) Other agencies as may be determined by the Planning Board (e.g., school board secretary, clerk of adjoining township, NJDOT, etc.). **[Amended 8-3-2006 by Ord. No. O-2006-2]**

- E. Preliminary plat hearing. All actions of the Planning Board on preliminary subdivision plats shall be after a public hearing. Public notice of an application as provided in this chapter shall be required for all major subdivision plats. Applicants for major subdivision plats requiring variances by the Planning Board shall also be required to provide public notice of application.
- F. Preliminary plat action. After the conclusion of the hearing, but in no event later than the first regular meeting following the hearing, the Planning Board shall by resolution approve, disapprove, or conditionally approve the preliminary plat, stating findings of facts and conclusions based thereon.
- G. Effect of preliminary approval. Preliminary approval of a subdivision plat shall, except as provided in § 96-30 herein, confer upon the applicant the following rights for a three-year period from the date of the preliminary approval:
 - (1) The general terms and conditions on which preliminary approval was granted shall not be changed including but not limited to use requirements, layout and design standards for streets, curbs and sidewalks, lot size; yard dimension and on-site and off-tract improvements, and any requirements peculiar to the specific subdivision plat. The Township may modify by ordinance such general terms and conditions of preliminary approval as they relate to public health and safety.
 - (2) The applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary subdivision plat.
- H. Extension of preliminary approval.
 - (1) The applicant may apply for and the Planning Board may grant extensions on such preliminary approval for additional periods of at least one year but not to exceed a total extension of two years provided that if the design standards have been revised by ordinance, such revised standards may govern.
 - (2) In the case of a subdivision plat for an area of 50 acres or more, the Planning Board may grant the rights referred to above for such period of time, longer than three years, as shall be determined by the Planning Board to be reasonable taking into consideration the number of dwelling units and nonresidential floor area permissible under preliminary approval, economic conditions and the comprehensiveness of the development. The applicant may apply for thereafter and the Planning Board may thereafter grant an extension to preliminary approval for such additional period of time as shall be determined by the Planning Board to be reasonable taking into consideration the number of dwelling units and nonresidential floor area permissible under preliminary approval, the potential number of dwelling units and nonresidential floor area of the section or sections awaiting final approval, economic conditions and the comprehensiveness of the development, provided that if the design standards have been revised, such revised standards may govern.
- I. Approved preliminary plat municipal distribution. The Board Secretary shall distribute copies of the approved preliminary plat with construction plans to each of the following: **[Amended 8-3-2006 by Ord. No. O-2006-2]**

Distribution**Number of Prints**

Township Engineer

1

Applicant

1

Planning Board file	1
Township Fire Chief	1
Chief of Police	1

§ 96-32. Preliminary site plan approval.

- A. Application. Twenty copies of the preliminary plan, an application in a form approved by the Planning Board, and the requisite fee shall be delivered to the Planning Board Secretary. **[Amended 8-3-2006 by Ord. No. O-2006-2]**
- B. Preliminary plan details. The preliminary plan application technical materials, notwithstanding any other requirements of this or other Township ordinances, which shall be set forth in a checklist and provided to each applicant, shall contain the following:
- (1) Locator map at a scale of one inch equals 2,000 feet, or larger scale, showing the lot and block number of the parcel in question and the lot and block numbers of adjacent and opposite properties. This map should also show any contiguous lot in which the applicant has any direct or indirect interest, and the nature of their interest.
 - (2) Photographs of the property where necessary to show any unusual topographic, environmental or physical aspect of the site. This would include but not be limited to vegetation, natural drainageways, wetlands and existing structures and improvements.
 - (3) A preliminary plan at a scale of one inch equals 50 feet, or larger scale, and any supplemental plans that are necessary to properly depict the project. In the case of a complex project, a scale other than one inch equals 50 feet may be submitted provided that one copy of a photomechanical reduction to a scale of one inch equals 50 feet is submitted. The preliminary plan shall show at least the following information:
 - (a) North arrow, scale, graphic scale, date and notes and dated revisions.
 - (b) The zoning district in which the parcel is located together with the district boundaries included within the boundaries of the parcel or within 200 feet therefrom. All setback lines, landscape strips and buffers, building heights and other bulk requirements shall be shown and dimensioned. Any deviation from requirements of this section shall be specifically shown.
 - (c) Survey map, prepared by a New Jersey licensed surveyor, showing boundaries of the properties, lines of all existing streets and roads, easements, rights-of-way, and areas dedicated to public use within 200 feet of the development. These shall be dimensioned, and where applicable, referenced as to direction.
 - (d) Reference to any existing or proposed deed restrictions or exceptions concerning all or any portion of the parcel. A copy of such covenants, deed restrictions or exceptions shall be submitted with the application.
 - (e) The existing and proposed contours, referred to U.S. Coast and Geodetic Survey Datum, at a contour interval of not less than one foot. Existing contours are to be indicated by solid lines. Location of high points, watercourses, drainageways, depressions, ponds, marshes, vegetation, wooded areas and other significant existing features, including previous flood elevations of watercourses, ponds and areas as determined by survey.

- (f) The location, size, elevation, slope and type of storm drainage structures and other utility structures, above and below grade, whether publicly or privately owned. Design calculations supporting the adequacy of proposed drainage structures and/or surface drainage shall be submitted. The plan shall include existing ponds, streams and watercourses as well as the designated open space, if applicable.
- (g) The location of all existing buildings, bridges, culverts, paving, lighting, signs or any other structures with grade elevations for each structure.
- (h) The distances measured along the right-of-way lines of existing streets abutting the property to the nearest intersection with other streets.
- (i) The proposed use or uses of the land, buildings and structures.
- (j) The quantitative aspects of the proposal such as improvement coverage, number of units, square feet of construction, density, coverage, number of employees, number of residents and area of land, etc. Specifically identified on the plan, in tabular form, shall be pertinent zoning data, indicating the bulk/area requirements of the zone in which the proposed development is located and how the proposed development corresponds to the zoning requirements.
- (k) The proposed buildings and structures and any existing structures to remain, with dimensions, setbacks, heights (in feet and stories), and first floor or grade elevations. Existing buildings and structures to be removed shall be indicated. Sketch typical building elevations indicating type of material to be used.
- (l) The location and design of any off-street parking areas, bicycle parking, service, trash or loading areas showing size and location of bays, aisles, barriers, planters, maneuvering areas, and traffic patterns.
- (m) The means of vehicular access for ingress to and egress from the site, showing the proposed traffic channels, lanes and any other structure or device intended to control traffic.
- (n) The location, design, and size of on- or off-site pedestrian parks and bicycle pathways, open space, common open space, plazas and recreation areas or any other public use areas.
- (o) The location and design of all proposed utility structures and lines, stormwater drainage on site and off tract, with manholes, inlets, pipe sizes, grades, inverts and directions of flow, as well as telephone, power and light, water hydrant locations, sewer and gas, whether publicly or privately owned. Where on-site sewage disposal systems and/or potable water wells are provided these shall be located on the plan indicating size of system and distance between wells and septic fields.
- (p) The location and design of the proposed screening, landscaping and planting, including a planting plan and schedule of plant materials.
- (q) The location of all outdoor lighting (freestanding or on building), the size, nature of construction, lumens, heights, area and direction of illumination, footcandles produced, typical manufacturer cuts illustrating style, and time controls proposed for outdoor lighting and display.
- (r) The location and design of all signs, the size, nature of construction, height and orientation,

including all identification signs, traffic and directional signs and arrows, freestanding and facade signs and time controls for sign lighting.

- (s) The location and size of all proposed easements, rights-of-way, public areas to be dedicated to the public or to be restricted or defined by deed or any other arrangement. Also the location of any Master Plan proposals indicating roadway, public area or facility shall be shown.
- (t) A tabulation of a proposed building's perimeter that fronts on a public or private street or on a fire apparatus space expressed in feet as well as percentage of total building perimeter linear footage shall be indicated as part of site data information on a plan.
- (4) All items as required in the environmental impact statement or statement concerning such which does not apply.
- (5) Where applicable, the method by which any common or public open space or commonly held building or structure is to be owned and maintained.
- (6) Such other material deemed necessary by the Planning Board to evaluate the physical, fiscal or socioeconomic impact of the proposed development upon the Township.
- (7) A landscape plan at a minimum scale of one inch equals 50 feet or larger. Different graphic symbols shall be used to show location and spacing of shade trees, ornamental trees, evergreen trees, shrubs, and ground cover. The size of the symbol must be representative of the size of the plant and shown to scale. The plan shall:
 - (a) Illustrate the proposed plan elements as they relate to existing structures and site amenities, including existing woodlands, isolated trees greater than five inches in caliper, existing topographic contours, and any and all other natural environmental features;
 - (b) Show the intent, location, and type of all existing and proposed landscaping and buffering;
 - (c) Conceptually indicate plant types and general construction materials to be used, as appropriate;
 - (d) Provide on-site photographs of existing features and topography, as appropriate;
 - (e) Contain a planting schedule, including specific plant botanical and common names, sizes, root, spacing, and comments;
 - (f) Indicate all existing vegetation to be saved or removed;
 - (g) Show the location, form, height and width of other landscape architectural materials such as berms, fences, walls, site furniture, bridges, and walks. When required, a section to show the effective height of a proposed berm or fence in relation to the height of the area being screened from should be provided (i.e., center line of road to building); and,
 - (h) Show all open space areas in adjacent developments on the project location map.
- (8) A traffic signage plan conforming to the requirements of § 96-64.
- C. Preliminary plan review. Within 45 days of receipt by the Planning Board Secretary of a complete plan application for 10 acres of land or less and 10 dwelling units or less, or within 95 days of receipt of a complete application for a plan of more than 10 acres or more than 10 dwelling units or within

such further time as may be agreed upon by the developer, the Planning Board shall act upon the application. Upon receipt of a complete application the Board Secretary shall submit one copy to each member of the Plan\Subdivision Review Advisory Board and one copy of the application to the following professionals and boards:

- (1) Township Planner.
 - (2) Township Engineer.
 - (3) Township Attorney.
 - (4) Gloucester County Planning Board, Soil Conservation Service and, where applicable, the State Department of Transportation.
 - (5) Such other boards or professionals as the Planning Board may deem necessary.
- D. Preliminary plan hearing. All actions of the Planning Board on preliminary plans shall be at a public hearing. Public notice of an application as provided in § 96-37 of this chapter shall be required.
- E. Preliminary plan action. After the conclusion of the hearing, but in no event later than the first regular meeting following the hearing, the Planning Board shall by resolution approve, disapprove, or conditionally approve the preliminary plan, stating reasons for any disapproval.
- F. Decisions of Planning Board. See § 96-32 of this chapter for decisions on site plan applications under varying procedural conditions.
- G. Effect of preliminary approval. Preliminary approval of a plan shall confer upon the applicant the following rights for a three-year period from the date of the preliminary approval:
- (1) The general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions and on-site and off-tract improvements; and any requirements peculiar to the specific plan. The Township may modify by ordinance such general terms and conditions of preliminary approval as they relate to public health and safety provided such modifications are in accord with amendments adopted by ordinance subsequent to approval.
 - (2) The applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary plan.
- H. Extension of preliminary approval.
- (1) The applicant may apply for and the Planning Board may grant extensions on such preliminary approval for additional periods of at least one year but not to exceed a total extension of two years provided that if the design standards have been revised by ordinance, such revised standards may govern.
 - (2) In the case of a plan for an area of 50 acres or more, the Planning Board may grant the rights referred to above for such period of time, longer than three years, as shall be determined by the Planning Board to be reasonable taking into consideration the number of dwelling units and nonresidential floor area permissible under preliminary approval, economic conditions and the comprehensiveness of the development. The applicant may apply for thereafter and the Planning Board may thereafter grant an extension to preliminary approval for such additional period of time as shall be determined by the Planning Board to be reasonable taking into consideration

the number of dwelling units and nonresidential floor area permissible under preliminary approval, the potential number of dwelling units and nonresidential floor area of the section or sections awaiting final approval, economic conditions and the comprehensiveness of the development, provided that if the design standards have been revised, such revised standards may govern.

- (3) In the event no extension is applied for, preliminary approval shall expire and the site plan shall lapse three years from such approval.

§ 96-33. Final plat approval for major subdivision.

- A. Objectives of review. The final plat shall be reviewed to determine whether it substantially conforms to the approved preliminary plat and to the conditions of preliminary approval and the Map Filing Law,¹⁵ and to assure proper posting of performance and maintenance bonds.
- B. Application. Twenty copies of the final plat, an application in a form approved by the Planning Board, and the requisite fee shall be delivered to the Board Secretary. The final plat shall be submitted to the Planning Board for final approval within three years from the date of preliminary plat approval or within such extension as provided herein. **[Amended 8-3-2006 by Ord. No. O-2006-2]**
- C. Final plat details. The final plat, notwithstanding any other requirements stipulated by this article or other Township ordinances, shall be drawn in ink on tracing cloth, Mylar, or equal, at a scale of one inch equals 50 feet, except where otherwise permitted by the Planning Board and in compliance with all the provisions of Chapter 141 of the Laws of 1960 (Map Filing Law). The final plat shall contain or be accompanied by:
 - (1) Date, name and location of the subdivision, name of owner, graphic scale and reference meridian.
 - (2) Tract boundary lines, right-of-way lines of streets, street names, easements and other rights-of-way, land reserved or dedicated to public use, all lot lines and other site lines; with accurate dimensions, bearings or deflection angles, and radii, arcs and central angles of all curves.
 - (3) The purpose of any easement or land reserved or dedicated to public use shall be designated, and the proposed use of sites other than residential shall be noted.
 - (4) Each block and lot shall be numbered in accordance with the system of numbers which will ultimately be the numbers shown on the Township Tax Map.
 - (5) Location of all monuments.
 - (6) Names of owners and lot numbers of adjoining unsubdivided land.
 - (7) Certification by a land surveyor licensed in the State of New Jersey as to accuracy of details of plat.
 - (8) Certification that the applicant is the agent or owner of the land, or that the owner has given consent under an option agreement.
 - (9) When approval of a plat is required by any officer or body of such municipality, county or state, approval shall be certified on the plat.

15. Editor's Note: See N.J.S.A. 46:23-9.9 et seq.

- (10) Final construction plans and profiles showing proposed utility layouts (sanitary sewers, storm drains, water, gas, electric, detention basins, etc.) showing connections to existing or proposed utility systems. Cross sections of streets may be required by the Township Engineer.
 - (11) A final drainage plan shall accompany the final plat. Such drainage plan shall show the same information as required on the preliminary plat with the addition that the individual lot grading shall be shown as follows: final grades shall be shown for each lot corner, all high and low points and breaks in grade and at the corners of tentative house locations. If it is intended to use drainage swales, the elevation of these swales shall be shown.
 - (12) The proposed names of all streets within the subdivision shall be shown and shall be subject to approval by the Planning Board. Such approval shall consider any written recommendation from the Elk Fire Company and Gloucester County Emergency Dispatch (911).
 - (13) A soil erosion control plan and narrative shall accompany the final plat. Such soil erosion control plan shall show the same information as required on the final drainage plan. The soil erosion control plan and the final drainage plan may be combined as one plan.
 - (14) A landscape plan, prepared by a certified or licensed landscape architect, at a minimum scale of one inch equals 50 feet or larger. Different graphic symbols shall be used to show location and spacing of shade trees, ornamental trees, evergreen trees, shrubs, and ground cover. The size of the symbol must be representative of the size of the plant and shown to scale. The plan shall:
 - (a) Illustrate the proposed plan elements as they relate to existing structures and site amenities, including existing woodlands, isolated trees greater than five inches in caliper, existing topographic contours, and any and all other natural environmental features;
 - (b) Show the intent, location, and type of all existing and proposed landscaping and buffering;
 - (c) Conceptually indicate plant types and general construction materials to be used, as appropriate;
 - (d) Provide on-site photographs of existing features and topography, as appropriate;
 - (e) Contain a planting schedule, including specific plant botanical and common names, sizes, root, spacing, and comments;
 - (f) Indicate all existing vegetation to be saved or removed;
 - (g) Show the location, form, height and width of other landscape architectural materials such as berms, fences, walls, site furniture, bridges, and walks. When required, a section to show the effective height of a proposed berm or fence in relation to the height of the area being screened from should be provided (i.e., center line of road to building); and,
 - (h) Show all open space areas in adjacent developments on the project location map.
- D. Final plat review. Within 45 days after the final plat application has been certified as complete, or within such further time as may be agreed upon by the applicant, the Planning Board shall approve the application for final plat approval with or without conditions, provided the following requirements are met:
- (1) The detailed drawings and specifications meet all applicable Township codes and ordinances;
 - (2) The final plats are substantially the same as the approved preliminary plats;

- (3) The bonds have been posted to ensure the installation of all improvements;
- (4) The applicant agrees in writing to all conditions of final approval; and
- (5) Proof has been submitted that all taxes and assessments for local improvements on the property have been paid.

E. Distribution.

- (1) Upon receipt of a complete application, the Board Secretary shall submit one copy to each member of the Subdivision Committee and one copy to each of those professionals and boards or agencies having received a copy of the preliminary plat.
- (2) Submission of a major development subdivision application shall be reviewed and acted upon by the Planning Board according to § 96-31.

F. Review. The professionals and boards or agencies shall have a period of 30 days after the filing date of the final plat to make a report and recommendation concerning the final plat. The Planning Board shall have the right to proceed in the absence of any such recommendation.

G. Final plat hearing. Planning Board action shall take place at a public meeting. No public notice of application shall be required.

H. Decision of Planning Board. The decision of the Planning Board shall be as set forth in § 96-31 of this chapter for decisions on subdivision applications under varying procedural conditions.

I. Effect of final approval. Final approval shall terminate the time period of preliminary approval for the section granted final approval and shall guaranty the applicant that the zoning requirements applicable to the preliminary approval and all other rights conferred upon applicant as part of preliminary approval shall not be changed for a period of two years after the date of final approval, provided that these rights shall expire if the plat has not been duly recorded within the time prescribed in Subsection L herein.

J. Time limit for final approval and extensions.

- (1) Final approval shall expire two years from the date of final approval unless the applicant has secured a building permit to commence construction. The Planning Board may extend final approval, and the protection offered under Subsection I herein, for one year. Up to three such extensions may be granted.
- (2) In the case of an open space or residential cluster of 50 acres or more, or a conventional subdivision for 150 acres or more, the Planning Board may extend the rights granted under final approval for such period of time, longer than two years, as shall be determined by the Planning Board to be reasonable taking into consideration the number of dwelling units and nonresidential floor area permissible under final approval, economic conditions and the comprehensiveness of the development. The developer may apply for thereafter and the Planning Board may thereafter grant an extension of final approval for such additional period of time as shall be determined by the Planning Board to be reasonable taking into consideration the above factors.

K. County Planning Board approval. Any plat which requires County Planning Board approval, pursuant to N.J.S.A. 40:27-6.2, shall be forwarded to the County Planning Board for its action. The Planning Board may grant final approval subject to approval by the County Planning Board.

- L. Filing of approved final plat. The final plat shall be filed by the subdivider with the County Recording Officer within 95 days from the date of signing of the plats. If any final plat is not filed within that period, the approval shall expire. For good cause, the Planning Board may extend the time for the filing of the plat for an additional period not to exceed 190 days. No plat shall be accepted for filing by the Clerk of the County of Gloucester unless it has been duly approved by the Township of Elk Planning Board and signed by its Chairman and Secretary.
- M. Approved final plat municipal distribution.
- (1) Before the Board Secretary returns any approved final plat to the subdivider or the construction official issues a building permit for the subdivision, the applicant shall provide the Board Secretary with a certificate of filing from the County Clerk's office.
 - (2) The Board Secretary shall distribute copies of the approved final plat as follows: **[Amended 8-3-2006 by Ord. No. O-2006-2]**

Distribution	Number of copies
Township Engineer	2 Mylars, 1 paper
Tax Assessor	1
Construction Official	1
Township Clerk	1
Planning Board file	1
Zoning Officer	1
Fire Inspector	1
Township Fire Chief	1
Chief of Police	1

§ 96-34. Final site plan approval.

- A. Objectives of review. The final plan shall be reviewed to ascertain whether the construction documents to be utilized in construction of the project substantially conform to the approved preliminary plan.
- B. Application. Twenty copies of the final plan, an application in a form approved by the Planning Board, and the requisite fee shall be delivered to the Board Secretary. **[Amended 8-3-2006 by Ord. No. O-2006-2]**
- C. Final plan details. Final plan application technical materials shall include the following:
- (1) The approved preliminary plan together with all proposed additions, changes or departures therefrom, if applicable.
 - (2) Final construction documents amongst other items, illustrating:
 - (a) The final plans for site development and site improvement, including those construction details as may be specified at the time of preliminary approval;
 - (b) The ground floor or other floor plans sufficient to show pedestrian, vehicular or other

access as it relates to the final plan;

- (c) The building elevation or typical elevations including size, structure, materials, colors and textures; and
- (d) Elevations or typical illustrations of any accessory structures, signs or area visible to the general public;
- (e) All existing trees which will be removed and preserved and what methods will be used to assure preservation during and after construction;
- (f) The existing and proposed topography by the use of one-foot contours for all land forms and berms in coordination with the final grading and drainage plans submitted by the project engineer; and
- (g) Planting and landscaping details conforming to the standards set forth in the provisions applicable to this chapter.

D. Final site plan review.

- (1) Within 45 days from submission of a certified complete final plan application, or within such further time as may be agreed upon by the applicant, the Planning Board shall approve the application for final plan approval with or without conditions, provided the following requirements are met:
 - (a) The detailed drawings and specifications meet all applicable codes and ordinances;
 - (b) The final plans are substantially the same as the approved preliminary plans;
 - (c) Bonds have been posted to ensure the installation of improvements as applicable; and
 - (d) Proof has been submitted that all taxes and assessments for local improvements on the property have been paid.
- (2) Upon receipt of a certified complete application, the Planning Board Secretary shall submit one copy to each member of the Plan/Subdivision Review Advisory Committee and one copy to each of those professionals and boards having received a copy of the preliminary plan.
- (3) The professionals and boards shall have a period of 30 days after receipt of the final plan to make a report and recommendations concerning the final plan. The Planning Board shall take such recommendations into account but shall have the right to proceed in the absence of any such recommendation.

E. Final plan hearing. Planning Board action shall take place at a hearing. No public notice of application shall be required.

F. Decision of Planning Board. The decision of the Planning Board shall be as set forth in Subsection J of this section for decisions on plan applications under varying procedural conditions.

G. Effect of final approval. Final approval shall terminate the time period of preliminary approval for the section granted final approval and shall guaranty the applicant that the zoning requirements applicable to the preliminary approval and all other rights conferred upon applicant as part of preliminary approval shall not be changed for a period of two years after the date of final approval.

H. Time limit for final approval and extensions. Final approval shall expire two years from the date of

final approval unless the applicant has secured a building permit to commence construction. The Planning Board may extend final approval, and the protection offered under § 96-33I herein, for one year. Up to three such extensions may be granted.

- I. In the case of a plan for a planned commercial development, planned industrial park development, or conventional site plan for 150 acres or more, the Planning Board may extend the rights granted under final approval for such a period of time as shall be determined by the Planning Board to be reasonable taking into consideration the number of dwelling units and nonresidential floor area permissible under final approval, economic conditions and the comprehensiveness of the development. The developer may apply for thereafter and the Planning Board may thereafter grant an extension of final approval for such additional period of time as shall be determined by the Planning Board to be reasonable taking into consideration the number of dwelling units and nonresidential floor area permissible under final approval, the number of dwelling units and nonresidential floor area remaining to be developed, economic conditions and the comprehensiveness of the development.
- J. Conditions of final approval. The Planning Board may as a condition of final approval:
 - (1) Grant final approval only for designated geographic sections of the development;
 - (2) Grant final approval for certain work but require resubmission for final approval for designated elements such as, but not limited to such items as landscaping, signs, or street furniture, and require approval of these elements as a prerequisite for a certificate of occupancy;
 - (3) Condition the granting of a certificate of occupancy subject to the applicant or developer or subsequent heirs or assignees meeting certain requirements within a designated period of time, not to exceed one year, from the date of issuance of the certificate of occupancy. This may include, but is not limited to, such items as the installation of landscaping, erection of signs, installation of improvements, or reevaluation of circulation patterns.

§ 96-35. Certificates showing approval.

- A. Prospective purchasers or mortgagees, or any other person interested in any land which forms, or formed, part of a subdivision three years preceding the effective date of this chapter, may apply in writing to the Planning Board Secretary for the issuance of a certificate stating whether such subdivision has been approved by the Planning Board. Such application shall contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof.
- B. The Planning Board Secretary shall make and issue such certificate within 15 days after the receipt of such written application and the fees therefor. Said Secretary shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fee charged, in a binder as a permanent record in his or her office.
- C. Each such certificate shall be designated a "certificate as to approval of subdivision of land," and shall certify:
 - (1) Whether there exists in said municipality a duly established Planning Board and whether there is an ordinance controlling subdivision of land adopted under the authority of this article.
 - (2) Whether the subdivision, as it relates to the land shown in said application, has been approved by the Planning Board, and, if so, the date of such approval and any extensions and terms thereof, showing that subdivision of which the lands are a part is a validly existing subdivision.

- (3) Whether such subdivision, if the same has not been approved, is statutorily exempt from the requirement of approval as provided in this act.
- D. The Administrative Officer shall be entitled to receive for such certificate issued, a fee as stipulated in the Township's Fee Ordinance.¹⁶

16. Editor's Note: Said Fee Ordinance is on file in the Township offices.

ARTICLE VII
Provisions Applicable To Site Plans And Subdivisions

§ 96-36. Simultaneous review.

The Planning Board shall have the power to review and either approve or deny conditional uses or plans simultaneously with review for subdivision approval without the developer being required to make further application to the Planning Board, or the Planning Board being required to hold further hearings. The longest time period for action by the Planning Board, whether it be for subdivision, conditional use or plan approval, shall apply. Whenever approval of a conditional use is requested by the applicant pursuant to this section, notice of the hearing on the plat or plan shall include reference to the request for such conditional use.

§ 96-37. Hearings and notices.

- A. Hearings shall be required as part of approval for all applications for development.
- B. Maps and documents and exhibits on file. A complete set of maps, documents and exhibits shall be on file at the office of the Planning Board at least 10 days prior to the date of the noticed hearing.
- C. Public notice of application.
 - (1) When required. A public notice shall be required for preliminary approval of all major subdivision applications, approval of all minor plan and minor subdivision applications requiring a zoning variance to be granted by the Planning Board, and of all site plan applications. Such notice shall be required as part of a development application's requirements for a determination of completeness. Failure to provide such notice shall deem an application incomplete, irrespective of its conformity with applicable Township ordinance requirements. **[Amended 5-3-2007 by Ord. No. O-2007-3; 10-4-2007 by Ord. No. O-2007-14]**
 - (2) Contents of notice; to whom required and how served. Notice requirements for hearings, contents of such notices, to whom required and how served shall be in accordance with the requirements of N.J.S.A. 40:55D-12.
- D. The municipal agency shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The municipal agency shall furnish a transcript, or duplicate recording in lieu thereof, on request to any interested party at their expense; provided that the governing body may provide by ordinance for the municipality to assume the expense of any transcripts necessary for appeal to the governing body, pursuant to Article III, of decisions by the Planning Board pursuant to said article, up to a maximum amount as specified by ordinance. The municipal agency, in furnishing a transcript or tape of the proceedings to an interested party at his expense, shall not charge such interested party more than the actual cost of preparing the transcript or tape. Transcripts shall be certified in writing by the transcriber to be accurate.

§ 96-38. Decisions on applications for development.

- A. The municipal agency shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. The municipal agency shall provide the findings and conclusions through:
 - (1) A memorializing resolution adopted at a meeting held not later than 45 days after the date of the meeting at which the municipal agency voted to grant or deny approval. Only the members of

the municipal agency who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution. If only one member who voted for the action attends the meeting at which the resolution is presented for adoption, the resolution may be adopted upon the vote of that member. An action pursuant to Section 5 of the Act (N.J.S.A. 40:55D-9) (resulting from failure of a motion to approve an application) shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution. The vote on any such resolution shall be deemed to be a memorialization of the action of the municipal agency and not to be an action of the municipal agency; however, the date of the adoption of the resolution shall constitute the date of the decision for purposes of the mailings, filings and publications required by Subsections h and i of P.L. 1975, N.J.S.A. 40:55D-10. If the municipal agency fails to adopt a resolution or memorializing resolution as herein above specified, any interested party may apply to the Superior Court in a summary manner for an order compelling the municipal agency to reduce its findings and conclusions to writing within a stated time, and the cost of the application, including attorney's fees, shall be assessed against the municipality.

- B. County Planning Board approval. Whenever review or approval of any application by the County Planning Board is required, the Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or upon County Planning Board approval by default for failure to report thereon within the required time period.
- C. Developments barred by administrative or judicial order. In the event that a developer submits an application for development proposing a development that is barred or prevented, directly or indirectly, by a legal action instituted by any state agency, political subdivision or court of competent jurisdiction to protect the public health and welfare, the Planning Board shall process such application for development in accordance with this article, and if such application complies with the requirements of this article, the Planning Board shall approve such application conditioned on removal of such legal barrier to development.
- D. Approval by other governmental agencies. In the event that development proposed by an application for development requires an approval by a governmental agency other than the Planning Board, the Planning Board shall, in appropriate instances, condition its approval upon the subsequent approval of such governmental agency.
- E. Decisions to be furnished to applicant and others. A copy of each decision shall be mailed by the Planning Board, within 10 days after the date of decision, to the applicant, or if represented, then to their attorney, without separate charge, and to all others upon request for a fee as noted in this chapter.
- F. Filing in office of Planning Board Secretary. A copy of each decision shall also be filed by the Planning Board in the office of the Planning Board Secretary who shall make a copy of the filed decision available to any interested party for a fee as noted in this chapter and available for public inspection at their office during reasonable hours.
- G. Publication. A brief notice of each decision shall be published by the Planning Board Secretary, and the Township may make a reasonable charge for such publication. The applicant also may cause such publication to be made if they so desire. The time for appeal from the decision shall run from the first publication, whether made by the Planning Board Secretary or the applicant.
- H. Time for decision on applications to Planning Board for preliminary approval of site plans and major subdivisions. Preliminary approval shall be granted or denied on applications to the Planning Board for a plan of 10 acres or less or for a major subdivision of 10 or fewer lots within 45 days, and for a

site plan of more than 10 acres or for a major subdivision of more than 10 lots within 95 days, after the date of submission of a complete application to the Board Secretary except as otherwise provided in § 96-38L through O.

- I. Time for decision on applications to Planning Board for minor subdivision approval and final approval of plans and major subdivisions. Final approval of plans, major subdivisions, and approval of minor subdivisions shall be granted or denied on applications to the Planning Board within 45 days after the date of submission of a complete application to the Board Secretary except as otherwise provided in § 96-38L through O.
- J. Time for decision when Planning Board reviews conditional uses or plans simultaneously with subdivisions. Whenever the Planning Board reviews conditional uses or plans simultaneously with subdivisions, the longer or longest period of time for action in any such case shall apply to all such cases.
- K. Time for decision when Planning Board reviews applications for subdivision, plan or conditional use approval that includes request for variance. Whenever an application to the Planning Board for approval of a subdivision plat, plan or conditional use includes a request for a variance pursuant to N.J.S.A. 40:55D-60, the Planning Board shall grant or deny approval of the application within 120 days after the date of submission of a certified complete application to the Planning Board Secretary. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance or direction for issuance of a permit. The period for granting or denying and subsequent approval shall be as otherwise provided in this chapter.
- L. Time for decision when Planning Board reviews application for conditional use that includes request for plan approval. Whenever the Board reviews an application for conditional use that includes a request for plan approval, the Board shall grant or deny approval of the application within 95 days after the date of submission of a certified complete application to the Board Secretary.
- M. Time for decision when Combined Board reviews subdivision, plan or conditional use in conjunction with use variance. Whenever an application is made to the Combined Board for subdivision, plan or conditional use approval in conjunction with the Board's review of a use variance, the Combined Board shall grant or deny approval of the application within 120 days after the date of submission of a certified complete application to the Board Secretary.
- N. Extension of time for decision. Any time period for action by the Planning Board may be extended with the consent of the applicant or appellant.
- O. Failure to make decision within time. The failure of the Planning Board to act within such time period or extension thereof shall constitute a decision favorable to the applicant or appellant. A certificate of the Planning Board Secretary as to such failure shall be issued on request of the applicant or appellant, and it shall be sufficient in lieu of written endorsement or other evidence of approval required by this section and shall be accepted as such by the County Clerk for purposes of filing subdivision plats.

§ 96-39. Application by corporation or partnership; violations and penalties for concealment of names.

- A. A corporation or partnership applying to the Planning Board or the Board of Adjustment for approval to subdivide a parcel of land or for approval of a site to be used for commercial or industrial purposes shall be represented by an attorney, and shall list the names and addresses of all stockholders or individual partners owning at least 10% of its stock of any class or at least 10% of the interest in the

partnership, as the case may be.

- B. Disclosure of 10% ownership interest of corporation or partnership which is 10% of applying corporation or partnership. If a corporation or partnership owns 10% or more of the stock of a corporation, or 10% or greater interest in a partnership, subject to disclosure pursuant to Subsection A, that corporation or partnership shall list the names and addresses of its stockholders holding 10% or more of its stock or of 10% or greater interest in the partnership, as the case may be, and this requirement shall be followed by every corporate stockholder or partner in a partnership, until the names and addresses of the noncorporate stockholders and individual partners, exceeding the 10% ownership criterion established in this act, have been listed.
- C. Disapproval of application. The Planning Board, Board of Adjustment or governing body shall not approve the application of any corporation or partnership which does not comply with Subsection A or B.
- D. Violations and penalties. Any corporation or partnership which conceals the names of the stockholders owning 10% or more of its stock, or of the individual partners owning a 10% or greater interest in the partnership, as the case may be, shall be subject to a fine of \$1,000 to \$10,000, which shall be recovered in the name of the municipality in any court of record in the state in a summary manner pursuant to the Penalty Enforcement Law (N.J.S.A. 2A:58-1 et seq.).¹⁷

§ 96-40. Conditional approvals.

- A. Conditions precedent.
 - (1) Whenever any application for development is approved subject to specified conditions, intended to be fulfilled before the approval becomes effective, said conditional approval shall lapse and become null and void unless all specified conditions are fulfilled within 95 days of the date of conditional approval.
 - (2) The fulfillment of all conditions precedent shall be reported in writing to the municipal agency, which may cause such reports to be verified in an appropriate manner. Only upon fulfillment of all conditions shall any subdivision map or plan be signed or any required building permit, occupancy permit or zoning permit be issued.
- B. Conditions subsequent. Whenever any application for development is approved subject to conditions, which by their terms are incapable of being fulfilled or are not required to be fulfilled prior to the final approval of an application, the performance of which is not guaranteed by bonds or securities of any type, failure to fulfill any such conditions within six months from the date of the resolution memorializing final approval of the application for development shall be grounds for the issuance of a stop-work order by the enforcing official and the withholding of any zoning permit, certificate of occupancy, or any other approval until such condition or conditions are fulfilled. Further, the enforcing official, including but not limited to the Zoning Officer or the Construction Officer, shall be permitted to bring a civil enforcement action and, if warranted, a criminal enforcement action to address the failure to comply with any such condition. **[Amended 6-5-2008 by Ord. No. O-2008-4]**
- C. Nothing herein contained shall be construed as preventing the municipal agency from specifying a longer period of time within which any specific condition must be fulfilled, or from granting, upon an ex parte application, an extension of time for good cause shown.

17. Editor's Note: Sections 2A:58-1 to 2A:58-9 were repealed by L. 1999, c. 274, § 4. See now N.J.S.A. 2A:58-10 et seq.

- D. The fulfillment of all conditions shall be reported in writing to the municipal agency, which may cause such reports to be verified in an appropriate manner. Only upon fulfillment of all conditions shall any subdivision map or plan be signed or any required building permit, occupancy permit, zoning permit or other required approval be issued.
- E. Modification or elimination of a condition of approval. **[Amended 6-5-2008 by Ord. No. O-2008-4]**
- (1) Public notice; approval of changes by Planning Board.
 - (a) Public notice of a hearing shall be given for a request to modify or eliminate a significant condition in a memorializing resolution of approval of an application for development.
 - (b) The Planning Board may approve changes to conditions attached to an approved subdivision or site plan as an administrative matter without public notice if it is determined by the Planning Board that the change requested is not a significant change to a substantial condition of the approval.
 - (2) The Planning Board may establish an administrative review committee to determine whether the requested change is a significant change to a substantial condition of the approval and to address all applications for change determined to be of a minor or nonsignificant nature. If the administrative review committee determines that the change is not a substantial change to the prior approval granted by the municipal agency, then it shall evaluate the request and recommend a course of action to the Planning Board for its consideration. If the administrative review committee determines that the request is a substantial change to the approved development plan, then the matter cannot be decided by the subcommittee but must be referred to the Planning Board for consideration at public hearing on public notice pursuant to statute. If no administrative review committee has been established, requests will be heard by the Planning Board upon application.
 - (3) In order to request a change to a condition of approval, an applicant shall submit 15 copies of a written statement detailing the nature of the requested change, along with plans or diagrams outlining the change, if appropriate, and the required application fee and review escrow. Upon receipt of a complete application package, the Planning Board Secretary will set a date for consideration of the request by the Planning Board.
 - (4) Submission deadline; application fee; review escrow.
 - (a) All applications, fees, escrows and supporting documentation shall be submitted no less than 10 days before the meeting date for the application.
 - (b) Application fee. The application fee to request a change to an approved development shall be the sum of \$100 to be paid to the Township of Elk and delivered to the Secretary of the Planning Board at the time the application is filed.
 - (c) Review escrow. A minimum review fee or escrow in the amount of \$500 shall be paid by the applicant with the submission of its request for a change to its approval. The Township of Elk shall hold this sum in escrow, for use in payment of all review fees which are generated as a result of the application. Any sums not utilized in the review process shall be returned to the applicant. An accounting of all sums expended will be provided to the applicant. In the event additional sums shall be required, the applicant shall be notified, in writing, by the CFO of the required additional amount, and the applicant shall promptly submit such additional amount as escrow to the Township of Elk. In the event the applicant

fails, within 20 days of receiving notice of an escrow deficiency, to submit the additional sums required, the request shall be held in abeyance until such time as the applicant shall correct the deficiency. In the event there is any deficiency at the completion of all proceedings and hearings, the applicant shall pay all costs in full before the Township of Elk shall issue any building permit. The CFO shall advise the Construction Official of the deficiency. The Construction Official shall not issue any building permit until all such deficiencies have been paid in full.

§ 96-41. Construction, maintenance, and installation standards for specific improvements.

- A. Prior to the granting of final approval, the developer shall have installed improvements required by the Planning Board or have posted a performance guaranty or surety sufficient to cover the costs of said improvements. The Planning Board may solicit local, county, state, federal, public or semipublic agencies and knowledgeable individuals on what improvements shall be required. Improvements recommended by other agencies, such as a utilities authority, county, state or other governmental agencies, may be required by the Planning Board as a condition of final approval. The construction standards, and improvements herein are necessary to protect the health, safety, welfare, and convenience of the residents and public as well as needed to meet local, county, regional, state and national goals and objectives.
- B. Additional elements necessitated by topography such as retaining walls, cribbing, ground cover, diversionary swales, and guardrails, shall be installed as necessary to prevent erosion, hazard, and unusual problems of maintenance.
- C. Electrical, telephone lines and similar utilities lines shall be underground from existing utility poles.

§ 96-42. Inspection and fees.

- A. As a condition of final approval and prior to starting any construction of the required improvements, the developer must submit final detailed construction plans to the Township Engineer for review and approval and shall pay to the Township Treasurer, by cash or certified check, the inspection fee which shall be determined by the Municipal Engineer for both private and public improvements.
- B. All of the required public improvements for a development, during and upon completion of their construction, shall be subject to inspection and approval by the Township Engineer and Township Planner, who shall be notified by the developer at least 24 hours prior to the start of construction. On-site private improvements relating to drainage, landscaping and circulation as shown on an approved final development plan shall also be subject to inspection and approval by the Township Engineer and Township Planner.
- C. No underground installations shall be covered until inspected and approved by the Township Engineer. At a minimum, the Township Engineer will make the following inspections:
 - (1) Roadway subgrade prior to placing subbase material and/or bituminous stabilized base course material.
 - (2) The bituminous stabilized base course material after complete compaction and prior to applying bituminous material tack coat for the bituminous concrete surface course.
 - (3) Bituminous concrete surface course materials while it is being laid.
 - (4) Finished bituminous concrete surface course pavement.

- (5) Concrete curb and sidewalks, when the forms are laid and the subgrade is leveled and tamped prior to placing concrete; also during the placing and finishing of the concrete.
 - (6) Such inspections as the Township Engineer shall deem necessary of the pipe drains, inlets, municipal utilities lines and appurtenances, etc., while pipes, etc., are being laid and prior to backfilling trenches, inlets and manholes while being constructed.
- D. Approval or reasons for withholding approval for either public or private improvements shall be given promptly, and in any event within 45 days after inspection. If work proceeds without such approval or not in compliance therewith, the Township Engineer, in addition to any other remedies available to the municipality, may issue an order requiring immediate cessation of the affected work and prohibiting resumption thereof until approval is obtained or noncompliance corrected.

§ 96-43. Acceptance of streets and improvements.

Prior to the acceptance by the Township of any street or other improvement in a subdivision, or release of performance bond covering same, there shall be filed with the Township Engineer a deed of dedication containing a metes and bounds description of all easements, two paper prints, plus one reproducible polyester film tracing (matte finish) (base thickness, 0.001 inch) as-built plans and profiles drawn to a scale of one inch equals five feet vertically, which plans and profiles shall be based on a final survey and shall be the United States Coast and Geodetic Control Survey datum. Such drawing shall show how streets and other improvements were actually constructed or installed. The following data must be shown with measurements from the property lines:

- A. Plans and profiles of the streets showing elevations as constructed and reference bench marks.
- B. Plans and profiles of sanitary storm sewers showing elevations of inverts of manholes and catch basins and elevations of inlet gratings and manhole rims; also locations of sanitary sewer, laterals dimensioned from main and reference dimensions to "T" or "V" connections from manholes.
- C. Acceptance of streets and improvements by the Township and release of any performance guaranty shall be in accordance with N.J.S.A. 40:55-53.

§ 96-44. Environmental impact statement.

The applicant for any plan approval that requires certification by the Soil Conservation District of a plan for soil erosion and sediment control shall also submit an environmental impact statement, in triplicate, signed and sealed by a New Jersey licensed engineer or a New Jersey licensed professional planner, preferably with experience in environmental studies. As used in this chapter, an "environmental impact statement" means a written description and analysis of all possible direct and indirect effects the development will have upon the development's site as well as upon the surrounding region affected thereby, with particular reference to the effect of the development upon the public health, welfare and safety, the protection of public and private property, and the preservation and enhancement of the natural environment. Every environmental impact statement (EIS) shall contain the following:

- A. A key map showing the location of the development and how it relates to the surrounding region affected thereby.
- B. A description of the development specifying, in the form of maps, drawings, graphs or similar visual aids, and also by narrative, what is to be done and how it is to be done during and after construction of the development, including information and technical data adequate to permit a careful assessment of the environmental impact of the development.

- C. An inventory of the existing environmental conditions at the development site and in the surrounding region affected thereby which shall describe the following:
- (1) Physical characteristics.
 - (a) Air quality.
 - (b) Hydrology, including maps and descriptions of streams, water bodies and floodplains and a discussion of water quality.
 - (c) Geology.
 - (d) Soils and their properties, including capabilities and limitations.
 - (e) Topography and slope.
 - (f) Drainage.
 - (g) Vegetation.
 - (h) Air quality and water quality shall be described with reference to the standards promulgated by the Department of Environmental Protection of the State of New Jersey, and soils shall be described with reference to criteria contained in the Gloucester County, New Jersey Soil Survey Standards and Specifications, issued by the United States Department of Agriculture Soil Conservation Service.
 - (2) Wildlife.
 - (a) Fish and aquatic organisms.
 - (b) Wild animals.
 - (3) Man-made conditions and structures.
 - (a) Sanitary and storm sewer systems, including planned construction.
 - (b) Noise characteristics and levels.
 - (c) Traffic volume.
 - (d) Land use, including maps and descriptions of zoning and Master Plan delineation of the development area.
 - (e) Aesthetics.
 - (4) Community character.
 - (a) History, including maps and descriptions of sites of historic and archeological significance.
 - (b) Demography.
 - (c) Culture.
 - (d) Maps and descriptions of sites reserved or planned for recreational purposes or as wildlife refuges.

- D. A listing of all licenses, permits or other approvals required by municipal, county or state law, the status of each, and proof that the applicant has contacted officials of any federal, state, county or municipal agency affected by the proposed development.
- E. An assessment of the probable impact of the development upon all of the topics listed in Subsection C above.
- F. A listing and evaluation of adverse environmental impacts which cannot be avoided, with particular emphasis upon air or water pollution, increase in noise during and after construction, damage to plant, tree and wildlife systems, damage to natural resources, displacement of people and businesses, increase in sedimentation and siltation, flooding, potential stormwater runoff damage both on and off site, increase in municipal services, and health, safety and well-being of the public. Off-site and off-tract impact shall also be set forth and evaluated.
- G. A thorough description of the steps to be taken to minimize adverse environmental impact before, during and after construction of the development, both at the development site and in the surrounding region affected thereby, such description to be accompanied by necessary maps, schedules and other explanatory data as may be needed to clarify and explain the actions to be taken.
- H. Any irreversible and irretrievable commitment of resources which would be involved in the proposed action shall be identified and described.
- I. A statement of alternatives to the proposed development which might avoid some or all of the adverse environmental effects, including a no-action alternative, with an objective evaluation of each alternative including the no-action alternative.
- J. A reference list of available pertinent, published information relating to the development, the development site, and the surrounding region affected thereby.
- K. Notwithstanding the foregoing, the reviewing board may waive the requirement for an environmental impact statement (EIS) if sufficient evidence is submitted by the applicant to support a conclusion that the proposed development will have a slight or negligible environmental impact. Portions of such requirement may likewise be waived upon a finding by the Board that a complete EIS need not be prepared in order to evaluate adequately the environmental impact of the development.
- L. Environmental considerations: Environmental elements relating to soil erosion, preservation of trees, protection of watercourses, topography, soil, and wildlife shall be reviewed, and the design of the plan shall minimize any adverse impact on these elements. Whenever possible, the natural features of a site are to be preserved, floodplains respected, and excessive cuts or fill avoided. In reviewing a site plan, the reviewing authority shall take into consideration the effect of the development upon all aspects of the environment as outlined in the EIS requirements, as well as the sufficiency of the applicant's proposal in their EIS for dealing with any immediate or projected adverse environmental effects. The reviewing authority may require, as a condition of approval of the application, that steps be taken to minimize the adverse environmental impact during and after construction, and no final approval shall be issued until all such requirements shall have been complied with or compliance is guaranteed by a performance guarantee meeting the standards, requirements and procedures set forth in this section.

ARTICLE VIII
Design Standards

§ 96-45. General.

No plan shall be approved by the Planning Board unless the use meets the performance standards herein set forth and such state or federal standards as may be more stringent than those set forth herein. Failure to comply with the performance standards at any time after the issuance of a certificate of occupancy shall be cause for revocation of such certificate. Application of these plan standards should also encourage cost-efficient methods and designs to enable the construction of low- and moderate-income housing without creating an adverse impact on the public health, safety and general welfare of the Township or for the future residents of the development. In reviewing any plan, the Planning Board shall consider those elements as specifically noted in § 96-46 through § 96-64.

§ 96-46. Animals on lots. [Added 6-3-2004 by Ord. No. O-2004-5; amended 8-3-2006 by Ord. No. O-2006-2]

- A. One large animal for the personal use of the occupants of a residence may be maintained on a lot, provided that the lot is at least two acres in size excluding the building lot area requirements for a residential dwelling. Each additional large animal must have an additional 1/2 acre, up to 100 acres. For over nine large animals the use must meet the land area requirement for a defined farm use. Acreage requirements for small animals shall be 50% of that for large animals. All of the above required acreage shall be available for the normal habitat of the animals of which none of that area shall be required in a front yard.
- B. Commercial piggeries/swine farms are prohibited throughout the Township in accordance with § 96-82H.
- C. No structures for animals or poultry other than fencing or grazing land shall be closer than 50 feet from any nonresidential property or street line.
- D. No structures for animals or poultry other than fencing or grazing land shall be closer than 75 feet from any residential property line.

§ 96-47. Buffers. [Added 6-3-2004 by Ord. No. O-2004-5; amended 2-3-2005 by Ord. No. 01-2005-1]

The following distances shall be required between uses in addition to any minimum yards:

		Existing Zone or Use					
		Under 1 Acre Single- Family Detached	Over 1 Acre Single- Family Detached	Other Residential	Commercial/ Retail	Office	Industrial/ Manufacturing
Proposed Use	Under 1 acre single-family detached	25	50	40	50	30	75
	Over 1 acre single-family detached	25	25	25	50	30	50

	Existing Zone or Use					
	Under 1 Acre Single- Family Detached	Over 1 Acre Single- Family Detached	Other Residential	Commercial/ Retail	Office	Industrial/ Manufacturing
Other Residential	50	50	25	50	30	50
Commercial Retail	50	50	50	10	20	25
Office	50	50	50	20	10	25
Industrial/ Manufacturing	75	75	75	10	25	10

§ 96-47.1. Agricultural buffers. [Added 12-18-2008 by Ord. No. O-2008-15]

A. Purpose. Elk Township, a rural community with a significant and active agricultural base, recognizes its heritage as well as its residents' desire and natural right to farm, and has subsequently adopted a Right to Farm Ordinance.¹⁸ The purpose of this Agricultural Buffer Ordinance is to compliment and further support the Township's Right to Farm Ordinance.

B. Agricultural buffers.

(1) All applications for site plan or subdivision approval located on or immediately abutting or adjacent to lands that are assessed currently, or within any of the three calendar years preceding the application, as qualified farmland under the New Jersey Farmland Assessment Act or protected under the New Jersey Farmland Preservation program shall include notice as follows:

(a) For all minor subdivision plans, each deed of conveyance for any of the subject lots shall include the following deed notice:

"Notice: On the date of the creation of this lot, Elk Township permitted and may continue to permit by ordinance, farming activities which some may deem offensive such as, but not limited to, aerial and ground application of pesticides, use of power-driven equipment, such as tractors and irrigation pumps, grazing of livestock, etc."

(b) The approval authority shall require the developers of major subdivisions to provide prospective purchasers of lots within the subdivision with written notice that Elk Township has a right-to-farm ordinance, which notice shall include a copy of this section and shall appear as a legend on the final plat.

(2) Agricultural buffers shall be as follows:

(a) Width and location of buffers.

[1] Minor subdivisions and all site plans (commercial, residential, institutional,

18. Editor's Note: See Ch. 63, Farmland Preservation, Art. II, Right to Farm.

industrial, etc.) shall show a vegetated buffer strip of 50 feet in width in a side yard area and 100 feet in width in a rear yard area, and major subdivisions shall show a vegetated buffer strip of 100 feet in width on all proposed lots to be developed which are along any boundary with land that has been assessed currently or within any of the three calendar years preceding the application as qualified farmland under the New Jersey Farmland Assessment Act¹⁹ or protected under the New Jersey Farmland Preservation Program, unless:

- [a] Said subdivision lots are five acres or more in size and are intended to be farmed;
 - [b] Farmland assessment on the adjacent land has been terminated and rollback taxes have been imposed due to change of use of said adjacent land to a use other than agricultural or horticultural; or
 - [c] The adjacent land is a woodlot or wetlands incidental to the farming operation or a wooded tract that is managed under an approved forestry management plan.
- [2] Agricultural buffers are intended to protect and buffer parcels adjacent to tracts utilized for agricultural purposes and not impede agricultural activities. As such, the required agricultural buffers shall be established entirely on the nonagricultural lot and will not be permitted on the agricultural lot.
- (b) The respective agricultural buffer strip area shall be included in measurements for establishing minimum lot areas. However, the respective agricultural buffer strip shall be excluded in measurements for establishing lot width and depth, and all setback requirements stipulated by ordinance. Building setback and all lot measurements shall start at and extend into the lot from the boundary of said agricultural buffers. Said buffer strip for each lot shall be defined by a metes and bounds description included in the lot's deed, and also restricted by deed and by final subdivision plat against construction of any buildings or structures other than fences, walls or drainage facilities and against removal of any screen of trees or hedges until such time as rollback taxes have been imposed on said adjacent land for change of its use to a use other than agricultural or horticultural. In the event that rollback taxes are paid in full for the farmland adjacent to and imposing these buffer restrictions upon a property, the deed restrictions for these buffers on said property can be removed upon approval by the Township's Land Use Board.
- (3) Buffer strips in minor and major subdivisions and site plans shall be vegetated by either retaining the buffer as a naturally wooded area or the planting of a double row of six-foot-tall to eight-foot-tall evergreen trees, spaced at six feet on center, or other form of vegetative buffer acceptable to the Township's Land Use Board.
- (4) The right to enforce said restrictions shall be held separately and may be exercised independently by the Township of Elk.

§ 96-48. Easements.

- A. Utility installation easements. Easements for utility installations may be required. Easements for sanitary sewer lines and potable water mains shall be constructed in such a manner so that all manholes and mains have permanent, unrestricted access for highway-type trucks for the purpose of

19. Editor's Note: See N.J.S.A. 54:4-23.1 et seq.

maintaining said utilities. Said easements shall be at least 20 feet in width or wider if necessary of which an area of 12 feet in width by 12 inches in depth shall consist of quarry process with filter fabric with sufficient space for vehicles to turn around located at least every 1,200 feet. Such easement area may be seeded as long as the formation and strength of the same is not diminished. These are considered minimum standards and are subject to review and approval of other agencies including the Elk Township Municipal Utilities Authority.²⁰

- B. Drainage and conservation easements. If the property on which a proposed subdivision is to be located is traversed by a watercourse of any kind, including a channel or a stream, the Planning Board may require that a stormwater and drainage easement and right-of-way along said watercourse be provided by the subdivider. The land which is the subject of such easement and right-of-way shall be a strip, which conforms substantially to the floodplain of such watercourse along both sides of the watercourse, or extends along both sides of the top of the bank of the watercourse to a width of 15 feet in each direction, or is not less than an encroachment line established by a competent higher authority, whichever is the greater; except, however, that if the location of such watercourse is at or near the boundary of the subdivision, the dimensions of the easement and right-of-way shall be modified to retain it within the confines of the subdivision. Said easement and right-of-way shall include provisions assuring the following: preservation of the channel of the watercourse; prohibition of alteration of the contour, topography or composition of the land within the easement and right-of-way; prohibition of construction within the boundaries of the easement and right-of-way which will obstruct or interfere with the natural flow of the watercourse; and reservation to the Public Works Department of a right of entry for the purposes of maintaining the natural flow or drainage of the watercourse, of maintaining any and all structures related to the exercise of the easement and right-of-way and of installing and maintaining storm or sanitary sewer systems or other public utility, and the right to add additional utility lines when needed.
- C. Drainage easements provided for the purpose of carrying overland flow or for underground storm drain piping shall include provisions assuring the following: preservation of the drainage swale or piping system contained within the easement; prohibition of construction within the boundaries of the easement; and reservation to the Public Works Department of a right of entry for the purposes of maintaining any and all structures related to the exercise of the easement. The minimum width of a drainage easement shall be 20 feet.

§ 96-49. Height exceptions.

- A. The height limitations of this chapter shall not apply to church spires, belfries, or cupolas not used for human occupancy, bridges, chimneys, ventilators, skylights, water tanks, bulkheads, structures used in conjunction with agriculture on any farmland assessed property, 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. **[Amended 8-3-2006 by Ord. No. O-2006-2]**
- B. The provisions of this section shall not apply to prevent the erection above the building height limit of a parapet wall or cornice for ornamentation extending above such height limit not more than five feet.

§ 96-50. Landscaping and buffers. [Amended 8-3-2006 by Ord. No. O-2006-2]

Buffer areas shall require site plan approval and are required in accordance with § 96-47.

20. Editor's Note: See Ch. 38, Municipal Utilities Authority.

A. General design requirements.

- (1) Buffer areas shall be developed in an aesthetic manner for the primary purposes of screening views and reducing noise penetration beyond the lot. Buffer widths shall be measured horizontally and perpendicularly to lot and street lines. No structure, activity, storage of materials or parking of vehicles shall be permitted in a buffer area. The standards for the location and design of buffer areas are intended to provide flexibility in order to provide effective buffers. The location and design of buffers shall consider the use of the portion of the property being screened; the distance between the use and the adjoining property line; differences in elevations; the type of buffer such as dense planting, existing woods, a wall or fence; buffer height; buffer width; and other combinations of man-made and natural features. The buffer shall be designed, planted, graded, landscaped and developed with the general guideline that the closer a use or activity is to a property line, or the more intense the use, the more effective the buffer area must be in obscuring light and vision and reducing noise beyond the lot.

B. General standards.

- (1) A minimum of 1/2 of the periphery that requires a buffer shall have an area at least 15 feet wide which shall be designed, planted, graded, landscaped and developed to obscure the activities of the site from view and shall consist of at least two of the following: fencing or walls in a landscaped area not less than 10 feet wide or landscaped berm at least three feet high. If, in the judgment of the approving authority, any of these alternate provisions will not provide sufficient buffers for the portion of the site proposed, the approving authority may require the site plan to be modified to show the extension of the 15 foot buffer area outlined above, require that the proposed alternatives be landscaped differently, or be relocated, until, in the approving authority's judgment, they provide the desired buffering effect.
- (2) All buffer areas shall be planted and maintained with either grass or ground cover, together with a screen of live shrubs or scattered planting of live trees, shrubs or other plant material meeting the following requirements:
 - (a) The preservation of all natural wooded tracts shall be an integral part of all site plans and may be calculated as part of the required buffer area, provided that the growth is of a density and the area has sufficient width to serve the purpose of a buffer. Where additional plantings are necessary to establish an appropriate tone for an effective buffer, said plantings may be required.
 - (b) Plant materials used in screen planting shall be at least three feet in height when planted and be of such density as will obscure, throughout the full course of the year, the glare of automobile headlights emitted from the premises.
 - (c) The screen planting shall be so placed that at maturity it will not be closer than three feet from any street or property line.
 - (d) Trees shall be at least six to eight feet in height and 1 1/4 inches in caliper when planted and be of a species common to the area, be of balled and burlapped nursery stock and be free of insects and disease.
 - (e) Any plant material which does not live shall be replaced within one year or one growing season as determined by the Municipal Engineer.
 - (f) Screen plantings and landscaping shall be broken at points of vehicular and pedestrian

ingress and egress to assure a clear sight triangle at all street and driveway intersections.

C. General landscaping design principles. Landscape plans shall conform to the following general design principles.

- (1) Landscaping shall be provided as part of site plan and subdivision design. It shall be conceived in a total pattern throughout the site, integrating the various elements of site design, preserving and enhancing the particular identity of the site and creating a pleasing site character.
- (2) Landscaping may include plant materials such as trees, shrubs, ground cover, perennials, and annuals and other materials such as rocks, water, sculpture, art, walls, fences and building and paving materials.
- (3) Use landscaping to accent and complement buildings. For example, groupings of tall trees to break up long, low buildings and lower plantings for taller buildings.
- (4) Locate landscaping to provide for climate control. For example, shade trees on the south to shield the hot summer sun and evergreens on the north side for windbreaks.
- (5) Provide for a variety and mixture of landscaping. The variety shall consider susceptibility to disease, colors, season, textures, shapes, blossoms, and foliage.
- (6) Local soil conditions and water availability shall be considered in the choice of landscaping.
- (7) Consider the impact of any proposed landscaping plan at various time intervals so that, for example, shrubs do not grow and eventually block sight distances or encroach upon roads or sidewalks.
- (8) All landscape plants shall be typical full specimens conforming to the American Association of Nurserymen Standards and/or Landscape Plans and Specifications for Quality and Installation.
- (9) Assure that no aspect of the landscape design inhibits access to the development by emergency vehicles.
- (10) A landscape plan shall be submitted with each plan application, unless an exception is granted by the approving authority. The plan shall identify existing and proposed trees, shrubs, ground cover, natural features and other landscaping elements. The plan should show where they are or will be located and planting and/or construction details. When existing natural growth is proposed to remain, applicant shall include in the plans proposed methods to protect existing trees and growth during and after construction.
- (11) Site protection and general planting requirements.
 - (a) Topsoil preservation. Topsoil moved during the course of construction shall be redistributed on all regraded surfaces so as to provide at least four inches of even cover to all disturbed areas of the development and shall be stabilized by seeding or planting.
 - (b) Removal of debris. All stumps and other tree parts, litter, brush, weeds, excess or scrap building materials, or other debris shall be removed from the site and disposed of in accordance with the law. No tree stumps, portions of tree trunks or limbs shall be buried anywhere in the development. All dead or dying trees, standing or fallen, shall be removed from the site. If trees and limbs are reduced to chips, they may, subject to approval of the Zoning Officer, be used as mulch in landscaped areas.

- (c) Protection of existing plantings. Maximum effort should be made to save specimen trees identified. No material or temporary soil deposits shall be placed within four feet of shrubs or 10 feet of trees designated to be retained on the preliminary and/or final plat. Protective barriers or tree wells shall be installed around each plant and/or group of plants that are to remain on the site. Barriers shall not be supported by the plants they are protecting, but shall be self-supporting. They shall be a minimum of four feet high and constructed of a durable material that will last until construction is completed. Snow fences and silt fences are examples of acceptable barriers.
- (d) Slope plantings. Landscaping of the area of all cuts and fills and/or trenches shall be sufficient to prevent erosion, and all roadway slopes steeper than one foot vertically to three feet horizontally shall be planted with ground covers appropriate for the purpose and soil conditions, water availability and environment.
- (e) Additional landscaping. In residential developments, besides the screening and street trees required, additional plantings or landscaping elements shall be required throughout the subdivision where necessary for climate control, privacy or for aesthetic reasons in accordance with a planting plan approved by the Planning Board and taking into consideration cost constraints. In nonresidential developments, all areas of the site not occupied by buildings and required improvements shall be landscaped by the planting of grass or other ground cover, shrubs, and trees as part of a plan approved by the Planning Board.
- (f) Planting specifications. Deciduous trees shall have at least a two-inch caliper at planting. Size of evergreens and shrubs shall be allowed to vary depending on setting and type of shrub. Only nursery-grown plant materials shall be acceptable, and all plantings shall be according to accepted horticultural standards. Dead or dying plants shall be replaced by the developer the following planting season.
- (g) Plant species. The plant species selected should be hardy for the particular climatic zone in which the development is located and appropriate in terms of function and size.

D. Street trees.

(1) Location.

- (a) Street trees shall be installed on both sides of all streets in accordance with the approved landscape plan. Trees shall either be massed at critical points or spaced evenly along the street.
- (b) When trees are planted at predetermined intervals along streets, spacing shall depend on tree size as follows:

Tree Size (height) (feet)	Planting Interval (feet)
Medium trees (30 to 40)	40 to 50
Small trees (to 30)	30 to 40

- (c) When the spacing interval exceeds 40 feet, small ornamental trees can be spaced between the large trees. If a street canopy effect is desired, trees may be planted closer together, following the recommendations of a certified landscape architect and approval of the Township. Trees shall be planted so as not to interfere with utilities, roadways, sidewalks,

sight easements, or streetlights. Tree location, landscaping design and spacing plan shall be approved by the Planning Board as part of the landscape plan.

- (2) Tree type. Tree type shall vary depending on overall effect desired. Selection of tree type shall be approved by the Planning Board.
- (3) Planting specifications. All trees shall have a minimum caliper of 2 1/2 inches, and they shall be nursery grown, of substantially uniform size and shape, and have straight trunks. Trees shall be properly planted and staked and provision made by the applicant for regular watering and maintenance until they are established. Dead or dying trees shall be replaced by the applicant during the next planting season.

E. Buffering.

- (1) Function and materials. Buffering shall provide a year-round visual screen in order to minimize adverse impacts from a site on an adjacent property or from adjacent areas. It may consist of fencing, evergreens, berms, rocks, boulders, mounds or combinations to achieve the stated objectives.
- (2) When required.
 - (a) Buffering shall be required when topographical or other barriers do not provide reasonable screening and when the Planning Board determines that there is a need to shield the site from adjacent properties and to minimize adverse impacts such as incompatible land uses, noise, glaring light, and traffic. In small-lot developments, when building design and siting do not provide privacy, the Planning Board may require landscaping, fences or walls to ensure privacy. When required, buffers shall be measured from side and rear property lines, excluding access driveways.
 - [1] Where more intensive land uses abut less intensive uses, a buffer strip 25 feet, but not to exceed 10% of the lot area in width, shall be required.
 - [2] Parking areas, garbage collection and utility areas, and loading and unloading areas shall be screened around their perimeter by a buffer strip a minimum of five feet wide or in such manner approved by the Township Planner.
 - [3] Where residential subdivisions abut higher-order streets (collectors or arterials), adjacent lots should front on lower-order streets, and a landscaped buffer area shall be provided along the property line abutting the road. The buffer strip shall be a minimum of 25 feet wide or wider where necessary for the health and safety of the residents and include both trees and shrubs.
 - [a] All buffers abutting streets in a residential subdivision shall be provided in addition to any required yard area.
 - [b] All buffers shall be located in an easement, shown on the survey and recorded by deed.
 - [c] No fences or structures shall be permitted in any buffer easement that is abutting a street line; except that, where a developer proposes to include a fence as part of a buffer treatment, fences in the buffer areas shall be provided in combination with landscape material.

- (3) Design. Arrangement of plantings in buffers shall provide maximum protection to adjacent properties and avoid damage to existing plant material. Possible arrangements include planting in parallel, serpentine or broken rows. If planted berms are used, the minimum top width shall be four feet, and the maximum side slope shall be 2:1.
- (4) Planting specifications. Plant materials shall be sufficiently large and planted in such a fashion that the total screen shall be at least eight feet in height shall be produced within three growing seasons. All plantings shall be installed according to accepted horticultural standards.
- (5) Maintenance. Plantings shall be watered regularly and in a manner appropriate for the specific plant species through the first growing season, and dead or dying plants shall be replaced by the applicant during the next planting season. No building, structures, storage of materials or parking shall be permitted within the buffer area; buffer areas shall be maintained and kept free of all debris, rubbish, weeds and tall grass.

F. Paving materials, walls and fences.

- (1) Paving materials. Design and choice of paving materials used in pedestrian areas shall consider the following factors: cost, maintenance, use, climate, characteristics of users, appearance, availability, glare, heat, drainage, noise, compatibility with surroundings, decorative quality and aesthetic appeal. Acceptable materials shall include but are not limited to concrete, brick, cement pavers, asphalt and stone.
- (2) Walls and fences shall be erected where required for privacy, screening, separation, security or to serve other necessary functions and shall comply with the following provisions and shall not apply to the required screening of storage or similar areas for business or industrial uses.
- (3) All applications for a permit shall be accompanied with a drawing of the proposed fence design which meets the following standards and provides the following information:
 - (a) The drawing shall be neatly and accurately drawn at an appropriate scale of not more than 20 feet to the inch.
 - (b) The drawing shall show all dimensions and shall be clearly marked.
- (4) All fences shall be installed in accordance with § 96-80.1.

G. Landscape maintenance.

- (1) A landscape management/maintenance specification shall be provided in conjunction with all approved subdivisions as to street trees, common open space, and areas to be dedicated to the public and all approved site plans. In addition, a copy of the reverse frontage maintenance specifications for the tasks outlined below for this area must be provided to all owners of fee simple reverse frontage lots at the time of sale.
- (2) These documents shall provide specifications for perpetual maintenance in order to assure a safe and attractive landscape environment and to promote healthy growth of all plant materials. They may take the form of a monthly schedule or a categorized guideline.
- (3) Installation and inspection of landscaping. The following installation and performance and inspection principles and procedures should be applied to all landscape installations.
 - (a) Prior to the issuance of any certificate of occupancy, the proposed landscape as shown on the approved landscape plan must be installed, inspected, and approved.

- (b) All plantings shall be made in a manner consistent with the instructions and graphics set forth in the following planting details.
- (c) For all reverse frontage and other buffer areas, the following installation and inspection procedures shall be followed. First, the area should be rough graded for the approval of the Township Engineer. Based upon comments made during these two inspections, the sidewalk shall be formed for inspection and approval. Subsequent to sidewalk installation, the area should be fine graded and the planting staked for approval.
- (d) If minor changes to the approved plan are made prior to or during construction, revised or record drawings must be submitted to the Township Planner for approval. Such revisions shall be indicated by a formal letter of request to the Township with a copy to the Township Planner. Substantial changes shall require the approval of the board of jurisdiction. If unapproved or inadequate landscape is implemented, then appropriate replacement may be required.
- (e) Subsequent to landscape installation and until release of performance bonds, the Township shall have the right to inspect all landscape areas for conformance to the approved plans, proper installation and maintenance, and performance of landscape material.

§ 96-51. Lighting.

- A. The purpose of this section is to provide minimum standards and regulations for lighting facilities for all sections and zones of the Township that will afford safety, convenience, and the ability to advertise, and at the same time, avoid needless light pollution, driving hazards, noncompatible adjacent lighting plans, and annoyance to neighboring property owners.
- B. All lighting installations shall be designed to be energy efficient to the degree consistent with both reasonable cost and the conservation of nonrenewable natural resources.
- C. All lighting installations shall be designed to reflect the needs and atmosphere of the general neighborhood and adjacent existing installations. Conflicts of lighting types, methods, and color temperature are to be avoided wherever possible.
- D. All applications for Planning Board or Zoning Board of Adjustment approval of commercial and cluster residential site plans shall include a complete lighting plan, including luminaire type, wattage, pole height and type, lighting levels in footcandles, and beam spread diagrams, and point-to-point illumination diagrams, including perimeter levels.
- E. Specific lighting requirements and minimum specifications are divided into five categories as follows:
 - (1) Streetlighting.
 - (2) Parking lot and open area lighting.
 - (3) Commercial site lighting.
 - (4) Sign lighting.
 - (5) Residential outdoor lighting.
- F. Illumination levels for various applications. The maintained footcandles of illumination recommended are as indicated in the following table:

Type of Area	Minimum Intensity Footcandles	Average Intensity Footcandles	Uniform Ratio ²¹
General streetlighting	0.5	1.0	²²
Shopping center parking	0.8	1.0	10:1
Mall parking	0.8	2.0	16:1
Site lighting	0.2	0.5	20:1
Industrial/ commercial	0.5	1.0	15:1
Parking areas			
Entrance and exit roads	1.0	2.0	10:1
Residential area parking and drive areas	0.2	0.5	²³

G. For all commercial applications, the Board reserves the right to require a nighttime demonstration of the completed project. The applicant shall provide the services of a technician and a light meter calibrated in footcandles to demonstrate conformance to the chapter requirements. **[Added 7-20-2004 by Ord. No. O-2004-6]**

H. Streetlighting.

- (1) All streetlighting plans shall conform to federal, state, and county requirements that pertain to the zone or area in question. In addition to these requirements, the Township of Elk may require that type of fixtures, poles, and lighting distribution conform to the type of area and use involved. Wherever the Township of Elk requirements directly conflict with the requirements of the aforementioned authorities, the standards of the higher governing authority shall prevail.
- (2) Whenever this section requires the installation of electric utility installations underground, the applicant shall, in addition, provide for the installation of underground service for streetlighting.
- (3) Streetlighting standards of a type and number approved by the Board engineer shall be installed at all street intersections and elsewhere as deemed necessary by the Municipal Engineer.
- (4) Streetlighting standards:
 - (a) Each applicant for development plan approval shall provide the minimum adequate lighting to ensure safe movement of persons and vehicles and for security purposes. Lighting standards shall be of a type approved by the municipal agency. Directional lights shall be arranged so as to minimize glare and reflection on adjacent properties.
 - (b) Each applicant for development plan approval shall provide, within the limits of practicability and feasibility, lighting consistent with conservation of energy and use of renewable energy sources.

21. Note: The uniformity ratio equals the maximum lighting level over the minimum lighting level.

22. Note: Actual lighting levels for highway, feeder, town center, suburban, and rural roads and at intersections are set by the authority having jurisdiction.

23. Note: Minimum levels shall be required in residential use only for townhouse, condominium, or other cluster-type residential use.

- (c) The intent is to provide guidelines and not rigid standards. These guidelines are to be used for the design of lighting systems, and which may be subject to possible adjustment dictated by special specific site conditions.
- (d) The illumination levels recommended shall be attained by use of the minimum number of poles that will provide relatively uniform illumination. High uniformity ratios which deter or prevent visual adaption shall be avoided.
- (5) Luminaires shall be specified that can be provided by the local utility and are in keeping with the general type of land use and zone in question.

I. Parking lot and open area lighting.

- (1) The object of parking area lighting is to provide a safe level of illumination to allow the orderly entrance and egress of vehicular traffic, provide backup maneuver vision, identify and illuminate entrance and exit areas, and provide pedestrian and parking area illumination that will discourage vandalism, theft, and assault. Parking area lighting should not be used as an adjunct to advertising.
- (2) Luminaires.
 - (a) In general, the type of luminaire and pole to be used must be matched to the area, zone, use, and size of the parking area to be lit. The primary criteria should be light control; that is, providing a beam spread pattern to produce an average lighting intensity as specified above without producing areas of over-intensity or below-intensity design, that is, a low uniformity ratio.
 - (b) The design of luminaires for parking areas should include lamp location, reflector type and refractor design to deliver light to areas selected, and keep light spill from adjacent areas. A parking area lighting design that produces sky glow is inefficient and an irritant to residents and will not be permitted.
 - (c) Sharp cutoff-type luminaires are recommended as the best approach to lighting parking areas, and the fixtures selected shall be of the type that can be provided with sharp cutoff deflectors or refractors. The shielding angle shall be selected to minimize discomforting glare to an observer's eyes from the light source at an angle below the set cutoff. Shielding shall also be employed to prevent spillover of undesirable light to adjoining property.
 - (d) The use of fixtures and luminaires which utilize a box-type body with a recessed lamp, flush refractor, and mounted so the lens is parallel to the ground are encouraged. Other types of luminaires, and refractors mounted above 0° to the horizon will be approved if the submitted plan meets all other criteria of this section.
 - (e) The use of high-pressure sodium or metal halide luminaires is encouraged. Low-pressure sodium luminaires may be considered in isolated industrial areas remote from residential and commercial zones where they will not be visible from the traveled way.
 - (f) The coefficient of utilization (CU) factor of luminaires shall be rated for all designs submitted for approval. In general, parking area designs shall include a high coefficient luminaire with the lowest watt input that will result in lighting levels responsive to the area requirements.
 - (g) The maximum cutoff angle shall be used to shield light source glare and unwanted light

from adjacent properties and motorists approaching on adjacent roads and highways. As improperly designed or aimed lighting fixtures are an inherent danger to motorists and pedestrians, special attention shall be given to all site lighting designs that have boundaries that include public vehicular traveled ways of any type and private traveled ways that are open to the public. All applications for site plan approval that include site lighting, and that have traveled ways as boundaries, shall include, in addition to the other requirements listed in this chapter, the details of the point-to-point and beam spread calculations for all lighting that will impinge on the traveled ways. As even relatively low average footcandle intensities can blind drivers who are within the focal point area of the luminaire, no lighting plan will be acceptable where the central focus node of any fixture is visible from any traveled way. In general, no fixture shall be so aimed so that this center focus point is less than 20° off of the property boundary. This may require that additional and lower wattage fixtures be utilized adjacent to roadways. The plan submitted shall clearly indicate the methods used to prevent roadway glare.

- (h) Adequate shielding shall be employed to protect properties, streets and highways from the glare of such illumination, including on luminaires used for illuminating entrances and driveways for parking areas.
- (i) Where parking areas for commercial zone buildings are immediately adjacent to a residential use zone, the design of the parking area lighting shall be coordinated with the design of the interzone buffer as required under other sections of this chapter. The coordinated buffer/lighting plan submitted shall insure that objectionable light spill from the parking lot shall not impinge on the residential area or result in a spurious light spill exceeding 0.5 footcandle.

J. Poles.

- (1) The type and height of all poles for mounting luminaires shall be consistent with the general design of the application.
- (2) Utility-type wood poles may be used only on parking areas of one acre or less, except where parking lot illumination is provided by the electric utility. All wood poles shall be pressure treated to resist rot and termite damage, and the pole class shall result in a wind load rating as specified in the BOCA Code.
- (3) Architectural wood poles shall be rated for the applicable wind load and shall have adequate wiring access as required by the National Electric Code.
- (4) Aluminum poles shall be rated for the applicable wind load plus an additional 10% safety factor. Aluminum poles shall be provided with transformer-type bases or adequate wiring and splicing access doors, and shall be permanently and effectively grounded either by a 3/4-inch by ten-foot copperweld ground rod or by a dedicated grounding conductor run from the feeder source.
- (5) All poles shall be protected with concrete bases of sufficient height to protect them from traffic, or by four-inch concrete-filled steel pipe bollards.
- (6) Maximum pole mounting height shall be as follows:
 - (a) For sites up to five acres: 25 feet.
 - (b) For sites greater than five acres: 35 feet.

- (c) For sites designated as shopping malls, poles of greater height may be approved by the Planning Board on the submission of lighting design by a professional engineer indicating that a greater height is required, and that the greater height will not produce light spill to adjacent areas above the limits hereinbefore listed.
- (d) All mounting poles shall meet wind loading requirements as specified in the BOCA Code.

K. Commercial building and outdoor sales site lighting.

- (1) The object of exterior lighting of a commercial building is to provide a safe level of illumination to allow the orderly entrance and egress of pedestrian traffic, identify and illuminate entrance and exit doors and loading areas, and to provide illumination levels that will discourage vandalism, theft, and assault. While it is recognized that commercial building lighting is also used to attract and advertise the building occupant's trade, this type of lighting shall be designed so that the resulting illumination levels are not detrimental to adjacent property owners and occupants.
- (2) Luminaires. In general, the type of luminaire and mounting method to be used must be matched to the area, construction type, use, and size of the building to be lit. The primary criteria should be light control; that is, providing a beam spread pattern that will produce an average lighting intensity desired without producing areas of either over-intensity or below-intensity design.
- (3) Conflicts as to color temperature and lamp type with lighting of adjacent properties shall be avoided. For example, if one or more adjacent areas with established lighting systems are using mercury-vapor lamps, the submitted area shall conform to the same lamp type, but not necessarily the same type luminaire. The HID (high intensity discharge) type of lamp may be considered when compelling reasons exist for employing such lamps and ample proof that a suitable method can be employed to reduce color conflict.
- (4) Security lighting. All parking area walkways and appurtenant passageways and driveways shall be illuminated for safety and security reasons from sunset to sunrise.
- (5) General illumination of the exterior of buildings, including the roof, is discouraged. Objectionable spill to the exterior of bright and glaring interior building light shall be avoided by the use of low-brightness lenses on interior lighting. Where wall-washer type of lighting is proposed for exterior building lighting, the amount of light falling on adjacent properties and escaped sky-glow lighting shall be carefully and accurately calculated and submitted as part of the plan.
- (6) To insure that the proposed lighting plan conforms to the scope and limitations of this chapter, the following data and information shall be submitted with every application for site plan approval:
 - (a) Type of luminaires, including manufacturer's data.
 - (b) Type and wattage of lamp, including manufacturer's data.
 - (c) Mounting height of luminaire.
 - (d) Photometric data and isolux lines of the luminaire and lamp proposed. Photometric curves shall be drawn to the same scale as the site plan scale and shall show initial and maintained footcandle levels of illumination.

- (7) Where building lighting is proposed to be provided via pole-mounted fixtures, the type and height of pole and manufacturer's data must also be submitted. Applicants are encouraged to use architectural wooden or duranodic bronze-colored aluminum poles in keeping with the architecture of the building and surrounding areas. The use of bollard down-light fixtures is encouraged for exterior walkways. As the spherical globe type of luminaire has a low coefficient of utilization, are therefore inherently energy inefficient and contribute to excessive sky glow, their use is to be discouraged.
- (8) Commercial recreational facilities such as driving ranges, stadiums, outdoor arenas, etc., shall be illuminated as required by the site use; however, all of the perimeter area lighting, light spillage, and protection from glare on traveled roadways shall conform to the requirements of Subsections H and I; and Subsection I(2)(g) in particular.
- (9) Outdoor sales facilities, such as new and used automobile lots, shall be illuminated as required by the site use; however, all of the perimeter area lighting, light spillage, and protection from glare on traveled roadways shall conform to the requirements of Subsections H and I, Subsection I(2)(g) in particular.

L. Advertising sign illumination. **[Amended 11-3-2022 by Ord. No. O-8-2022]**

- (1) Permits for signs are referenced in other sections of the chapter; however, all signs, including sections of building surfaces of any kind that are externally or internally illuminated, shall conform, in addition to all requirements of § 96-60, to the following requirements.
- (2) No illuminated sign that is visible from a traveled roadway or traveled way used by motor vehicles shall have a degree of luminance that causes visual discomfort to drivers. The degree of luminance allowable is a factor of luminance ratio, (sign luminance to surrounding luminance) and illumination color. In general, no sign shall have a surface luminance greater than 750 footlamberts, or greater than a 5:1 ratio between sign luminance and average surrounding luminance.
- (3) Outdoor large-scale advertising signs shall use an illumination source that is not visible to either motorists or pedestrians when on normal traveled roads, streets, or walkways.
- (4) No sign shall have lighting of intermittently changing intensity, color, or hue, and may not use a repetitive on-off design.
- (5) No sign shall incorporate neon, xenon, or strobe lamps.
- (6) No sign shall use animation by either mechanical, electrical, or electronic means.
- (7) All interior signs that are within six feet of glass show windows shall conform to Subsection L(4), (5) and (6) above.

M. Lighting and illumination in residential districts.

- (1) The intent of this subsection is to promote a safe, healthy, and an attractive place to live in the Township of Elk. It is recognized that a family's home is its castle, and architectural lighting for residences is aesthetically attractive to some homeowners; however, other homeowners may consider light spill from their neighbor's property a form of pollution. Therefore, all exterior lighting in residential areas should be designed and installed with the rights and interests of adjacent property owners in mind.

- (2) Residential streetlighting shall conform to § 96-62 of this chapter. The primary goal of streetlighting in residential districts is vehicular traffic control and pedestrian safety and as a general deterrent to crime. In overhead utility districts, streetlighting from wood utility poles is acceptable. In residential districts, all streetlighting wiring shall be underground. The type of lighting standard or pole used shall be complementary to the residential area.
- (3) Exterior lighting at parks, recreational facilities, ballfields, and municipal parking lots shall conform to the requirements of Subsection L(1) and (2) above.
- (4) Lighting of residential plots to the extent required for discouragement of theft, break-and-entry, and vandalism may require additional exterior lighting. The type of lighting and the total lumens required will be directly proportional to the size of the lot involved. Where this type of exterior lighting is desired by the homeowner, the installation must reflect consideration for adjacent property owners. The preferred method of lighting residential driveways is via mushroom-type fixtures no higher than 24 inches above grade and fitted with low wattage lamps. Where owners wish to light the exterior of homes with dusk-to-dawn lighting, the preferred method for safety and keeping light spill to a minimum is low-voltage wall washers set in the ground and with reflectors that direct all light towards the building. The watt intensity shall be such that the light intensity reflected from the building does not exceed 100 footlamberts.
 - (a) All exterior residential lighting shall be so designed and installed so that the resultant light spill skyward is minimal, and light impingement levels on adjacent properties shall not exceed .5 footcandle at the property line.
 - (b) Floodlighting fixtures for residential lighting shall be used only where plot size requires larger watt intensities. Flood fixtures shall be selected with care, and fixtures using a box-type body, recessed lamp, and a flush refractor are the preferred type of fixture. This type of fixture, with the lens positioned downward, and as close to the perpendicular as possible, will result in the best light utilization, and the least light spill skyward and to adjacent properties. Exterior PAR reflector flood type of fixtures are to be used only for intermittent use and where small areas of lighting at relatively high intensity is required. This type of fixture has a high point source footlambert level and can easily blind drivers and pedestrians when pointed toward traveled ways. When their use is required by circumstances, the fixtures should never be pointed toward driveways, streets, or walkways.
 - (c) All exterior lighting fixtures and luminaires that are controlled by dusk-to-dawn controllers shall be installed with shields or otherwise designed so that lighting intensity at the property line is 0.5 footcandle or less. Lighting fixtures arranged so that the light source (lamp and reflector) is directed to adjacent homes are prohibited.
- (5) Where exterior fixtures are controlled by infrared (or other type) of heat-sensitive device or proximity device, the control must be regulated to prevent repetitive on-off operation due to wind, door movement, tree branch movement, or anything other than the presence of a human or large animal.

§ 96-52. Lots.

- A. Lot size. Minimum lot size shall be governed by this chapter based on the zoning district in which the lot is located and the results of percolation and soil boring analysis, where required.
- B. Lot and house numbers. House and lot numbers shall be assigned each lot by the Tax Assessor.

- C. Side lot lines. Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
- D. Lot frontage and width. Each lot shall front on an approved street accepted by the municipality.
- E. Lot line on widened streets. Where extra width is provided for the widening of existing streets, lot measurements shall begin at such extra width line, and all setbacks shall be measured from such line unless otherwise provided by this chapter.
- F. Unsuitable lots. All lots shall be suitable for the purpose for which they are intended to be used. In order to prevent the use of lots which are not suitable because of adverse topography, rock formations, flood conditions, or similar circumstances, the Planning Board may require such revisions in the layout of the subdivisions as will accomplish one of the following:
 - (1) The area of the unsuitable lots is included in other lots by increasing the size of the remaining lots;
 - (2) The area is adjacent to other public land, and that it is to be deeded to the municipality and held in its natural state for conservation and/or recreation purposes; or
 - (3) That some other suitable arrangement, such as common ownership made permanent by deed covenants running with the land, is made.
- G. All residential dwellings shall be oriented so that the front faade faces the abutting right-of-way. In the case of corner lots and reverse frontage lots, the dwelling shall be oriented toward the lower order street. **[Added 8-3-2006 by Ord. No. O-2006-2]**
- H. Lot access. **[Added 8-3-2006 by Ord. No. O-2006-2]**
 - (1) Any lot located adjacent to any existing or proposed intersection shall locate any driveway the maximum feasible distance from that intersection, as determined by the Township Engineer.
 - (2) Any lot where the right-of-way providing access is not under municipal maintenance, bonding or guarantee, an escrow of \$2,500 shall be posted prior to the issuance of any construction permit for that lot, which shall be accompanied by a signed and dated photograph of the entire length of the right-of-way abutting said lot.
- I. Structures moved to lots. Prior to any structure being moved from one lot to another in the Township, the following shall be required: **[Added 8-3-2006 by Ord. No. O-2006-2]**
 - (1) Proof of insurance.
 - (2) Proof of police notification of route, date and time.
 - (3) Bonding for road damage in an amount determined by the Township Engineer based upon weight and route.

§ 96-52.1. Yard encroachments. [Added 8-3-2006 by Ord. No. O-2006-2]

- A. No part of a building shall be erected within, or shall project into any required yard area, except as follows:
 - (1) Cornices, projecting eaves, gutters or chimneys may project a distance of up to 30 inches into a required yard area.

- (2) Steps and awnings may project up to six feet into a required yard area.
- (3) Handicapped ramps may project 13 feet into a required yard area.
- (4) Decks may project into required rear yards up to half the minimum required distance, i.e., if a required rear yard is 30 feet, a deck may be as close as 15 feet to the rear property line.
- (5) On lots of 15,000 square feet or less, an encroachment of the primary structure into a required yard of up to one foot shall be a waiver.

§ 96-53. Nonconforming uses and lots.

A. Continuance.

- (1) Except as otherwise provided in this section, the lawful use of land or buildings existing at the date of the adoption of this chapter may be continued although such use or building does not conform to the regulations specified by this chapter for the zone in which such land or building is located; provided, however:
 - (a) That no nonconforming lot shall be further reduced in size.
 - (b) That no nonconforming building shall be enlarged, extended or increased unless such enlargement would tend to reduce the degree of nonconformance.
 - (c) That no nonconforming use may be expanded.

B. Abandonment. A nonconforming use shall be adjudged as abandoned when there occurs a cessation of any 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.

C. Restoration. If any nonconforming building shall be destroyed by reason of windstorm, fire, explosion or other act of God or the public enemy to an extent of less than 50% of the recorded true valuation, then such destruction shall be deemed partial destruction and such building may be rebuilt, restored or repaired. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any wall, floor or roof which has been declared unsafe by the Building Inspector.

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

E. Alterations. A nonconforming building may be reconstructed but not enlarged or extended unless said building is changed to a building conforming or more nearly conforming to the requirements of this chapter.

F. Prior approved construction. Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three months of the date of such permit and the ground story framework of which, including the second tier of beams, shall have been completed within six months of the date of the permit, and which entire building shall be completed according to such plans as filed within one year from the date of this chapter.

G. District changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein or created thereby.

§ 96-54. Off-street parking, loading and circulation.

- A. Minimum standards. Off-street parking space, together with appropriate access thereto, shall be provided on the same lot as the building it is intended to serve in accordance with the following minimum standards:
- (1) One-family dwellings: two spaces.
 - (2) Elementary and middle schools: 1 1/2 spaces for each staff member. Secondary schools: 1 1/2 spaces for each staff member, plus one per each 10 students.
 - (3) Churches and other public auditoriums: one space for each four public seats or equivalent accommodation.
 - (4) Other public buildings: one space for each 400 square feet of gross floor area.
 - (5) Public recreational areas and golf course: two spaces for each one acre devoted to such use.
 - (6) Quasi-public buildings: one space for each 400 square feet of gross floor area.
 - (7) Quasi-public recreation areas: two spaces for each one acre devoted to such use.
 - (8) Seasonal resort cottages: one space for each dwelling unit.
- B. Business uses shall comply with the following standards, but in no case shall less than six spaces be provided:
- (1) Retail trade and personal service establishments: one space for each 200 square feet of gross floor area.
 - (2) Business and professional offices and banks: one space for each 250 square feet of gross floor area.
 - (3) Wholesale trade establishments: one space for each 200 square feet of sales floor or display area and one space for each employee during a normal workday, subject to an annual review.
 - (4) Theaters and other such uses where public seats are a function of the use: one space for each two public seats. **[Amended 12-5-2013 by Ord. No. O-9-2013]**
 - (5) Restaurants: **[Added 12-5-2013 by Ord. No. O-9-2013²⁴]**
 - (a) Restaurants without a bar or lounge shall provide 15 parking spaces per 1,000 square feet of gross floor area;
 - (b) Restaurants with a bar or lounge, or taverns, shall provide 20 parking spaces per 1,000 square feet of gross floor area.
 - (6) Other permitted uses: one space for each 400 square feet of gross floor area.
- C. Industrial establishments: one space for every two employees or one space for every 400 square feet of gross floor area, whichever provides the greater parking accommodations.
- D. Design, construction and location.

24. Editor's Note: This ordinance also redesignated former Subsection B(5) as B(6).

- (1) Parking areas shall be on the same lot as the principal building or premises for which such parking spaces are provided. Each parking space shall have minimum dimensions of 9 feet by 18 feet.
- (2) Parking areas shall be suitably drained, maintained in good condition and have adequate means of ingress and egress. Off-street parking required in conjunction with nonresidential uses shall be adequately paved and drained in accordance with Township specifications.
- (3) Not more than two driveways of not less than 20 feet nor more than 30 feet in width, used as a means of ingress and egress for nonresidential off-street parking areas, shall be permitted for each 300 feet of frontage upon a public street, nor shall any driveway be located closer than 50 feet to the intersection of two public streets.
- (4) When a parking area for four or more vehicles joins a residential area, a buffer strip at least 15 feet wide shall be provided between the parking area and the adjoining property in accordance with the general design requirements of § 96-50.
- (5) All nonresidential use off-street parking areas shall be adequately lighted, and such lighting shall be focused downward in such a way as not to cause light glare onto adjacent properties.
- (6) Parking facilities in business or industrial zones may be located in any yard space but shall not be closer than 20 feet from any street line.
- (7) The collective provision of off-street parking facilities by two or more buildings or uses located on adjacent lots is permitted, provided the total of such off-street parking facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the standards contained in this chapter, and further provided that the land is owned by one or more of the collective users.
- (8) No more than one vehicle not to exceed one ton with commercial plates or with any permanent business markings shall be parked out-of-doors overnight in a residential zone. **[Amended 6-3-2004 by Ord. No. O-2004-5]**

§ 96-55. Open space.

- A. The following standards for the provision of common open space pertain to any multifamily development in the Township:
- (1) Not less than 25% of land area of every multifamily development shall be preserved as common open space or shall be dedicated to active recreational or community facilities.
 - (2) At least 50% of the required open space area shall be free of environmental constraints such as floodplains, wetlands, bodies of water, stormwater drainageways and basins, or steep slopes. This land shall be utilized for passive or active recreation, community facilities or left as undisturbed open space and/or wildlife habitat.
 - (3) A plan outlining the cleaning of debris and dead brush and, when required, the selective thinning and removal of diseased, dying or undesirable vegetation.
 - (4) Common, active recreation shall be provided at a ratio of not less than one acre for every 100 anticipated residents, with a minimum dedication of one acre.
 - (5) The recorded plan and deeds shall indicate that no additional development of principal

structures can occur in the common open space area. The open space shall be restricted against any future building, development or use, except as is consistent with that of providing for open space for recreational, conservation, agriculture or aesthetic satisfaction of the residents of the development or of the general public. Buildings or uses for noncommercial recreation, cult, or agricultural purposes compatible with the open space objectives may be permitted only with the express approval of the Planning Board, following the approval of the building and site plans by the Planning Board.

- (6) Any land set aside as open space must be made subject to a deed restriction or agreement in a form acceptable to the Planning Board and duly recorded in the office of the County Clerk of Gloucester County. All documents pertaining to the conveyance and maintenance of the open space shall meet the approval of the Planning Board as to legal form and effect.
- (7) Methods of conveyance. All open space must be conveyed in accordance with one of the following methods:
 - (a) Dedication in fee simple. The Township may, at the discretion of the Township Committee, accept any portion or portions of the open space provided:
 - [1] It is determined by the Planning Board that such land is suitable in size, shape, location, and access, and the Township Committee may determine that such lands will benefit the general public of the municipality;
 - [2] The Township agrees to and has access to maintain such lands;
 - [3] The titles are conveyed to the Township without cost; and,
 - [4] The Township Committee shall adopt a resolution accepting the deed of dedication from the landowner together with an account of monies as determined by the Township Committee, which shall be deposited in a special municipal trust account that shall be used only for the purpose of maintaining the land. The maintenance funds shall be determined by the Township Engineer based on an estimate of annual costs for the maintenance of the site including constructed facilities. Sufficient funds shall be posted to cover all costs in perpetuity and shall be based on a present worth value using a 3% rate of return.
 - (b) Conveyance of title to a conservancy, corporation, homeowners' association, funded community trust, condominium corporation, individual or other legal entity, provided that:
 - [1] The terms of such instrument of conveyance must include provisions suitable to the municipality, assuming such organization can guarantee:
 - [a] The continued use of such land for the intended purpose in perpetuity;
 - [b] Continuity of proper maintenance;
 - [c] Availability of funds required for such maintenance;
 - [d] Adequate insurance protection;
 - [e] Provision for payment of applicable taxes;
 - [f] The right of the Township to enter upon and maintain such property at the expense of the organization in the event the organization falls to maintain the

property; and,

[g] Such other covenants and/or easements necessary to fulfill the purposes and intent of this subsection.

(8) Minimum recreational facilities. **[Added 9-6-2001 by Ord. No. O-01-10]**

- (a) The developer shall install as a minimum the recreational facilities on the land which has been set aside for recreational purposes:

Minimal Recreational Facilities

Dwelling Units	Tot Lots	Multi- purpose Field	Other Recreational Facilities
0 to 25	1		
26 to 100	1		1
101 to 150	1		2
151 to 200	2		3
201 to 250	2	1	3
251 to 300	3	1	3
301 to 350	3	1	4
351 to 400	4	2	4
401 to 450	4	2	5
451 to 500	5	2	5

- (b) For developments having over 500 units, add one tot lot for every 100 units or fraction thereof, add one multipurpose field for every 200 units or fraction thereof, and add one other recreational facility for every 150 units or fraction thereof. "Other recreational facilities" referred to herein include swimming pools, tennis courts, golf courses, basketball courts, handball courts, ice skating rinks, indoor recreation centers or other facilities that the Planning Board determines to be of equal recreational value to residents of the proposed development. The developer may choose, with the approval of the Planning Board, which of these facilities will be used to fulfill the requirements of the chapter. In all developments restricted to the elderly or marketed primarily for single adults, passive open space or an additional facility from the "other recreational facilities" category may be chosen by the developer with the approval of the Planning Board to replace tot lot requirements.

(9) Cash contributions. **[Added 9-6-2001 by Ord. No. O-01-10]**

- (a) The requirements of this subsection, entitled "Open space," relating to the construction of on-tract recreational facilities on land which has been set aside for recreational purposes may be modified or waived by the Planning Board with the consent of the applicant upon the Planning Board's determination that both the area local to the development and the recreational needs of the Township would be better served by a cash contribution to the Elk Township Park and Recreation Capital Improvement Fund.
- (b) The amount of the contribution required pursuant hereto shall be determined by the

Planning Board based on the estimated cost of the recreation facilities and equipment that would otherwise be required for the proposed development which will also take into consideration 75% of the increased value accruing to the developer that will occur by reason of the additional dwelling units the developer will be able to construct by making a contribution to the fund in lieu of constructing on-tract recreation facilities. The amount of the contribution determined by the Planning Board shall be prorated over the total number of dwelling units as shown on the preliminary plan or site plan submitted by the applicant and approved by the Planning Board in order to determine a per-dwelling-unit amount. In no case, however, shall the amount of contribution per dwelling unit be less than \$2,500. **[Amended 5-5-2005 by Ord. No. O-2005-2]**

- (c) Payment of the contribution required pursuant hereto shall be made prior to the signing of the final plans by the Planning Board Chairman, Planning Board Secretary, and Township Clerk and shall be equal to the per-lot amount times the number of building lots shown on the final plans to be signed and filed and shall be made payable to the designated parks and recreation fund. For good cause shown, the Planning Board may enter into an agreement to provide that the payment or payments shall be made at some later time, subject to the posting of adequate performance guaranties in an amount of 120% of the agreed contribution, subject, however, that the delayed period of time shall in no event be later than the issuance of the first certificate of occupancy.
 - (d) The funds shall be deposited in a separate dedicated trust fund of the Township to be designated to be used to offset the cost of parks and recreation capital improvement projects and for the acquisition of real estate for the development of Township parks and recreational facilities.
- B. The following are prerequisites for a condominium corporation, homeowners' association, or similar entity:
 - (1) Disposition of the open space must be approved by the Planning Board, prior to final plan approval, and the final plats recorded before any dwelling units are sold, leased, or otherwise conveyed.
 - (2) Membership must be mandatory for each buyer and/or lessee. The organizational papers shall set forth the voting rights and the manner and time of transference of the organization and its assets from developer to homeowner.
 - (3) It must be responsible for liability insurance, taxes, recovery for loss sustained by casualty, condemnation or otherwise, and the maintenance of recreational and other facilities.
 - (4) Members or beneficiaries must pay their pro rata share of the costs, and the assessment levied can become a lien on the property, including any maintenance and associated administrative costs incurred by the municipality.
 - (5) Such corporation or association shall not be dissolved nor shall it dispose of the open space by sale or otherwise, except to an organization conceived and established to own and maintain the open space. The corporation or association must first offer to dedicate the open space to the Township before any such sale or disposition of open space.
 - (6) The dedication of open space, streets, or other lands in common ownership of the corporation, association, individual, or other legal entity or the Township shall be absolute and not subject to reversion for possible future use for further development.

§ 96-56. Outdoor selling.

Commercial uses in the business zones may display goods for sales purposes or store goods for sale on the premises outside of the principal structure in which such use is carried on, provided that such outdoor selling or storage areas shall not encroach upon any of the required yard areas or the required off-street parking areas for the zone in which it is located, and further provided that the area set aside for such outdoor selling or storage areas shall not exceed an area equal to 1/2 of the gross area of the ground floor of the principal building. The area to be used for any such outdoor selling or storage areas shall be appropriately set forth at the time of application for a zoning permit. Any subsequent establishment or relocation of such areas shall be subject to the issuance of a supplementary zoning permit.

§ 96-56.1. Roadside stands. [Added 8-3-2006 by Ord. No. O-2006-2]

- A. Any property whereon farm produce or plants are grown may establish a roadside stand, subject to an administrative approval addressing the following:
- (1) A minimum of 30% of the produce and plants offered for sale shall be grown on the property (including contiguous lots under the same ownership) where the stand is located and the sale of live animals or poultry shall be prohibited.
 - (2) Off-street parking shall be provided in accordance with § 96-54 of this chapter at a rate of one space per 200 square feet of floor area, as defined for retail uses.
 - (3) Lighting shall be provided as specified in § 96-51 of this chapter.
 - (4) The site shall provide for a defined entrance/exit from the roadway in accordance with § 96-54D of this chapter.
 - (5) One identification sign, either freestanding or wall-mounted, shall be permitted with a maximum area of 24 square feet and a maximum height of six feet.
 - (6) All structures shall be set back a minimum of 50 feet from all property lines.

§ 96-57. Performance standards.

See § 96-78E.

§ 96-58. (Reserved)²⁵**§ 96-59. Sanitary sewers and residential site improvement standards.**

Sanitary sewers/residential site improvement standards shall be in accordance with N.J.A.C. 5:21-6 and the following:

- A. If a public treatment and collection system is accessible, the subdivider shall construct facilities in such manner as to make adequate sewage treatment available to each lot within the subdivision from said treatment and distribution system. The subdivider may be required to install dry sewers designed to tie into the proposed Township facility.
- B. Any treatment plant and collection system, including individual on-lot septic systems, shall be

25. Editor's Note: Former § 96-58, Right to farm, was repealed 10-2-2008 by Ord. No. O-2008-9. See now Ch. 63, Farmland Preservation, Art. II, Right to Farm.

designed in accordance with the requirements of the State Health Department or Township ordinances enforced by the County Board of Health, whichever is more restrictive, and shall be subject to review and approval by the Township Board of Health and the Township Municipal Utilities Authority and the Township Planning Board.

- C. Where required by the Planning Board, sanitary sewers, including service laterals and cleanouts at curb side, shall be installed in all streets and easements before the base materials for the streets are in place or the fine grading of the easement is complete, whether such sewers can be put to immediate use.
- D. Where, in the opinion of the Board of Health so expressed to the Planning Board, the subsurface soil characteristics and/or the percolation rate are such to permit subsurface disposal of sewage from individual dwellings as a temporary expedient until the sewers installed in the streets can be connected to the Township sewer system, such temporary subsurface disposal facilities may be permitted and constructed in addition to the sewers in the streets and easements. Sewerage facilities for individual dwellings shall conform with the New Jersey Department of Health code, Chapter 199, P.L. 1954,²⁶ and current Township regulations and health code.
- E. Sewers in the streets and easements are to be constructed in accordance with the following except in areas where the Residential Site Improvement Standards shall apply (N.J.A.C. 5:21-6):
 - (1) Standards. All sewers, manholes, appurtenances and equipment shall be designed, constructed and installed in accordance with the requirements of the Department of Environmental Protection, Gloucester County Utilities Authority and the Elk Township Municipal Utilities Authority, the approval of which shall be noted on plans and specifications submitted as part of the data required, and in accordance with the most recent approved specifications and details of the Elk Township Municipal Utilities Authority.
 - (2) Pipe material. Pipe shall be PVC-SDR35 or ductile iron, of the class, type and strength of each required for the particular use and location.
 - (3) Pipe dimensions. The minimum inside diameter shall be eight inches for sewers in roadways or easements and four inches for house connections; the diameter and slope (gradient) being such as to maintain theoretically a velocity of two feet per second when flowing 1/2 full (or full) with an assumed $n=0.013$. Without special permission of all approving authorities, pipes larger in diameter with flatter slopes shall not be permitted if the project rate of flow does not theoretically fill the pipe 1/2 full.
 - (4) Joints. Sections of pipe shall be joined by slip-type rubber gasketed joints, mechanical joints and such other gasketed joints as approved.
 - (5) Watertight caps or plugs. Termination of service laterals or any other temporary or permanent opening into the system shall be sealed by an acceptable means against the entrance of surface water and groundwater. Such sealed caps or plugs shall be so installed as to be watertight against any such internal pressure as might be applied in the testing of the sewer, as well as external subsurface water infiltration. Terminations of laterals shall be referred to "S" cuts on curbs or to other permanent monuments to facilitate locating the ends in the future.
 - (6) Manholes. Manholes may be either precast or built in place. No more than four courses of brick may be used for casting grade adjustments. No deviation from the approved standards will be

26. Editor's Note: See N.J.S.A. 58:11-23 et seq.

permitted which may adversely affect watertightness, structural strength, safe use or maintenance of the manhole or the pipes connecting thereto.

- (7) Service connections. Laterals for sanitary sewers shall be constructed from mains to a point two feet beyond underground utility easement in front of the realty improvement to be sewered.
- (8) The owner shall, at the time said owner deeds the streets within a development to the Township, give a bill of sale to the municipality, transferring title to all sewer utility improvements within street line limits and within easement limits absolutely free to the Township of Elk.

§ 96-60. Signs. [Amended 6-3-2004 by Ord. No. O-2004-5; 12-18-2008 by Ord. No. O-2008-14]

- A. Applicability. The provisions of this section shall apply to the construction, erection, alteration, use, type, number, location, size, design, and maintenance of all signs. This section is intended to regulate and control signs and their placement and construction throughout the Township of Elk. Each site plan or subdivision application shall include, where necessary, a sign plan showing the specific design, location, size, height, construction and illumination of proposed signs in accordance with the regulations within this chapter. Sign permits are also required when a sign is proposed not in conjunction with a site plan or subdivision application.
- B. Purpose and intent. The purpose of the sign regulations is to provide a legal framework for a comprehensive and balanced system of signage that will preserve the right of free speech and expression, provide an easy and pleasant communication between people and the built environment, protect the scenic qualities of the Township, and avoid visual clutter that is potentially harmful to the character of the community, the aesthetics of the Township, and potentially unsafe for motorists and pedestrians. The sign regulations are intended to minimize the potential for safety hazards, create a more productive, enterprising and professional business atmosphere, and to enhance the architectural and planned character of each zoning district.
- C. Definitions. The definitions in § 96-5 apply.
- D. General regulations and requirements.
 - (1) Any sign hereafter erected in Elk Township which is exposed to public view shall conform with the provisions of this section and any other ordinance or regulation of Elk Township, Gloucester County, or the state or federal government relating to the erection, alteration or maintenance of signs. In the event of conflicting regulations, the most restrictive regulation shall prevail. Signs shall be considered accessory uses in all zoning districts when placed in conformance with the provisions of this section.
 - (2) No sign other than exempt signs shall be erected without first obtaining a sign permit from the Zoning Officer. Permit applications for signs shall be accompanied by a plan, drawn to scale, showing details of the sign, its size, and location on the building or lot. A color photograph of each existing sign on the property shall be submitted with the permit application. Fees for sign permits shall be paid in accordance with a fee schedule adopted by the Township Committee. In addition to other penalties for violations of this chapter, any illegal sign may be removed or confiscated by the Zoning Officer. **[Amended 8-4-2011 by Ord. No. O-9-2011]**
 - (3) All signs, flags, and banners as provided for in this section shall be kept in proper state of repair, in accordance with the Uniform Construction Code and other pertinent regulations. Signs that fall into a state of disrepair so as to become unsightly or to pose a threat to public safety will receive a warning via certified mail from the Zoning Officer, and if after 30 days the sign has

not been removed, it may be removed by the Township at the owner's expense.

- (4) Nonconforming signs which are structurally altered, relocated or replaced shall comply with the provisions of this section. A change in copy is not an alteration or replacement in accordance with this section. Nonconforming signs must be maintained in good condition. If the use of a nonconforming sign ceases for a period of more than 180 days or if the premises upon which the nonconforming sign is located is abandoned, the nonconforming sign must be removed or replaced with a conforming sign.
- (5) No sign other than official traffic or other similar official signs shall be erected within or project over the right-of-way of any public street or sidewalk except as provided herein.
- (6) Signs shall not be located at the intersection of any streets within the triangular area formed by the right-of-way lines and a line connecting them at points 25 feet from their intersection. No sign may impede the safe vision of motorists and pedestrians or otherwise endanger their safety.
- (7) Exempt signs. The following signs are exempt from the need to secure permits:
 - (a) Signs required by law.
 - (b) Any sign or graphic integrated into or on a coin-operated machine, vending machine, gas pump or telephone booth.
 - (c) Any sign carried by a person.
 - (d) Decorations for any officially recognized holiday, provided that they do not create a fire or traffic hazard and provided that the decorations are removed within 30 days after the holiday.
 - (e) Political signs associated with an election or referendum, provided that such signs are on private property, and are not placed more than 30 days before and removed within seven days after the day of voting, and not to exceed four square feet in size.
 - (f) Temporary yard or garage sale signs, provided that such signs are erected on private property, are no more than four square feet in area, are erected no more than seven days before the sale and are removed within 24 hours after the sale (and in accordance with § 99-8).
 - (g) Temporary real estate signs on the lot on which the real estate for rent or for sale is located shall be limited to one per lot frontage. The signs may not be more than four square feet and four feet high for residential property and eight square feet and six feet high for commercial property. They must be removed within 14 days of the sale or rental of the property. Open house signs are also permitted, but only on the day of the open house and not within the public right-of-way.
 - (h) Temporary "grand opening" signs are permitted for an occupant of a shopping center or other single-use or multi-use commercial building. The sign may not exceed 20 square feet and may not be displayed for more than two weeks out of a calendar year. The sign must comply with all requirements to protect the public health and safety.
 - (i) Temporary (30 days or less) banners advertising special events sponsored by or held by the Township, county, school district, Fire Department, or the like.
 - (j) Temporary signs may be erected for residential developments or commercial sites that are

under construction. The temporary sign must meet the setback and size requirements for the zone and may not be installed until construction has commenced. The sign must be removed within one year or upon installation of the permanent signs.

- (k) American, state, county and Township flags.
 - (l) No trespassing signs.
 - (m) Temporary farm stand signs during growing season.
- (8) Illuminated signs in residential zoning districts and in all districts when the lot is immediately adjacent (including directly across a street) to a residential district must be turned off between the hours of 10:00 p.m. and 6:00 a.m. This does not apply to residential nameplates.
 - (9) All ground and freestanding signs must be a minimum of 100 feet from the nearest other sign, except for farm stands during the growing season.
 - (10) Architectural details may extend up to 12 inches on the sides and top of the sign. For monument or ground signs, the architectural base may be up to 30 inches above grade. More expansive walls or architectural elements require site plan approval.
 - (11) Wall signs shall be attached to the face of the building in a plane parallel to such face and projecting not more than 12 inches therefrom and shall not extend higher than the top of the parapet. Wall signs shall not cover wholly or partially any wall opening, including doors, fire escapes or windows, nor shall they extend beyond the ends of the wall.
 - (12) As described in Subsection E below, shopping centers or developments with more than one use on a site are permitted one ground or freestanding sign per street frontage for the entire site, which may include tenant panels. Individual tenants or occupants may have wall or facade signs or other attached signs as described in Subsection E below but may not have individual ground or freestanding signs.
 - (13) Ground or freestanding signs must have the address of the site identified prominently on the sign, except for farm stands during the growing season.
 - (14) The size of any sign shall be computed by multiplying its greatest height by its greatest length, exclusive of supporting structures.
 - (15) Signs advertising an establishment or use no longer in existence or a product no longer available shall be removed within 14 days.
- E. Schedule of sign use and bulk regulations. Signs shall be permitted in each zoning district with the issuance of a zoning permit according to the following use regulations and other applicable requirements of this section:
- (1) Permitted signs in residential districts.

Use or Function	Type of Sign Permitted	Total Number of Signs Permitted	Maximum Size	Maximum Height (feet)	Minimum Setback¹ (feet)
Nameplate for residence	Ground, hanging, wall	1 per lot	1 1/2 square feet	3 for ground sign	10 feet
No Solicitation	Wall	1 within 2 feet of front door	1 square foot	N/A	N/A
Permanent subdivision identification	Ground	1 per entrance	20 square feet	6	10
Institutional uses (school, municipal facilities, library, etc.), public parks and playgrounds, religious uses, child-care centers	Ground or facade	1 per street frontage	24 square feet	8 for ground	10
Farm Stand Permanent signs	Ground or Facade	Maximum of 2 permanent signs	24 square feet each	6 for ground, not above roof for facade signs	10
Farm Stand Temporary Signs	Ground or facade	As required for farm marketing	16 square feet each	6 feet for ground signs	N/A, but may not cause traffic or safety hazards

NOTES:

¹ Minimum setback applies to all property lines.

- (2) Permitted signs in nonresidential districts.

Zone	Use	Type of sign	Total Number of Signs Permitted	Maximum Size	Maximum Height (feet)	Minimum setback (feet)
All nonresidential*	Any permitted	Facade or wall	1 per street frontage on principal structure	10% of facade area or 80 square feet, whichever is less	N/A (may not extend above roof)	Same as building
C-1, C-2, M-1,	Movie theaters and performance venues only	Marquee	1 per site	3 feet in height and 21 square feet	Minimum 8 feet of clearance for pedestrians	Same as building
All nonresidential except C-2	Any permitted but not part of a shopping center or planned development	Ground or monument	1 per street frontage	24 square feet	6	10
C-2	Any permitted but not part of a shopping center or planned development	Freestanding (or pole) or ground (or monument)	1 per street frontage	50 square feet	16 for freestanding; 8 for ground	15
All nonresidential except C-2	Shopping centers	Ground or monument	1 per street frontage	50 square feet	8	15
C-2	Shopping centers	Freestanding (or pole) or ground (or monument)	1 per street frontage	80 square feet	16 for freestanding; 8 for ground	20
All nonresidential	Any permitted	Window signs	1 per street frontage	No more than 25% of the window area	N/A	Same as building
C-2	Gasoline filling stations only	Canopy signs	1 per street frontage	21 square feet	Minimum clearance for vehicles, 10 feet	Same as building

Zone	Use	Type of sign	Total Number of Signs Permitted	Maximum Size	Maximum Height (feet)	Minimum setback (feet)
All nonresidential	Only if a wall sign is not proposed, and only on the vertical hang	Awning signs	2 per street frontage	No more than 25% of the awning area, and letters not more than 5 inches.	15	Same as building
All nonresidential	Office or industrial parks or shopping areas with more than four tenants	Directory signs	1	16 square feet	6	25 from right-of-way
M-1 with frontage on State Highway Route 55	Any permitted	Billboard, off-premises	1,000 feet minimum distance between billboards	700 square feet	35	100 from side and rear property lines; 5 feet from state highway

NOTES:

¹For the purposes of the sign regulations, "all nonresidential" means all nonresidential zones, including those residential zoning districts in which nonresidential uses are permitted as a conditional use.

F. Design regulations

- (1) A total increase in size and height of up to 10% may be allowed for monument or ground signs that are designed with carved or sandblasted copy and borders.
- (2) Freestanding and ground signs shall have a landscaped area around the base. The landscaped area shall be a minimum of 1.5 times the area of the sign. For example, a twenty-four-square-foot sign must have a minimum thirty-six-square-foot landscaped area at the base. The landscaping should include evergreen shrubs and ground cover and seasonal flowers.
- (3) There should be a consistent sign design theme throughout a particular project. The design theme should include style of lettering, illumination, color, height, construction material, size, and type of pole or structure. Color of letters and background should be carefully considered in relation to the color and material of the buildings and where the signs are proposed to be located. Signs should be a subordinate feature of the plan relative to the principal structure. The design of a sign must be integrated into the design of the building to which it relates. Adjacent property owners should also seek harmony in design with the neighboring properties.
- (4) Signs must be located on a lot so that they are not within the public right-of-way and do not

interfere with sight distances at street intersections or ingress and egress points to a lot. Signs intended to be seen from a vehicle should be perpendicular to the line of travel, while signs designed to be read by pedestrians can be parallel with walkways.

- (5) Sign lettering. The standard letter height for directional signs is a letter size of two inches plus one additional inch for each 25 feet of viewing distance. A sign designed to be read from 100 feet away should have letters of at least six inches.

G. Billboard signs.

- (1) Billboards are permitted within the M-1 Light Manufacturing Zoning District on lots with frontage on State Highway Route 55.
- (2) The maximum advertising surface for each billboard shall not exceed 700 square feet.
- (3) Maximum height for billboard signs shall be 35 feet.
- (4) Minimum letter height on billboards shall be 15 inches.
- (5) Billboard signs shall be oriented to be visible by motorists traveling State Highway Route 55 traveling north and are intended only to be visible from the limited-access highway.
- (6) No billboard shall be located closer than 1,000 feet from the municipal boundary.
- (7) No billboard shall be located closer than 100 feet from any property line, except a setback of five feet is permitted from the state highway right-of-way.
- (8) No outdoor advertising sign shall be permitted to advertise any products or activities that are illegal under any law.
- (9) Billboard signs shall not be permitted to have moving parts, reflective materials, or animation, scrolling text or digital video display.
- (10) All billboards permitted shall be buffered to the extent necessary to restrict visibility from any residential zone.
- (11) All billboards must be in compliance with the Roadway Signs Outdoor Advertising Act.
- (12) No billboard shall be applied for or erected until approval is obtained from the New Jersey Department of Transportation and a copy of such approval is provided to the Township.
- (13) The applicant must provide a letter of interpretation from the NJDEP or a determination of absence of wetlands.

H. Prohibited signs. Any other provisions of this section notwithstanding, the following signs shall be prohibited in all zoning districts unless otherwise specified:

- (1) Signs which contain or are an imitation of an official traffic signal or hide from view any traffic street signal or sign or that have any characteristics that are likely to confuse or dangerously distract the attention of the operator of a motor vehicle operator.
- (2) Signs which are designed to move, either by mechanical or other means.
- (3) Signs which contain or consist of banners, posters, pennant ribbons, streamers, strings of light bulbs, spinners, or other similarly moving devices (this does not include permitted flags).

- (4) Signs which flash or scroll, except for time and temperature indicator.
 - (5) Signs which emit odors or smoke or produce noise or sounds capable of being heard even though the sounds produced are not understandable.²⁷
 - (6) Silhouetted or three-dimensional signs, e.g., signs lacking a background and having letters, figures, or devices silhouetted against the sky or other open space not a part of the sign, and/or signs in which objects or representational devices are present in the round or other than in a vertical plane.
 - (7) Any freestanding sign or any sign projecting from a building, within a triangular area bounded by the intersection of two right-of-way lines and a line connecting points 30 feet from such intersection along the right-of-way lines, whether existing or shown on the Master Plan or in sight clearance triangles specified in other regulations.
 - (8) Signs located or placed on any tree, telephone or utility pole, light standard or upon rocks or other natural features.
 - (9) Tubes of lighting or strings of lights may not outline the rooflines, doors, windows or wall edges for advertising purposes. This provision does not apply from Thanksgiving Day through January 25 (during the Christmas season).
 - (10) Portable signs, such as those on wheels.
 - (11) Signs projecting above the roof or the main cornice line of the building to which it is affixed.
- I. The use of ground-mounted electronic directly illuminated signs, including changeable signs, digital signs, light-emitting diode (LED) signs, electronic message centers (EMC), is permitted only in the nonresidential Zones (C-1; C-2; M-1 and NCO), subject to the following limitations and restrictions: **[Added 11-3-2022 by Ord. No. O-8-2022]**
- (1) Static changing images are permitted, but such changes may not be animated (including flashing, scrolling, intermittent or full-motion video elements).
 - (2) Signs shall have a static image appearing for a minimum of 15 seconds, and have an interval change time of two seconds or less.
 - (3) Signs should be designed with an opaque background and translucent text and symbols, or with a colored (not white, off-white, light gray, cream or yellow) background to reduce glare.
 - (4) Signs shall use automatic dimming control, either by photocell (hardwired) or via software settings, to reduce light levels at night and under cloudy and other darkened conditions.
 - (5) No such sign may cause illumination spillover to residential properties.
 - (6) No such sign may resemble or simulate any warning or danger signal, or any official traffic control device, sign, or light.
 - (7) Five additional square feet over and above what is permitted in the district for signage. A maximum of 20 square feet is permitted to be digital signage. The additional square footage of digital signage over and above the initial five square feet will be subtracted from the allowable

27. Editor's Note: Former Subsection H(5), regarding electronic message boards, was repealed 11-3-2022 by Ord. No. O-8-2022. This ordinance also renumbered former Subsection H(6) through (12) as H(5) through (11), respectively.

sign area.

- (8) All signs shall be kept in good repair. Good repair shall include replacement or repair of broken or missing structural elements, casings, or faces, maintenance of legibility, and maintenance of all lighting elements.

§ 96-61. Site design.

General design requirements for all nonresidential districts are as follows:

- A. No merchandise, products, waste equipment, or similar material or objects shall be displayed or stored outside. However, for automotive sales facilities, vehicles capable of moving under their own power may be displayed and stored outside.
- B. All buildings in a development shall be compatibly designed, whether constructed all at one time or in stages over a period of time. All building walls facing any street or residential district line shall be suitably finished for aesthetic purposes.
- C. All portions of the property not utilized by buildings or paved surfaces shall be landscaped.
- D. The established grades on the site shall be planned for both aesthetic and drainage purposes. The grading plan, drainage facilities and landscaping shall be coordinated to prevent erosion and silting as well as assuring that the capacity of any natural or man-made drainage system is sufficient to handle the water generated and anticipated both from the site and contributing upstream areas.
- E. Trash enclosures must be enclosed behind an opaque fence or wall at least five feet in height with an opaque self-closing gate. The exterior finish material of the trash enclosure and gate must be compatible with that of the exterior of the principal structure. Trash enclosures shall not be within 10 feet of any other structures.
- F. Not more than one point of ingress and/or egress shall be permitted within 75 feet of another point of ingress and/or egress serving the same tract, and in no case shall a development have more than two such points of ingress and/or egress on any one street frontage.

§ 96-62. Streets and residential site improvement standards.

Streets/residential site improvement standards shall be in accordance with N.J.A.C. 5:21-4 and the following:

- A. All subdivisions shall be served by paved public streets with an all-weather base and pavement with an adequate crown. The arrangement of streets not shown on the Master Plan or Official Map, as adopted by the Township, shall be such as to provide for the appropriate extension of existing streets and should conform with the topography as far as practicable.
- B. The developer shall submit plans, profiles, cross sections and design for the work to the Township Engineer for approval prior to the start of any construction, and at their own expense, grade all streets for their full width, in conformity with the terrain and good engineering practices; shall have all underground utilities installed prior to any street paving construction; shall construct adequate underground pipe drainage systems to carry off surface waters; shall construct streets in accordance with specifications shown below; and shall install a base course.
- C. When a new subdivision adjoins land susceptible of being subdivided, suitable provisions shall be made for optimum access of the remaining and/or adjoining tract for existing or proposed streets.

- D. Local streets shall be so designated as to discourage through traffic.
- E. In all residential zones, all major subdivisions bounded by any freeway, arterial or primary collector street shall control access to said streets by having all driveways intersect marginal service streets, parallel streets or streets intersecting said freeway, arterial or primary collector street. In addition, that portion of the subdivision abutting said freeway, arterial or primary collector street right-of-way to a depth of 25 feet therefrom and for the full length of the subdivision shall be planted with nursery-grown trees so that, in a reasonable period of time, a buffer will exist between the development and the highway to promote public safety and maintain open spaces and a rural atmosphere. All trees shall be of nursery stock having a caliper of not less than 2 1/2 inches measured three feet above ground level and be of an approved species grown under the same climatic conditions as at the location of the development. They shall be of symmetrical growth, free of insect pests and disease, suitable for street use and durable under the maintenance contemplated. No driveways shall enter onto freeways, arterial or primary collector streets.
- F. No subdivision showing reserve strips controlling access to streets or other area, either developed or undeveloped, shall be approved except where the control and disposal of land comprising such strips has been given to the government body after recommendation by the approving board.
- G. In the event that a subdivision adjoins or includes existing Township streets that do not conform to widths as shown on the adopted Master Plan and/or Official Map or the street width requirements of this article, additional land along either or both sides of said street sufficient to conform to the right-of-way requirements shall be dedicated to the Township for the location, installation, repair and maintenance of streets, drainage facilities, utilities and other facilities customarily located on street rights-of-way and shall be expressed on the plat as follows: Street right-of-way easement granted to the Township of Elk permitting the Township to enter upon these lands for the purposes provided for and expressed in this chapter of the Township of Elk. This statement on an approved plat shall in no way reduce the subdivider's responsibility to provide, install, repair or maintain the facilities in the area dedicated by ordinance and/or as shown on the plat and/or as provided for by any maintenance or performance guaranties. If the subdivision is along one side only, 1/2 of the required extra width shall be dedicated. For a major subdivision, that portion of the existing street or road adjoining or included within the subdivision shall be improved, including excavation, grading, gravel base and surfacing, in accordance with the road improvement standards of this article.
- H. Longitudinal grades on all streets shall not exceed 8% and shall be no less than .5% ; however, grades below 1% shall require a monolithic gutter with curb construction. Maximum grades within intersections shall be 3%.
- I. All changes in grade where the algebraic difference in grade is 1% or greater shall be connected by a vertical curve having a length of at least 50 feet for each 2% difference in grade or portion thereof and providing minimum sight distance of 200 feet for local streets, 275 feet for collector streets and 475 feet for an arterial streets.
- J. In all subdivisions, the minimum street right-of-way shall be measured from lot line to lot line and shall be in accordance with the following schedule, but in no case shall a new street that is a continuation of an existing street be continued at a width less than the existing street, although a greater width may be required.
- K. Street intersections shall be as nearly at right angles as is possible and in no case shall be less than 60°, and approaches to all intersections shall follow a straight line for at least 100 feet. No more than two streets shall meet or intersect any one point and the center lines of both intersecting streets shall pass through a common point. Measuring from this common point, two intersections shall be spaced

a sufficient distance to permit a minimum of two lots between the two street rights-of-way. Any subdivision abutting an existing street classified as an arterial or primary collector shall be permitted only one new street connecting within the same side of the existing street, except, where the frontage is sufficient, more than one street may intersect the arterial or primary collector street, provided that the streets shall not intersect with the same side of the existing street at intervals of less than 800 feet. The block corners at intersections shall be rounded at the curbline with the street having the highest radius requirement as outlined below determining the minimum standard for all curbines:

- (1) Arterials: 40 feet.
 - (2) Collectors: 35 feet.
 - (3) Local streets: 30 feet.
- L. For both major and minor subdivisions, sight triangle easements shall be required at all intersections, in addition to the right-of-way, which is outlined above, in which no grading, planting or structure shall be erected or maintained more than three feet above the street center line except for street signs, fire hydrants and light standards. The sight triangle is defined as that area outside the right-of-way, which is bounded by the intersecting street lines and the straight line connected by the intersecting street lines and the straight line connecting sight points, one each located on the two intersecting street center lines; arterial streets at 300 feet; collector streets at 200 feet; and local streets at 90 feet. Such easement dedication shall be expressed on the plat as follows: "Sight triangle easement granted to the Township of Elk for the purposes provided for and expressed in the Unified Development Ordinance of the Township of Elk." **[Amended 4-3-2003 by Ord. No. O-2003-3]**
- M. A tangent at least 200 feet long shall be introduced between reverse curves on arterial and collector streets. When connecting street lines deflect from each other at any one point by more than 10°, they shall be connected by a curve with a radius conforming to standard engineering practice so that the minimum sight distance within the right-of-way shall be 350 feet for local streets, 500 feet for a collector street and 800 feet for an arterial street. All culs-de-sac of a permanent nature (where provision for the future extension of the street to the boundary of the adjoining property is impractical or impossible) or of a temporary nature (where provision is made for the future extension of the street to the boundary line of adjoining property) shall be no more than 750 feet and shall provide a turnaround at the end with a radius of 50 feet on the curbline, plus a utility and planting strip width of eight feet around the entire cul-de-sac. The center point for the radius shall be on the center line of the associated street or, if offset, offset to a point where the radius becomes tangent to one of the curbines of the associated street. If a cul-de-sac street is of temporary nature, provisions shall be made for removal of the turnaround and reversion of the excess right-of-way to the adjoining properties when the street is extended.
- N. No street shall have a name which will duplicate or so nearly duplicate the name of an existing street that confusion results. The continuation of an existing street shall have the same name. Curvilinear streets shall change their names only at street intersections.
- O. Continuous open driveways in excess of 15 feet in width resulting in the elimination of curbing along the Township streets shall be prohibited.
- P. The pavement width of streets and the quality of surfacing and base materials shall adhere to the minimum standards set forth by the Township, county or state engineers when said paving concerns roads under their jurisdiction and where such standards exist. Concerning streets under the jurisdiction of the Township, the following standards shall apply:

- (1) The minimum requirements of any new street shall be constructed according to the specifications and procedures as set forth in the New Jersey Department of Transportation Standard Specifications (1998 or latest edition) with addenda.
 - (2) In nonresidential developments, the minimum total asphalt thickness for all pavements shall be seven inches. The use of alternate materials for subbase is permitted on an equivalent asphalt basis (i.e., one inch of asphalt equals 1 3/4 inches of soil aggregate, Type 5, Class A; one inch of asphalt also equals 2 1/2 inches of soil aggregate, Type 5, Class B). The minimum top shall be two inches of FABC-1, Mix No. 5. The above minimum pavement thickness is based upon a California Bearing Ratio (C.B.R.) value of eight, and if actual C.B.R. results indicate higher values, a lesser pavement thickness will be entertained by the Township Engineer's approval, subject to the Township Manager's approval.
 - (3) Prior to placing the surface course, the base course shall have a tack coat of bituminous material. All of the above construction shall be in accordance with current New Jersey Department of Transportation Standard Specifications and supplements thereto on file in the office of the Township Engineer. The standard specifications are further supplemented to require that, prior to placing final surface course, the intermediate base course shall be open to traffic and shall so remain for at least one winter season. Thereafter, the Township Engineer shall inspect the pavement and will require areas of pavement failure to be removed and replaced; settled areas shall be leveled with hot mixed bituminous concrete. The Township Engineer may require compacted select fill or approved subbase material as needed to replace native subgrade material.
 - (4) All traffic lanes, both moving and parking, shall be striped in accordance with the Manual on Uniform Traffic Control Devices, as amended. (U.S. Department of Transportation, Federal Highway Administration, 1971).
 - (5) The work shall be inspected through the course of construction by the Township Engineer or his duly authorized representative who shall be notified 48 hours before any work is started or continued.
- Q. The approval by the Planning Board or other Township agency of any map of land delineating streets shall in no way be construed as an acceptance of any street indicated thereon.
- R. Construction standards as specified herein shall also apply to any private street as may be part of a development application receiving preliminary approval by the Planning Board.
- S. Fire lanes located in other than those paved portions of a lot shall be designed such that the subsurface base be at least 20 feet wide of twelve-inch thick quarry blend over a quality subsoil necessary and sufficient to support a thirty-ton fire apparatus vehicle. The subsurface base may be covered with at least two inches of topsoil prior to the placement of sod or alternative paving block or similar decorative paving may be used. Final design shall be approved by the Township Engineer.
- T. Curbs. Unless otherwise approved, curbs shall be constructed of Portland cement air-entrained concrete, Class C, having a standard strength of 4,500 pounds per square inch. Depressed curbs at driveways shall have a full depth of 18 inches.
- U. Sidewalks. All required sidewalks, except in areas where the Residential Site Improvement Standards shall apply (N.J.A.C. 5:21-5), shall be four feet wide by four inches thick, except at driveways and aprons where they shall be six inches thick. Sidewalks shall be constructed of Portland cement air-entrained concrete, Class C-1, having a standard strength of 4,000 pounds per square inch.

- V. Streetlights. All streetlights shall be installed at least at all street intersections and as may be required by the Township Engineer. They must be shielded so that no direct light or glare is visible from house or apartment windows and do not produce glare in the eyes of a motorist.
- W. Street signs.
- (1) All street signs shall have reflectorized white letters on a green background (e.g., type E-450 or equal). Both signs and poles shall either be of nonferrous metal or galvanized steel. Neighborhood or directional signs shall be installed on major roads to aid in circulation.
 - (2) All signs shall be mounted on two-inch diameter posts embedded in concrete.
 - (3) Street signs shall be approved by the Township Engineer prior to ordering by the developer.
 - (4) Street signs shall comply with the requirements contained within the Manual of Uniform Traffic Control Devices.
 - (5) Street signs shall be installed by the developer upon the completion of the base course of each roadway within the development. No certificates of occupancy will be issued until the signs are installed and approved by the appropriate Township officials.
 - (6) No decorative street signs are permitted within the Township of Elk.
- X. Adjacent lots created by subdivisions fronting county rights-of-way shall have shared or common curb cuts whenever feasible with appropriate easements included; otherwise the driveways shall be the maximum practical distance apart. **[Added 6-3-2004 by Ord. No. O-2004-5]**

§ 96-63. Stormwater management and residential site improvement standards.

Stormwater management/residential site improvement standards shall be in accordance with N.J.A.C. 5:21-7 and the following:

A. General.

- (1) All storm drainage systems consisting of catch basins, underground sewers, paved swales, box culverts, rip-rap or otherwise stabilized stream banks, dams, retention basins and swales, trash racks, and other devices shall be installed so that all stormwater is led to and confined in natural drainage channels without causing erosion. Bicycle-safe storm sewer gratings are required. They shall also be designed in accordance with the standards established in this article.
- (2) Concrete pipe is preferred to box culverts for drainage under roads. In such cases an easement of appropriate width extending at least 50 feet beyond the right-of-way line shall be granted on either side, and the pipe shall be covered for the full width of the right-of-way and 20 feet beyond.
- (3) Storm sewer requirements and standards for all development shall be those required by the New Jersey Residential Site Improvement Standards (NJRSIS). For nonresidential development, the following requirements shall also apply.
- (4) All development plans shall include a stormwater management report prepared, signed and sealed by an engineer licensed by the State of New Jersey. The report is to analyze pre- and post-development conditions and conveyance system design. Drainage area maps are to be provided. Calculations justifying runoff coefficients, travel time, flow rates, flow volumes, storage volumes and discharge rates, pipe routing tables, etc., are to be included.

- (5) The stormwater management plans submitted shall demonstrate careful consideration of the general and specific concerns, values and standards of the Township Master Plan and applicable county, regional and state storm drainage control programs, any County Mosquito Commission control standards, and shall be based on environmentally sound site planning, engineering and architectural techniques.
- (6) Development shall use the best available technology to minimize off-site stormwater runoff, increase on-site infiltration, simulate natural drainage systems, and minimize off-site discharge of pollutants to groundwater and surface water and encourage natural filtration functions. Best available technology may include measures such as detention or retention basins, recharge trenches, piping, contour terraces and swales.
- (7) It shall be the policy of the Planning Board to require the ownership and maintenance of all stormwater basins serving residential areas to be located on property owned and maintained by a homeowners' association. In no case shall a stormwater basin be located and maintained by an individual residential lot.
- (8) Detention basins are preferred over retention basins. Specific requirements for retention basins are not included herein but will be determined on a case-by-case basis.
- (9) It shall be the policy of the Planning Board to minimize the number of basins by encouraging the joint use of basins between various developments and minimizing the number of basins within a development.

B. Detention facilities maintenance and repair.

- (1) Responsibility for operation and maintenance of detention facilities, including periodic removal and disposal of accumulated particulate material and debris, shall remain with the owner(s) of the property with permanent arrangements that it shall pass to any successive owner, unless assumed by a government agency. If portions of the land are to be sold, legally binding arrangements shall be made to pass the basic responsibility to successors in title. These arrangements shall be designated for each project, the property owner, governmental agency, or other legally established entity to be permanently responsible for maintenance, hereinafter referred to as "the responsible person."
- (2) Prior to granting approval to any project subject to review under this chapter, the developer shall enter into an agreement with the municipality (or county) to ensure the continued operation and maintenance of the detention facility. This agreement shall be in a form satisfactory to the Municipal Attorney, and may include, but may not necessarily be limited to, personal guaranties, deed restrictions, covenants, and bonds. In cases where property is subdivided and sold separately, a homeowners' association or similar permanent entity should be established as the responsible entity, absent an agreement by a governmental agency to assume responsibility.
- (3) In the event that the detention facility becomes a danger to public safety or public health, or if it is in need of maintenance, the municipality shall so notify in writing the responsible person. From that notice, the responsible person shall have 14 days to effect such maintenance and repair of the facility in a manner that is approved by the Municipal Engineer or his or her designee. If the responsible person fails or refuses to perform such maintenance and repair, the municipality may immediately proceed to do so and shall bill the cost thereof to the responsible person.
- (4) In accordance with the NJRSIS (N.J.A.C. 5: 21-7. 5), for detention basins serving a residential

community, a maintenance trust fund should be posted, which will generate sufficient revenue to cover all maintenance costs in perpetuity. The fund shall be based on a present worth value using a 3% rate of return. All costs, including mowing, eventual structure replacement, sediment removal, etc., are to be included. The minimum amount of the fund should be \$35,000 (based on an one-half-acre basin). This requirement shall apply for basins under either Township or a homeowners' association ownership.

- (5) The plans are to include notes pertaining to restoration procedures and a long-term maintenance schedule and procedures. Maintenance shall include mowing, leaf removal, debris removal, inspection, desilting, and any other work specific for the facility.

C. Stormwater management detention basin locations.

- (1) Basins shall generally not be located adjacent to residential properties.
- (2) When located adjacent to residential properties, side slopes shall be 4:1. Water depth shall be limited to three feet.
- (3) Low maintenance, water tolerant grasses, or wildflower seed mix shall be used as appropriate. Type of vegetation used shall be compatible with the site.
- (4) Fencing and dense landscaping may be required when adjacent to residential lots.
- (5) All basins, regardless of ownership, must have a dedicated access from a public right-of-way. The access should include a stabilized surface suitable for the passage of maintenance and inspection equipment and vehicles. An easement granting the municipality the right to access and perform work in the basin should be granted.

D. Stormwater management discharge location.

- (1) The development plans should illustrate all topographical features and structures downstream of all basin discharges, emergency spillways, stormwater outfalls and swales, for a sufficient distance to evaluate the impact of discharge. A stability analysis of the downstream flow path should be provided. Impacts on structures and/or private property should be reviewed.
- (2) The impact of increased runoff volume from basins should also be reviewed.
- (3) Easements should be provided at all points of discharge onto adjacent properties, regardless of the use of basins, swales, or pipelines to convey the flow to the property line.

E. Stormwater management retention basins.

- (1) When approved, detailed design criteria for retention basins will be determined on a case-by-case basis. However, at a minimum, all requirements for detention basins will be adhered to along with the following.
- (2) The separation between seasonal high groundwater and the basin bottom shall be two feet for dry or recharge basins.
- (3) Basins should dewater within 24 hours after the design storm event.
- (4) Post-construction percolation tests will be required to ensure that the designed dewatering period will be attained.
- (5) Side slopes of 4:1 or less shall be used.

- (6) For wet retention basins, or permanent ponds, a sufficient natural water supply capable of maintaining a minimum depth of three feet shall be required.
 - (7) In accordance with the NJRSIS (N.J.A.C. 5:21), for retention basins serving a residential community, a maintenance trust fund should be posted, which will generate sufficient revenue to cover all maintenance costs in perpetuity. The fund shall be based on a present worth value using a 3% rate of return. All costs, including mowing, eventual structure replacement, sediment removal, scarifying, etc., are to be included. The minimum amount of the fund should be \$47,000 (based on an one-half-acre basin). This requirement shall apply for basins under either Township or a homeowners' association ownership.
- F. Stormwater management water quality. The water quality standards for stormwater management shall be those included in the NJRSIS (N.J.A.C. 5:21-7.6).

§ 96-64. Traffic signs.

- A. A proposed traffic control plan showing traffic signs to be installed by the developer at its sole expense shall be submitted with each application for subdivision or site plan approval. The plan shall indicate the nature and proposed location of traffic and street signs needed to assure safe and controlled flow of traffic on the tract, including site ingress and egress. The information to be set forth on each sign, including street names, permissible speed limits, stop and yield signs at intersections, designations of one-way and dead-end streets, and prohibited parking locations, shall be specified.
- B. Final sign locations shall be determined by the Township after review, when necessary, with the Department of Transportation (NJDOT) or county, of proposed traffic generation and vehicular movement data and relevant speed and accident sampling data.
- C. All signs shall be approved by the Township Engineer prior to their purchase by the developer, to assure uniformity and conformance with the standards contained in the Manual on Uniform Traffic Control Devices.
- D. No certificate of occupancy shall be issued for any structure located on the tract until the Township Engineer has certified the satisfactory installation by the developer of all signage in accordance with the traffic control plan, as it may be modified by the Township Police Department or the NJDOT.
- E. The installation of electronic traffic control signaling devices is not prescribed by this section, since a pro rata portion of the developer's cost for such devices shall be assessed and collected from the developer pursuant to § 96-21.

§ 96-65. Water supply and residential site improvement standards.

Water mains are to be installed in accordance with the following, except in areas where the Residential Site Improvement Standards shall apply (N.J.A.C. 5:21-5):

- A. Engineering requirements for all water main installations are to comply with the rules and regulations of the Department of Environmental Protection and the Elk Township Municipal Utilities Authority (MUA).
- B. All pipe shall be not less than Class 150 ductile-iron pipe of the size determined by the MUA, but in no case less than six inches in diameter, and meeting the current specifications of the American Water Works Association. PVC water mains with push-on joints may be used if approved by the applicable public utility.

- C. All joints shall be push-on or mechanical joint.
- D. The depth of pipe from the finished surface or roadway or grade shall be not less than four feet from the top of pipe.
- E. Fire hydrants shall be generally located not more than 600 feet apart and spotted, where practicable, as follows: near streetlights, inlets, street intersections, and on property lines.
- F. Valves shall be installed with all fire hydrants and at such other locations in the lines as directed by the Elk Township Municipal Utilities Authority.
- G. House service connections, from the main to the curb stop and box, must be installed at all lots prior to placing any foundation or surface on the roadway.
- H. No installation shall be covered until inspected and approved by the Township Engineer.
- I. Where public water is accessible, the subdivider shall construct water mains in such manner as to make adequate water service available to each lot or dwelling unit within the subdivision or development. The entire system shall be designed in accordance with the requirements and standards of the local and/or state agency having approval authority and shall be subject to its approval. The system shall also be designed with adequate capacity and sustained pressure to service the lots and permit necessary fire-fighting abilities.
- J. Dry fire hydrants and dry waterlines shall be installed within all major subdivisions where roads are created and where public water supply is not currently available, as recommended by the Fire Marshall for fire safety. **[Added 4-1-2010 by Ord. No. O-2010-11]**

ARTICLE IX
Zoning Districts And Regulations

§ 96-66. General. [Amended 5-5-2005 by Ord. No. O-2005-2; 11-2-2006 by Ord. No. O-2006-8; 10-2-2008 by Ord. No. O-2008-9; 4-1-2010 by Ord. No. O-2010-8; 5-3-2012 by Ord. No. O-5-2012; 12-6-2012 by Ord. No. O-12-2012; 5-1-2025 by Ord. No. O-13-2025]

These regulations shall be applicable to the use of all lands in the Township of Elk and any structures thereon.

- A. The provisions of this article shall be held to be the minimum requirements (or the maximum, when so specified). Where this article imposes a greater restriction than is imposed and required by other provisions of law or by other rules, regulations or resolutions, the provisions of this article shall control. Where other laws, rules, regulations or resolutions require greater restrictions than are imposed by this article, the provisions of such laws, rules, regulations or resolutions shall control.
- B. The standards established by this article shall be applied uniformly within each zoning district to each class or kind of structure or land. Only uses which are specifically provided for by the regulations of any district shall be permitted in that district unless authorized by the Combined Board pursuant to this article.
- C. Upon the effective date of this article, no building shall hereafter be used, erected, altered, converted, enlarged, added to, moved or reduced, nor shall any lands be subdivided, developed, or redeveloped in any manner except in conformity with the standards provided herein, as applied to the zoning district in which the building or land is located.
- D. Upon the effective date of this article, all buildings and land, which are not in full conformity with the standards provided herein, as applied to the zoning district in which the building or land is located, shall be deemed to be nonconforming and shall be subject to the provisions of this article.
- E. The following uses shall be permitted in all residential districts:
 - (1) 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 shall be a permitted use in all residential districts of a municipality, and the requirements therefor shall be the same as for single-family dwelling units located within such districts. "Community residence for the terminally ill" means any community residential facility operated as a hospice program providing food, shelter, personal guidance and health-care services, under such supervision as required, to not more than 15 terminally ill persons.
 - (2) Family day-care homes.
 - (a) Family day-care homes as defined in N.J.S.A. 40:55D-66.5 and they are to be licensed or registered to the extent required by the laws and regulations of the State of New Jersey.
 - (b) The standards for said homes shall be the same as for single-family dwelling units located in the same district, in accordance with the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-66.5b, as amended.
 - (c) Family day-care homes are to be considered as home occupations, and as such, shall not be subject to more stringent restrictions than exist or apply to all other home occupations in the particular residential district in which the family day-care home is located.

- F. Child-care centers for which a license is required from the New Jersey Department of Human Services pursuant to P.L. 1983, c. 492 (N.J.S.A. 30:5B-1 et seq.) shall be a permitted use in all nonresidential districts.
- (1) The floor area in any building or structure used for child-care purposes shall be excluded in calculating any parking requirement.
 - (2) The floor area in any building or structure used for child-care purposes shall be excluded in calculating the permitted density allowable for that building.
 - (3) Notwithstanding the above statements, the development of a child-care facility in an existing structure or in a stand-alone facility shall require site plan review and will be subject to the standards of the district in which it is located. Parking requirements shall be based on evaluating the following factors: the maximum number of children for which the site is licensed, the number of employees present during the maximum shift, and the operational plan for the drop-off and pick-up of children during the school day.
- G. Protected uses. Any residential use in a C-1 to C-2 Zone that was conforming at the time of its construction shall remain a conforming use subject to the regulations of the closest residential zone.
- H. Except for corner lots, whenever there exists a conforming lot with a dwelling unit, where said lot has frontage on two rights-of-way, only the yard abutting the front facade of the dwelling unit shall be considered the front yard. The yard abutting the second street shall be considered a rear yard. The other two yards shall be considered side yards. Lots that have frontage along three rights-of-way shall be considered corner lots, and the yards abutting the front facade of the dwelling unit and the intersecting street shall be considered front yards. The yard abutting the third street shall be considered a rear yard. The remaining yard shall be considered a side yard.
- I. Any residential structure in the MD Zone that was conforming at the time of its construction shall be permitted to construct any exterior improvement to the principal building which does not increase the interior living space of the structure, without need to obtain a bulk variance pursuant to the provisions of N.J.S.A. 40:55D-70(c), provided that the improvement will not encroach upon the minimum required yard setbacks. This provision of the chapter is intended to specifically permit the installation of exterior stairs, handicap ramps, fireplace overhangs without foundation, bay windows, gutters, eaves, and decks upon structures which were erected legally prior to the passage of this chapter and are now nonconforming.
- J. The minimum acreage of uplands shall not apply to a lot or lots for detached one- or two-dwelling unit buildings which lot or lots are either isolated undersized lots or lots resulting from a minor subdivision.
- K. Every principal building shall be built upon a lot with frontage upon a public street which has been improved in accordance with the Township standards or for which such improvement has been ensured by the posting of a performance guaranty pursuant to this chapter.
- L. Principal uses on one lot.
- (1) No lot in any residential district shall have erected upon it more than one principal residential building.
 - (2) In a zone that permits both residential and commercial development, only one residential or commercial use may be permitted on one lot (except for permitted home occupations).

- (3) More than one nonresidential use may be permitted on a single lot or tract if the uses are planned and designed in a coordinated manner with shared access, shared parking, a unified architectural theme and consistent with the zoning requirements, and if the entire tract is under common ownership.
- (4) The addition of a second permitted nonresidential use to an existing nonresidential site, which was not previously designed for more than one use, requires site plan approval.

M. Grading plan.

- (1) Review and approval of grading plan required. A building permit shall not be issued until a grading plan has been reviewed and approved by the Township Engineer in accordance with the provisions of this subsection. Expressly excluded from the requirements set forth herein is for any building, accessory structure and/or addition to existing building or structure located on any farm that satisfies the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act, N.J.S.A. 54:4-23.1 et seq. Prior to the issuance of a building permit, the Township Engineer will issue a written opinion to the Township Committee indicating that the proposed farm building, accessory structure and/or addition to existing building or structures does not encroach upon any existing setback requirements and/or is not detrimental to the public welfare. The applicant shall pay an escrow fee of \$750 for the engineer's review and inspection for the initial site inspection. The fee for the initial review and inspection shall not exceed \$750 to the applicant, unless subsequent site inspections are required.
- (2) Applicability. The requirements set forth herein shall apply for the improvement or development of all lots within the Township of Elk which creates an impervious surface in excess of 600 square feet, whether for residential or commercial purposes, and/or when there is an application for development before a development review board of the Township. Expressly excluded from the requirements set forth herein is the construction of proposed additions, and/or buildings, or the installation of any improvement or object creating an impervious surface having at grade or floor level a total of 600 square feet or less. Grading plans shall not be required when an owner or developer is replacing a preexisting and conforming improvement or structure having an impervious surface.
- (3) Grading plan requirements. The owner or developer of a tract of land in the Township must provide three signed and sealed copies of the grading plan for each lot proposed to be developed. The grading plans shall contain all the information required below in the grading plan checklist, which shall be made available to all applicants in the form that follows. The owner or developer must submit a completed grading plan checklist with the application for the development.
- (4) Grading plan checklist. The following shall be the grading plan checklist. The applicant must complete this checklist and supply the required information.

Grading Plan Checklist

- () 1. Title block indicating the address of the site, lot and block numbers, name and address of the applicant. Individual lot grading plans must be entitled "Individual Lot Grading Plan." If grading information is incorporated into one of the sheets of a subdivision or site plan, such sheet title must include the words "grading plan." For purposes of the checklist, "grading plan" shall refer to whichever of the aforesaid types of plans is submitted by an applicant for grading approval.
- () 2. The grading plan must be signed and sealed (embossed) by a New Jersey-licensed land surveyor (for existing conditions) and a New Jersey professional engineer (for proposed conditions). The plan must include the addresses of the persons who prepared the plan.
- () 3. The grading plan must be drawn legibly at a scale of one inch equals 30 feet for parcels of less than one acre or a scale of one inch equals 50 feet for developments of one acre or more, indicate a North arrow, and refer to the NAVD 1988 datum on which the plan is based.
- () 4. The grading plan must indicate all property lines, easements and required setback lines. Copies of all existing or proposed drainage easements must be filed with this checklist unless already available to the Township as part of a pending development application file. All property lines must indicate bearing and dimensions, and the width of all easements must be shown on the plans.
- () 5. The distances between all existing and proposed structures on the lot to be developed and adjoining property lines must be indicated on the grading plan.
- () 6. The plan must indicate the right-of-way and cartway widths of all adjoining streets as well as the location of all existing and proposed curbs, sidewalks and driveway aprons along the entire frontage of the subject property.
- () 7. The plan must indicate existing and proposed contours at one-foot intervals over the entire lot area(s) to be disturbed and 50 feet beyond the limit of grading. Spot elevations and inverts should also be provided at all inlets, catch basins, outfalls, culverts, and other hydraulic structures.
- () 8. The plan must indicate existing and proposed spot elevations at all building and property corners.
- () 9. The grading plan must indicate existing topography 50 feet beyond all property lines of the lot to be developed and, to the extent reasonably and legally ascertainable, spot elevations for all adjacent building corners.

Grading Plan Checklist

- () 10. The plan must also indicate the location and dimensions of all structures and site improvements, including, but not limited to, the following: buildings, sheds, decks, swimming pools, fences, fence location, fence type, drainage facilities, and location and information relating to any detention or retention facilities relating to this paragraph.
 - () 11. The plan must indicate all stream encroachment, wetlands and wetland buffer lines and floodplains.
 - () 12. Location of driveway with regard to the property lines must be indicated on the plans.
 - () 13. The grading of driveway for the first 40 feet from the right-of-way must be shown.
 - () 14. The type of materials proposed for construction of driveway must be indicated.
 - () 15. The grading plan must indicate all trees over five inches caliper on the lot to be developed and in any existing or proposed off-lot drainage areas, including type, condition, and limit of clearing.
 - () 16. The grading plan must indicate the foundation top-of-block elevations for all proposed structures, and the floor elevation at the face of any garage or other opening at grade, on the lot to be developed. Spot elevations for all building corners must be indicated. Spot elevations for all proposed top-of-curb, gutter and road improvements must be indicated.
 - () 17. For each lot where a basement is proposed, a soil boring must be obtained and analyzed by a licensed New Jersey Professional Engineer to determine the seasonal high water elevation at each lot. After analyzing the borings, the engineer must prepare, sign, and seal a report referring to each soil test boring and confirming depth of the seasonal high water elevation at each lot where a basement is proposed. The report must be filed with this checklist. The grading plan must confirm that, based on the report, the lowest point of the proposed basement at each lot will be no less than one foot above the seasonal high water elevation at the lot. If no basements are proposed, indicate "N/A."
 - () 18. The plan must indicate the location of all proposed utility services, septic systems, including vents and cleanouts.
- (5) Grading standards. The grading plan must conform to the following standards:
- (a) All grading shall be done in such a way as to not result in any adverse effects to adjacent properties. The plan shall not increase the amount of water which drains onto adjoining lots. For properties where a drainage problem already exists, the drainage plan shall reduce the impact on adjoining tracts to the greatest extent possible by causing the surface water to drain to nearby streets, into approved drainage facilities or into other accepted devices. All lots shall be graded to direct surface water runoff away from structures and toward the

frontage road or other defined drainage paths.

- (b) Lawn areas shall be sloped away from the buildings and structures at a minimum of 5% for the first 10 feet from a foundation wall. A minimum slope of 1% should be maintained in all other lawn areas. A minimum slope of 2% shall be maintained for all swales. Swales are normally placed at the edge of both lots so that water will flow from the back of the house to the curb. Water also may be directed to flow on neighboring lots where easements are applicable to the curb or to the source where the water will be discharged.
 - (c) All slopes shall be no greater than 3:1.
 - (d) Driveway grades shall not exceed 10%.
 - (e) No grading shall occur within five feet of a property line unless necessary to direct drainage off the site and into acceptable drainage facilities in accordance with these standards. When an applicant proposes to grade over an adjoining property line, written permission/agreement from the adjoining property owner must be obtained and a waiver from the minimum requirements must be obtained from the Township Engineer. Where an applicant proposes to grade over an adjoining property line, written permission in the form of a written agreement for easement shall be recorded in the Gloucester County Clerk's Office, from the adjoining property or developer, and a copy shall be filed with the Construction Office of the Township of Elk.
 - (f) The top of any excavation of slope shall be no closer than five feet to an adjoining property and shall not provide for water runoff to the adjoining property unless an agreement shall have been provided as indicated under Subsection M(5)(e).
- (6) Municipal street access regulations.
- (a) No driveway shall be within 10 feet of any property line unless such driveway is shared by an adjacent house.
 - (b) No driveway shall be constructed in such a way as to create a drainage problem on an adjacent property or onto the Township road.
 - (c) Driveways shall enter the street or road right-of-way at an angle between 75° and 105°.
 - (d) The portion of the driveway between the edge of the existing road pavement of the Township street and the right-of-way line will be paved by the landowner applicant with a minimum pavement thickness of 2 1/2 inches of FABC-2 and six inches of quarry blend. The Township Engineer shall have the discretion to permit an equivalent alternative to the six inches of quarry blend.
 - (e) Any curb opening shall be properly reconstructed to the satisfaction of the Township Engineer. Where curbing does not exist and conditions warrant, an adequate drainpipe shall be installed by the owner at the owner's expense as determined by the Township Engineer.
 - (f) Driveways shall be constructed and maintained in adequate condition to permit access by emergency vehicles.
 - (g) All entrance and exit driveways to a road shall be located to afford maximum safety to traffic on the road. Where a site occupies a corner of two intersecting roads, no driveway

entrance or exit may be located within 50 feet of the tangent to the existing or proposed curb radius of that site.

- (7) Approval procedures. Each person to whom this subsection applies must obtain approval of his/her grading plan in the following manner:
- (a) The Township's combined Planning/Zoning Board is designated to receive and review site plans for purposes of establishing drainage and other issues relating to applications for development for major or minor subdivision and/or major or minor site plan approval. Grading is a part of a site plan application. All other grading plan applications shall be submitted to the Township's Zoning Officer. In the event any grading plan submitted under this subsection shall not be approved by the Township Engineer, the grading plan shall be submitted to the combined Planning/Zoning Board for purposes of a final determination.
 - (b) The Township Engineer shall inspect the final grade, with written notice to the applicable board and to the developer. The final grade inspection shall be 14 working days preceding the issuance of any certificate of occupancy.
 - (c) Following completion of all grading and drainage work, the applicant must submit two copies of an as-built survey, prepared by a New Jersey-licensed surveyor, with final grades, and request a final inspection. If any discrepancy exists between the grading plan and actual construction, the developer will be required to perform any necessary site work to correct the deficiency. All as-built site work must be done in conformity with the approved grading plans. Any significant deviations may be approved only by the relevant approving agency.
 - (d) Following completion of all work and receipt of the as-built grading plan, the Township Engineer shall conduct the final inspection and notify the Construction Official, in writing, whether the final construction is in compliance with the approved grading plan and that a certificate of occupancy may be issued. The Construction Official shall issue the certificate of occupancy only if all conditions for the approved grading plan have been satisfied.
 - (e) All grading work shall be completed within 180 calendar days from the issuance of the building permit. The grading permit and building permit shall be issued simultaneously. The 180 days shall commence from the issuance of the building permit.
 - [1] For lots separately handled for grading permits, an individual plan shall be filed for each lot.
 - [2] Unless all lots are intended to be completed at one time, individual lot permits shall be issued for each individual construction permit.
- (8) Permit and review fees. The person to whom this subsection applies must pay the following fees to the Township for application, review and inspection of the site.
- (a) An application fee of \$100 shall be paid for each individual lot grading or as-built grading plan submitted for approval to the Construction Code Office.
 - (b) A lump sum lot grading review and inspection escrow fee in the amount of \$1,500 shall be paid at the time of the application and submission of each lot grading plan. (This escrow will be for the review, revision, and inspections of each lot grading plan and as-built plan submitted.) This escrow will be tracked by both the Construction Office and the Township

Engineer. If the escrow balance falls below \$300, the Township Engineer and/or the Construction Department will notify the applicant requesting the posting of additional escrow based on the stage/phase of work completed.

- (c) Release of the lot grading review and inspection escrow will be determined, in writing, by the Township Engineer, within 30 days after final letter of approval of the as-built plans and issuance of the final certificate of occupancy by the Construction Code Official.

§ 96-67. Establishment of districts and Zoning Map.

- A. The following zoning districts are hereby created and all land within the Township of Elk shall be placed in one of these districts by designation on a zoning map, as described below.

- (1) Moderate Density Residential (MD).
- (2) Low Density Residential (LD).
- (3) Rural Residential (R).
- (4) Rural Environmental Residential (RE).
- (5) Mobile Home Park (MHP).
- (6) Recreational Residential (RR).
- (7) Commercial-Neighborhood (C-1).
- (8) Commercial-Highway (C-2).
- (9) Manufacturing-Light (M-1).²⁸

- B. Map and interpretation.

- (1) The boundaries of these zoning districts are established on a map entitled "Elk Township Zoning Map," dated August 5, 2010, which accompanies this chapter and is incorporated herein.²⁹
[Amended 2-3-2005 by Ord. No. O-2005-1; 3-4-2010 by Ord. No. O-2010-4; 8-5-2010 by Ord. No. O-2010-42]
- (2) The boundaries between zoning districts are, unless otherwise indicated, either the center lines of streets or railroad rights-of-way, municipal boundary lines, property lines existing at the time of the Zoning Map adoption or amendment, or lines parallel or perpendicular thereto. Distances not specifically indicated shall be determined by the scale of the map.
- (3) Where a district boundary line divides a lot existing at the time of adoption of this chapter, the regulations applicable to the least restrictive district shall extend over the portion of the lot in the more restrictive district for a distance of not more than 20 feet.

§ 96-68. Moderate Density Residential District (MD).

- A. The purpose and intent is to provide an appropriate area adjacent to a major arterial highway and in the sewer service area for the highest densities in the municipality and planned-unit-type

28. Editor's Note: Former Subsection A(10), Manufacturing-Heavy, which immediately followed this item, was repealed 8-3-2006 by Ord. No. O-2006-2.

29. Editor's Note: The Zoning Map is included at the end of this chapter.

developments. All new development resulting as part of a site plan, a major subdivision, or a planned development shall utilize a public wastewater system. **[Amended 6-3-2004 by Ord. No. O-2004-5; 8-3-2006 by Ord. No. O-2006-2]**

B. Permitted uses in the MD District.

- (1) Agricultural uses and buildings.
- (2) Single-family detached dwellings. **[Amended 10-4-2007 by Ord. No. O-2007-14; 4-1-2010 by Ord. No. O-2010-10]**
- (3) Public parks and playgrounds, woodlands, conservation areas and similar public uses. **[Amended 8-3-2006 by Ord. No. O-2006-2]**
- (4) Accessory uses customarily incidental and subordinate to the above such as sheds, garages, pools, small wind energy systems, solar energy systems and the like. **[Amended 4-1-2010 by Ord. No. O-2010-10]**

C. Conditional uses.

- (1) Planned unit development on minimum tracts of 150 acres and in accordance with Article X.
- (2) Age-restricted communities on minimum tracts of 50 acres and in accordance with § 96-74.
- (3) Institutional uses such as schools, religious uses, libraries and the like in accordance with § 96-79B.
- (4) Home occupations in accordance with § 96-79A.
- (5) Golf courses.
- (6) Commercial uses as listed in § 96-76B(2) and B(4) when the property fronts on County Route 553 with the bulk regulations in § 96-76C, except for below: **[Amended 5-3-2007 by Ord. No. O-2007-3; 10-4-2007 by Ord. No. O-2007-14]**
 - (a) The building or parking setback from any property line common to a lot which is residentially zoned shall be increased by a thirty-five-foot buffer area containing plantings, fencing and land forms sufficient to visually screen the nonresidential use.

D. Bulk regulations for single-family detached units.

- (1) Maximum gross density: 1.5 dwelling units per square acre. **[Amended 2-3-2005 by Ord. No. 01-2005-1; 8-3-2006 by Ord. No. O-2006-2]**
- (2) Minimum lot size: 20,000 square feet. **[Amended 8-3-2006 by Ord. No. O-2006-2; 11-3-2022 by Ord. No. O-8-2022]**
 - (a) Lots existing as of September 1, 2006, of at least 12,500 square feet and meeting all bulk requirements shall be considered a conforming lot, until September 1, 2008.³⁰
- (3) Front yard.
 - (a) Minimum: 30 feet. **[Amended 6-3-2004 by Ord. No. O-2004-5; 5-5-2005 by Ord. No.**

30. Editor's Note: Subsection D(2)(b), regarding clusters, which subsection immediately followed this subsection, was repealed 2-3-2005 by Ord. No. O-2005-1; 8-3-2006 by Ord. No. O-2006-2.

O-2005-2]

- (b) Average: 62 feet.
- (4) Minimum rear yard: 35 feet.
- (5) Side yards.
 - (a) Standard: 10 feet, one. **[Amended 10-4-2007 by Ord. No. O-2007-14]**
 - (b) Standard: 25 feet, both.³¹
- (6) Minimum width at building line.
 - (a) Standard: 85 feet.³²
- (7) Minimum lot depth: 100 feet. **[Added 4-3-2003 by Ord. No. O-2003-3]**
- (8) Accessory uses/structures in accordance with the requirements of §§ 96-80 and 96-81. **[Added 4-3-2003 by Ord. No. O-2003-3]**³³
- (9) Lot frontage minimum: **[Added 6-3-2004 by Ord. No. O-2004-5; amended 8-3-2006 by Ord. No. O-2006-2]**
 - (a) Standard: 75 feet.
- (10) Maximum height: 35 feet. **[Added 6-3-2004 by Ord. No. O-2004-5]**
- (11) Maximum building coverage: **[Added 8-3-2006 by Ord. No. O-2006-2]**
 - (a) Standard: 30%.
- (12) Maximum total impervious coverage: **[Added 6-7-2007 by Ord. No. O-2007-7]**
 - (a) Lots under 25,000 square feet (preexisting): 40%.
 - (b) Standard 25,000 square feet or greater: 35%.

§ 96-69. Low Density Residential District (LD).

- A. The purpose and intent is to provide an area consistent with the fringe planning area of the SDRP in the area of Elk Township closest to regional development nodes.
- B. Permitted uses in the LD District.
 - (1) Agricultural uses and buildings.
 - (2) Single-family detached dwellings. **[Amended 4-1-2010 by Ord. No. O-2010-10]**
 - (3) Public parks, playgrounds, woodlands, conservation areas and similar uses. **[Amended**

31. Editor's Note: Subsection D(5)(c), regarding clusters, which subsection immediately followed this subsection, was repealed 2-3-2005 by Ord. No. O-2005-1; 8-3-2006 by Ord. No. O-2006-2.

32. Editor's Note: Subsection D(6)(b), regarding clusters, which subsection immediately followed this subsection, was repealed 2-3-2005 by Ord. No. O-2005-1; 8-3-2006 by Ord. No. O-2006-2.

33. Editor's Note: Former Subsection D(8)(a), which contained minimum setback requirements, added 8-3-2006 by Ord. No. O-2006-2, was repealed 6-7-2007 by Ord. No. O-2007-7.

8-3-2006 by Ord. No. O-2006-2]

- (4) Accessory uses customarily incidental and subordinate to the above such as sheds, garages, pools, small wind energy systems, solar energy systems and the like. **[Amended 4-1-2010 by Ord. No. O-2010-10]**

C. Conditional uses.

- (1) Institutional uses such as schools, religious uses, libraries and the like in accordance with § 96-79B.
- (2) Home occupations in accordance with § 96-79A.
- (3) Golf courses.
- (4) Age-restricted communities in accordance with § 96-74, except gross density shall be 2 units per acre and all development will be required to have public sewer. **[Added 4-4-2002 by Ord. No. O-02-4]**
- (5) Planned unit developments on minimum tracts of 150 acres in accordance with Article X, except for the conditions listed below: **[Added 4-4-2002 by Ord. No. O-02-4]**
 - (a) Maximum gross density shall be 1.5 units per acre.
 - (b) Minimum required open space shall be 35%.
 - (c) Minimum set-aside of affordable housing shall be 5%.
 - (d) All development shall have public sewer.
 - (e) Whenever a PUD includes area in more than one zone, the density in this higher density zone may apply over the entire PUD development when at least 25% of the total land area is in the higher density zone.
- (6) Commercial uses as listed in § 96-76B(2) and B(4) when the property fronts on State Highway 77 with the bulk regulations in § 96-76C, except for below. **[Added 6-3-2004 by Ord. No. O-2004-5; amended 5-3-2007 by Ord. No. O-2007-3; 10-4-2007 by Ord. No. O-2007-14]**
 - (a) The building or parking setback from any property line common to a lot which is residentially zoned shall be increased by a thirty-five-foot buffer area containing plantings, fencing and land forms sufficient to visually screen the nonresidential use.

D. Bulk regulations for single-family detached units.

- (1) Maximum gross density: 1 unit per acre.
- (2) Minimum lot size.
 - (a) Standard: 40,000 square feet.
 - (b) Cluster: 25,000 square feet. **[Amended 2-3-2005 by Ord. No. 01-2005-1]**
- (3) Minimum front yard: 40 feet. **[Amended 4-3-2003 by Ord. No. O-2003-3]**
- (4) Minimum rear yard: 40 feet.

- (5) Side yards.
 - (a) Standard and cluster: 10 feet, one.
 - (b) Standard: 50 feet, both.
 - (c) Cluster: 35 feet, both.
- (6) Minimum width at building line.
 - (a) Standard: 150 feet.
 - (b) Cluster: 90 feet.
- (7) Minimum lot depth: 200 feet. **[Added 4-3-2003 by Ord. No. O-2003-3]**
- (8) Accessory uses/structures in accordance with the requirements of § 96-80 and 96-81 and the following: **[Added 4-3-2003 by Ord. No. O-2003-3; amended 8-3-2006 by Ord. No. O-2006-2]**³⁴
- (9) Lot frontage minimum: **[Added 6-3-2004 by Ord. No. O-2004-5; amended 8-3-2006 by Ord. No. O-2006-2]**
 - (a) Standard: 135 feet.
 - (b) Cluster: 80 feet.
- (10) Maximum height: 35 feet. **[Added 6-3-2004 by Ord. No. O-2004-5]**
- (11) Maximum building coverage: **[Added 8-3-2006 by Ord. No. O-2006-2; amended 6-7-2007 by Ord. No. O-2007-7]**
 - (a) Standard: 20%.
 - (b) Cluster: 30%.
- (12) Maximum total impervious coverage: **[Added 6-7-2007 by Ord. No. O-2007-7]**
 - (a) Standard: 25%.
 - (b) Cluster: 35%.

§ 96-70. Rural Residential District (R).

- A. The purpose and intent is to provide an area generally consistent with the rural planning area of the SDRP in the area of Elk Township distant from development nodes.
- B. Permitted uses in the R District.
 - (1) Agricultural uses and buildings.
 - (2) Single-family detached dwellings. **[Amended 4-1-2010 by Ord. No. O-2010-10]**
 - (3) Public parks and playgrounds, woodlands, conservation areas and similar public uses.

34. Editor's Note: Former Subsection D(8)(a), which contained minimum setback requirements, was repealed 6-7-2007 by Ord. No. O-2007-7.

[Amended 8-3-2006 by Ord. No. O-2006-2]

- (4) Accessory uses customarily incidental and subordinate to the above such as sheds, garages, pools, small wind energy systems, solar energy systems and the like. **[Amended 4-1-2010 by Ord. No. O-2010-10]**

C. Conditional uses.

- (1) Institutional uses such as schools, religious uses, libraries and the like in accordance with § 96-79B.
- (2) Home occupations in accordance with § 96-79A.
- (3) Golf courses.
- (4) Age-restricted communities in accordance with § 96-74, except gross density shall be 1.5 units per acre and all development will be required to have public sewer. Whenever an age-restricted community is contiguous with and with a circulation system continuous with an approved development of greater density the density in Elk Township may be increased in accordance with the following conditions: **[Added 4-4-2002 by Ord. No. O-02-4]**
 - (a) Up to two units per acre if a major recreation facility such as a golf course is included and the design maximizes visual access to the golf course/open space vistas to the residents and general public; and
 - (b) Up to 2.5 units per acre if in addition to the above a clubhouse including locker/changing facilities, pro shop, restaurant and maintenance operations space is included in Elk Township.
- (5) Planned unit developments on minimum tracts of 150 acres in accordance with Article X, except for the conditions listed below: **[Added 4-4-2002 by Ord. No. O-02-4]**
 - (a) Maximum gross density shall be one unit per acre.
 - (b) Minimum required open space shall be 35%.
 - (c) Minimum set-aside of affordable housing shall be 3%.
 - (d) All development shall have public sewer.
 - (e) Whenever a PUD includes area in more than one zone, the density in this higher density zone may apply over the entire PUD development when at least 25% of the total land area is in the higher density zone.
- (6) Commercial uses as listed in § 96-76B(2) and B(4) when the property fronts on State Highway 77 with the bulk regulations in § 96-76C, except for below. **[Added 6-3-2004 by Ord. No. O-2004-5; amended 5-3-2007 by Ord. No. O-2007-3; 10-4-2007 by Ord. No. O-2007-14]**
 - (a) The building or parking setback from any property line common to a lot which is residentially zoned shall be increased by a thirty-five-foot buffer area containing plantings, fencing and land forms sufficient to visually screen the nonresidential use.
- (7) Commercial solar energy operations in accordance with § 96-79H. **[Added 6-3-2010 by Ord. No. O-2010-35]**

D. Bulk regulations for single-family detached units.

- (1) Maximum gross density: .5 units per acre.
- (2) Minimum lot size.
 - (a) Standard: 80,000 square feet.
 - (b) Cluster: 25,000 square feet. **[Amended 2-3-2005 by Ord. No. 01-2005-1]**
- (3) Minimum front yard.
 - (a) Standard: 50 feet.
 - (b) Cluster: 50 feet.
- (4) Minimum rear yard: 40 feet.
- (5) Side yards.
 - (a) Standard and cluster: 20 feet, one.
 - (b) Standard: 50 feet, both.
 - (c) Cluster: 35 feet, both.
- (6) Minimum width at building line.
 - (a) Standard: 150 feet.
 - (b) Cluster: 90 feet.
- (7) Minimum lot depth: 200 feet. **[Added 4-3-2003 by Ord. No. O-2003-3]**
- (8) Accessory uses/structures in accordance with the requirements of § 96-80 and 96-81 and the following: **[Added 4-3-2003 by Ord. No. O-2003-3; amended 8-3-2006 by Ord. No. O-2006-2]**³⁵
- (9) Lot frontage minimum: **[Added 6-3-2004 by Ord. No. O-2004-5; amended 8-3-2006 by Ord. No. O-2006-2]**
 - (a) Standard: 135 feet.
 - (b) Cluster: 80 feet.
- (10) Maximum height: 35 feet. **[Added 6-3-2004 by Ord. No. O-2004-5]**
- (11) Maximum building coverage: **[Added 8-3-2006 by Ord. No. O-2006-2; amended 6-7-2007 by Ord. No. O-2007-7]**
 - (a) Standard: 15%.
 - (b) Cluster: 30%.

35. Editor's Note: Former Subsection D(8)(a), which contained minimum setback requirements, was repealed 6-7-2007 by Ord. No. O-2007-7.

(12) Maximum total impervious coverage: **[Added 6-7-2007 by Ord. No. O-2007-7]**

(a) Standard: 20%.

(b) Cluster: 35%.

§ 96-71. Rural Environmental Residential District (RE).

A. The purpose and intent is to provide appropriate regulations in the areas, which include substantial amounts of wetlands and other sensitive lands, generally consistent with the rural environmentally sensitive planning area of the SDRP.

B. Permitted uses in the RE District.

(1) Agricultural uses and buildings.

(2) Single-family detached dwellings. **[Amended 4-1-2010 by Ord. No. O-2010-10]**

(3) Public parks and playgrounds, woodlands, conservation areas and similar public uses. **[Amended 8-3-2006 by Ord. No. O-2006-2]**

(4) Accessory uses customarily incidental and subordinate to the above such as sheds, garages, pools, small wind energy systems, solar energy systems and the like. **[Amended 4-1-2010 by Ord. No. O-2010-10]**

C. Conditional uses.

(1) Institutional uses such as schools, religious uses, libraries and the like in accordance with § 96-79B.

(2) Home occupations in accordance with § 96-79A.

(3) Golf courses.

(4) Campgrounds in accordance with § 96-79E and Chapter 50. **[Added 4-1-2010 by Ord. No. O-2010-5]**

(5) Commercial solar energy operations in accordance with § 96-79H. **[Added 6-3-2010 by Ord. No. O-2010-35]**

D. Bulk regulations for single-family detached units.

(1) For major subdivisions, maximum units per upland acre, i.e., area not designated wetlands, shall be 0.4. **[Amended 6-3-2004 by Ord. No. O-2004-5; 8-3-2006 by Ord. No. O-2006-2]**

(2) Minimum lot size.

(a) Standard: 80,000 square feet.

(b) Cluster: 40,000 square feet. **[Amended 5-5-2005 by Ord. No. O-2005-2]**

(3) Minimum front yard.

(a) Standard: 50 feet.

(b) Cluster: 50 feet.

- (4) Minimum rear yard: 40 feet.
- (5) Side yards.
 - (a) Standard and cluster: 20 feet, one.
 - (b) Standard and cluster: 50 feet, both.
- (6) Minimum width at building line.
 - (a) Standard: 150 feet.
 - (b) Cluster: 100 feet.
- (7) Minimum lot depth: 200 feet. **[Added 4-3-2003 by Ord. No. O-2003-3]**
- (8) Accessory uses/structures in accordance with the requirements of §§ 96-80 and 96-81 and the following: **[Added 4-3-2003 by Ord. No. O-2003-3; amended 8-3-2006 by Ord. No. O-2006-2]³⁶**
- (9) Lot frontage minimum: **[Added 6-3-2004 by Ord. No. O-2004-5; amended 8-3-2006 by Ord. No. O-2006-2]**
 - (a) Standard: 135 feet.
 - (b) Cluster: 80 feet.
- (10) Maximum height: 35 feet. **[Added 6-3-2004 by Ord. No. O-2004-5]**
- (11) Maximum building coverage: **[Added 8-3-2006 by Ord. No. O-2006-2; amended 6-7-2007 by Ord. No. O-2007-7]**
 - (a) Standard: 15%.
 - (b) Cluster: 20%.
- (12) Maximum total impervious coverage: **[Added 6-7-2007 by Ord. No. O-2007-7]**
 - (a) Standard: 20%.
 - (b) Cluster: 25%.

§ 96-71.1. Lake Gilman Overlay (LGO). [Added 6-1-2017 by Ord. No. O-2-2017]

- A. Purpose and intent. The purpose of the Lake Gilman Overlay Zoning District is to provide homeowners within the Lake Gilman community the potential to add reasonable additions and updates to their homes and lots without requiring zoning relief. This unique community requires unique zoning to allow for the continuance of residents to live there as well as to protect their unique community.
- B. Permitted uses. The following uses are permitted in the LGO Lake Gilman Overlay:
 - (1) Single-family detached dwellings;

36. Editor's Note: Former Subsection D(8)(a), which contained minimum setback requirements, was repealed 6-7-2007 by Ord. No. O-2007-7.

- (2) Accessory uses customarily incidental and subordinate to the above such as sheds, garages, pools, small wind energy systems and the like.
- C. Conditional uses.
 - (1) Home occupations in accordance with § 96-79A.
- D. Bulk regulations for single-family detached units. Nonconforming lots shall be considered permitted if existing at the time of adoption of this section.
 - (1) Minimum lot size of 15,000 square feet.
 - (2) Minimum lake frontage (if lakefront): 60 feet.
 - (3) Minimum frontage on private road: 50 feet.
 - (4) Minimum lot width: 50 feet.
 - (5) Minimum lot depth: 150 feet.
 - (6) Minimum principal building setback from lake: 30 feet.
 - (7) Minimum principal building setback from private road: 30 feet.
 - (8) Minimum side yard setback: 10 feet each side.
 - (9) Minimum accessory structure setback from lake: 30 feet.
 - (10) Minimum accessory structure setback from private yard: 10 feet.
 - (11) Minimum accessory structure setback from side yards: three feet for shed, five feet for carport or garage.
 - (12) Maximum building coverage: 30%.
 - (13) Maximum impervious coverage: 40%.
 - (14) Minimum driveway/pavement setback from side yard: five feet.
 - (15) Minimum total aggregate open space not less than: 40 acres.

§ 96-72. Mobile Home Park District (MHP).

As regulated by Ordinance No. 7-1996 of the Township of Elk.³⁷

§ 96-73. Cluster single-family residential development.

- A. General concept. A cluster single-family residential development is a development technique based on a gross dwelling unit density for the entire tract and allowing the lot size for detached dwellings to be reduced so long as the gross density is not exceeded.
- B. Purpose. The purpose of this section is to provide a method of developing single-family detached dwellings which will preserve desirable open spaces, conservation areas, floodplains, school sites, recreation and park areas and lands for other public purposes by permitting the reduction of lot sizes

³⁷. Editor's Note: See Ch. 73A, Mobile Homes.

and certain other regulations hereinafter stated without increasing the number of lots in the total area to be developed.

C. General requirements.

- (1) The minimum size of a tract of land proposed for development under the cluster development provisions of this section shall be 25 acres.
- (2) The land area unutilized for development shall be equal at a minimum to the difference in the number of lots permitted on a tract multiplied by the standard minimum lot size minus the design lot sizes plus 50% of any nondevelopable lands. This land may be offered to the Township. Land offered but not accepted by the Township shall be transferred to a homeowners' association or similar organization in accordance with N.J.S.A. 40:55D-43. The Township may request the dedication of land at specific locations for particular purposes. Additionally, all streets within the development shall be offered to the Township for acceptance.
- (3) The lands offered to the Township shall meet the following requirements:
 - (a) Where possible, open space parcels should be large enough to accommodate active recreation facilities. Lands offered for recreational purposes shall be improved by the developer in a manner consistent with the recreational purpose intended for that particular area of the development in order to qualify the lands for acceptance by the Township. In order to provide continuous jogging and bicycle paths, parcels of open space should be interconnected using the regular sidewalks and/or separate path systems.
 - (b) Any land offered to the Township shall be optimally related to the overall plan and design of the development and improved to best suit the purpose(s) for which it is intended. Open space shall be so planned within the development that a close visual and physical relationship between the open space and as many dwelling units as is reasonably possible is created. Open space areas should weave between dwelling units generally respecting a minimum width of 50 feet and periodically widening out into significant and usable recreation areas.
 - (c) The lands proposed as open space shall be subject to review by the Planning Board, which, in its review and evaluation of the suitability of such land, shall be guided by the Master Plan of the Township, by the ability to assemble and relate such lands to an overall plan and by the accessibility and potential utility of such lands. The Planning Board may request an opinion from other public agencies or individuals as to the advisability of the Township's accepting any lands to be offered to the Township.
 - (d) The parcels of land, whether to be offered to and accepted by the Township or to a homeowners' association or similar organization, shall be conveyed by deed on a pro rata basis as actual development commences in accordance with the following schedule:
 - [1] A conveyance by deed of a parcel equal to 25% of the acreage proposed for dedication or conservation and other purposes shall be conveyed to the Township prior to the issuance of certificates of occupancy in a number equal to 25% of the total number of dwelling units proposed for the entire tract.
 - [2] Not less than an additional 25% shall be conveyed to the Township upon the issuance of certificates of occupancy equal to 50% of the total number of dwelling units proposed for the entire tract.

- [3] Not less than an additional 25% of the acreage shall be conveyed to the Township upon the issuance of certificates of occupancy equal to 75% of the total number of dwelling units proposed for the entire tract.
- [4] The final 25% of the acreage proposed for dedication, conservation or other purposes shall be conveyed to the Township upon the issuance of the last certificate of occupancy for the development prior to the release of any bonds deposited for off-site improvements.
- [5] The total lots permitted shall be calculated by subtracting 20% of the site as an allowance for streets and dividing the remaining land area by the minimum lot size standard for development in the zoning district. **[Amended 7-20-2004 by Ord. No. O-2004-6]**

§ 96-74. Age-Restricted Community. [Amended 4-4-2002 by Ord. No. O-02-4]

- A. General concept and purpose. An age-restricted community (ARC) is a development for age-restricted dwellings developed through a planned community providing for the physical and social needs of persons 55 years of age or older and designed to assist such persons in their housing needs and opportunities.
- B. General requirements for an ARC.
 - (1) The minimum size of a tract of land proposed for development under the ARC provisions shall be as prescribed in the individual zoning districts or 100 acres where a minimum tract size is not specified. **[Amended 5-3-2007 by Ord. No. O-2007-3]**
 - (2) The maximum density of a tract of land proposed for development under the ARC shall be 2.5 dwelling units per gross acre. Land area equal to a minimum of 33% of the gross acreage of the tract of land proposed for development as an age-restricted community (ARC) shall be set aside as common open space. For the purpose of this section, "common open space" is defined as those areas of the ARC not committed to use for residential and commercial buildings and public and private rights-of-way or easements. Lands determined to be undevelopable, including existing lakes, streams, submerged lands, or freshwater wetlands and wetland buffers as certified by the Department of Environmental Protection (NJDEP) shall not exceed 50% of the total required common open space. There may be included in the common open space those areas used for common recreational purposes and common recreational and cultural uses.
 - (3) No application for an ARC shall be considered unless such project can be served by sewer and water systems planned, approved and installed by the applicant or developer in accordance with the minimum standards of the NJDEP. The installation of water, sewerage and drainage facilities shall be in accordance with the specifications of the appropriate governmental authorities. Such improvements shall be made at the sole expense of the applicant or developer.
 - (4) Occupancy requirements. ARC developments shall be limited to occupancy by persons 55 years of age or over, with the following exceptions:
 - (a) A husband or wife under the age of 55 years who is residing with his or her spouse, who is of the age of 55 years or over.
 - (b) Children residing with their parent or parents if the child is 19 years of age or over, and if one of the parents with whom the child or children is residing is 55 years of age or over.

- (c) Occupancy other than in accord with the terms of this section shall constitute a violation of the section, and the use, in the event of such violation, shall not be a permitted use so long as the violation continues.
 - (5) A buffer including suitable landscaping of 200 feet shall be provided along all exterior existing rights-of-way. Any entry road shall be landscaped and designed to eliminate the visual impact of any development to existing rights-of-way.
- C. Permitted uses. The following uses (and no others) of lands and buildings are permitted:
- (1) Single-family detached dwellings including:
 - (a) Single-family detached: single-family residence. A single-family residence is situated on an individual lot with private yards on all four sides of the house.
 - (b) Single-family detached: zero lot line. A single-family residence on an individual lot; the building is set on one of the side property lines. An easement for maintenance on the adjoining lot is one of the requirements for this type of construction. Windows on the lot line side of a dwelling are prohibited.
 - (c) Single-family detached: patio houses. A single-family detached unit, with one dwelling unit from ground to roof, having individual outside access. The lot may be fully enclosed by a wall four to six feet high. All living spaces, i.e., living rooms, dens and bedrooms, shall open onto a major open area or patio.
 - (2) Common recreational and cultural uses for the sole use of the residents of the age-restricted community (ARC) and their guests, including the following: clubhouse or community building, swimming pools not less than 2,500 square feet, shuffleboard courts, tennis courts and picnic grounds. Common recreational and cultural uses shall not be limited to the forgoing, so that the applicant may propose additional common uses with its submission. All such common uses shall be subordinated to the residential character of the ARC, and no advertising shall be permitted.
 - (3) Accessory uses. Necessary accessory buildings and uses shall be permitted, including facilities for maintenance and administration of the development, streets and off-street parking facilities and utilities.
- D. Area, bulk and height regulations. The following area restrictions and regulations are hereby established for the ARC:
- (1) Single-family detached dwellings.
 - (a) Single-family detached: single-family residence.
 - [1] Lot area minimum: 6,600 square feet.
 - [2] Lot area minimum for corner lots: 8,250 square feet.
 - [3] Maximum building coverage: 40%.
 - [4] Minimum yards.
 - [a] Front: 20 feet.
 - [b] Side: 5 feet with a fifteen-foot aggregate.

- [c] Rear: 20 feet.
- [5] Building spacing: 15 feet.
- [6] Minimum lot width at building setback: 60 feet.
- [7] Minimum lot width at building setback for corner lots: 75 feet.
- [8] Minimum lot depth: 110 feet.
- [9] Maximum building height: 2 1/2 stories, not to exceed 35 feet.
- [10] Parking: two off-street spaces per dwelling unit.
- (b) Single-family detached: zero lot line.
 - [1] Lot area minimum: 5,000 square feet.
 - [2] Maximum building coverage: 40%.
 - [3] Minimum yards.
 - [a] Front: 20 feet.
 - [b] Rear: 20 feet.
 - [4] Building spacing: 15 feet.
 - [5] Minimum lot width at building setback: 50 feet.
 - [6] Maximum building height: 2 1/2 stories, not to exceed 35 feet.
 - [7] Parking: two off-street spaces per dwelling unit.
- (c) Single family detached: patio house.
 - [1] Lot area minimum: 4,000 square feet.
 - [2] Lot area average: 5,000 square feet.
 - [3] Minimum lot width at building setback: 45 feet.
 - [4] Parking: two off-street spaces per dwelling unit.
- (d) General.
 - [1] Maximum impervious surface ratio (on lot): 0.50.
 - [2] Minimum patio area: 0.65.
 - [3] Maximum height: 24 feet.
 - [4] Minimum patio dimension: 20 feet.
 - [5] Minimum landscape buffer between ARC and any residential or nonresidential land uses: 50 feet.
 - [6] Minimum landscape buffer along street lines: 50 feet.

(e) Area restriction and regulations: single-family detached accessory uses.

[1] Minimum distance to side line: 10 feet.

[2] Minimum distance to rear line: 10 feet.

[3] Minimum distance to other building: 10 feet.

[4] Maximum height: 15 feet.

E. Design guidelines for residential use in an age-restricted community (ARC) development.

- (1) The development plan of an ARC should be broken into visually small groupings such as quadrangles, clusters and courts. Devices to slow speed and reduce the size of each visual grouping, such as garden walls and gates, reduction in setbacks of facing buildings, and variable landscape layout, are encouraged.
- (2) No more than five freestanding dwelling units should be placed in a row with the same setback from a straight street line.
- (3) Each detached dwelling unit complex shall have a compatible architectural theme with variations in design to provide attractiveness to the age-restricted community (ARC) development, which shall include consideration of landscaping techniques, building orientation to the site and to other structures, topography, natural features and individual dwelling unit design, such as varying unit widths, staggering unit setbacks providing different exterior materials, changing rooflines and roof designs, altering building heights and changing types of windows, shutters, doors, porches, colors and vertical or horizontal orientation of the facades, singularly or in combination of each dwelling unit.
- (4) Dwelling units should be grouped in clusters. Outdoor living areas or patios should adjoin open space or paths leading to open space. Screening of such outdoor living areas may be accomplished with plant materials, changes in elevation, 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 part.
- (5) Required single-family detached front yard setbacks may be reduced to 15 feet if a picket fence and/or low wall is provided or front porches are provided.
- (6) Where private garages are provided, constructed either as part of a dwelling unit or on individual lots, the following guidelines shall be followed:
 - (a) All garages shall conform architecturally to, and be of similar materials as, the principal building.
 - (b) A garage need not be set back from one side line of an individual lot and may be attached to a garage on an adjacent individual lot.
 - (c) No garage which is not attached to or part of a dwelling unit on the same individual lot should be closer than 20 feet to said unit.
 - (d) Where common garage structures are considered, they shall be provided in clusters housing no more than four cars. They should be located so as to provide a short a walk as practicable to the principal residence.

- (e) Alleyways with rear-loaded garages shall be permitted. Alleyways may be in a twenty-foot easement, with 15 feet of pavement, no curbs, and limited to one-way traffic.
- (f) Private garages may be counted as 1/2 of an off-street parking space.
- (g) A landscape plan shall be provided for preliminary approval of an age-restricted community (ARC) development. Landscaping shall be integrated into building arrangement, topography, parking and buffering requirements. Landscaping shall include trees, bushes, shrubs, ground cover, perennials, annuals, plants, sculpture, art and the use of building and paving materials in an imaginative and aesthetic manner.
- (h) Corner lots. Any structure located on a corner lot shall be set back from both streets the minimum distance required for the front yard setback.

F. Open space design guidelines for ARC developments.

- (1) Open space areas resulting from development of an ARC shall weave between structures generally respecting a minimum width of 50 feet and periodically widening out into significant and usable recreation areas. The configuration of the open space areas should be arranged so that connections can be made to existing or future adjacent open spaces and other community facilities.
- (2) The developer may be required to plant trees or other similar landscaping improvements. Said improvements may include removal of dead or diseased growth, thinning of trees or other growth to encourage more desirable growth, removal of trees in areas planned for active recreational facilities, grading and seeding and improvements or protection of the natural drainage system by the use of protective structures, stabilization measures and similar improvements.
- (3) Portions of the open space should be developed to afford both passive and active recreational opportunities. Passive recreational activities may include but are not limited to pedestrian paths, sitting areas and naturally preserved areas. Active recreational areas may include but are not limited to a clubhouse or community building, shuffleboard courts, tennis courts, bicycle paths, barbecue grills, picnic benches, indoor recreational uses, and swimming pools not less than 2,500 square feet. Active recreational facilities should be carefully located to avoid problems of noise, lights and similar nuisance elements affecting residential units. They shall be located not less than 50 feet from any boundary line, exclusive of buffers.
- (4) Every parcel so set aside shall be conveyed by deed at the time final subdivision or site plan approval is granted.
- (5) The land to be set aside shall be offered to the Township Committee for acceptance. Land offered for dedication but not accepted by the Township Committee shall be transferred to a homeowners' association or similar organization in accordance with N.J.S.A. 40:55D-43.
- (6) Any open space offered to the Township Committee shall be subject to review by the Planning Board, which shall be guided by the Master Plan, the ability to assemble and relate such lands to an overall plan, the accessibility and potential utility of such lands and such existing features as topography, soils, wetlands and tree cover, as these features may enhance or detract from the intended use of the lands. The Planning Board may request an opinion from other public agencies or individuals as to the advisability of accepting any lands to be offered.

G. Commercial development.

- (1) Development authorized. In the event that all requirements for the age-restricted community (ARC) are met, a maximum of 7.5% of the total adjusted gross acreage of the ARC development shall be developed for limited commercial purposes described as follows.
- (2) Requirements. All lands proposed for utilization as limited commercial use shall be optimally related to the overall plan and design of development and improved to best suit the purpose for which it is intended. On all limited commercial lots, access, ingress and egress shall be onto a nonresidential, arterial or collector street.
- (3) Purpose. The purpose is to allow for small areas where retail and service businesses may be located primarily for the convenience of the residents in the ARC development. It is intended that development in these areas be designed to enhance and improve the centers by ensuring that an adequate traffic circulation plan evolves so that each building does not have its own access point(s) to the adjoining road(s), that the building appearances and signs are compatible and that parking facilities are interrelated and capable of common usage where possible.
- (4) Permitted principal uses. The principal permitted uses on the land and in the buildings in the commercial area of an age-restricted community (ARC) development area as follows:
 - (a) Local retail activities, including grocery stores, meat markets, seafood markets, delicatessens, bakeries, drugstores, furniture stores, sporting good shops, gift shops, hobby shops, bookstores, clothing stores, shoe stores, hardware stores, pet shops, stationery stores, fabric stores and florists.
 - (b) Local service activities, including barber and beauty shops, tailors, dry-cleaning and laundry operations, appliance repair shops, shoe repair shops, and upholsterers.
 - (c) Banks, including drive-in facilities.
 - (d) Professional offices are permitted, but shall be limited to dentists, doctors, engineers, lawyers, real estate agents and insurance agents.
- (5) Permitted accessory uses. Permitted accessory uses in the commercial area of an ARC development are as follows:
 - (a) Off-street parking.
 - (b) Garages to house delivery trucks or other commercial vehicles.
 - (c) Temporary construction trailers and one sign not exceeding 50 square feet for advertising the prime contractor, subcontractor(s), architect, financing institution and similar data for the period of construction, beginning with the issuance of a building permit or one year, whichever is less, provided that said trailer and sign are on the site where construction is taking place and set back at least 15 feet from the street to the lot lines.
- (6) Maximum building height for commercial use. No building shall exceed 25 feet in height and two stories.
- (7) Area and yard requirements for commercial use in an ARC development.
 - (a) Principal building. Minimum requirements shall be as follows:
 - [1] Lot area: 20,000 square feet.

- [2] Lot frontage: 125 square feet.
 - [3] Lot width: 125 feet.
 - [4] Lot depth: 150 feet.
 - [5] Front yard: 60 feet.
 - [6] Rear yard: 25 feet.
 - [7] Side yard. In order to encourage an end product which provides parking, access and architectural continuity even where development occurs piecemeal and with diverse ownership, buildings may be attached and may be built to the interior side line(s) in order to be attached. Attached buildings may include two walls, which must be keyed to each other. Where buildings are built to both side lines, the site plan shall be accompanied by appropriate legal material and plans showing properly located loading spaces and trash receptacles, with permitted access across adjacent properties. If structures are not attached, the side yard(s) shall be 20 feet each.
- (b) Accessory building.
- [1] Minimum distance shall be as follows:
 - [a] To side line: 20 feet.
 - [b] To rear line: 20 feet.
 - [c] To other building: 20 feet.
 - [2] Maximum building coverage shall be as follows:
 - [a] Principal building: 25%.
 - [b] Accessory building: 5%.
- (8) Minimum floor area. Each building shall have a minimum gross floor area of 400 square feet, which a width of each store no less than 20 feet.
- (9) General requirements for commercial use in an age-restricted community (ARC) development.
- (a) One building may contain more than one use, provided that the total building coverage of the combined uses does not exceed the maximum building coverage specified for the building, and further that each use occupies a minimum gross floor area of 400 square feet.
 - (b) At least the first 20 feet adjacent to any street line shall not be used for parking and shall be planted and maintained in the lawn area or ground cover or landscaped with evergreen shrubbery and separated from the parking area by poured concrete, Belgian block curbing or concrete bumper blocks.
 - (c) No merchandise, products, waste, equipment or similar material or objects shall be displayed or stored outside.
 - (d) All buildings shall be compatibly designed, whether constructed all at one time or in stages over a period of time. All building walls facing any street or residential use or district line shall be suitably finished for aesthetic purposes, which shall not include unpainted or

painted cinder block or concrete block walls.

- (e) All areas not utilized for buildings, parking, loading access aisles and driveways or pedestrian walkways shall be suitably landscaped with shrubs, ground cover, seedlings or similar plantings and maintained in good condition.
- (f) A minimum buffer area of 50 feet in width shall be provided along any common property line with a residential use or district.

(10) Minimum off-street parking.

- (a) Minimum off-street parking for commercial uses in an ARC development shall be provided as follows:
 - [1] Grocery stores, meat markets, seafood markets, supermarkets, delicatessens and bakeries: five spaces per 1,000 square feet of gross floor area or fraction thereof.
 - [2] Drugstores, furniture stores, sporting goods shops, fight shops, hobby shops, bookstores, clothing stores, shoe stores, hardware stores, pet shops, stationery stores, fabric stores, florists, tailors, dry-cleaning and laundering operations, appliance repair shops, shoe repair shops and upholsterers: five spaces per 1,000 square feet of gross floor area or fraction thereof.
 - [3] Barber and beauty shops: two spaces per chair, with a minimum of three spaces.
 - [4] Banks and professional offices: six spaces per 1,000 square feet of gross floor area or fraction thereof.
- (b) Parking areas for individual uses shall be designed to be interconnected with adjacent properties and shall utilize access points to the street.
- (c) Where more than one use occupies one building or where there is an attached group of buildings, the total parking spaces shall be an accumulation of the various standards appropriate to the uses noted above, except that where more than five separate uses are grouped into one area using common parking facilities and controlled access points to the parking area(s), the total parking need may be computed on the basis of providing at least 5.5 spaces per 1,000 square feet of gross floor area or fraction thereof to serve the total complex.

(11) Minimum off-street loading. Minimum off-street loading for commercial use in an age-restricted community (ARC) development shall be provided as follows:

- (a) Each activity shall provide for off-street loading and unloading with adequate ingress and egress from streets and shall provide such area(s) at the side or rear of the building. Each space shall be at least 15 feet by 30 feet, and one space shall be provided for every 4,000 square feet of gross floor area or fraction thereof in each building. There shall be no loading or unloading from the street.
- (b) There shall be at least one trash and garbage pickup location provided by each building, which shall be separated from the parking spaces by either a location within the building or in a pickup location outside of the building, which shall be a steel-like, totally enclosed container located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence, wall, planting or combination of

the three. If located within the building, the doorway may serve both the loading and trash/garbage functions, and if located outside of the building, it may be located adjacent to or within the general loading area(s), provided that the container in no way interferes with or restricts loading and unloading functions.

- (c) All off-street loading areas shall be lighted.

(12) Signs.³⁸

- (a) Local retail and service activities, banks and professional offices may have one lighted or unlighted sign displaying the name of the use, attached flat against the front of the building and not exceeding an area equivalent to 5% of the front of the building or 50 square feet, whichever is smaller. Where the building(s) is (are) designed for rear or side entrances, one unlighted sign may be attached flat against the building at the rear and side entrances, such sign not to exceed an area equivalent to 1/2 that of the sign on the front of the building.

- (b) A shopping center consisting of more than five separate uses grouped together may have one lighted freestanding, but nonmoving, sign along each arterial or collector road which the tract in question abuts, provided that there exists at least 200 feet of unbroken frontage. Such sign shall not exceed 12 feet in height, shall be set back from any property line a minimum of 50 feet and shall not exceed an area of 100 square feet.

[1] Where uses share a common walkway, each use served by the walkway may have one additional sign identifying the use, suspended in perpendicular fashion from the roof over the walkway. Suspended signs shall be no closer than eight feet at their lowest point to the finished grade level below them. No such signs shall exceed eight square feet in area.

[2] All signs in a shopping center shall conform in character with all other signs in the complex and shall blend with the overall architectural scheme of the shopping center.

(13) Fences in age-restricted community (ARC) developments. Fences for all uses in ARC developments shall be in accordance with the following:

- (a) No chain link fences shall be permitted within the ARC development;
- (b) All fences shall be maintained at a minimum 35% transparency except fences specifically intended for screening; and
- (c) Fences shall not exceed four feet in height unless utilized for security or screening purposes, in which case said fence may not exceed seven feet in height within the buildable area of the lot.

(14) Signs in ARC developments. In addition to regulations of signs for commercial use in an ARC development, signs in ARC developments shall be in accordance with the following:

- (a) No sign shall be placed or maintained within an ARC development except as herein provided.
- (b) For commercial use in an ARC development, signs shall be in accordance with Subsection

38. Editor's Note: See also Subsection G(14), (15) and (16) for more regulations concerning signs in ARC developments.

G(12) of this section. For residential use in an ARC development, no sign shall be permitted, except an unlighted sign for lease, sale or rent of property and not exceeding 12 square feet in area.

- (c) Traffic and other regulatory signs, legal notices and the like shall be placed without review and permit.
- (15) Types of signs prohibited. The following types of signs are specifically prohibited in ARC developments:
- (a) A sign or structure which directs attention to a business commodity, service, activity or entertainment not conducted or principally sold or offered upon the premises on which the sign is located.
 - (b) Signs attached to the vertical face of the building which extend above the juncture of the facade and roof of the building.
 - (c) Signs attached to any portion of the roof.
 - (d) Signs employing flashing, rotating or blinking lights.
 - (e) Revolving signs or beacons, streamers, pennants and/or whirling devices.
 - (f) Portable signs of any type.
- (16) Informational and regulatory signs. The following types of signs displayed for the direction, safety, convenience or information of the public are permitted:
- (a) Signs of duly constituted governmental bodies, including traffic or similar regulatory signs, legal notices or other signs required to be maintained or posted by law or other regulation.
 - (b) Utility signs not over four square feet in area identifying parking area entrances and exits, off-street loading areas and the like.
 - (c) Memorial plaques, cornerstones, historical markers and the like.
 - (d) Nameplates or address signs not to exceed two square feet.
 - (e) Temporary announcement signs, including contractor's signs on construction site not to exceed 32 square feet in area indicating the names of persons associated with or events conducted upon the premises.
 - (f) Sale or rent signs. Sign(s) advertising that the premises are for lease, sale or rent are permitted, provided that each real estate firm shall be limited to one such sign not to exceed 12 square feet in area on each lot or parcel of property for which such firm has a bona fide listing and that such sign shall be removed from the premises within 10 days subsequent to the leasing, sale or rental of such premises.
 - (g) Development signs. One company sign not to exceed 50 square feet in area may be affixed to each lot or parcel of property to designate that such property is to be occupied at a future date by the business or use designated.
- (17) In addition to the foregoing, it shall be mandatory for the applicant of an age-restricted community (ARC) development to provide the Planning Board and the governing body with

copies of all submissions to be made to any state agency, pursuant to the Retirement Community Full Disclosure Act,³⁹ at all stages of development.

(18) Off-street parking will be as provided for in Subsections D and G(10).

(19) All other applicable sections of the ordinances of Elk Township shall apply.

§ 96-75. Recreational Residential District (RR). [Amended 4-3-2003 by Ord. No. O-2003-3; 5-5-2005 by Ord. No. O-2005-2; 9-3-2009 by Ord. No. O-2009-9]

- A. Purpose and intent. The purpose of the Recreational Residential Zoning District is to recognize the continued existence of a recreational resort community that was established in the 1930s as a private lake and was converted to a community of stockholders, the Lake Garrison Corporation, in the 1940s. The area consists of approximately 116 acres and contains 110 cottage sites. The zoning requirements are intended to protect the health, safety, and general welfare of the citizens of Elk Township consistent with the Township's overall goals and objectives. The regulations encourage the maintenance of a viable seasonal community and the improvement of the existing conditions in the RR Zoning District without significantly intensifying the land uses. It is acknowledged that the land is owned by the Lake Garrison Corporation and that the individual structures are owned by the individual stockholders, a unique ownership structure requiring a unique regulatory program.
- B. Permitted uses. The following uses are permitted in the RR Recreational Residential Zone:
- (1) Seasonal resort cottages which are occupied on a continuous basis only during the period from May 1 to October 31. The following additional lot and building standards shall be met:
 - (a) The maximum number of seasonal resort cottages allowed per gross acre owned by the community, including land and water, shall be one.
 - (b) The maximum number of dwelling units allowed per structure shall be one.
 - (c) The minimum habitable floor area per cottage unit shall be 600 square feet.
 - (d) The minimum area set aside for recreational facilities shall be 40% of the total tract area.
 - (e) The minimum distance between principle structures shall be as follows:
 - [1] New structures: 20 feet.
 - [2] Existing structures, or replacement of structures existing as of the date of this Ordinance No. O-2009-9 revision: The applicant shall submit a plan that plots the distance between the existing structure and the adjacent structures. The distances to the adjacent structures and the midpoint along that distance shall be plotted. Replacement structures or additions/alterations to existing structures must be set back a minimum of 10 feet from the midpoint between the existing structure and the adjacent structures. (For example, if an existing structure is 14 feet from its neighbor and the structure will be replaced, the applicant shall identify the midpoint between the structures — seven feet — and set the new structure back at least 10 feet from the midpoint, so that the distance between the structures will now be 17 feet.)
 - (f) Each cottage must have a minimum of two parking spaces available to it that will not

39. Editor's Note: See N.J.S.A. 45:22A-1 et seq.

interfere with circulation along the private roadways within the site. The parking spaces may be in a driveway or in a common parking area.

- (g) Cottages with frontage on the lake must be set back a minimum distance of 50 feet from the lake or the minimum required by the Flood Hazard Area Control Act rules (N.J.A.C. 7:13), and for replacement within 150 feet of the lake edge, cottages may not be any closer to the lake than the existing building footprint.
- (2) One dwelling unit within the zone may be occupied on a year-round basis by a site manager employed by the Lake Garrison Corporation and his or her immediate family. The year-round unit must be served by a septic disposal system (or be hooked up to public sewer service).
- (3) Accessory uses incidental to and commonly provided for the exclusive use of occupants in resort cottages or the general membership such as storage sheds, garages, pavilions, playground equipment.
 - (a) All accessory structures must be set back a minimum of 50 feet from perimeter property lines.
 - (b) Accessory structures must be a minimum of 15 feet away from dwelling units.
 - (c) Accessory structures for individual cottages may not exceed 200 square feet, and no more than one accessory structure is permitted for each cottage dwelling.
 - (d) Accessory structures intended to serve the general membership and located in common areas (for storage, restrooms, snack stands, etc.) may be larger, but accessory structures over 600 square feet in area require submission of a grading plan in accordance with § 96-66M.
- (4) Public parks, playgrounds and play areas.
- (5) Golf courses.
- C. Design requirements. For the replacement of an existing dwelling or a proposed addition to an existing dwelling, the applicant must provide the Zoning Officer with the following information in order to determine compliance with the section requirements:
 - (1) A scaled plot plan at a scale not less than one inch equals 30 feet.
 - (2) The area, shape and size of the home site and of all structures and improvements within 100 feet of the proposed improvements with additional information if required.
 - (3) A grading plan consistent with the requirements of § 96-66M, except that for individual dwellings within the site, information should be provided for areas within 100 feet of the proposed structure, not the property lines.
 - (4) Vegetation, trees or natural features that are proposed to be altered or removed as a result of the proposed improvements.
 - (5) Location and size of any easements for gas, water or electric lines on the home site and within 100 feet.
 - (6) The distance to the site boundaries.
 - (7) All accessory buildings, existing and proposed, within 100 feet of the proposed structure.

- (8) All proposed walkways, driveways and parking areas.
 - (9) The proposed grading and drainage plan for the site.
 - (10) Statement on the method and plan for the water system.
 - (11) Statement on the method and plan for the sewerage system.
 - (12) Statement on the method and plan for garbage disposal.
- D. Required site improvements for new cottages, new home sites, or new common area structures.
- (1) Facilities shall be provided to ensure the proper drainage of all surface waters in accordance with the Township's stormwater management ordinance and requirements.⁴⁰
 - (2) A method shall be provided for the disposal of refuse. Such method shall meet the minimum standards set by New Jersey's solid and hazardous waste rules (N.J.A.C. 7:26). Refuse enclosures shall be provided to contain and shield trash and recycling containers.
 - (3) A planted buffer strip shall be placed along all property lines which are adjacent to residential zones. The buffer must be improved when a new structure or new activity area is placed within 100 feet of the boundary with the residential zone. Such buffer strip shall be at least 25 feet in width and shall be used for no other purpose than as a planting area. The plants in the buffer strip shall be at least six feet in height at planting and shall be placed in such a way that a solid screen is provided. The reviewing board may also permit the installation of a fence within the buffer area.
 - (4) All other common areas, including the areas in and around the home sites, shall be landscaped and maintained in lawn or other appropriate ground cover.
 - (5) In locations where common facilities are concentrated, common walkways of at least three feet in width and of durable construction shall be provided.
- E. Lot and building requirements. Lot and building requirements in the RR Recreational Residential Zone shall be as follows:
- (1) Minimum tract area: five acres.
 - (2) Minimum tract frontage: 250 feet.
 - (3) Minimum tract depth: 250 feet.
 - (4) Maximum tract coverage of all buildings: 20%.
 - (5) Minimum required yard depths from street right-of-way and lot lines for principal buildings and detached accessory buildings.
 - (a) Front yard (each front): 50 feet.
 - (b) Side yard (each): 50 feet.
 - (c) Rear yard: 50 feet.
 - (d) Minimum distance between common area buildings: 20 feet.

40. Editor's Note: See Ch. 86, Stormwater Control.

- (6) Maximum building height.
 - (a) Principal building: 25 feet.
 - (b) Detached accessory building for individual cottages: 15 feet.
 - (c) Detached accessory buildings to serve the general membership in common areas: 25 feet.

F. Signs. Permitted signs in the RR Recreational Residential Zone shall be as follows:

- (1) One nonflashing nameplate sign permitted for each resort cottage situated within the property lines of the tract, and each not exceeding 72 square inches, as well as any signage required by the Township for emergency identification.
- (2) One temporary sign pertaining to the lease or sale of the same lot or to the construction of the building on which it is placed. Such sign shall be nonflashing, shall be situated within the property lines of the premises to which it relates and shall not exceed six square feet in total area.
- (3) One externally illuminated sign pertaining to the use of a public or private park or recreation facility, situated on the property and located not less than 10 feet from any street or property line. Each sign shall not exceed 24 square feet in total area. The lighting source must be shielded to prevent glare.
- (4) One temporary banner sign for special events, etc., during the summer months. The sign must be on the property, securely fastened, and may not exceed 30 square feet in area.

G. Off-street parking. Off-street parking shall be as provided for in § 96-54 of this chapter.

§ 96-76. Commercial-Neighborhood (C-1). [Amended 5-5-2005 by Ord. No. O-2005-2; 5-3-2007 by Ord. No. O-2007-3; 6-21-2016 by Ord. No. O-5-2016; 6-1-2017 by Ord. No. O-2-2017; 11-3-2022 by Ord. No. O-8-2022; 7-21-2025 by Ord. No. O-20-2025]

A. Purpose and intent. In the C-1 (Commercial-Neighborhood) Zone, a building may be erected or used and a lot may be used or occupied for any of the following purposes, and no other, provided that such building or use complies with the requirements for this zone and the following regulations.

B. Permitted uses in the C-1 District.

- (1) Customary and conventional agricultural uses and farm dwellings when associated with a qualified agricultural use. The use must be assessed for tax purposes for farming/agriculture.
- (2) Retail business or service activities of and similar to the following types:
 - (a) Groceries and foodstuffs.
 - (b) Drugs and pharmaceuticals.
 - (c) Confectionery.
 - (d) Stationery and tobacco.
 - (e) Hardware and paints.
 - (f) Bakery.

- (g) Periodicals and newspapers.
 - (h) Barber and beauty shops.
 - (i) Tailoring and dressmaking.
 - (j) Dry cleaning.
 - (k) Shoe repairing.
 - (l) Self-service laundries.
 - (m) Radio and television service.
 - (n) Funeral homes.
 - (o) Restaurants, with or without liquor licenses, and taverns.
 - (p) Retail package liquor stores.
 - (q) Supermarket/grocery store.
 - (r) Convenience store.
 - (s) Barber shop or hair salon.
 - (t) Coffee shop.
 - (3) Golf courses.
 - (4) Professional and general office use.
- C. Lot and building requirements for the C-1 (Commercial-Neighborhood) Zone shall be as follows:
- (1) Minimum lot area: 30,000 square feet.
 - (2) Minimum lot frontage: 150 feet.
 - (3) Minimum lot depth: 150 feet.
 - (4) Maximum building coverage: 20%.
 - (5) Minimum required yard depths from street right-of-way and lot lines for principal buildings and detached accessory buildings.
 - (a) Interior lots.
 - [1] Front yard: 50 feet.
 - [2] Side yard (each): 30 feet.
 - [3] Rear yard: 50 feet.
 - (b) Corner lots.
 - [1] Front yard: 50 feet.
 - [2] Side street side: 50 feet.

[3] Interior side: 30 feet.

[4] Rear yard: 50 feet.

(6) Maximum building height.

(a) Principal building: 35 feet.

(b) Detached accessory building: 15 feet.

D. Signs. Signs in the C-1 (Commercial-Neighborhood) Zone shall be as provided for in § 96-60.

E. Off-street parking. Off-street parking shall be as provided for in § 96-54 of this chapter.

F. Loading and unloading space. Truck loading and unloading facilities shall be provided on the same lot and in other than the front yard area so as to permit the transfer of goods in other than a public street.

§ 96-77. Commercial-Highway District (C-2). [7-20-2004 by Ord. No. O-2004-6; 12-18-2008 by Ord. No. O-2008-14; 12-5-2013 by Ord. No. O-9-2013; 12-7-2023 by Ord. No. O-16-2023; 7-21-2025 by Ord. No. O-20-2025]

A. Purpose and intent. In the C-2 Zone, a building may be erected or used and a lot may be used or occupied for any of the following purposes, and no other, provided that such building or use complies with the requirements for this zone and the following regulations.

B. Permitted uses in the C-2 District.

(1) Retail business or service activities of and similar to the following types:

(a) Restaurants with or without liquor service, and taverns.

(b) Banks, theaters (except open-air theaters), offices, hotels and motels.

(c) Commercial recreation uses, provided that their activity is carried out entirely within a building.

(d) A planned shopping center consisting of a group of retail establishments developed and managed as a unit with off-street parking provided as an integral part of the unit.

(e) Auto showrooms.

(f) Retail package liquor stores.

(2) Auto repair shops.

(3) Golf courses.

(4) Professional and general office use.

C. Lot and building requirements. Lot and building requirements for the C-2 (Commercial-Highway) Zone shall be as follows:

(1) Minimum lot area: 2 acres.

(2) Minimum lot frontage: 150 feet.

- (3) Minimum lot depth: 250 feet.
- (4) Maximum building coverage: 20%.
- D. Minimum required yard depth from street right-of-way and lot lines for principal buildings and detached accessory buildings.
 - (1) Interior lots.
 - (a) Front yard: 100 feet.
 - (b) Side yard: 30 feet.
 - (c) Rear yard: 50 feet.
 - (2) Corner lots.
 - (a) Front yard: 100 feet.
 - (b) Side street side: 100 feet.
 - (c) Interior side: 30 feet.
 - (d) Rear yard: 50 feet.
 - (3) Maximum building height.
 - (a) Principal building: 35 feet.
 - (b) Detached accessory building: 15 feet.
- E. Signs.
 - (1) Permitted signs in the C-2 District shall be in accordance with § 96-60.
 - (2) In addition, where a principal use occupies at least 750 square feet of segregated area within a larger structure and has direct access from the outside, a wall or facade sign not exceeding six square feet identifying the name of the business or activity may also be attached to the building: for example, a bank inside a supermarket.
- F. Off-street parking: Off-street parking shall be as provided for in § 96-54, except there shall be no off-street parking within 35 feet of the road in C-2 Districts.
- G. Loading and unloading space: Truck loading and unloading facilities shall be provided on the same lot and in other than the front yard area so as to permit the transfer of goods in other than a public street.

§ 96-78. Manufacturing-Light (M-1) District. [Amended 8-3-2006 by Ord. No. O-2006-2]

- A. Permitted uses in the M-1 District.
 - (1) Any production, processing, cleaning, testing, repair, storage and distribution of materials, goods, foodstuffs and products not involving a retail activity on the lot, except those excluded by this article.
 - (2) Contractor's establishment not engaging in any retail activities on the site.

- (3) Laboratories: research, experimental or testing.
 - (4) Public utility installations.
 - (5) Agricultural uses, provided that the following provisions are met:
 - (a) The minimum lot and building requirements of this District are met.
 - (b) No more than one residential farm dwelling shall be permitted on each lot and must be associated with a qualified agricultural use. The use must be assessed for tax purposes for farming/agriculture. **[Amended 5-3-2007 by Ord. No. O-2007-3]**
 - (c) No commercial activities shall be permitted other than one road-side stand selling food produce.
 - (d) No seasonal or temporary residential dwellings shall be permitted.
 - (6) Golf courses.
- B. Prohibited uses The following uses are prohibited in the M-1 Light Manufacturing Zone.
- (1) Retail businesses of any kind, except those referred to in this section.
 - (2) Residential dwelling units of any kind, except those permitted in this section.
 - (3) The manufacture of heavy chemicals such as but not limited to mineral acids or other corrosives, ammonia, caustic soap and sulfuric acid; the manufacture of basic or semifinished chemicals, such as cellulose products, resins, dyestuffs, glue, vegetable, animal or mineral fats or oils, explosives, combustible gases, soap and detergents, fertilizers derived from animal origins, asphalt and tar products; the manufacture or production of cement, plaster, cork and their constituents, matches, paints, oils, varnishes, lacquer, rubber or rubber products; and the processing, sale, storage or reclamation of junk of all kinds, including automobile wrecking and storing.
- C. General requirements.
- (1) Building permit application requirements. Any application for a building permit for a use to be located in this District shall be accompanied by:
 - (a) A plot or site plan of the gross property, showing the location of all present and proposed buildings, drives, parking lots, waste disposal facilities, screening fences or walls and other constructional features on the lot as well as streets, alleys, highways, streams and other topographical features inside and outside of the lot and within 200 feet of any lot line.
 - (b) Plans and specifications bearing the seal of a registered architect or engineer.
 - (c) A description of the operations proposed, in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, fire hazards or safety hazards or the emission of any potentially harmful or obnoxious matter or radiation.
 - (d) Engineering and architectural plans for the treatment and disposal of sewage and industrial waste, tailings or unusable by-products.
 - (e) Engineering and architectural plans for the handling of any excess traffic congestion,

noise, glare, air pollution, water pollution, fire hazard or harmful or obnoxious matter or radiation.

- (f) Designation of the fuel to be used and any necessary architectural and engineering plans for controlling smoke.
- D. Use requirements. Activities in this District must meet the requirements of this section. Storage may be permitted out-of-doors, provided that within 100 feet of any other district all storage shall be in completely enclosed buildings or shall be effectively screened by a wall or fence, which wall or fence shall in no case be lower than the enclosed storage. Such storage shall not be deemed to include the parking of licensed motor vehicles under 1 1/2 tons rated capacity.
- E. General design requirements for industrial developments.
- (1) Fire and explosive hazards. All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against the hazards of fire and explosion, and adequate fire-suppression equipment shall be installed and maintained in an operable condition in accordance with the regulations of the Fire Marshal's Office, Construction Official and the regulations of applicable local, county, state, and federal agencies.
 - (2) Electrical disturbance. No activity shall be permitted which results in an electrical disturbance adversely affecting the operation of any equipment beyond the building in which the disturbance is created.
 - (3) Smoke, ash, dust, fume, vapor, gases and other forms of air pollution. There shall be no emission at any point from any chimney or otherwise which can cause damage to human health, to animals or vegetation, or to other forms of property, or which will cause any excessive soiling at any point.
 - (4) Liquid and solid wastes. There shall be no discharge at any point, into any private or public sewerage system, or into any stream, or into the ground of any materials in such a way, or of such temperature, as to contaminate or otherwise cause the emission of hazardous materials except as regulated by applicable local, state, or federal agencies.
 - (5) No activity or use shall produce a sound pressure level on adjacent property in excess of the level permitted by the applicable laws of the State of New Jersey, and regulations adopted by the NJDEP, and as currently enforced by the Gloucester County Health Department or any other duly authorized enforcement agency.
 - (6) Vibration. No activity or operation shall produce at any point along the lot line continuous earth home vibrations greater than the maximum displacement as permitted in the following table.

Frequency (Cycles per second)		Residential District Displacement (in inches)	Nonresidential District Dis- placement (in inches)
less than	greater than or equal to		
0	10	.0004	.0020
10	20	.0002	.0010

Frequency (Cycles per second)		Residential District Displacement (in inches)	Nonresidential District Dis- placement (in inches)
20	30	.0001	.0006
30	40	.0001	.0004
40	50	.0001	.0003
50	-	.0001	.0002

- (7) Glare. No activity or use shall produce a strong, dazzling light or reflection of same beyond its lot lines. Exterior lighting shall be shielded, buffered and directed so that glare, direct light, or reflection will not be a nuisance to adjoining properties, dwellings, streets, districts, or from adjacent buildings within an industrial park. In no event shall a lighting intensity greater than .125 footcandle, measured at grade, be permitted beyond the subject lot lines.
- (8) Odor. No operation shall release materials capable of becoming odorous, either by bacterial decomposition or chemical reaction, that cause or will cause odorous matter or vapor to be generated so as to be readily discernible without instruments from any point along the boundaries of each lot.
- (9) Operation. All fabricating, manufacturing, or assembling activities shall be conducted entirely within enclosed buildings.

F. Lot and building requirements.

- (1) Lot and building requirements in the M-1 Light Manufacturing Zone shall be as follows:
 - (a) Minimum lot area: 2 acres.
 - (b) Minimum lot frontage: 200 feet.
 - (c) Minimum lot depth: 200 feet.
 - (d) Maximum building coverage: 20%.
 - (e) Front yard: 100 feet.
 - (f) Side yard, each: 50 feet.
 - (g) Rear yard, each: 75 feet.
 - (h) Front yard of corner lot: 75 feet.
 - (i) Maximum building height.
 - [1] Principal building: 40 feet.
 - [2] Detached accessory building: 25 feet.

G. Signs.

- (1) Permitted signs in the Light Manufacturing Zone shall be as follows:

- (a) Signs for advertising industrial activities on the premises, which shall not exceed, in aggregate, 15% of the area of the front facade of the building, and further provided that not more than 25% of the allowable sign area shall be located within the required front yard area. Such signs may be illuminated but shall not be of the flashing type.
 - (b) One nonilluminated nameplate sign situated within the property lines and not exceeding 72 square inches.
 - (c) One temporary sign pertaining to the lease or sale of the same lot or to the construction of the building on which it is placed. Such sign shall be nonflashing, shall be situated within the property lines of the premises to which it relates and shall not exceed 25 square feet in total area.
- (2) Approval of signs. Before the erection of any sign which exceeds 10 square feet in area, the location thereof shall be approved by the Director of Public Safety of the Township of Elk, who shall approve only those signs which do not constitute a traffic or safety hazard along any highway.
- H. Off-street parking: Off-street parking shall be as provided for in § 96-54.
- I. Loading and unloading space.
 - (1) Every building housing an industrial use and having a gross floor area of over 5,000 square feet shall be provided with at least one truck standing, loading and unloading space on the premises, not less than 12 feet in width, 25 feet in length and 14 feet in height. One additional truck space of these dimensions shall be provided for every additional 20,000 square feet or fraction thereof of gross floor area in the building.
 - (2) Access to loading and unloading spaces. 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.
 - (3) Additional parking space. Loading space as required under this section shall be provided as area additional to off-street parking space and shall not be considered as supplying off-street parking space.
- J. Conditional uses. **[Added 6-3-2010 by Ord. No. O-2010-35]**
 - (1) Commercial solar energy operations in accordance with § 96-79H.

§ 96-78.1. Neighborhood Commercial Overlay (NCO). [Added 6-1-2017 by Ord. No. O-2-2017]

- A. Purpose and intent. The purpose of the Neighborhood Commercial Overlay Zoning District is to provide expanded potential for commercial uses along designated areas on Buck Road and Route 77.
- B. Permitted uses. The following uses are permitted in the NCO Neighborhood Commercial Overlay.
 - (1) All permitted uses within §§ 96-76 and 96-77, C-1 and C-2 Commercial Districts.
 - (2) Medical offices.
 - (3) Child development/day-care centers.

(4) Private education uses such as tutoring, martial arts and dance studios.

C. Lot and building requirements shall follow the C-2, § 96-77C, D, E, F and G requirements.

§ 96-78.2. Cannabis Establishment Overlay Zone (CE). [Added 6-21-2022 by Ord. No. O-3-2022]

A. Purpose and intent. The purpose and intent of the Cannabis Establishment Overlay Zone (CE) is to provide appropriate type of facility in appropriate location within the Township while promoting economic growth that will preserve and maintain health, safety and welfare of the Township and its residents.

B. Permitted uses in the CE District:

(1) Cannabis establishments of Class 1 through 4 shall be permitted in the Cannabis Establishment Overlay Zone.

C. Prohibited uses in the CE District:

(1) Cannabis establishments of Class 5 and 6 shall prohibited.

D. General requirements:

(1) All cannabis establishments located within the Township shall meet all requirements for licensure and hold the appropriate license issued by the Cannabis Regulatory Commission, Department of Treasury, State of New Jersey.

(2) All cannabis establishment operations shall be conducted within a building. No operations shall be conducted outside.

(3) No cannabis establishment shall permit on-site consumption of cannabis or cannabis related products including no on-site sales and consumption of alcohol or tobacco products.

(4) No outside storage of any cannabis, cannabis products or cannabis related materials shall be permitted.

(5) For each cannabis establishment located within the Township, a security plan to be approved by Elk Township Police Department shall be provided to demonstrate how the facility will maintain effective security and control of the operations. The plan should include the following but not limited to:

(a) Type of security systems to be installed.

(b) Installation, operation and maintenance of security camera coverings all interior and exterior parking lots, loading areas and other such areas of the establishments.

(c) Tracking and record keeping of products and materials.

(d) Type of lighting provided in and around the establishments.

(e) Location on site security team and armed guard on premises.

(6) Building permit application requirements. Any application for a building permit for a cannabis establishment use to be located in this district shall be accompanied by:

(a) A plot or site plan of the gross property, showing the location of all present and proposed

buildings, drives, parking lots, waste disposal facilities, screening fences or walls and other constructional features on the lot as well as streets, alleys, highways, streams and other topographical features inside and outside of the lot and within 200 feet of any lot line.

- (b) Plans and specifications bearing the seal of a registered architect or engineer.
 - (c) A description of the operations proposed, in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, fire hazards or safety hazards or the emission of any potentially harmful or obnoxious matter or radiation.
 - (d) Engineering and architectural plans for the treatment and disposal of sewage and industrial waste, tailings or unusable by-products.
 - (e) Engineering and architectural plans for the handling of any excess traffic congestion, noise, glare, air pollution, water pollution, fire hazard or harmful or obnoxious matter or radiation.
 - (f) Designation of the fuel to be used and any necessary architectural and engineering plans for controlling smoke and/or odor.
 - (g) Security plan approved by the Elk Township Police Department.
 - (h) Evidence of appropriate license issued by the Cannabis Regulatory Commission, Department of Treasury, State of New Jersey.
- (7) Fire and explosive hazards. All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against the hazards of fire and explosion, and adequate fire-suppression equipment shall be installed and maintained in an operable condition in accordance with the regulations of the Fire Marshal's Office, Construction Official and the regulations of applicable local, county, state, and federal agencies.
- (8) Electrical disturbance. No activity shall be permitted which results in an electrical disturbance adversely affecting the operation of any equipment beyond the building in which the disturbance is created.
- (9) Smoke, ash, dust, fume, vapor, gases and other forms of air pollution. There shall be no emission at any point from any chimney or otherwise which can cause damage to human health, to animals or vegetation, or to other forms of property, or which will cause any excessive soiling at any point.
- (10) Liquid and solid wastes. There shall be no discharge at any point, into any private or public sewerage system, or into any stream, or into the ground of any materials in such a way, or of such temperature, as to contaminate or otherwise cause the emission of hazardous materials except as regulated by applicable local, state, or federal agencies.
- (11) No activity or use shall produce a sound pressure level on adjacent property in excess of the level permitted by the applicable laws of the State of New Jersey, and regulations adopted by the NJDEP, and as currently enforced by the Gloucester County Health Department or any other duly authorized enforcement agency.
- (12) Vibration. No activity or operation shall produce at any point along the lot line continuous earth home vibrations greater than the maximum displacement as permitted in the following table.

Frequency (Cycles per second)		Residential District Displacement (in inches)	Nonresidential District Displacement (in inches)
Less than	Greater than or equal to		
0	10	0.0004	0.0020
10	20	0.0002	0.0010
20	30	0.0001	0.0006
30	40	0.0001	0.0004
40	50	0.0001	0.0003
50	—	0.0001	0.0002

- (13) Glare. No activity or use shall produce a strong, dazzling light or reflection of same beyond its lot lines. Exterior lighting shall be shielded, buffered and directed so that glare, direct light, or reflection will not be a nuisance to adjoining properties, dwellings, streets, districts, or from adjacent buildings within an industrial park. In no event shall a lighting intensity greater than 0.125 footcandle, measured at grade, be permitted beyond the subject lot lines.
- (14) Odor. No operation shall release materials capable of becoming odorous, either by bacterial decomposition or chemical reaction, that cause or will cause odorous matter or vapor to be generated so as to be readily discernible without instruments from any point along the boundaries of each lot.

E. Lot and building requirements.

- (1) No cannabis establishments shall be located within 500 feet of an existing house of worship, school, or day care as measured from the property lines.
- (2) Lot and building requirements in the CE Cannabis Establishment Overlay Zone shall be as follows:
 - (a) Minimum lot area: five acres.
 - (b) Minimum lot frontage: 200 feet.
 - (c) Minimum lot depth: 200 feet.
 - (d) Maximum building coverage: 20%.
 - (e) Front yard: 100 feet.
 - (f) Side yard, each: 50 feet.
 - (g) Rear yard, each: 75 feet.
 - (h) Front yard of corner lot: 75 feet.
 - (i) Maximum building height.
 - [1] Principal building: 40 feet.

[2] Detached accessory building: 25 feet.

- (j) Perimeter buffer. All cannabis establishments shall have a 100-foot vegetated buffer provided along the perimeter of the entire the site except at site entrances/exits. The required buffer shall be vegetated by either retaining the buffer as a naturally wooded area or the planting of a double row of six-foot-tall to eight-foot-tall evergreen trees, spaced at six feet on center, or other form of vegetative buffer acceptable to the Township's Land Use Board. The required buffer strip area shall be included in measurements for establishing minimum lot areas. However, the respective buffer strip shall be excluded in measurements for establishing lot width and depth, and all setback requirements stipulated by ordinance. Building setback and all lot measurements shall start at and extend into the lot from the boundary of said buffers. Said buffer strip for each lot shall be defined by a metes and bounds description included in the lot's deed, and also restricted by deed and by final subdivision plat against construction of any buildings or structures other than fences, walls or drainage facilities and against removal of any screen of trees or hedges.

F. Parking.

- (1) Each cannabis establishment shall comply with the following parking schedule which shall be used to calculate the required number of off-street parking spaces per use. Where the calculation results in a fraction of a space, the required number of parking spaces shall be rounded to the nearest whole number.
 - (a) Cannabis cultivator - one per every 1,000 square feet of gross floor area or one per two employees at maximum shift, except that there shall be no fewer than four spaces.
 - (b) Cannabis distributor - one per every 1,000 square feet of gross floor area, except that there shall be no fewer than four spaces.
 - (c) Cannabis manufacturer - one per every 1,000 square feet of gross floor area or one per two employees at maximum shift, except that there shall be no fewer than four spaces.
 - (d) Cannabis wholesaler - one per every 1,000 square feet of gross floor area, except that there shall be no fewer than four spaces.
- (2) Parking design and construction shall comply with § 96-54D.

G. Loading and unloading space.

- (1) Every building housing a cannabis establishment shall be provided with at least one truck standing, loading and unloading space on the premises, not less than 12 feet in width, 25 feet in length and 14 feet in height. One additional truck space of these dimensions shall be provided for every additional 20,000 square feet or fraction thereof of gross floor area in the building.
- (2) Access to loading and unloading spaces. 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.
- (3) Additional parking space. Loading space as required under this section shall be provided as area additional to off-street parking space and shall not be considered as supplying off-street parking space.

§ 96-79. Conditional use requirements.

- A. Home occupations, provided that the sum of all such uses in a dwellings complies with the following standards:
- (1) The home occupation may not employ more than one person who is not a member of the household residing in the dwelling.
 - (2) The home occupation shall primarily be conducted by mail, computer media, or via the telephone so that it will not generate traffic caused by clients or customers visiting the dwelling.
 - (3) The residential exterior appearance of the structure shall not be altered.
 - (4) Not more than 20% of the total floor area of the dwelling may be devoted to the home occupation use.
 - (5) There shall be no outdoor storage or display of materials, products or equipment.
 - (6) One off-street parking space must be provided in addition to those required for the dwelling if a nonresident person is employed in conjunction with the home occupation use.
- B. Institutional uses such as churches, clubs and similar uses.
- (1) The use occurs on a lot of two acres or more in area.
 - (2) Each lot used for this purpose shall have a minimum street frontage and lot width of 200 feet.
 - (3) No structure shall be provided within 75 feet of a public street or property line.
 - (4) The maximum permitted building coverage shall not exceed 20%.
 - (5) The maximum permitted impervious coverage shall not exceed 50%.
 - (6) The 25 feet closest to the property line or the public street shall be bermed and landscaped so as to screen the use from view.
 - (7) The maximum height of any structure shall not exceed 35 feet except that a steeple may extend to a height of 60 feet.
 - (8) Off-street parking shall be provided in a side or rear yard.
- C. Whenever the Reviewing Board is petitioned to approve siting of any antennas, antenna support structures, or alternative antenna support structures, or to consider any variance from the requirements of this chapter, the following shall be considered: **[Added 4-3-2003 by Ord. No. O-2003-3]**
- (1) Siting of any antenna, antenna array, equipment enclosure, or the use of any alternative antenna support structure shall be prohibited in all residential districts.
 - (2) Siting of any antenna, antenna array, equipment enclosure, or the use of any alternative antenna support structure shall be a conditional use in any nonresidential district. The following criteria shall be considered during review:
 - (a) The existence of other antenna support structures and alternative antenna support structures that can accommodate the needs of a wireless communications service provider.
 - (b) The height of any proposed antenna support structure.

- (c) The proximity of any proposed antenna support structure to residential structures and residential use district boundaries.
 - (d) The nature of uses on adjacent property.
 - (e) The surrounding topography.
 - (f) The existing or proposed tree coverage and foliage.
 - (g) The design of the proposed antenna support structure, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 - (h) Proposed ingress and egress.
 - (i) The availability of suitable existing antenna support structures for use as colocations.
- (3) In granting any approval, the Board may require the applicant to comply with any reasonable conditions that it deems necessary or desirable, in its sole judgement, to minimize the impact or effect of any antenna, antenna array, equipment enclosure, or the use of any alternative antenna support structure, on the area in which it is sought to be installed, constructed, or erected, or used, by requiring fencing, painting, coloring, blending, disguising, camouflaging, relocating facilities on a site, or other measures that the Board deems appropriate, including special construction and design.
- (4) An administrative approval may be granted for the addition of new antennas and associated equipment upon an existing telecommunication tower or site.
- D. Temporary sales offices within a residential subdivision. In keeping with the New Jersey Municipal Land Use Law, a residential subdivision may have a sales office within a model home or trailer located within that residential subdivision. This sales office shall be a conditional accessory use to the construction of the residential subdivision and may be established only under the following conditions: **[Added 11-20-2007 by Ord. No. O-2007-16]**
- (1) The sales office situate within a residential subdivision shall be permitted to exist only during the period necessary for the sale of the lots in the residential subdivision being constructed at that location.
 - (2) Only sales of the lots in the residential subdivision being constructed at that location may be conducted from the sales trailer or model home located within that residential subdivision. No other sales of any nature or of any other lots located outside the boundaries of the specific residential subdivision being constructed at that location shall occur from this sales office, as any such additional sales would be a commercial use in a residential district.
 - (3) If the sales office is in a freestanding structure or trailer, as opposed to a model home, the use of the freestanding structure or trailer as a sales office shall be discontinued one year from the date of the issuance of the first building permit or after the issuance of the first certificate of occupancy for the development, whichever event occurs first. It is the intention of this subsection that the sales office be moved into a model home at that time. Thereafter, the structure may be utilized as a construction trailer for the development occurring on that site, provided that there are no other construction trailers in use at that time on that site. If it does not qualify as a construction trailer, the trailer must be removed and the site restored to the satisfaction of the Township Engineer.

- (4) The obligation of the developer to remove the temporary sales trailer, sales office or construction trailer and restore the land shall be secured by a performance bond. The amount of the bond must be established in consultation with the Planning Board Engineer, and the form of the bond must be acceptable to the Township Solicitor. The performance bonds for the construction of the development shall not be released until this removal and restoration is accomplished to the satisfaction of the Township Engineer.
- (5) A site plan for the erection of the sales office must be submitted at the time of the application for preliminary subdivision approval and shall be reviewed and approved by the Planning Board. The lot which contains the sales office must be properly buffered with landscaping, and the site shall be designed to promote safety. This will include but not be limited to issues of parking, lighting, handicap accessibility and utilities.
- (6) Design standards:
 - (a) The yard dimensions, setbacks and height limitations shall be the same standards as those required for a residential dwelling in the zone district.
 - (b) Sales offices shall have adequate parking to accommodate both employees on the site and the anticipated customer base. There shall be one parking space for each salesperson plus a minimum of five additional spaces. There shall be a minimum of one handicap parking stall. Nonhandicap parking stalls shall be nine feet by 18 feet.
 - (c) Driveways for the office shall be designed with a minimum width to permit one-way flow with a turnaround at the end.
 - (d) Parking lots and drive isles shall be paved with two inches of top course over base.
 - (e) Exterior lighting shall be provided for safety by way of a wall-mounted fixture to the front of the sales trailer or office unless the size of the parking area would necessitate a pole-mounted fixture to provide adequate lighting for safety.
 - (f) Utilities shall be provided on a temporary basis unless there is access to public water and sewer. Absent public utilities, a holding tank for sewer and a portable water supply may be employed.
 - (g) If a trailer is utilized for the sales office, it must be installed at grade so that there is no visible evidence of the substructure. The site shall be landscaped utilizing lawn or grass areas and shrubbery shall be installed to beautify the site. The Planning Board shall review the landscape plan with the applicant at the time of the review of the application.
 - (h) Sidewalks or paved pathways shall be required for pedestrian safety.
 - (i) A freestanding monument sign to identify the sales office may be installed on the lot containing the sales office. The sign must be located in a manner that will not impede traffic or sight triangles. The sign copy may include the name of the developer and development and the words "sales office." The sign may not exceed six square feet in area and the height may not exceed four feet. A placard sign not to exceed three square feet may be placed on the sales office facade to identify the entrance.
- (7) The applicant shall post inspection escrows as required by the Planning Board and Township ordinance.

E. Campgrounds for temporary accommodations in accordance with the following standards: **[Added 4-1-2010 by Ord. No. O-2010-5]**

- (1) The minimum tract area for a campground is 19 acres. The tract may consist of one or more separate tax lots, but all lots must be contiguous and under common ownership.
- (2) The density of campsites shall not exceed 20 campsites per gross acre, and the number of persons permitted to camp at the campground shall not exceed 100 persons per gross acre.
 - (a) Each campsite shall consist of a minimum of 900 square feet including the parking space.
- (3) Internal roadways within campgrounds shall be properly graded and drained so as not to permit the collection of standing water, potholes, mudholes, obstructions, hazards and limitations to visibility. The minimum width for any one-way drives shall be 10 feet, and for two-way drives, 24 feet. Adequate space shall be provided for parking and maneuvering of camping units and emergency vehicles. The minimum overhead clearance on access roads shall be 15 feet to permit maneuvering of emergency vehicles. Entrance roads and roads providing access to the general public shall be paved with a minimum of six inches of compacted gravel and two inches of FABC or crushed stone.
- (4) Adequate space must be provided for the parking of vehicles for employees, campers and other visitors within the premises and not within the public right-of-way and not within required buffer areas.
- (5) Sewage, solid waste and water disposal shall be provided in accordance with existing local, county and state health regulations. Adequate rest room and shower facilities shall be provided.
- (6) Electric, gas and other utilities shall be provided in conformity with all state, county and local safety and construction codes. All electric, gas and telephone transmission lines shall be installed underground.
- (7) A minimum of 25% of the total acreage of all campgrounds shall be reserved as open space on which campsites shall not be permitted. At least 10% of the total acreage of all campgrounds shall be devoted to active or passive recreational uses. Such recreational areas shall be considered part of the open space requirements. Recreational open space may contain structures used for or related to recreational activities such as pavilions, picnic areas, playgrounds, swimming pools, lakes, athletic fields, trails, bike paths, bridle paths, cultural, historic and ecological displays and activities and other spaces, buildings or structures designed primarily for educational, recreational, physical and amusement activities, provided that they are clearly accessory to the campground, primarily serve the needs of those persons using the campsites and are in use only during those times when the campground is open.
- (8) A minimum buffer area of 25 feet shall be provided around the entire perimeter of all campgrounds. A vegetative buffer including evergreens spaced to provide a year-round buffer or a six-foot-high privacy fence shall be provided in the buffer area along adjoining properties unless adequate natural screening already exists within the twenty-five-foot buffer area.
- (9) No campsite, recreation area or other campground facility or structure, except for roadways or drives giving access to public roadways, shall be located less than 100 feet from the edge of any public right-of-way.
- (10) Any surface or subsurface sewage disposal shall be located at least 300 feet from any wetland area. For purposes of siting new structures or utilities, wetland areas must be delineated in

accordance with the Freshwater Wetlands Act.⁴¹

- (11) Campgrounds may be open for camping from March 15 through November 30 of each year, except that a maximum of 20% of the total sites of a campground may be equipped and available for year-round use, provided that such sites are leased only in accordance with the provisions of §§ 50-8 and 50-11 and that persons using such sites must provide the campground owner with a permanent address at which they reside and sign a certification that the permanent address provided is their correct permanent address and will remain so during the time that they use the campsite.
- F. Adult bookstores in the Light Manufacturing (M-1) District. **[Added 4-1-2010 by Ord. No. O-2010-7]**
- (1) Pursuant to N.J.S.A. 2C:34-7, no establishment shall be located closer than 1,000 feet to any school, bus stop, hospital, church, synagogue, temple or other place of worship, library, park, playground or public building.
- (2) Pursuant to N.J.S.A. 2C:34-7, no establishment shall be located closer than 1,000 feet to any similar type use.
- (3) Pursuant to N.J.S.A. 2C:34-7, no establishment shall be located closer than 1,000 feet to an area zoned residential, commercial-neighborhood or mixed-use development.
- (4) When any existing building is converted from any use to said establishments, a full and complete site plan shall be submitted and reviewed in accordance with the provisions of this chapter.
- (5) An establishment shall only be located in a freestanding commercial building.
- G. Body art studios in the Light Manufacturing (M-1) District. **[Added 4-1-2010 by Ord. No. O-2010-7]**
- (1) When any existing building is converted from any use to said establishments, a full and complete site plan shall be submitted and reviewed in accordance with the provisions of this chapter.
- (2) An establishment shall only be located in a freestanding commercial building.
- H. Commercial solar energy facilities. The purpose of this subsection is to provide flexibility within specified zoning districts to permit commercial solar energy systems as a principal use on properties meeting the criteria set forth below. "Solar or photovoltaic energy facility or structure" has been defined in the New Jersey Municipal Land Use Law⁴² as an inherently beneficial use and the Township concurs that the provision of electricity generated at a renewable energy facility will benefit the community by promoting the public health, safety, and general welfare, as long as the facility will not negatively impact upon the Township's other goals and objectives. The conditional use requirements for commercial solar energy facilities are intended to apply where the solar energy system will be a principal use. For renewable energy facilities as an accessory use, see § 96-80.2. **[Added 6-3-2010 by Ord. No. O-2010-35]**
- (1) Lot size requirements for commercial solar energy facilities.

41. Editor's Note: See N.J.S.A. 13:9B-1 et seq.

42. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

- (a) Light Manufacturing (M-1) Zone: 10 contiguous acres.
- (b) Residential zones (R and RE): 40 contiguous acres.
- (2) Agriculture retention.
 - (a) Commercial solar energy facilities as a principal use are not an agricultural use. Solar energy systems are permitted in conjunction with preserved and commercial farms in accordance with § 96-80.2.
 - (b) It is the Township's intention to support the retention of the productive, active agricultural land base. Commercial solar energy facilities are not permitted within the Township's two farmland preservation project areas on prime soils or soils of statewide importance as shown in the Township's Farmland Preservation Plan, Maps No. 1 and No. 7. To the extent possible, it is the Township's intent to maintain this valuable farmland as an unfragmented agricultural production area.
- (3) Requirements for solar energy systems and commercial operations.
 - (a) Commercial solar energy systems shall require a minor site plan approval if the gross area of ground-mounted systems, including the aggregate area of multiple systems, consists of 5,000 square feet or less, and major site plan approval if the proposal consists of 5,000 square feet or more of disturbance. The site plan must show the location of any proposed or existing substation, inverter, transformer, or overhead transmission lines.
 - (b) The solar energy system equipment may be located outside as necessary for the function of the system and is not limited by the requirements of the underlying zoning districts limiting outdoor storage.
 - (c) Agricultural buffers must be maintained where required in accordance with § 96-47.1. However, for equipment and nonbuilding structures the agricultural buffer and the setbacks need not be aggregated. Rather the greater of the setbacks applies. For example, if the agricultural buffer required is 100 feet and the setback is 50 feet, the required setback is 100 feet.
 - (d) Setbacks.
 - [1] Building structures, inverters, and equipment cabinets must meet the following bulk and setback requirements.
 - [a] Front yard setback: 100 feet.
 - [b] Rear yard and side yard setback to residential zone: 100 feet.
 - [c] Rear yard and side yard setback to nonresidential zone: 50 feet.
 - [d] Maximum building height: 25 feet.
 - [2] Ground arrays must be set back a minimum of 50 feet from all property lines (or the agricultural buffer distance, whichever is greater).
 - (e) The maximum permitted height for ground arrays is 12 feet.
 - (f) Office and storage buildings and equipment cabinets are permitted as accessory to a solar energy commercial operation in accordance with the setbacks in Subsection H(3)(d)[1]

above and the requirements of the M-1 Zoning District.

- (g) To the extent practical, the solar panels must be sited to minimize the need to remove trees or other natural features from setback areas unless acceptable replacement buffering is provided. Trees within 50 feet of the property line must be maintained as a buffer. Trees proposed for removal in order to maximize the productivity and efficiency of the solar energy system must be identified on the site plan. Trees may not be removed from wetlands or required wetland buffer areas unless a tree replacement plan or buffer averaging plan is approved by the NJDEP.
- (h) Ground-mounted systems shall be screened from view with an opaque visual screen containing a combination of plantings, a fence and/or earthen berm, which must be approved at the time of site plan approval. Evergreen trees shall be a minimum of six feet at the time of planting and deciduous trees shall be a minimum caliper of 2.5 inches. The screened buffer area shall be a minimum of 30 feet in width to adjacent residential properties and 20 feet in width between nonresidential properties and public roads. In addition to the perimeter screening standards, substations shall be screened with a double row of evergreen plantings with a minimum height of eight feet. Existing vegetation shall be retained to the extent practical to provide the required opaque visual screen.
- (i) Solar energy systems equipment shall not be counted in the calculation of maximum lot coverage or maximum impervious cover, unless the area under the system (excluding the footings) consists of an impervious material, such as pavement. Nevertheless, the design of the systems and the accessory structures and other improvements (driveways, etc.) shall comply with all Township stormwater, grading, and soil disturbance regulations.
- (j) The applicant must submit a narrative with the site plan application explaining:
 - [1] How the facility will operate.
 - [2] The intended consumers of the electricity produced.
 - [3] The anticipated number of employees at the site and the anticipated vehicle traffic.
 - [4] Description of how the energy generated by the facility will be transmitted to the larger electrical distribution system.
 - [5] The type of solar or photovoltaic panels proposed. If needed, measures must be taken to prevent glare onto nearby residences or businesses.
- (k) One off-street parking space is required for each employee anticipated during the busiest shift, plus two visitor spaces.
- (l) The installation shall conform to the National Electrical Code and the International Building Code, New Jersey edition, as adopted by the New Jersey Department of Community Affairs (DCA).
- (m) All exterior electrical lines must be placed in a conduit pursuant to the National Electrical Code except for such portion of lines that are connecting or will connect to overhead wires for the use of electricity off site; and, except to such portion of lines that are connecting or will connect to overhead wires for use of electricity off site, exterior electrical lines shall be buried below the surface of the ground where needed in order to comply with the National Electrical Code or standards or regulations promulgated by DCA or the New

Jersey Board of Public Utilities.

- (n) All electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 - (o) The solar energy system shall not be used for displaying advertisements for any product or service, except for the reasonable identification of the manufacturer or operator of the system.
 - (p) Upon abandonment of the solar energy system and related equipment, the system and equipment shall be removed. The system and equipment shall be deemed abandoned when they are out of service for more than 12 continuous months. The abandoned system shall be removed at the owner's expense.
- (4) Applicants are encouraged to enter into solar easements with neighboring property owners in order to ensure continuing access to sunlight for a solar or photovoltaic system.

§ 96-80. Accessory uses and structures. [Added 4-3-2003 by Ord. No. O-2003-3; amended 8-3-2006 by Ord. No. O-2006-2; 6-7-2007 by Ord. No. O-2007-7]

The following supplemental and general regulations regarding accessory buildings and structures shall be observed in all residential districts and where a residential dwelling preexists in a nonresidential district except as noted herein:

- A. Residential. The following supplemental and general regulations regarding accessory buildings and structures shall be observed in all residential districts and where a residential dwelling preexists in a nonresidential district except as noted herein:
- (1) Each existing residential property consisting of less than 25,000 square feet may have a maximum of one detached garage or similar accessory structure not to exceed 600 square feet.
 - (2) Each residential property ranging from 25,000 square feet to three acres may have a maximum of one detached garage or similar accessory structure not to exceed 900 square feet. **[Amended 11-3-2022 by Ord. No. O-8-2022]**
 - (3) Each residential property three acres or greater may have a maximum of one detached garage or similar accessory structure not to exceed 2,400 square feet. **[Amended 11-3-2022 by Ord. No. O-8-2022]**
 - (4) Each residential property may also have one additional accessory structure/shed not to exceed 200 square feet.
 - (5) Accessory structures 200 square feet or less must be set back from the side and rear property lines a minimum of five feet for lots under 12,000 square feet (mainly existing lots in the MD Zone) and a minimum of 10 feet for lots 12,000 square feet and above.
 - (6) Accessory structures between 200 square feet and 2,399 square feet must meet the side and rear yard setbacks for the zoning district, and any accessory structure 2,400 feet or more shall have a side and rear yard setback of at least 50 feet. **[Amended 11-3-2022 by Ord. No. O-8-2022]**
 - (7) In the Age-Restricted Community and Recreational Residential Zones, the standards shall be in accordance with §§ 96-74 and 96-75.
 - (8) Accessory structures are not permitted in any front yard.

- (9) Where two or more principal structures exist on a lot as a preexisting nonconformity, accessory structures may only be located in the area beginning at least five feet behind the front building line of the principal structure with the furthest front yard setback.
 - (10) Accessory structures shall not be used for living quarters or to conduct business unless a variance is specifically approved by the Zoning Board.
 - (11) Accessory structures must be separated from each other and the principal structure by a minimum of 15 feet. A covered walkway without walls is permitted, but will be included in the impervious coverage ratio calculation and must be accounted for in the grading plan.
 - (12) No accessory building height shall exceed 25 feet in height or one story (with loft storage), whichever is less.
 - (13) Applicants for accessory structures over 600 square feet must submit a grading plan with the building permit application demonstrating that the proposal will not have a negative drainage impact on surrounding properties and showing any proposed measures to mitigate increased run-off, in accordance with Ordinance Number O-2006-8.
 - (14) On lots meeting all of the requirements of § 96-46 regarding animals on lots, an additional structure not to exceed 900 square feet may be installed/constructed to house one or more horses/large animals (but not more than nine) consistent with the requirements of § 96-46 with regard to setbacks.
 - (15) The combination of principal and accessory structures on any lot may not exceed the maximum building coverage for the zone.
 - (16) Small wind energy systems and solar energy systems in accordance with § 96-80.2. **[Added 4-1-2010 by Ord. No. O-2010-9; amended 8-5-2010 by Ord. No. O-2010-41]**
- B. Farm uses. The following supplemental and general regulations regarding accessory buildings and structures shall be observed on all qualified farms where an agricultural operation is active and where the proposed building is to support the agricultural use:
- (1) There is no limit on the number of agricultural/farm buildings as long as they are related to agricultural production or generally accepted agricultural management practices.
 - (2) Farm buildings/structures must meet the yard requirements of the particular zone except as specifically noted herein.
 - (3) Buildings that will house processing or packing operations must be set back a minimum of 50 feet from the property line and may not be located within the front yard area.
 - (4) Composting areas must be set back a minimum of 30 feet from the property line and may not be located within the front yard area.
 - (5) Large animal shelters must be set back a minimum of 75 feet from the property line.
 - (6) Greenhouses must conform to the standards set forth in the Agricultural Management Practices for Farm Markets document produced by the NJ Department of Agriculture.

§ 96-80.1. Fences. [Added 8-3-2006 by Ord. No. O-2006-2]

- A. A fence or fencing shall be defined as any wood, masonry, or metal structure(s) or any wall or hedge

constructed on the front, side or rear yard and designed to shield, screen or protect a lot(s) or a portion of a lot(s).

- B. Fences may be erected, altered or reconstructed to a height not to exceed four feet above ground level when located within the front yard area and to a height not to exceed six feet above ground level when located in the side or rear yard.
- C. The foregoing restrictions shall not be applied so as to prevent the erection of an open wire fence not exceeding eight feet above ground level anywhere within a public park, public playground, school premises, or commercial zone.
- D. All fences must be erected within the property lines and no fences shall be erected so as to encroach upon adjacent properties or public rights-of-way. Fence gates shall be designed to prevent the open swing of the gate from encroaching upon adjacent properties or public rights-of-way.
- E. All fences shall be constructed with the face, or finished side, away from the property and the structural side toward the interior of the lot(s) on which it is erected.
- F. All fencing shall be in conformance with the requirements for visibility at intersections.
- G. Living fences, hedges or screen plantings shall be planted no closer than three feet to a property line and shall be maintained in a neatly trimmed condition on the property so planted.
- H. All fences and walls shall be maintained in a safe, sound and upright condition.
- I. Fences which are painted shall be painted in only one color, compatible with the color of the principal building. Multicolored fences are prohibited.
- J. If the Zoning Officer, upon inspection, determines that any fence or portion thereof is not being maintained in a safe, sound or upright condition, he shall notify the owner of such fence in writing of his findings and state briefly the reasons for such findings and order such fence repaired or removed within 30 days of the date of the written notice.
- K. Fencing may not be erected in any yard if it acts to inhibit access to Township fire, police and emergency medical services.
- L. These restrictions shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth.
- M. These restrictions shall not be applied so as to restrict the erection, alteration or reconstruction of fences used in connection with farms and farm operations except insofar as such fences might affect the public safety.
- N. Temporary fences such as snow fences, expandable fences, collapsible fences, canvas, and cloth fences may be permitted upon a determination by the Zoning Officer that such fencing is necessary to inhibit the dispersal of airborne material during construction activity.
- O. The following fences are prohibited in all residential districts except when constructed as per Subsection M above: barbed wire, razor wire, electric and other similar-type fences.
- P. No fence shall be erected without first obtaining a fence permit from the Zoning Officer. Permit applications for fences shall be accompanied by a plan, drawn to scale, showing details of the fence and its proposed location on the property or lot. The fee for a fence permit shall be \$50. **[Added 8-4-2011 by Ord. No. O-11-2011]**

§ 96-80.2. Small wind energy systems and solar energy systems. [Added 4-1-2010 by Ord. No. O-2010-9; amended 8-5-2010 by Ord. No. O-2010-41]

- A. The primary purpose of a small wind or solar energy system will be to provide power to the principal use of the property whereon said system is to be located, and the primary purpose of a small wind or solar energy system shall not be for the generation of power for sale, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a wind or solar energy system designed to meet the energy needs of the principal use. For the purposes of this section, the sale of excess power shall be limited so that in no event an energy system is generating more energy for sale than what is otherwise necessary to power the principal use(s) on the property.
- B. Wind and solar energy systems shall only be permitted as an accessory use on the same lot or tract of land as the principal use. All energy systems require approval from the Zoning Officer and construction office prior to installation. Applications for an energy system shall include information demonstrating compliance with the provisions of this section. In the event that the Zoning Officer or Construction Officer does not believe that the provisions of this section will be satisfied, an applicant may apply to the Land Use Board for a variance.
- C. All applications for small wind energy systems shall be presented to the Planning Board for approval.
 - (1) Site plan approval. Site plan approval is required for the installation of a small wind energy system.
 - (2) Documents. In addition to other normally required application materials for site plan and conditional use applications, the site plan application shall be accompanied by a plot plan which includes the following:
 - (a) Property lines and physical dimensions of the property;
 - (b) Location, dimensions, and types of existing structures on the property;
 - (c) Location of the proposed small wind energy system tower;
 - (d) The right-of-way of any public road that is contiguous with the property;
 - (e) The location of overhead utility lines;
 - (f) Small wind energy system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed);
 - (g) Tower and tower foundation drawings signed and sealed by a professional engineer licensed in the State of New Jersey;
 - (h) Sound level analysis prepared by the wind turbine manufacturer or qualified engineer including noise levels of the proposed wind energy system at all property lines and the closest neighboring inhabited dwelling.
 - (i) A visual analysis must be submitted, including photos of the subject property, that graphically simulates the appearance of any proposed small wind energy system and indicating its view from at least five locations around and within one mile of the proposed tower.
 - (j) A report from a structural engineer containing the following: a description of the tower, including a description of the design characteristics and material; and documentation to

establish that the tower has sufficient structural integrity for the proposed uses at the proposed location and meets the applicable minimum safety requirements. The applicant shall provide evidence that the proposed tower height does not exceed the height recommended by the manufacturer for the wind turbine. Every two years the owner shall submit a structural report to the Construction Department attesting to the structural integrity of the tower and/or support system.

- D. All ground-mounted solar systems with a gross area of 600 square feet or greater shall require minor site plan approval prior to obtaining a zoning permit.
- (1) The applications shall include the location of proposed and existing overhead utility lines.
 - (2) The location of any proposed or existing substation, inverter or transformer.
 - (3) A description of how the energy generated by the facility will be transmitted to the larger electrical distribution system.
 - (4) Applicants are encouraged to enter into solar access easements with neighboring property owners in order to ensure continuing access to sunlight for a solar or photovoltaic system if the proximity to the neighboring property necessitates such assurances.
- E. Wind and solar energy systems are permitted on preserved and unpreserved farms in accordance with P.L. 2009, Chapter 213,⁴³ which permits solar and wind generation facilities, structures and equipment on the farm or within the exception area on a preserved farm, for the purpose of generating power or heat. Prior to installing or constructing renewable energy facilities, the owner of a farm must apply to Elk Township for a zoning permit and must apply to the New Jersey Department of Agriculture as required by § 5 of P.L. 2009 c. 213.⁴⁴
- (1) For preserved farms the following standards apply:
 - (a) The wind and solar energy systems may not interfere significantly with the use of the land for agricultural or horticultural production.
 - (b) The wind and solar energy systems must be owned by the landowner or will be owned by the landowner upon the conclusion of a term of agreement with the installer of the renewable energy system.
 - (c) The wind and solar energy systems must be used to power or heat the farm, and to reduce energy costs on the farm.
 - (d) The energy generation capacity must be limited to the previous calendar year's energy demand plus 10% or may be limited to occupy no more than 1% of the area of the entire farm (including the preserved and unpreserved areas). This does not include roof-mounted equipment that was already in place at the time of the adoption of this section.
 - (e) Energy produced may only be sold through net metering.
 - (f) The landowner must seek and obtain approval of the State Agriculture Development Committee before constructing, installing or operating the wind or solar energy generation facilities, structures and equipment. The landowner must provide Elk Township with a

43. Editor's Note: See N.J.S.A. 4:1C-32.4 et seq.

44. Editor's Note: See N.J.S.A. 4:1C-32.5 et seq.

copy of the SADC approval.

- (g) The solar and wind energy generation systems must comply with the setbacks required in Subsections F and G below.
- (2) For unpreserved commercial farms the following standards apply:
- (a) In addition to other activities protected by the right to farm, a commercial farm that conforms to generally accepted agricultural management practices may engage in the generation of power or heat from biomass, solar or wind energy consistent with applicable laws and the agricultural management practices adopted by the SADC.
 - (b) The land used for the renewable energy system may be eligible for farmland assessment if:
 - [1] The property is part of an operating farm.
 - [2] In the prior tax year the land used for the renewable energy system was valued, assessed and taxed as agricultural or horticultural land.
 - [3] The power or heat generated is used to provide power or heat to the farm or agricultural or horticultural operation supporting the viability of the farm, though not necessarily exclusively.
 - [4] The property owner has filed a conservation plan with the soil conservation district to account for the aesthetic, impervious coverage and environmental impacts of the renewable energy facilities and the conservation plan has been approved by the district.
 - [5] Where ground-mounted solar panels are installed, the property under the solar panels is used to the greatest extent practicable for the farming of shade crops or for pasture grazing.
 - [6] The amount of acreage devoted to the structures needed for the renewable energy facility does not exceed a ratio of one to five for land devoted to renewable energy facilities and land devoted to agricultural operations.
 - [7] The renewable energy facilities are constructed or installed on no more than 10 acres of the farmland for which the owner is applying for valuation, assessment and taxation and no more than two megawatts are generated on the 10 acres or less.
 - [8] Income received for energy generated may not be considered income for farmland assessment eligibility.
 - (c) The solar and wind energy generation systems must comply with the setbacks required in Subsections F and G below.

F. Small wind energy systems.

- (1) Wind turbines are a permitted accessory use in all residential and agricultural districts subject to the following requirements:
 - (a) Minimum lot size: one acre provided the lot size and dimensions are sufficient to meet the Township's setback requirements below.

- (b) Minimum setbacks. All wind turbines shall be set back from all property lines a distance equal to 100% of the height of the structure, including the blades.
 - (c) Wind turbines shall not be permitted in any front yard.
 - (d) Maximum height. Freestanding wind turbines shall not exceed a height of 80 feet on lots between one acre and three acres. On lots of three acres or more, a maximum height of 150 feet is permitted. The maximum height shall include the height of the blades at its highest point.
 - (e) No more than one wind turbine shall be permitted per property, unless the wind turbines are used to power a farm and more than one is required.
 - (f) Wind turbines shall not be permitted as a rooftop installation.
 - (g) Wind turbines on residential properties shall have the nameplate capacity of 100 kilowatts or less.
- (2) Wind turbines are a permitted accessory use in a nonresidential zoning district subject to the bulk requirements for that district and the following:
- (a) The maximum height for a wind turbine shall not exceed 150 feet, including the height of the blades at its highest point.
 - (b) Minimum setbacks. All wind turbines shall be set back from all property lines a distance equal to 100% of the height of the structure including the blades.
 - (c) Wind turbines shall not be permitted in a front yard.
 - (d) No more than one wind turbine shall be permitted per property.
 - (e) Wind turbines shall not be permitted as a rooftop installation.
- (3) Noise. All wind energy systems shall comply with the following:
- (a) Between a residential use or zone sound levels of the wind energy system shall not exceed 55 dBA at a common property line or 50 dBA to the closest occupied structure.
 - (b) In all other cases at a common property line sound levels of the wind energy system shall not exceed 65 dBA.
 - (c) These levels may be exceeded during short-term events such as utility outages and/or severe windstorms.
- (4) Wind turbines shall be designed with an automatic brake or other similar device to prevent overspeeding and excessive pressure on the tower structure.
- (5) Wind energy systems shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
- (6) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- (7) The tower shall be designed and installed so as not to provide step bolts, a ladder, or other publicly accessible means of climbing the tower, for a minimum height of eight feet above the

ground.

- (8) All moving parts of the wind energy system shall be a minimum of 10 feet above ground level.
- (9) The blades on the wind energy system shall be constructed of a corrosive-resistant material.
- (10) All guy wires or any part of the wind energy system shall be located on the same lot as the energy system.
- (11) The wind energy generation equipment must be painted or finished to minimize visual impact. Neutral colors are required such as white, grey or beige.

G. Solar energy systems.

- (1) Solar panels shall be permitted as a rooftop installation in any zoning district. The solar panels shall not exceed a height of eight inches from the rooftop. In no event shall the placement of the solar panels result in a total height including building and panels than what is permitted in the zoning district which they are located for the principal building.
- (2) Solar panels shall be permitted as ground arrays in accordance with the following:
 - (a) All ground arrays shall be set back a minimum distance of 20 feet from all property lines in a residential zoning district or in conformance with the bulk standards for accessory structures in commercial districts as provided herein. Ground arrays shall not be permitted within any required buffer area.
 - (b) Ground arrays shall not be permitted in a front yard.
 - (c) Ground arrays shall be located so that any glare is directed away from an adjoining property.
 - (d) Ground arrays shall not exceed a height of 15 feet.
- (3) Ground arrays shall be situated on a property so as to minimize the need to cut mature trees. No trees may be removed from required buffer areas in order to provide solar access.

H. Wind and solar energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the system. In no case shall any identification be visible from a property line.

I. The design of wind or solar energy systems shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.

J. The installation of a wind or solar energy system shall conform to the National Electric Code as adopted by the New Jersey Department of Community Affairs.

K. The installation of a wind or solar energy system is subject to all Atlantic City Electric Company requirements for interconnection.

L. The height limitations of Chapter 96 shall not apply to wind and solar energy systems. Wind and solar energy systems shall conform to the height restrictions provided in this section.

M. Abandonment.

- (1) A small wind energy system or solar energy system that is out of service for a continuous twelve-month period will be deemed to have been abandoned.
- (2) The Zoning Officer may issue a notice of abandonment to the owner. The notice shall be sent via regular and certified mail, return receipt requested, to the owner of record.
- (3) The landowner shall have 30 days to respond. If information is provided demonstrating that the system has not been abandoned, then the Zoning Officer shall withdraw the notice.
- (4) Any abandoned system shall be removed at the owner's sole expense within six months after the owner receives the notice of abandonment from the municipality. If the system is not removed within six months of receipt of notice from the Township notifying the owner of such abandonment, the Township may remove the system as set forth below.
- (5) When an owner of a wind or solar energy system has been notified to remove same and has not done so six months after receiving said notice, then the Township may remove such system and place a lien upon the property for the cost of the removal. If removed by the owner, a demolition permit shall be obtained and the facility shall be removed. Upon removal, the site shall be cleaned, restored and revegetated to blend with the existing surrounding vegetation at the time of abandonment.

§ 96-81. Recreational uses in residential districts. [Added 4-3-2003 by Ord. No. O-2003-3]

A. General.

- (1) The regulations of this section shall apply to all open private recreational uses, including swimming pools, which require the installation of permanent surfaces, either at ground level or elevated.
- (2) Such uses are considered "structures" for the purpose of permits and certain other regulations; however, they are not counted as floor area in computing building coverage.
- (3) No such use shall be located in a front yard, except that a basketball hoop on a pole must be located at least 10 feet from the front property line. Additionally, no such use shall be located less than 10 feet from any property line as measured from the edges of any permanent surface, except that such a use may be located five feet from a side or rear property line if a six-foot fence is erected for at least 20 feet along that side or rear property line.
- (4) A basketball hoop or any other recreational use shall not be located within a designated right-of-way. All such uses shall be located completely upon private property.
- (5) No such use shall be constructed in the Township except in accordance with a permit therefor previously secured from the Zoning Officer. The application for said permit shall be accompanied by a plan showing the size and location of any recreational facility and its enclosure and such other information as may be necessary for the Zoning Officer to determine whether said facility complies with the requirements of this section.
- (6) Every tennis or paddle tennis court area shall be completely enclosed by a metal chain link or mesh fence at least nine feet in height but not in excess of 12 feet in height. Appropriate fences for any other type of recreational use may be required at the discretion of the Zoning Officer. The type, quality and method of construction of any required fence shall be approved by the Construction Officer with the intent that said fence shall act as a protection to adjacent properties against interference from stray balls.

B. Special regulations applicable to swimming pools and man-made ponds.

- (1) No private residential swimming pool shall be constructed or installed on any lot unless the lot contains a residential building. Pools shall be located in rear yard areas only and shall occupy no more than 75% of the yard area in which it is located. All swimming pools used for bathing or swimming purposes in which water may collect in excess of a depth of two feet shall be completely enclosed by a fence. Swimming pools shall be located no less than 25 feet from any property line as measured from the water line. **[Amended 8-3-2006 by Ord. No. O-2006-2]**
- (2) The type, quality and method of construction of any required fence shall be approved by the Construction Officer with the intent that it shall act as a safeguard and protection to children. Such fence shall be at least four feet in height, but not in excess of six feet, and nonremovable. Fences shall have self-locking and self-closing gates and shall be such as to prevent unauthorized children and stray animals from entering the pool area in accordance with the requirements of the construction code. These requirements shall also apply to soft-sided pools.
- (3) No swimming pool shall be constructed in the Township except in accordance with a permit therefor previously secured from the Zoning Officer, upon written application accompanied by a plan showing the size, shape and location of the swimming pool and its enclosure and such other information as may be necessary for the Zoning Officer to determine whether the pool complies with the requirements of this chapter.
- (4) No commercial swimming pool shall be constructed or installed unless approved as part of a site plan approval. Commercial swimming pools shall be classified into types in accordance with their particular use and shall meet the appropriate design standards as set forth by the National Swimming Pool Institute or the Swimming Pool Code of New Jersey, whichever is more stringent.
- (5) A man-made pond with a water level of two feet or greater shall be located in a side or rear yard area only. Any man-made pond with a depth of two feet or greater shall comply with the fencing requirements as provided in Subsection B(2) above.

§ 96-81.1. In-law suites. [Added 10-1-2009 by O-2009-13]

- A. Introduction. This purpose of this document is to provide guidance with clarifying zoning and building permit requirements for an "in-law suite" in a home.
- B. Definitions. The following adopted definitions are relevant, in addition to the definitions section in § 96-5C of the Elk Township Code, in determining what type of additions or remodeling may be authorized regarding in-law suites:

DWELLING UNIT — One or more rooms designed for the occupancy, cooking, and sleeping of one or more persons living as a family.

FAMILY/FAMILY MEMBER — An individual, or two or more persons related by blood, marriage, adoption or guardianship, occupying a single dwelling unit. The term "family/family member" does not include any organization or institutional group.

IN-LAW SUITE — A self-contained living area within the interior of a single-family dwelling unit."

- C. Zoning requirements. Based upon the above definitions and the Township's overall Master Plan, this section does not allow a dwelling unit or apartment as an authorized use in any single-family zoning districts. However, there is no prohibition in the construction of an in-law suite, provided that the

following requirements are met:

- (1) Only family members shall reside in the in-law suite, and said family member must be allowed unrestricted access to the common areas, through a doorway no less than 36 inches in width, of the dwelling unit (e.g., the kitchen, bathroom, living room, etc.);
 - (2) The in-law suite shall not have separate gas and electric utilities (more than one meter per utility would constitute a separate dwelling unit and is prohibited);
 - (3) The in-law suite shall not be located in an accessory building (this would constitute a separate dwelling unit), such as a unit over a garage;
 - (4) The in-law suite shall be connected to the main heated living area of the dwelling (the suite shall not be connected to the building by a breezeway as this would constitute a separate dwelling unit);
 - (5) The in-law suite shall have principal means of access to the outside of the dwelling unit via the dwelling unit's main exterior doorways (single access to the outside to the "suite" would constitute a separate dwelling unit);
 - (6) The in-law suite may have a kitchen, sitting area, and bathroom as well as a bedroom.
- D. Appeals. Appeals from this section or their interpretation are decided by the Joint Land Use Board in accordance with the "appeal of Zoning Officer determination" process. The appellant should contact the Land Use Department or the Zoning Officer in order to obtain additional information regarding the appeals process.
- E. Additional building permit application requirements. All permit applications shall be accompanied by the following additional information:
- (1) Construction documents, including a floor plan acceptable to the Construction Code Official, indicating the use of each room, doorway locations and demonstrating compliance with Subsection B of this section.
 - (2) A signed and notarized affidavit from the property owner stating who will reside in the in-law suite and acknowledging that the in-law suite is prohibited from use as an apartment (change in owner or occupant requires a new affidavit);
 - (3) A building addition location plan (if adding to the home);
 - (4) Any deviation from this section requires Combined Planning and Zoning Board of Adjustment approval;
 - (5) Nothing in this section is intended to supersede "the right to farm" for temporary living for migrant workers.
- F. Purpose. It is the express purpose of this section to provide an economically feasible alternative to nursing home and boarding home care so that immediate elderly family members (55 years of age or older), or disabled family members over the age of 18, can live with family members while maintaining some degree of overall independence. Additionally, this section attempts to halt the proliferation of unauthorized conversions of single-family dwelling units into two-/multiple-dwelling units in a single-family zone and/or unauthorized rental units.

§ 96-82. Prohibited uses. [Added 4-3-2003 by Ord. No. O-2003-3; amended 8-3-2006 by Ord. No.

O-2006-2; 10-2-2008 by Ord. No. O-2008-11; 4-1-2010 by Ord. No. O-2010-7; 8-17-2021 by Ord. No. O-11-2021; 4-21-2026 by Ord. No. O-7-2026]

All uses not expressly permitted in this chapter are prohibited. The following uses are specifically prohibited in every district:

- A. Junkyards, including automobile or motor vehicle junkyards or wrecking establishments.⁴⁵
- B. Outdoor storage of any type shall not be permitted unless such storage is a part of the normal operation of a permitted use conducted on the premises subject to design and performance standards for the prevailing district, and provided further that the following requirements are conformed with:
 - (1) All outdoor storage facilities shall be enclosed by an opaque fence adequate to conceal the facilities from any adjacent properties.
 - (2) No materials or wastes shall be deposited upon a lot in such form or manner that may be transferred off the lot by natural causes or forces.
 - (3) All material or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.
 - (4) Flammable or explosive liquids, solids or gases shall be permitted to be stored in aboveground storage tanks only if the proposed use and structure meet the requirements of the Uniform Construction Code (5:23 et seq.) and the Fire Code (5:18 et seq.), as used by Elk Township officials. In addition, aboveground storage tanks are not permitted in any front yard and shall be sufficiently buffered from any adjoining use.
- C. Sanitary landfills.
- D. Resource extraction operations.
- E. Any use of a heavy industrial nature which is not similar in character to those permitted in the M-1 or M-2 Manufacturing Districts. Examples of such uses are power generation plants and the manufacturing of automobiles, steel and similar products.
- F. Temporary structures shall be prohibited in all districts unless specifically authorized by the Township Committee for emergency purposes.
- G. Accessory structures over 200 square feet are prohibited in the Mobile Home Park District (MHP).
- H. Commercial piggery/swine farms.
- I. Adult bookstores except as specifically permitted.
- J. Body art studios except as specifically permitted.
- K. Class 5 and 6 licensed cannabis establishments as those terms are defined in Section 3 of P.L. 2021, c. 16.⁴⁶
- L. "Data centers," as commonly known, and as sometimes referred to as "internet data centers" or "cloud data centers" (and any and all functionally equivalent but differently named uses, structures and

⁴⁵. Editor's Note: See Ch. 69, Junkyards.

⁴⁶. Editor's Note: See N.J.S.A. 24:61-33.

facilities) that house computer systems and include associated components such as telecommunication and data storage systems; redundant or "backup" power and data storage components; electrical transformers, substations, and other power supply infrastructure; data communication connections; environmental and safety controls for building climate, equipment cooling, and fire suppression; and security devices, systems, and installations, to serve as off-site or remote accessory facilities available and accessible to users via telecommunication or internet utilities for the purpose of aggregating collective computing demands for cloud services, video streaming, blockchain and crypto mining, artificial intelligence and machine learning, virtual reality, and other internet, telecommunication, computing, and data storage, maintenance, processing, and transmission purposes.

ARTICLE X
Planned Unit Development

§ 96-83. Short title.

This article shall be known and may be cited as the "planned unit development section."

§ 96-84. Purpose.

- A. The purpose of this article is to further the public health, safety, morals and general welfare and provide:
- (1) Housing of all types and design;
 - (2) Necessary commercial, educational, and recreational facilities and other community services conveniently located to housing;
 - (3) Well-located, clean, and safe industrial sites involving a minimum strain on transportation facilities;
 - (4) Planning and building of new towns and new communities, incorporating the best features of modern design;
 - (5) The conservation and more efficient use of open space;
 - (6) The minimization of the burden of traffic on streets and highways;
 - (7) A more flexible land development that will preserve and enhance natural resources such as streams, lakes, wetlands, floodplains, groundwater, wooded areas, steeply sloped areas, and areas of unusual importance to the natural ecosystem; and
 - (8) Implementation for the Elk Township Fair Share Plan in a manner which promotes flexibility, economy and environmental soundness in the layout of residential development while providing a realistic opportunity for the construction of housing for low- and moderate-income households as provided by the Fair Housing Act of 1985.⁴⁷
- B. In the aid of these purposes, to provide a procedure that can relate the type, design, and layout of residential, commercial, and industrial development to the particular site and the particular demand for housing and other facilities at the time of development in a manner consistent with the preservation of the property values within the established residential areas and, to ensure that the increased flexibility of substantive regulations over land development herein is subject to such administrative standards and procedures as shall encourage the disposition of proposals for land development without undue delay.

§ 96-85. Enabling act.

This article is adopted pursuant to N.J.S.A. 40:55d-65c.

§ 96-86. Statement of community objectives.

- A. Township authority. All planning and subdivision matters relating to the platting, use and

⁴⁷. Editor's Note: See N.J.S.A. 52:27D-301 et seq.

development of the planned unit development (PUD) and subsequent modifications of the regulations related thereto, to the extent such modifications is vested in the municipality, shall be determined by the Township.

- B. Adoption of community objectives. In order to achieve the purpose and to attain the general community objectives set forth in this article and in consideration of current and projected development pressures, the Township adopts the following community objectives for PUDs which shall be evaluated by the Township Planning Board.
- C. Planning and design goals. All PUDs shall be designed to permit and encourage only those uses of the land that respect the natural character of the land, the drainage system, soil capabilities and groundwater and aquifer recharge quality, and to include only those uses that are compatible with other proposed uses within the proposed planned unit development and existing uses on adjacent lands, which shall be determined on the basis of inventories of the natural features of the site, plans indicating the physical relationship among types of uses and any natural or man-made barriers, existing or planned, between different uses both within and adjacent to the proposed planned unit development, and studies to determine traffic that will be generated by each type of use in the proposed development and adequacy of existing and proposed streets and highways to serve such traffic flows.
- D. Relationship to Township growth patterns. All PUDs shall be planned and designed to achieve the Township goal of permitting and encouraging a population density pattern and a development growth pattern in the Township that facilitates the provision of public utilities and services, including public water and public sewerage, storm drainage systems, recreation areas, public schools, state, county, and Township roads and firehouses, in an orderly, functional, and economical manner. The relationship of a proposed PUD to the overall Township growth pattern shall be evaluated on the basis of staging plans and population projections for the planned unit development prepared by the applicant, indicating service demands generated by each proposed section and provision for public utilities, community services and transportation system improvements to meet such service demands.
- E. Conservation of open space. Common open space within all PUDs shall be planned and designed to achieve the Township goal of ensuring that adequate recreation areas are set aside in suitable locations to provide for the recreation needs of the residents and owners of the PUD and those portions of the Township that, because of their natural features, constitute important visual amenities, and environmental resources are maintained in accordance with sound conservation practice. The common open space configuration within a proposed planned unit development shall be evaluated in terms of inventories of natural features of the site and a plan indicating the general location of common open areas for natural preserves and for active recreation purposes. The open space configuration will be evaluated in terms of the objective of providing continuity of the open space resulting from application of floodplain and surface water area protection provisions.
- F. Relationship to Township Master Plan. All PUDs shall be planned and designed in accordance with community objectives for such developments as are or may be set forth in the Township Master Plan and/or the Township Housing Ordinance, including the Land Use and Housing Elements, which have been duly adopted by the Township Planning Board and the Township Committee.
- G. Furtherance of community objectives. In furtherance of these community objectives for PUD, criteria for eligibility, procedures for application and review, and development standards for PUD are set forth in this article.
- H. Municipal authority. The Township Planning Board shall be responsible for reviewing all applications for PUD and shall exercise the powers of the municipal authority as defined in N.J.S.A.

40:55D-25 and N.J.S.A. 40:55D-45, including approval, approval subject to conditions or denial of all applications for PUD.

§ 96-87. Eligibility.

PUDs are permitted only in that area designated MD (Moderate Density Residential). Master development approvals of PUD plans shall be subject to the following conditions:

A. Planned unit development.

- (1) **Minimum area.** The development shall be a master planned community, meeting all land use and open space criteria within this article and shall contain a contiguous area of at least 150 acres.
- (2) **Access.** The development shall have direct access to a state or federal highway or a road identified as an arterial county road on the Gloucester County Official Map or a road identified as an arterial road on the Township Master Plan.
- (3) **Zoning.** A PUD shall be permitted subject to the conditions set forth in this article.
- (4) **Affordable Housing District.** A PUD is permitted as-of-right in accordance with the requirements set forth in this article on lands designated as MD Moderate Density Zone pursuant to the Elk Township Fair Share Plan, as submitted to the New Jersey Council On Affordable Housing. The purposes of this District is to implement the Fair Share Plan and for the Township to accommodate its obligation to provide a realistic opportunity for the creation of low- and moderate-income housing. The development is permitted in the area indicated on the Elk Township Zoning Map, as revised.⁴⁸

B. Public water and sewer. All PUDs shall be served by public water and public sewer. Before construction of any buildings for use or occupancy by any persons begins within any finally approved section of a PUD, all water and sewer systems needed to serve such buildings within that finally approved section shall be completed or their completion prior to such use or occupancy shall have been guaranteed as provided in Article IV. In addition, the applicant shall demonstrate that the water and sewer systems that are completed or that are guaranteed to be completed within each finally approved section of the development are to become components of a public water and sewer system for the entire PUD. The applicant shall further demonstrate that the public water and sewer system for each section of the PUD will be completed on schedule and will have the capacity to serve the section specifically applied for as part of the public water and sewer system for the PUD generally and shall comply with any local or regional sewerage authority requirements.

C. Stormwater management. All PUDs shall provide appropriate stormwater management mitigation techniques that shall comply with applicable state and local stormwater management plans pursuant to N.J.S.A. 40:55D-93.

D. Other amenities. All PUDs shall be served by fire hydrants, easements, rights-of-way for utilities, landscaping, lighting, sidewalks, shade trees, recreational facilities and public utilities placed underground so as to conform with the applicable statutes, ordinances and regulations of the State of New Jersey and the Township of Elk.

E. Who may apply. Application for master development plan shall be filed by the landowner(s) or any

⁴⁸. Editor's Note: The Zoning Map is included at the end of this chapter.

other individual(s) or bona fide organization(s) having a cognizable interest in all the land to be included in the PUD.

§ 96-88. Development standards for planned unit development. [Amended 4-4-2002 by Ord. No. O-02-4; 4-4-2004 by Ord. No. O-02-4; 8-4-2005 by Ord. No. O-2005-9; 7-21-2025 by Ord. No. O-20-2025]

In order to encourage greater variety and flexibility in type, purpose, design and layout of buildings, and more efficient use of land and of public services, as provided in this article and N.J.S.A. 40:55D-38, lot sizes, dimensions, structure heights and locations may be freely disposed and arranged in conformity to density standards herein and to the conditions of the application for master development plan approval and subsequent application of subdivision or site plan approval for each section of any PUD approved by the Township Planning Board.

- A. Intent. A PUD is intended to permit the development of a balanced residential community with a range of densities with housing affordable to low- and moderate-income households, recreational facilities, community facilities, and support for commercial and employment activity. Further, the intent in permitting a PUD is to encourage the consolidation of residential and related development in that sector of the Township where existing or anticipated roads and utility service can best accommodate development.
- B. Permitted uses in PUDs. In any PUD, the following use regulations shall apply. Permitted uses shall include:
 - (1) Residential uses in planned unit developments.
 - (a) Residential uses in a PUD shall be in accordance with the following combinations of single-family detached units, duplex units, and townhouse units:
 - [1] Dwelling unit mix.
 - [a] Single-family detached units shall not be less than 60% of the total dwelling units constructed.
 - [b] Townhouse units shall not exceed 15% of the total dwelling units constructed.
 - [c] Duplex units shall not exceed 25% of the total dwelling units constructed.
 - (b) Developers in the PUD Zone shall comply with the provisions of this article and shall provide for set-asides for low- and moderate-income units. Information pursuant to the applicant's ability and intent to comply with the provisions of this article must be submitted to the Planning Board in the form of a written report prior to preliminary approval.
 - (2) Retail uses and services.
 - (a) Retail stores.
 - (b) Restaurants.
 - (c) Consumer service and personal service shops.
 - (d) Banks.
 - (e) Commercial recreation facilities, including indoor theaters, golf driving ranges, bowling

alleys, racquetball courts, health clubs, and other similar uses.

- (f) Professional business and administrative, finance, utility, insurance or government offices.
 - (g) Medical clinics.
 - (h) Any use of the same general character as any of the above permitted uses.
 - (i) Customary accessory uses to the above uses. Accessory uses including off-street parking, cafeteria facilities for employees and occupants, recreational facilities for employees and occupants, garages to house delivery trucks or other commercial vehicles, temporary construction trailers and one sign not exceeding 50 square feet for advertising the prime contractor, subcontractor(s), architect, financing institutions and similar data for the period of construction, beginning with the issuance of a building permit or one year, whichever is less, provided that said trailer and sign are on the site where construction is taking place and set back at least 15 feet from the street to the lot lines
- (3) Other nonresidential uses.
- (a) Office as permitted in the M-1 District.
 - (b) Laboratories for scientific, agriculture, or industrial research and development which is not noxious or hazardous.
 - (c) Accessory uses, including off-street parking, restaurant or cafeteria primarily for employees and occupants, indoor and outdoor recreational facilities for employees and occupants, provided that all such facilities shall be planned as an integral part of the principal use development, storage within a completely enclosed area or building with visual screening in conjunction with a permitted use, temporary construction trailers and one sign not exceeding 50 square feet for advertising the prime contractor, subcontractor(s), architect, financing institutions and similar data for the period of construction, beginning with the issuance of a building permit or one year, whichever is less, provided that said trailer and sign are on the site where construction is taking place and set back at least 15 feet from the street to the lot lines.
 - (d) Institutional uses.
 - (e) Public and private educational, cultural, religious and recreational facilities and charitable institutions.
 - (f) Social, fraternal, social service, union, and civic organizations municipal facilities, including fire and police stations, library and school.
 - (g) Any similar public or quasi-public use.

C. Area regulations for open space.

- (1) At least 35% of the gross acreage of the PUD shall be set aside for open space. Streets, necessary driveways, off-street parking, drainage basins and narrow turf of landscaped buffer areas normally associated with any of the dwelling units or clusters shall not be computed as part of the required open space. Not less than 50% of the total acreage of open space shall be usable, developable ground for the purpose of school sites, municipal uses sites, parks or other public purposes required to serve the population living in the PUD and acceptable to the Board. The following types of land shall not be calculated into the usable open space percentage: flood

hazard areas, bodies of water, marshes, swamps, poorly drained areas, excessive sloped areas, other unstable/unsuitable soil areas and high-volume natural drainageways. In cases where common land and facilities are to be assigned to an ownership association, they must be unencumbered by mortgage or other debt. The area standards for open space are further described in § 96-55.

(2) Required open space and recreation facilities.

(a) Purpose. It is the general purpose and intent of the open space and recreation requirements for PUDs within the Township to protect and preserve the open space of the Township and to further the public health, safety, and general welfare with the following considerations:

- [1] To encourage a more efficient use of land and public services, or private services in lieu thereof.
- [2] To provide for a continuous and integral open space system.
- [3] To encourage more flexible land development that will preserve and enhance natural resources, such as streams, lakes, floodplains, groundwater, wooded areas and areas of importance to the natural ecosystem.
- [4] To provide for the importance of both passive and active recreation and that both serve legitimate municipal health, safety and welfare purposes.
- [5] To provide that open space within PUDs shall be planned and designed to achieve adequate recreation areas for the needs of the development residents and owners.
- [6] To provide that common open space configuration within a development may be evaluated in terms of inventories of natural features of the site, recreation demand projections prepared by the applicant, and a plan may be prepared indicating the general location of common open space areas for natural preserves and for active recreational purposes.

(b) Open space.

- [1] Open space areas in residential sections of PUDs shall be reserved in accordance with the requirements for the individual residential sections.
- [2] The open space requirements may be waived only when the enforcement of this requirement would prevent the construction of low- and/or moderate-income housing.

D. Area regulations for residential uses. The following area regulations shall apply to residential sections of any PUD:

- (1) Minimum area for required open spaces. A minimum of 25% of each residential section shall be designated as usable open space. The area standards for open space shall be as described above.
- (2) Maximum gross residential density. The maximum gross residential density shall be 2.5 dwelling units per acre and shall be based upon the land area of the entire PUD.
- (3) Density averaging and limitation thereon. In any PUD, the applicant may apply for and may be granted the right to average the maximum gross allowable density within and between residential sections to create a variety of housing types and accommodations; however, such

averaging must be achieved within a single phase. The allowable maximum densities shall be as set forth in this section.

- E. Residential density and design standards. To assure provision for adequate light, air, and ventilation and to prevent overcrowding, the following residential density and design standards shall apply within residential sections in any PUD. For all residential uses, any structure located on a corner lot shall be set back from both streets the minimum distance required for the front yard setback.

(1) Single-family detached dwellings.

- (a) Maximum density: 3.5 dwelling units per acre.
- (b) Maximum height: 2 1/2 stories or 35 feet in height.
- (c) Minimum buildable lot size: 9,000 square feet.
- (d) Minimum front yard: 20 feet.
- (e) Minimum side yard.
 - [1] One side: eight feet.
 - [2] Both sides: 20 feet.
- (f) Minimum rear yard: 25 feet.
- (g) Minimum frontage: 70 feet at the setback line.
- (h) Impervious coverage limit: 45% per lot.

(2) Townhouse dwellings. The Township of Elk is concerned that a large number of attached housing units may result in housing development which is inconsistent and incompatible within the same neighborhood. Therefore, the following performance standards shall be satisfied:

- (a) No one continuous structure shall exceed eight townhouse units.
- (b) Maximum density: 8 units per acre.
- (c) Maximum height: 2 1/2 stories or 35 feet.
- (d) Minimum lot depth.
 - [1] One hundred feet if parking is located on each lot.
 - [2] Eighty feet if parking is located off each lot.
- (e) Impervious coverage limit: 70% of each lot.
- (f) Distance between buildings.
 - [1] Seventy-five feet between the front of one building and the front of another.
 - [2] Fifty feet between the front of one building and the back of another.
 - [3] Forty feet between the side of one building and either the front or back of another.
 - [4] Thirty feet between the sides of two buildings with a minimum side yard of 15 feet

on the end unit.

[5] Fifty feet between the rear of two buildings.

- (g) There shall be a fifty-foot setback from all outbound property lines of the townhouse section area within a PUD.
- (h) Yard requirements.
 - [1] Front yard of not less than 35 feet where there exists parking in the front yard of the unit.
 - [2] Not less than 15 feet when there is no on-lot parking in the front yard of the unit.
 - [3] Rear yard of at least 25 feet for each unit.
- (i) No structure or dwelling shall directly abut the rear of another such structure or structures on adjoining properties unless screening is installed to provide privacy.
- (j) A minimum of 20 feet of frontage shall be maintained for all townhouse dwelling units, except that 20% of the townhouses may be less than 20 feet in width, but not less than 16 feet in width.
- (k) The front and rear of each building and open space areas shall be landscaped.
- (l) All parking areas in multiple or attached dwelling areas shall be adequately buffered from any adjacent single-family properties.
- (m) Trash disposal and recycling areas shall be enclosed. The enclosure shall be of a material the color and texture of which is consistent with that of the principal buildings.
- (n) Conceptual architectural review by the approving authority is required before preliminary approval. Review of the approving authority shall be limited to the exterior appearance of the structure, including rooflines, fenestration and siding. The review shall be performed to assure that the architectural type and style is compatible with neighboring uses. The intent of this requirement is not to influence layout, bedroom mix or the general floor plan of any structure, but rather to provide reasonable criteria by which specific proposals for the PUD can be evaluated.
- (o) Pedestrian access shall also be provided to the rear of all units.
- (p) Storage units for each dwelling unit shall be designed by the developer as an integral part of each building or privacy fence, if provided. Freestanding accessory storage units are prohibited.
- (q) No additions to a dwelling unit are permitted except those additions which have been made available by the developer as optional features and which have been approved by the Elk Township approving authority.
- (r) There shall be no more than two dwelling units in any unbroken building line. A setback of not less than two feet nor more than 10 feet shall be deemed a satisfactory break in the building line. The developer shall provide balanced groupings of structures. The particular groupings of the buildings shall be at the discretion of the approving authority as determined by internal traffic patterns, ingress and egress of emergency vehicles, aesthetic

valuations and other criteria.

- (3) Garden apartment dwellings. The Township of Elk is concerned that a larger number of garden apartments may result in housing development which is inconsistent and incompatible within the same neighborhood. Therefore, the following performance standards shall be satisfied:

- (a) Maximum density is 12 dwelling units per acre.
- (b) Maximum height shall not exceed three stories or 35 feet in height, not including the elevator. No garden apartment building shall exceed 200 feet in length and shall be limited to eight units per building.
- (c) Apartment buildings shall be set back at least 50 feet from all property lines, external parking perimeters and streets which separate an apartment complex from nonapartment areas. A thirty-five-foot buffer screen shall be provided within this setback.
- (d) Minimum distance between buildings.
 - [1] Front wall to front wall: 50 feet.
 - [2] Side wall to either front or rear wall: 35 feet.
 - [3] Side wall to side wall: 25 feet.
 - [4] Front to rear, rear to rear: 50 feet.
- (e) Minimum vegetation area. At least 30% of the area devoted to apartment use shall be covered by vegetation.
- (f) Maximum impervious coverage. A maximum of 65% of area devoted to apartment use may be covered by impervious coverage.
- (g) Review of the architectural appearance of the garden apartment complex by the approving authority shall be required prior to preliminary approval. Review of the approving authority shall be limited to the exterior appearance of the complex. Each garden apartment complex of dwelling units shall have a compatible architectural style with variations in design to provide attractiveness to the development which shall include consideration of landscaping techniques, building orientation to the site and to other structures, topography, natural features and individual dwelling unit design, such as varying unit widths, staggering unit setbacks, providing different exterior materials, changing rooflines and roof designs, altering building heights and changing types of windows, shutters, doors, porches, colors and vertical or horizontal orientation of the facades, singularly or in combination of each dwelling unit. The intent of this requirement is not to influence layout, bedroom mix or the general floor plan of any structure, but rather to provide reasonable criteria by which specific proposals for the PUD can be evaluated.
- (h) For garden apartment dwelling units, there shall be provided at least one outdoor refuse storage area of at least 100 square feet for each 20 dwelling units. The refuse storage area shall be suitably located and arranged for access and ease of collection and shall not be part of, restrict or occupy any parking aisle and shall not be located further than 300 feet from the entrance to any garden apartment unit which it is intended to serve and shall be screened.
- (i) Each apartment unit shall have a storage space having a minimum of 600 cubic feet.

- (j) Landscaping. Open spaces and garden apartment buildings shall be landscaped.
- (4) Residential accessory uses.
 - (a) No residential accessory use shall be permitted within any required front yard setback.
 - (b) Accessory buildings shall not exceed 1 1/2 stores or 15 feet.
- (5) Amendment of the Master Plan. Nothing in this article shall be construed to prohibit the amendment of the master development plan with approval of the Township Planning Board, provided that the maximum gross residential density for the PUD is not exceeded in any phase.
- (6) Affordable housing requirements. To comply with the substantive rules and regulations of the New Jersey Council On Affordable Housing (COAH) (N.J.A.C. 5:93-3 and 7-11), and to implement the Housing Element and Fair Share Plan of Elk Township, all developers of a PUD in agreement with this article shall provide a set-aside of 8% of the total dwellings for low- and moderate-income housing. The following regulations shall apply:⁴⁹
 - (a) Bedroom distribution. Developers shall devise and provide for, within their development, a method which establishes the following distribution of the number of bedrooms contained within an inclusionary development.
 - [1] At a minimum, 35% of all low- and moderate-income units shall be two-bedroom units;
 - [2] At a minimum, 15% of all low- and moderate-income units shall be three-bedroom units; and
 - [3] No more than 20% of all low- and moderate-income units may be efficiency units.
 - (b) Dwelling units shall be constructed with a minimum square footage of living area as follows.
 - [1] One-bedroom dwelling units: 480 square feet;
 - [2] Two-bedroom dwelling units: 660 square feet;
 - [3] Three-bedroom dwelling units: 800 square feet; and
 - [4] Four-bedroom dwelling units: 850 square feet.
 - (c) Initial pricing.
 - [1] The applicant shall provide that the initial price of a low- and moderate-income owner-occupied housing unit be established so that after a down payment of 10%, the monthly principal, interest, taxes, insurance and homeowners' association fees do not exceed 28% of an eligible household's gross monthly income.
 - [2] The applicant shall provide that rents, excluding utilities, be set so as not to exceed 30% of the gross monthly income of the appropriate household size. Maximum rent shall be calculated as a percentage of the uncapped Section 8 income limit or other recognized standard adopted by the COAH that applied to the rental housing unit.

49. Editor's Note: See Ch. 40, Affordable Housing.

- [3] The following criteria shall be considered in determining rents and sales prices:
 - [a] Efficiency units shall be affordable to one-person households;
 - [b] One-bedroom units shall be affordable to two-person households;
 - [c] Two-bedroom units shall be affordable to three-person households;
 - [d] Three-bedroom units shall be affordable to five-person households; and
 - [e] Four-bedroom units shall be affordable to seven-person households.
 - [4] The applicant shall provide that rents, including an allowance for utilities consistent with the personal benefit expense allowance for utilities as defined by HUD or a similar allowance approved by the COAH be set so as not to exceed 30% of the gross monthly income of the appropriate household size as outlined above.
 - [5] Housing units that satisfy the above criteria shall be considered affordable.
 - [6] Median income by household size shall be established by the uncapped Section 8 income limits, published by HUD, as defined in this article or other recognized standard adopted by the COAH.
- (d) For purposes of this article, "low-income unit" and "moderate-income unit" shall comply with the definitions of "low-income unit" and "moderate-income unit," respectively, as contained herein.
 - (e) Low- and moderate-income units shall be dispersed throughout the project to the greatest extent feasible. Low- and moderate-income units shall be situated on the development tract in locations no less desirable than the dwelling units within the development and shall be at least equally accessible to common open spaces, community facilities and shopping facilities as other market rate housing units. The facade and type of unit of the low- and moderate-income units shall in no way be distinguishable from the facades of the other units in the development.
 - (f) Any submitted development plan shall indicate the number, unit plan and location of the low- and moderate-income units within the development.
 - (g) The applicant shall submit, with the application for development, a narrative of the mechanism to be used to ensure that the required affordable dwelling units are rented or sold only to low- and moderate-income households and that such units will continue to be occupied as low- and moderate-income for a period not less than 20 years. In addition to such description, actual samples of language to be included in the nature of covenants shall be submitted for review and approval. All covenants and deeds shall comply with the recapture regulation of the COAH published in the 7/17/89 New Jersey Register and with any form deed required by the COAH. The submitted description shall indicate the entity or entities responsible for monitoring the occupancy of the low-/moderate-income units and shall provide a detailed discussion concerning resales, permitted increase in price, prequalification of occupants and other relevant considerations. The applicant shall indicate whether it will administer controls on initial occupancies, contract with the New Jersey Housing Mortgage Finance Agency or with a municipal agency or its designee. The same indication shall be made for subsequent resales, provided that the seller of the resale unit shall bear the cost of resale review and approval.

- (h) Final approval shall not be granted for any residential section of any PUD unless the following phasing plan for the construction and occupancy of required low- and moderate-income units to market dwelling units have been adhered to in each individual PUD.

Minimum Percentage of Low- and Moderate-Income Units Completed	Percentage of Market Housing Units Completed
0	25
10	25 + 1 unit
50	50
75	75
100	100

- (i) Range of affordability.
- [1] Developers must provide housing within the average price of low- and moderate-income units within an inclusionary development which will be, as best as practicable, affordable to households at 57.5% of median income as contained in N.J.A.C. 5:92-14.2.
- [2] In devising a range of affordability for housing as described above, developers shall provide, as best as practicable, for the following distribution of prices for every 20 low- and moderate-income units:

Pricing Stratification

Income Unit	Number of Units	Distribution of Price (percent)
Low	1	40.0 to 42.5
	3	42.6 to 47.5
	6	47.6 to 50.0
Moderate	1	50.01 to 57.5
	1	57.6 to 64.5
	1	64.6 to 68.5
	1	68.6 to 72.5
	2	72.6 to 77.5
	4	77.6 to 80/0

- (j) (Reserved)
- (k) Affirmative marketing program. The Township of Elk shall have primary responsibility for developing and implementing an affirmative marketing program that addresses the occupancy preference requirements in N.J.A.C. 5:93-11. The Township will also be required to market, screen, offer occupancy and select income-eligible households accordingly. The developer is responsible for the administrative cost associated with this

program.

- (l) Upon development of 50% of Elk Township's low- and moderate-income units as determined by the New Jersey Council on Affordable Housing (COAH), a developer of a PUD may provide payments to be placed in a fund for use by the Township to finance transfer through a regional contribution agreement (RCA) in accordance with the substantive and procedural rules of the COAH of the remaining 50% of the Township's fair share to another municipality within its housing region by means of a contractual agreement into which the two municipalities voluntarily enter. Any agreement between the developer of a PUD and Elk Township Planning Board shall be through amendment of the Housing Element of the Master Plan and Fair Share Plan of Elk Township and also require approval by the COAH, the County Planning Board or other county-designated agency in which the receiving municipality is located and the New Jersey Housing Mortgage Finance Agency (HMFA). Receipt of payments to the Elk Township fund to finance an RCA shall be in agreement with the phasing schedule established in this article.
- (m) Upon development of 100% of Elk Township's low- and moderate-income units as determined by the New Jersey Council on Affordable Housing (COAH), a developer of a PUD may provide payments to be placed in a fund for use by the Township for any of the following purposes:
 - [1] To finance a part or all of any of Elk Township's program to rehabilitate low- and moderate-income units;
 - [2] To fund a RCA or municipal construction of low- and moderate-income units;
 - [3] To address in whole or in part municipal costs and expenses resulting from or associated with the development of an inclusionary project as proposed under this article; or
 - [4] To provide for Elk Township's fair share obligation for subsequent six-year periods commencing in 1996 or thereafter.
- (n) Notwithstanding anything to the contrary, Elk Township will not use the money in the fund for any purpose which is not:
 - [1] Authorized by the COAH pursuant to the Fair Housing Act⁵⁰; or
 - [2] Otherwise authorized by New Jersey law at the time of its expenditure.
- (o) At least one half of all units devoted to low- and moderate-income households within the inclusionary development shall be affordable to low-income households. At least one half of all units in each bedroom distribution and one half of all rental units shall be available for low-income households. To the best extent feasible, at least one half of all rehabilitated units shall be for low-income households.
- (p) The Rules of the Council on Affordable Housing (COAH) in regard to controls on affordability, which may be found in N.J.A.C. 5:92-12, are set forth in their entirety and expended to this article.⁵¹ Included also in this appendix is the model entitled "Declaration of Covenants, Conditions and Restrictions," which must be applied to every low- and

50. Editor's Note: See N.J.S.A. 52:27D-301 et seq.

51. Editor's Note: These appendices are on file in the Township offices.

moderate-income sales unit to ensure affordability for at least 20 years. In determining rents and sales prices, the following criteria, as set forth in N.J.A.C. 5:93-9, shall be considered:

- [1] Efficiency units shall be affordable to one-person households.
 - [2] One-bedroom units shall be affordable to two-person households.
 - [3] Two-bedroom units shall be affordable to three-person households.
 - [4] Three-bedroom units shall be affordable to five-person households, and
 - [5] Four-bedroom units shall be affordable to seven-person households.
- (q) The Township may address up to 25% of its fair share obligation, as calculated after credits and adjustments have been granted, less any units transferred by way of a regional contribution agreement (RCA) by creating age-restricted housing units and/or alternate living arrangements. The unit of credit for alternate living arrangements shall be the bedroom. Therefore, if two or more people share a bedroom, the Township should receive credit for one unit against its fair share obligation.
 - (r) The Council on Affordable Housing (COAH) shall determine the Township's ability to absorb its fair share obligation through inclusionary developments. The COAH shall presumptively require a 20% maximum set-aside and a minimum gross density of six units per acre on vacant and developable sites. The COAH may modify this minimum gross density based on factors, including but not limited to appraised land values, improvement costs, site conditions and municipal subsidy of project costs. The COAH may also modify this density when required to satisfy the Township's present and perspective need or when the Township and developer agree to a modification on a specific site or when the COAH's minimum gross density policy conflicts with the land use policies adopted within the Pinelands.
 - (s) If any money from the fund is expended by Elk Township for an unauthorized purpose as determined by a court of competent jurisdiction, Elk Township will replenish the fund within 30 days of such final determination. The repayment will be in accordance with the terms of the court order. The use of the money will, thereafter, be solely for a purpose authorized in accordance with this article.
- F. Supplemental residential design standards. The following residential design standards shall apply in any planned unit development (PUD):
- (1) Regard for natural features. All housing and supporting uses shall be designed with regard to the topography and natural features of the site. The effects of prevailing winds, seasonal temperatures and hours of sunlight on the physical layout and form of the proposed buildings shall be taken into account.
 - (2) Siting of housing. All housing and supporting uses shall be sited so as to enhance privacy for residential uses and ensure natural light for all principal residential rooms.
 - (3) Relationship to existing areas. Housing and supporting uses near the periphery of the PUD shall be designed so as to be harmonious with neighboring areas.
 - (4) Relationship to community facilities. Housing shall be conveniently served by community

facilities.

- (5) Variations to setbacks. To create identity and interest in the layout of housing on fronting streets, variations in setbacks shall be encouraged.
- (6) Access. Routes for vehicular and pedestrian access and parking areas shall be convenient without creating nuisances or detracting from privacy.

G. Area and design regulations for office/industrial and retail and services uses.

- (1) All office/industrial and retail and service land uses shall front on a major arterial highway, minor arterial highway, major collector, minor collector, or local collector as identified in Table 1, Roadway Classifications in Elk Township, of the Circulation Element of the Master Plan of Elk Township.
- (2) Minimum area for office/industrial and retail and service designated uses. A minimum of 10% of the developable land as defined in this article of any PUD shall be occupied by industrial or commercial uses. A minimum of 25% but no more than 35% shall be retail and service uses as permitted and designed in accordance with this chapter. The percentage of land dedicated to nonresidential uses shall not exceed 35% of the total tract.

H. Area regulations for institutional uses.

- (1) Minimum area for required open space. A minimum of 25% of each institutional area shall be designated as open space.
- (2) Maximum building height. The maximum building height of any institutional structure shall not exceed 60 feet, not including elevators or steeples.
- (3) Dedication of land. All lands dedicated for public schools shall comply with N.J.A.C. 6:22-1.2 or subsequent regulation of the New Jersey Department of Education setting forth the requirements for land used in conjunction with the construction of school buildings.

I. Retail and service design standards and objectives

- (1) The following design standards shall apply for retail and service uses in any PUD:
 - (a) Minimum lot area. The minimum lot size for development shall be two acres.
 - (b) Building coverage limit. Not more than 30% of the area of any lot may be occupied by buildings. One building may contain more than one use, provided that the total building coverage of the combined uses does not exceed the maximum building coverage specified.
 - (c) Front yard. There shall be a front yard on any street on which a lot abuts, which shall be not less than 100 feet in depth from the right-of-way. Where the right-of-way depth on Route 55 exceeds 500 feet, the setback may be reduced to five feet from the right-of-way, provided that the property owner agrees to maintain the nonhighway portion within the right-of-way.
 - (d) Side yards. There shall be a minimum side yard of 25 feet from each side property line.
 - (e) Rear yard. A rear yard of not less than 25 feet shall be provided.
 - (f) A minimum buffer area of 50 feet in width shall be provided along any common property line with a residential district or residential use.

- (g) Building height. Buildings and other structures shall not exceed 45 feet and three stories in height.
- (h) Minimum frontage requirement. For each lot there shall be a minimum frontage of 200 feet at the property line.
- (i) Impervious coverage limit. A maximum of 65% of the area of a lot may be covered with impervious material. A retail and service use may contain more than one principal building, provided that the total building coverage specified is not exceeded and the following building separation requirements are met:
 - [1] All principal buildings shall be separated⁵² by a minimum of 25 feet, provided that such separation is to be used solely for pedestrian circulation; and
 - [2] All principal buildings shall be separated⁵³ by a minimum of 50 feet when such separation is to be used for parking or vehicular circulation.
- (j) Clearing limit. A maximum of 80% of a lot may be cleared of vegetation for the purpose of constructing improvements.
- (k) Vegetated area. At least 35% of the lot area must be covered by vegetation. All portions of the property not utilized by buildings or paved surfaces shall be landscaped, utilizing combinations such as landscaped fencing, shrubbery, lawn area, ground cover, rock formations, contours, existing foliage and the planting of conifers and/or deciduous trees native to the area in order to maintain or reestablish the tone of the vegetation in the area and lessen the visual impact of the structures and paved areas. The established grades on any site shall be planned for both aesthetic and drainage purposes. The grading plan, drainage facilities and landscaping shall be coordinated to prevent erosion and silting, as well as assuring that the capacity of any natural or man-made drainage system is sufficient to handle the water generated and anticipated from the site and contributing upstream areas.
- (l) Curb cuts. Curb cuts shall be subject to applicable Township, county and state standards and specifications.
- (m) At least the first 40 feet adjacent to any street line and 10 feet adjacent to any lot line shall not be used for parking and shall be planted and maintained in lawn area or ground cover or landscaped with evergreen shrubbery and separated from the parking area by poured concrete or Belgian block curbing.
- (n) No merchandise, products, waste, equipment or similar material or objects shall be displayed or stored outside.
- (o) All buildings, signs, walkways, lighting fixtures, etc., shall be compatibly designed, whether constructed all at one time or in stages over a period of time. All building walls facing any street or residential use or district shall be suitably finished for aesthetic purposes which shall not include unpainted or painted cinderblock or concrete block walls.

52. Editor's Note: The separation requirements should not be construed to prohibit covered pedestrian walkways when the roof or covering of such walkway extends between the principal buildings.

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- (p) Service areas. All service areas, loading docks, trash receptacles, etc., whether located to the side or to the rear of the building, shall be screened from public view by an evergreen vegetative buffer, or a solid or louvered wooden fence may be used where space is prohibitive.
- (q) Review and approval of architectural elevations by the Elk Township Planning Board shall be required before final approval.
- (r) Assuring that such designated areas form an integral part of a well-considered plan to promote stability of commercial development, to strengthen the economic base of the Township, to protect the character of the planned unit development and its peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect the Township's tax revenues.

J. Office/industrial design standards and objectives.

- (1) The following office/industrial design standards and objectives shall apply for office/industrial uses in any planned unit development (PUD).
 - (a) Lot area. The minimum planning area shall be not less than five acres within which subdivisions of lots having a minimum area of two acres may be permitted by the Planning Board.
 - (b) Building coverage. Not more than 30% of the lot area shall be covered by buildings.
 - (c) Building distance. The distance between buildings at the closest point shall be a minimum of 25 feet.
 - (d) Height. No building shall exceed 60 feet and five stories in height.
 - (e) Impervious coverage limit. A maximum of 65% of the area of a lot may be covered with impervious material.
 - (f) Clearing limit. A maximum of 70% of a lot may be cleared of vegetation for the purpose of constructing improvements.
 - (g) Vegetated area. At least 35% of the area of each lot must be covered by vegetation.
 - (h) Minimum frontage requirement. For each lot there shall be a minimum frontage at the property line of 100 feet and at the building line of 150 feet.
 - (i) Front yard and building setback. The standard front yard and building setback shall be not less than 100 feet from the right-of-way, with the following exceptions:
 - [1] Where the right-of-way width on Route 55 exceeds 500 feet, the setback may be reduced to five feet from the right-of-way, provided that the property owner agrees to maintain the nonhighway portion within the right-of-way; and
 - [2] Along county or municipal roads, the setback may be reduced to 60 feet from the right-of-way, provided that parking is not located in the front of the lot.
 - (j) Building setback from district boundary. The building setback from a district boundary shall be not less than 60 feet. Additionally, a minimum buffer area of 60 feet in width shall be provided along any common property line with a residential district or use.

- (k) Side yards. There shall be a minimum side yard of 25 feet on the side of each building.
- (l) Rear yards. A rear yard of not less than 25 feet shall be provided.
- (m) No merchandise, products, waste, equipment or similar material or objects shall be displayed or stored outside.
- (n) All buildings, signs, walkways, lighting fixtures, etc., shall be compatibly designed, whether constructed all at one time or in stages over a period of time. All building walls facing any street or residential use or district shall be suitably finished for aesthetic purposes which shall not include unpainted or painted cinderblock or concrete block walls.
- (o) Service areas. All service areas, loading docks, trash receptacles, etc., whether located to the side or to the rear of the building, shall be screened from public view by an evergreen vegetative buffer, or a solid or louvered wooden fence may be used where space is prohibitive.
- (p) Review and approval of architectural elevations by the Elk Township Planning Board shall be required before final approval.
- (q) Assuring that such designated use areas form an integral part of a well-considered plan to promote stability of office/industrial and related development, to strengthen the economic base of the Township, to protect the character of the PUD, to conserve the value of land and buildings, and to protect the Township's tax revenues.

K. Institutional design standards.

- (1) The following institutional design standards shall apply for institutional uses in any PUD:
 - (a) Places of worship and charitable institutions. The applicant shall demonstrate that the proposed use in the proposed location in the PUD will not adversely affect the safe and comfortable enjoyment or property rights of adjoining properties, that the property proposed to be so occupied shall have a minimum lot area of one acre and that no more than 25% of the land area be occupied by buildings and structures, that adequate off-street parking be provided so that no traffic hazards or congestion will be caused by the use, that the design of any structures to be erected in connection with such uses are in keeping with the general character of area, particularly any adjoining residential area, and that sufficient landscaping including trees, shrubs and lawn is provided to appropriately buffer said use from any adjoining residential use or residential zone and to ensure attractive appearance for the use.
 - (b) Recreation areas and quasi-public buildings. Recreation areas and quasi-public buildings and uses shall be permitted as part of an institutional use of a PUD, provided that:
 - [1] The PUD shall be accompanied by a statement setting forth particulars on the proposed operation of the use.
 - [2] The proposed use in the proposed location will not adversely affect the safe and comfortable enjoyment of property rights 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 and to ensure an attractive appearance for the use.

- [3] That buildings will not occupy more than 25% of the lot area, and that any structures or uses proposed will provide a useful purpose to the general welfare of the PUD.
 - [4] The off-street parking requirement standard may be increased where necessary to provide sufficient parking for the number of cars anticipated to utilize the proposed use.
 - [5] Illumination for parking lots and night athletic activities shall be shielded from illuminating adjoining streets and residential areas.
- (c) Educational uses. Educational uses, including public elementary or secondary schools, duly licensed by the State of New Jersey, attendance at which is sufficient compliance with the compulsory education requirements of the state, may be permitted at a PUD, provided that:
- [1] The applicant shall submit a statement which 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.
 - [2] In addition to parking in accordance with the ordinances of Elk Township, off-street parking shall be provided to ensure adequate space for buses or delivery vehicles. These requirements may be increased if, in the judgment of the Planning Board, the unavailability of bus service, the particular location or the relatively high percentage of pupils driving or anticipated to be driving cars to school make such increased requirements desirable.
 - [3] All driveways which open onto a public street shall be subject to applicable Township, county and state standards and specifications.
 - [4] Illumination for night athletic activities shall be shielded from illuminating adjoining streets and residential areas.
 - [5] Educational uses shall be screened from adjacent residential uses or residential zones with buffering and screening in accordance with standards of this chapter.
- (d) Other institutional uses. All other proposed institutional uses proposed in a PUD shall be submitted with a statement setting forth all particulars on the operation of the proposed use providing assurance that the proposed institutional use is consistent with the spirit, purpose and intent of the PUD; that the proposed use will serve the best interest of the Township, the community and the public welfare; that no building, structure or use of land shall be located within 50 feet of an adjacent residential use or residential zone; that adequate off-street parking be provided so that no traffic hazards or congestion will be caused if the proposed institutional use is developed; and that adequate and attractive landscaping and fencing will be provided in order to provide buffer zones sufficient to screen all adjacent residential properties or zones from the land or premises which is utilized for an institutional use.
- L. Compatibility of institutional development. The applicant shall assure the compatibility of institutional uses in the PUD by:
- (1) Providing institutional uses with appropriate space, and in particular, sufficient depth from a street to satisfy the needs of the development, including the need for off-street parking spaces in areas to which a large proportion of visitor/members/employees travel by automobile.

- (2) Protecting both institutional development and nearby residences against congestion, particularly in areas where the established uses are predominantly residential, by regulating the intensity of institutional development, by restricting those types of establishments that generate heavy traffic, and by providing for sufficient off-street parking and loading facilities in accordance with provisions of this article.

M. Provisions of community facilities and services.

- (1) In any PUD, consideration shall be given to the provision of such additional community facilities and services as will be necessary to serve the residents and owners of structures proposed within the PUD and shall be in accordance with generally accepted standards as they apply to the following service agencies:
 - (a) The school districts.
 - (b) The Fire Department.
 - (c) The Police Department.
 - (d) The Township and county library systems.
 - (e) The Municipal Utilities Authority.
- (2) If such land was originally included in the calculation of required open space, it cannot be used for other purposes unless:
 - (a) The required open space percent can still be met without the inclusion of such land as required open space.
 - (b) The gross residential density is not increased beyond the permitted maximum.

N. Design and performance standards.

- (1) Stormwater drainage. There shall be provided permanent facilities which may be natural and/or man-made drainage channels and retention or detention basins to handle the increased stormwater runoff that may result from increasing the impervious area within the PUD. The stormwater drainage facility shall be designed to the satisfaction of the Township Engineer's criteria using soil conservation service submission standards as a minimum.
- (2) Utilities. Utilities to be constructed within and to serve a planned unit development (PUD) shall be underground.
- (3) Preservation of natural features. Special consideration shall be given to the large preservation of natural features, including large trees, groves, waterways, aquifer recharge areas, wetlands, and scenic, paleontologic, archeological and historic sites and other community assets within the PUD.
- (4) Landscaping. All portions of the PUD not to be covered with buildings or other impermeable surfaces and not to be retained in a natural state shall be landscaped. A landscaping plan shall be provided for all PUDs. Landscaping shall be integrated into building arrangement, topography, parking and buffering requirements. Landscaping shall include trees, bushes, shrubs, ground cover, perennials, annuals, plants, sculpture, and the use of building and paving materials in an imaginative and aesthetic manner. All plant material shall be guaranteed by the developer for two years. Landscaping regulations are as follows.

- (a) Natural topography and vegetation. The applicant shall use natural topography and vegetation where possible. Large parking areas are not to be stripped of vegetation without requiring reseeding or replanting of all unpaved areas.
- (b) Saving of trees. Every attempt shall be made by the applicant to save existing trees even at the loss of parking spaces. Clumps of trees should be saved over single trees. Care should be taken by the Planning Board to properly evaluate site clearing proposals, recognizing that wild trees often do not survive when their habitat is drastically altered. Where loss of trees is suggested, replacement should be required.
- (c) Slopes. Slopes in excess of 3 to 1 shall be avoided unless necessitated by unusual site limitations. All slopes shall be stabilized in a manner acceptable to the Planning Board Engineer.
- (d) Parking areas in front of buildings. Parking lots located in front of buildings shall be landscaped to separate them from adjacent roadways.
- (e) Driveways. The areas adjacent to the driveways shall be planted with low plants or grass. Appropriate low plants include but are not limited to Butterfly Bush, Sargent Juniper, Inkberry, Japanese Barberry or Shrubby Cinquefoil.
- (f) Other required landscaped areas.
 - [1] Where a development plan indicates raised walkways between opposing rows of cars, areas at the end of bays, or where proposed or required by the Planning Board specific planting islands are indicated, these areas shall be wide most desirable. All planting islands should be raised and protected by permanent concrete curbing.
 - [2] The applicant shall landscape 5% to 10% of the parking areas provided.
- (g) Block end planting. In cases where lot and block design results in undesirable sighting down rear property lines from block ends, a landscape screen of evergreen trees not less than six feet in height shall be provided as block ends by the developer. The screen shall be a minimum of 30 feet in length and centered on the rear property line. The screen shall not effect any sight triangle.
- (h) Natural setting. In proposing a landscape plan, an applicant of a planned unit development (PUD) shall take care and the Planning Board in reviewing shall require that a natural setting consistent with prevailing community standards be preserved. Recognizing that a major community asset lies in the preservation of the natural condition of property, all efforts in the area of landscaping shall be exercised to provide consistent landscaping proposals with existing foliage.
- (i) Screen areas and buffers. Buffer areas and screening shall be required as part of the PUD along all lot lines and street lines which separate a nonresidential use from an area used for residential purposes or zoned for residential use. Buffer areas shall also be provided between residential buildings of different types. Buffer areas shall be developed in an aesthetic manner for the primary purpose of screening views and reducing noise perception beyond the street lines. Buffer widths shall be measured horizontally and perpendicularly to lot and street lines. No structure, activity, storage or materials, or parking of vehicles shall be permitted in a buffer area. These standards are intended to provide flexibility in order to provide effective buffers and screens. The location and design of buffers and

screens shall consider the use of the portion of the property being screened, the distance between the use and the adjoining property line, differences in elevations, the composition, height, and width of the buffer, and natural features. Buffers shall be designed, planted, graded, landscaped and developed with the general guideline that the closer a use or activity is to a property line, or the more intense the use, the more effective the buffer area must be in obscuring the light and vision and reducing noise beyond the lot. A buffer of 200 feet including suitable landscaping shall be provided along all existing rights-of-way. Any entry road shall be landscaped and designed to eliminate visual impact of any development to existing rights-of-way.

[1] Buffer content and location.

[a] Except as otherwise provided, buffers shall be a minimum of 15 feet wide. Buffers shall be designed, planted, graded, and landscaped to provide an aesthetically pleasing separation of uses. In meeting this standard, the applicant may employ one or more of the following:

[i] Fencing or wall screening in landscaped areas;

[ii] Evergreen tree or shrubbery screening in a landscaped area; and

[iii] A landscaped berm having a minimum height of six feet with 3 to 1 side slopes.

[b] If in the judgement of the approving authority any of these alternate provisions will not provide sufficient buffers for the portion of the site proposed, the approving authority may require the PUD plan to be modified to show the extension of the buffer area or require that the proposed alternatives be landscaped differently or be relocated until they provide the desired buffering effect.

[2] Buffer material and natural foliage. All buffer areas shall be planted and maintained with either grass or ground cover, together with a screen of live shrubs or scattered planting of live trees, shrubs, or other plants, in an integral part of all development plans and be calculated as part of the required buffer area provided the growth is of a density and the area has sufficient width to serve the purpose of a buffer. Additional plantings may be required by the approving authority to establish an appropriate tone for an effective buffer.

[3] Screening. Screening shall be provided with buffer strips or as required elsewhere in this article so as to provide a year-round visual or partial acoustical barrier to conceal the view or sounds of various utilitarian operations and uses from the street or adjacent properties. Screening shall be so placed that at maturity it will not be closer than three feet from any street or property line. All plants for screening shall be of a species common to the area, be of balled and burlapped nursery stock, and be free of insects and disease. Plants which do not live shall be replaced within one year or one growing season. Buffered screen planting shall be broken at points of vehicular and pedestrian ingress and egress to assure a clear sight triangle at all street and driveway intersections. Screening shall consist of the following materials:

[a] Solid masonry. A solid masonry wall not less than five to six feet above ground level.

- [b] Solid fencing. A solid fencing, uniformly painted or of a naturally durable material such as cedar, cypress, or redwood, not less than six feet above ground level and open to the ground to a height of not more than four inches above ground level.
 - [c] Shrubbery. Low-type shrubbery screening may be used in and around parking areas, roadways, or accessways where sight distances for vehicular and pedestrian traffic are a prime consideration. Shrubbery shall be a minimum of three feet high when planted and be of such density as will obscure, throughout the full course of the year, the glare of automobile headlights emitted from the premises. All other shrubbery for screening shall be a minimum of five feet high at the time of planting. Dense hedges of shrubbery planted at a maximum of 30 inches on center may be used.
 - [d] Trees. Trees for screening shall be evergreens having a minimum height of eight feet above the ground when planted. Trees shall be eight feet on center in a single row, or eight feet on center in two or more staggered rows with a five-foot separation between rows. Evergreens may be supplemented with deciduous trees having a minimum height of eight feet at time of planting, with a minimum caliper of 1 1/2 inches.
- [4] Street trees. For all PUDs devoid of major trees along collector streets and along proposed roads and rights-of-way where natural woods are not present and where, due to construction, the entire right-of-way is cleared, the following provisions shall apply:
- [a] Trees shall be planted along both sides of all streets as approved by the approving authority.
 - [b] Street trees shall be planted at distances in accordance with the following interval schedule.

Tree Size at Maturity (feet)	Planting Interval (feet)
Large trees (40+)	50 to 70
Medium-sized trees (30 to 40)	40 to 50
Small trees (to 30)	30 to 40

- [c] When the spacing interval exceeds 40 feet, small ornamental trees can be spaced between the larger trees. If a street canopy effect is desired, trees may be planted closer together, following the recommendations of a certified landscaped architect. The trees shall be planted so as not to interfere with utilities, roadways, sidewalks, sight easements, or streetlights. Tree location, landscaping design, and spacing plan shall be approved by the approving authority as part of the landscape plan.
- [d] At intersections, trees shall not be located closer than 30 feet from the intersection of the street right-of-way lines, except when the standards increase the distance for sight.

- [e] The caliper of the trees shall be two inches measured 12 inches above the ground. The standing height shall be a minimum of 10 feet. All trees shall be brought to the site balled and burlapped or by other acceptable means, free from insects and disease and true to species and variety.
- [f] Stripping trees or filling more than six inches around trees shall not be permitted unless it can be shown that construction requirements necessitate removal of trees, in which case those lots shall be replanted with trees to reestablish the tone of the area and to conform with adjacent lots.
- [g] Dead or dying trees which have been transplanted by virtue of the requirements of this section shall be replaced by the developer during the next recommended planting season.
- [h] There shall be a minimum of three deciduous shade trees, not including street trees, per lot for all residential sections of the PUD where the site is devoid of trees or at the discretion and recommendation of the approving authority when adequate shade or canopy has not been provided naturally.
- [i] Street tree plans shall include a planting schedule which describes the quantity, common name, botanical name, size and comments for each species.
- [j] Ornamental trees need not have straight trunks, but must conform in other respects with the provisions for tree plantings as outlined.
- [k] Street tree plans shall include graphic tree-planting detail which shall address the following:
 - [i] The thinning of branches and foliage by 1/3. The leader shall not be cut.
 - [ii] The staking of a deciduous tree by two stakes. The minimum size of stakes shall be two inches by three inches.
 - [iii] The support of a tree shall be a double strand of No. 12 gauge wire. A tree shall be protected from injury due to wire by a rubber hose or acceptable equal.
 - [iv] A tree shall be mulched with three inches of approved organic material.
 - [v] A three-inch saucer shall be constructed around the planting area.
 - [vi] The top of the burlap shall be untied and removed.
 - [vii] The ball shall sit on compacted soil.
 - [viii] The diameter of the hole shall be two feet larger than the diameter of the ball.

(5) Erosion control.

- (a) Development and grading procedures shall be carried out in such manner as to minimize erosion and sedimentation of the natural drainage system within the planned unit development and in conformance with Gloucester County Soil Conservation Service regulations. Approval of an application for development for any project by a Township

officer or agency shall be conditioned upon certification by the Soil Conservation District of a plan for soil erosion and sediment control. No certificate of occupancy for a project shall be issued by the Township unless there has been compliance with the provisions of a certified plan for permanent measures to control soil erosion and sediment control.

- (b) The development shall be designed and programmed so as to minimize erosion, tree clearance and the destruction of natural amenities.
- (c) Erosion control measures such as minimizing the area of exposed soil, mulching, building silt catchment basins and planting temporary ground cover shall be instituted as necessary within the PUD.
- (6) Quality of development. Consideration shall be given to the quality of all buildings, land uses, community facilities, open space, street accessories and reacted landscaping.
- (7) Setbacks from streets (street classification as defined in the Master Plan).
- (8) At a minimum, no portion of a building shall be located within:
 - (a) Fifty feet of the right-of-way line of any major arterial street;
 - (b) Forty feet of the right-of-way line of any minor arterial street;
 - (c) Thirty feet of the right-of-way line of any major collector street; or
 - (d) Twenty feet of the right-of-way line of any minor collector or local street.
- (9) Setbacks from planned unit development (PUD) boundaries.
 - (a) No structure shall be located within 50 feet from any boundary line of a PUD, and an appropriate buffer consisting of a substantial landscape screen shall be provided along all boundary lines of the development where necessary to protect the privacy of neighboring residential areas.
- (10) Street standards. Street standards shall be subject to applicable Township, county and state standards and specifications, including but not limited to the standards set forth in § 96-62 of this chapter.
- (11) Parking and loading. Parking and loading spaces shall be provided in accordance with the regulations set forth in this article. Additionally:
 - (a) Common parking areas shall be screened from adjacent residential structures, access roads and traffic arteries, by hedges, dense planting, earth berms, changes in grade, walls or any combination thereof. All parking areas shall be a minimum of 10 feet from all structures and streets.
 - (b) No more than 30 parking spaces shall be provided in any single area without being interrupted by a landscape divider strip a minimum of five feet wide.
 - (c) Parking areas shall be arranged so as to prevent through traffic to other parking areas.
 - (d) Signs. Signs shall be permitted subject to § 96-50, except as hereinafter provided. In any PUD in order to permit design flexibility and encourage a comprehensive system of signs within a development, the applicant may submit, as part of their application, a detailed description of all signs or types of signs to be constructed or permitted within the PUD and

the substance of covenants, restrictions or other agreements proposed to regulate signs. If such a submission is made, this chapter shall apply as a general guideline. In reviewing the sign construction and regulation proposals included in the application, the Board shall consider appropriateness of design and the degree to which they are related to the architectural style of proposed buildings, as well as the degree to which such furnishings enhance the visual environment of natural open space and public ways.

(12) Refuse stations.

- (a) Refuse stations must be designed and located to be convenient for garbage removal and inoffensive to the occupants of adjacent dwelling units.
- (b) Solid wastes from all uses other than single-family or duplexes, if stored outdoors, shall be placed in metal receptacles within screened refuse areas. The screened refuse area shall not be located within any front yard area. The refuse area shall be surrounded on three sides by a solid uniform fence or wall not less than five feet nor more than eight feet in height. A five-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 plan submitted for the Planning Board approval. The opening in the enclosed refuse area should be provided with a solid gate not less than five feet in height to permit access to the refuse enclosure and screening from adjoining properties and public streets. If located within or adjacent to a parking area or access drive, the enclosed refuse area shall be separated from such parking or access drive by curbing. The enclosed refuse area shall not be located so as to interfere with traffic circulation or the parking of vehicles. All refuse shall be deposited in containers maintained within the refuse area. No containers shall be maintained anywhere on a site except in a refuse area meeting these requirements. If outdoor storage of solid waste is not proposed, the site plan submission shall detail the methods proposed for accommodating a suitable area be set aside, but not improved, for a future solid waste storage area meeting these requirements, even if indoor accommodations for solid waste are proposed.

(13) Solid waste/recycling report.

- (a) In reviewing preliminary plans for a PUD, the Planning Board shall take into consideration methods of addressing the recycling goals of the Township.
- (b) Submission requirements. A recycling report shall accompany all applications for a PUD addressing the means of recycling for the proposed PUD, taking into consideration methods of addressing the recycling goals of the Township. The recycling report shall include the following:
 - [1] Materials to be collected;
 - [2] Where materials will be stored;
 - [3] How the materials will be collected;
 - [4] Who will collect the materials;
 - [5] How often the materials will be collected;
 - [6] How much material will be generated; and

[7] How much storage area is required for each material.

(14) Outdoor lighting.

- (a) Adequate lighting shall be provided for the outdoor areas used by residents and owners of the development after dark. Appropriate lighting fixtures shall be provided for walkways and for identification of steps, ramps, directional changes and signs.
- (b) Lighting shall be located to avoid shining directly into habitable room windows or into private outdoor open space that is associated with dwelling units and to avoid interfering with vehicular traffic.
- (c) Information to be submitted. The following shall be submitted for review and approval with an application for a planned unit development (PUD):

[1] Lighting plan, showing existing and proposed lights within 100 feet of the property area to be lighted, location of all poles and luminaries, illumination levels using photometric curve plotting or point-by-point grid showing footcandles of illumination at each point.

[2] Type of luminaries, including manufacturer's data.

[3] Type and wattage of lamp, including manufacturer's data.

[4] Mounting height of luminaire.

[5] Type of pole and manufacturer's data.

[6] Pole base and foundation design and details.

[7] Included with photometric and luminaire data shall be data on:

[a] Light source corrections.

[b] Lamp life lumen depreciation factor.

[c] Coefficient of utilization.

[d] Luminaries dirt depreciation factors.

[e] Maintenance factor correction.

(15) Open space. In the designation of common space areas, consideration shall be given to providing for the continuity of open space between sections of and within a PUD. Natural waterways and certain easements can be utilized for providing continuity of open space.

(16) Utilities. Adequacy of provisions of water and sewer facilities shall be evaluated pursuant to this section. Adequacy of provision of facilities for solid waste disposal shall be evaluated with regard to the method of collection and disposal and the location and expected life cycle, if calculable, of the disposal facilities.

(17) On-tract and off-tract improvements.

- (a) For the purposes of this section, "off-tract" means not located on the property which is the subject of a planned unit development application, nor on a contiguous portion of a street or right-of-way.

- (b) For the purposes of this section, "on-tract" means located on the property which is the subject of a PUD application or on a contiguous portion of a street or right-of-way.
- (c) Before construction of any building for use or occupancy by any person begins within a finally approved section of a PUD, all on-tract and off-tract improvements, including public water, sewer and drainage systems, the need for which was created by the proposed PUD, shall be built and completed, or their completion prior to such use and occupancy shall have been guaranteed as provided in this article, or satisfactory agreements entered into for guaranties on a staged basis as development proceeds.
- (d) Cost of the improvements. The applicant for approval shall bear that portion of the cost of all required off-tract improvements which bear a rational relationship to the need created by, and benefits conferred upon, the PUD.

(18) Off-tract improvements.

- (a) At the time application for master development plan approval for a PUD is made and again upon application for site and/or subdivision approval, the applicant shall provide the Township Planning Board with an estimate of the types and costs of off-tract improvements determined necessary by the Township Planning Board and the amount by which properties, including the PUD, benefit thereby.
- (b) Such estimate at the time of application for final approval shall include detailed supportive data, which shall include but not necessarily be limited to:
 - [1] The total cost of improvement;
 - [2] The estimated value of the benefit to the applicant;
 - [3] The estimated value of the benefits conferred upon others in terms of reasonable likelihood of the use;
 - [4] The time when such benefits are likely to be conferred;
 - [5] The reasonable, useful life of the off-tract improvements; and
 - [6] The inflation or all significant changes in the cost of construction.
- (c) Such estimate at the time of application for master development plan approval shall be applicant's best estimates for each of the six above factors, together with their basis therefor.
- (d) The Township Planning Board shall forward the supportive data to the Township Committee for a decision as to whether the off-tract improvements or any combinations of them are to be constructed by the municipality as a general improvement, or whether construction is to be done by the developer with a formula providing for partial reimbursement to the developer by other property owners, where the improvements specially benefit properties other than the planned unit development (PUD).
- (e) As a condition for approval of any section of a PUD, the applicant shall provide the Township with a cash deposit, or as an alternative, a performance guaranty as provided below in the following amounts:
 - [1] An amount equal to the difference between the estimated cost of the improvement

and the estimated total amount by which all property to be served thereby, including the PUD property, will be specially benefitted by the improvement, if the improvement is to be constructed by the municipality as a general improvement;

- [2] The estimated amount by which the PUD specially benefits from the improvements, in addition to the amount required for a general improvement; and
 - [3] An amount equal to the estimated cost of the improvement, if the improvement is to be constructed by the applicant.
- (f) If such off-tract improvements or any combination of them are to be constructed by the applicant, the applicants shall bear the cost of all such improvements and shall be reimbursed by such specially benefitted property owners if and when any such off-tract improvements are used in the development of off-tract parcels. The Township Committee may assess or lien the pro rata cost of such off-tract improvements upon other specially benefitted owner or owners use of the off-tract improvements in the development of off-tract parcels.
 - (g) Actual cost figures, rather than estimated costs, shall be used for making such allocations once the improvements are constructed. The cost figures shall be supplied by the applicant and certified by a New Jersey certified public accountant after audit. These costs are to be reviewed by the Planning Board Engineer. Approval of planned unit developments (PUD), major subdivision, or site development plans involving the use of such off-tract improvements by other specially benefitted property owners outside this PUD shall be conditioned upon payment of the pro rata share of the value as so determined, to the applicant, in the same manner as above.
- O. Procedures and regulations for open space. In order to secure proper open space in any PUD, the following procedures and regulations shall apply:
- (1) Intent. Open space within all PUDs shall be planned and designed to achieve the Township goal of ensuring that adequate recreation areas are set aside in suitable locations to provide for the recreation needs of the residents and owners of the PUD and that those portions of the Township that, because of their natural features, constitute important visual amenities and environmental resources are maintained in accordance with sound conservation practice.
 - (2) Standards for the distribution and area of open space. Open space within a PUD should be designed according to the following standards:
 - (a) Open space areas resulting from development of a PUD shall weave between structures generally respecting a minimum width of 50 feet and periodically widening out into significant and usable recreation areas. The configuration of the open space areas should be arranged so that connections can be made to existing or future adjacent open spaces and other community facilities.
 - (b) The developer may be required to plant trees or other similar landscaping improvements. Said improvements may include removal of dead or diseased growth, thinning of trees or other growth to encourage more desirable growth, removal of trees in areas planned for active recreational facilities, grading and seeding and improvements or protection of the natural drainage system by the use of protective structures, stabilization measures and similar improvements.

- (c) Portions of the open space should be developed to afford both passive and active recreational opportunities. Passive recreational activities may include but are not limited to pedestrian paths, sitting areas and naturally preserved areas. Active recreational areas may include but are not limited to such facilities as swimming pools, tennis courts, bicycle paths, and playfields, but should be carefully located to avoid problems of noise, lights and similar nuisance elements affecting residential units. They shall be located not less than 50 feet from any boundary line, exclusive of buffers.
 - (d) Every open space parcel so set aside shall be conveyed by deed at the time final subdivision or site plan approval is granted.
- (3) Open spaces for all types should be located:
- (a) Contiguously wherever possible;
 - (b) To preserve the natural features of the site;
 - (c) To provide both usable and other open space within easy access and walking distance of all residents and users of the development; and
 - (d) To take advantage of the natural features of the site and provide recreational amenities that complement the site's characteristics; the applicant, when submitting plans, will designate on the plans where the nature and recreation spaces will be located.
- (4) Dedication of open space. The Township may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance, but it shall not be required, as a condition of PUD, that land for open space be dedicated to public use. As provided for in N.J.S.A. 40:55D-43, the applicant shall provide for and establish an organization for the ownership and maintenance of any common open space, and such organization shall not be dissolved, nor shall it dispose of any common open space, by sale or otherwise (except to an organization conceived and established to own and maintain the common open space), without first offering to dedicate the same to the governing body or any other governmental agency as designated by the Township for agency then having jurisdiction. Any open space offered to the governing body shall be subject to review by the Planning Board, which shall be guided by the Master Plan, the ability to assemble and relate such lands to an overall plan, the accessibility and potential utility of such lands and such existing features as topography, soils, wetlands and tree cover, as these features may enhance or detract from the intended use of the lands. The Planning Board may request an opinion from other public agencies or individuals as to the advisability of accepting any lands to be offered.
- (5) Schedule of required recreational facilities.
- (a) The applicant shall install the following minimum facilities in relationship to the number of proposed units.

Dwelling Units	Tot Lots	Basket-ball Courts	Tennis Courts	Multi-purpose Fields
1 to 25	1			
26 to 100	1	1		1
101 to 150	1	1	1	1

Dwelling Units	Tot Lots	Basket-ball Courts	Tennis Courts	Multi-purpose Fields
151 to 250	2	2	1	1
251 to 300	3	2	1	1
301 to 350	3	3	2	1
351 to 450	4	3	2	2
451 to 500	5 ¹	3 ²	3 ³	2 ⁴
NOTES: ¹ Plus one for every 100 units or fraction thereof over 500.				
² Plus one for every 200 units or fraction thereof over 500.				
³ Plus one for every 125 units or fraction thereof over 500.				
⁴ Plus one for every 200 units or fraction thereof over 500.				

- (b) All park and playground equipment specifications must be approved by the Township Engineer and the Construction Official.
- (c) Each tot lot shall be a minimum size of 60 feet by 60 feet and shall contain the following minimum improvements:
 - [1] A minimum four-foot-high chain link fence surrounding the entire tot lot with a minimum of one opening for access.
 - [2] Two benches with a minimum length of six feet.
 - [3] Four rubber swings seats and two tot swings.
 - [4] One jungle gym with a minimum ground space of seven-feet diameter.
 - [5] A minimum of six inches of sand, or an approved similar material, is required beneath each piece of equipment.
- (d) Each basketball court shall be 50 feet by 84 feet and shall contain the following minimum improvements:
 - [1] Two regulation backstops with rope or nylon nets, one at each end of the eighty-four-foot dimension.
 - [2] Court base and covering to be specified by the Township Engineer and approved prior to construction.
- (e) Each tennis court shall be 60 feet by 120 feet and contain the following minimum requirements:
 - [1] The courts shall be surrounded with twelve-foot-high chain link fence and buffer plantings as recommended by the Township Planner.
 - [2] One bench per court a minimum of eight feet in length.
 - [3] The courts must be paved and coated with a colored sealer. Both paving and sealer

specification must be approved by the Township Engineer prior to construction.

- (f) Multipurpose fields shall be a minimum of 300 feet by 600 feet and shall contain the following minimum requirements:
 - [1] The entire area of the multipurpose field, excluding a baseball diamond, shall have a uniform lawn surface.
 - [2] The locations of two backstops and four player benches shall be specified by the approving authority.
 - [3] A minimum of two sets of spectator bleachers with a minimum of four rows per set and a minimum length of 12 feet per set.
- (g) A lighting plan shall be submitted for review by the approving authority for all required recreational uses in this section.
- (h) A parking plan and bicycle rack detail shall be submitted for review by the approving authority for all required recreational uses in this section.
- (i) In lieu of construction of the active recreation required, the applicant may elect, with approval from the appropriate authority, to contribute \$2,500 per unit to a recreation trust fund maintained by the Township specifically for the purpose of purchasing, leasing and/or maintaining active recreation and open space. Contribution shall be paid as follows: one half at the time of final approval and the balance per unit with payment for issuance of each building permit. All open space lands must be provided regardless of contribution.
- (j) Failure to maintain common open space; remedies.
 - [1] In any event that the organization established to own and maintain common open space, or any successor organization, shall at any time after establishment of the planned unit development (PUD) fail to maintain the common open space in reasonable order and condition in accordance with the plan, the Township may serve written notice upon such organization or upon the residents and owners of the PUD setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be remedied within 30 days thereof, and shall state the date and place of a hearing thereon which shall be held within 14 days of the notice. At such hearing, the Township may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be remedied within 30 days or any extension thereof, the Township, in order to preserve the taxable values of the properties within the PUD and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said entry and maintenance shall not vest in the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the residents and owners. Before the expiration of said year, the Township shall, upon its initiative or upon the request of the organization therefor responsible for the maintenance of the common open space, call for a public hearing upon notice to such organization, or to the residents and owners of the PUD shall show cause why such maintenance by the Township shall not, at the election of the Township, continue for a succeeding year.

If the Township Committee shall determine that such organization is not ready and able to maintain said common open space in a reasonable condition, the Township may, at its discretion, continue to maintain said common open space during the next succeeding year and subject to similar hearing and determination in each year thereafter. The decision of the Township Committee in any such case shall constitute a final administrative decision subject to judicial review.

- [2] The cost of such maintenance by the Township shall be assessed ratably against the properties within the planned unit development that have a right of enjoyment of the common space and shall become an assessment and lien on said properties. The Township Committee, pursuant to N.J.S.A. 40:55D-43, at the time of entering upon said common open space for the purpose of maintenance, shall file a notice of such lien in the office of the County Clerk upon the properties affected by such lien within the PUD.

P. Development staging.

- (1) The implementation of a PUD shall be in stages and phases, wherein the land owner(s)/applicant(s) shall furnish a proposed phasing and staging schedule identifying the minimum percentage of the office/industrial and retail and service uses to be developed by the completion of 25% of the residential uses to be developed; by the completion of 50% of the residential uses to be completed; by completion of 75% of the residential uses to be completed; and by completion of 100% of the residential units to be completed. At a minimum, 50% of all office/industrial and retail and service use to be developed shall be completed by completion of 80% of the residential development in the PUD.
- (2) The proposed staging and phasing charts shall be subject to the approval of the Township Planning Board prior to implementation and shall be binding upon the developer(s).
- (3) The proposed staging and phasing charts will be judged in accordance with the following:
 - (a) Size of the proposed planned unit development (PUD).
 - (b) Municipal, county, regional and state master plans.
 - (c) Traffic impact.
 - (d) Impact on community facilities and recreation.
 - (e) Availability of water and sewer service.
 - (f) Adjacent zoning requirements.
 - (g) Economic environment.
- (4) Before permits will be issued for uses projected under the second phase, units in the first phase must be 50% completed. Before permits will be issued for uses projected under the third phase, units in the first stage must be 75% completed and the second phase is 50%. This pattern shall continue for the duration of the stages approved by the Township Planning Board.

§ 96-89. Procedures for application for approval of planned unit development.

A. General application procedures.

- (1) Sketch plan submission. Applicants shall file an application for a planned unit development (PUD) with 20 copies of a sketch plan of the proposed development for purposes of informal discussion, shall pay a fee of \$200 and shall deposit \$1,000, which shall be nonrefundable to cover costs, together with a signed statement that the applicant agrees to pay all reasonable costs above \$1,000, if any, for professional review of the plan and for inspection of site if necessary. The Planning Board Secretary shall process the application and shall issue an application number. Once an application has been assigned a number, such number shall appear on all papers, maps, plats and other documents submitted for processing in conjunction with the PUD.

B. Formal application.

- (1) The applicant shall submit a plan for master development plan approval, subject to public hearing by the Township Planning Board. Twenty-five copies shall be submitted. **[Amended 8-3-2006 by Ord. No. O-2006-2]**
- (2) There shall be a fee of \$1,000, which shall be nonrefundable and in addition to the escrows set forth in the following subsection.
- (3) At the time of submission each applicant shall deposit, in cash or by certified check, with the Planning Board Secretary a sum of \$1,500 and an additional \$20 for each proposed dwelling unit, as well as \$75 for every acre of proposed nonresidential land use. The final sum is to be placed in escrow by the Township to cover the cost of professional services and review, including engineering and legal or other incidental expenses connected with the processing, reviewing and checking of all materials. Each applicant who shall submit a plan for preliminary approval shall agree, in writing, to pay all reasonable costs for professional review of said site plan and for inspection of improvements required by the Township. Sums not utilized in review and inspection processes shall be returned to the applicant. If additional sums are deemed necessary, the applicant shall be notified of the required additional amount and shall add such sum to the escrow. Any sum remaining shall be returned to the applicant. No preliminary approval shall be granted unless all required fees and escrows have been paid.
- (4) Timing of application and filing date. The application shall be made at least one month before the regularly scheduled meeting of the Township Planning Board at which the application will be considered. The date of said regular meeting following such proper submission shall be the date of the application in accordance with this article.
- (5) Form; payment of fees. The applications shall be made to the Planning Board Secretary in the form required by § 96-26 and shall be accompanied by payment of fees and escrows set forth in this article.

C. Submission of development sketch plan.

- (1) Distribution of copies. Upon receipt of the PUD sketch plan, the Planning Board Secretary shall distribute copies of the plan as follows:
 - (a) One copy retained for Township files;
 - (b) Fifteen copies for the Township Planning Board;
 - (c) One copy for the governing body(ies) of any municipality within 200 feet of the proposed planned unit development (PUD); and
 - (d) Any remaining copies are to be retained by the Planning Board Secretary.

- D. Development sketch plan contents. The development sketch plan shall be prepared under the supervision of an appropriate licensed professional and shall contain information concerning the matters enumerated in Subsection E below that is sufficient to enable the PUD committee to determine informally whether the proposal is capable of qualifying for master development plan approval if carried forth as set out in the development sketch plan.
- (1) Planned unit development (PUD) committee.
- (a) Intent. The intent of a PUD committee is to provide an opportunity for the applicant to appear before the committee in an informal manner, to make presentation and, through discussion with the committee, learn of the committee's expectations.
 - (b) Members of the PUD committee. The members of the PUD committee shall be appointed by the Mayor, pursuant to N.J.S.A. 40:55D-27.
 - (c) Meeting of PUD committee. A PUD committee meeting will be scheduled within 30 days of filing a sketch plan and application.
 - (d) Recommendations to Township Planning Board. The PUD committee shall review the sketch plan and discuss the proposed plan as it relates to:
 - [1] The current Gloucester County Master Plan;
 - [2] The current Township Master Plan;
 - [3] Any other pertinent master plans;
 - [4] Article IX, Zoning Districts and Regulations;
 - [5] The current water/sewer plans;
 - [6] The current Township Fair Share Housing Plan; and
 - [7] Design standards and improvement requirements of this article.
 - (e) Informal determination by the planned unit development (PUD) committee. The PUD committee's informal determination shall in no case prevent the applicant from proceeding to apply for master development plans at any time during or after the PUD committee's informal review of the development sketch plan.
- E. Application for master development plan approval. The procedures and approvals provided herein for master development plan approval of a plan for a PUD and applications for such master development plan shall constitute formal approval of the character and scale of the PUD. The approval shall specify the timing or staging of development; the number of acres to be devoted to each section of development; and the maximum density to be permitted in each residential section. Approval of this plan does not constitute subdivision or site plan approval for each section of the development. The formal approval of the master development plan shall be binding for such period as shall be determined by the Township Planning Board, and afterwards, shall not be amended without formal approval of the Township Planning Board.
- F. Distribution of copies. Upon receipt of the application for master development plan approval of the PUD plan, the Planning Board Secretary shall distribute:
- (1) One copy to the State Planning Commission;

- (2) One copy to the Gloucester County Planning Board;
 - (3) One copy retained for Township files;
 - (4) Fifteen copies to the Township Planning Board;
 - (5) One copy to the Township Engineer;
 - (6) One copy to the Planning Board Planner;
 - (7) One copy to the governing body of any municipality within 200 feet;
 - (8) One copy to the Planning Board Solicitor;
 - (9) One copy to the Township Zoning Officer;
 - (10) One copy to the Township Construction Official;
 - (11) One copy to each school board;
 - (12) One copy to the Elk Township Municipal Utility Authority;
 - (13) As may be deemed necessary for the purpose of review and comment, one copy to any governmental agency, board, committee or person; and
 - (14) Any remaining copies shall be retained by the Planning Board Secretary.
- G. Contents of the master development plan. All data sources shall be precisely cited (including source, dates, pages) and shall be publicly available.
- (1) A brief written statement generally describing the proposal, together with a statement by the applicant of the major planning assumptions and objectives of the proposed planned unit development (PUD), including development concepts and relationship of the proposed PUD to adjacent properties.
 - (2) A fiscal impact analysis providing projected population of the PUD, including the projected population of school-age children (ages five to 18) likely to result from the PUD, the anticipated cost of providing municipal and school services to the development, as well as anticipated revenues.
 - (3) A traffic plan providing a description of vehicular traffic generation characteristics of the proposed development, including estimates of the peak traffic loads that will be introduced into existing and proposed roads as a result of the development. This shall include substantiation of the capability of the road system in the vicinity of the development to accommodate the additional traffic, with proposed methods of road improvements that may be necessary to permit the development without unduly burdening the traffic circulation system. (The Planning Board may require that at no time will "Level of Service D" be exceeded and may withhold building permits until such time as improvements are implemented to return to a "Level of Service D" or better.) The traffic plan shall be prepared by a traffic engineer.
 - (4) Utility plan. The method(s) of providing proposed utilities and the feasibility of the proposal for disposition of sanitary and solid wastes, storm drainage and the provision of water supply. Information shall include generalized plans for service of the entire development by public sewer and water and a general stormwater management plan; detailed engineering drawings and drainage calculations will be required at the submission of subsequent site plan and subdivisions

plans. The utility plan shall be prepared by a professional engineer licensed by the State of New Jersey.

- (5) Market feasibility. A general summary of market feasibility studies conducted to determine the distribution and timing of the proposed land use program.
- (6) Scheduling. In the case of plans that call for development of a PUD over a period of years, a schedule showing the proposed order of development in accordance with the requirements of § 96-88P above.
- (7) Environmental impact statement (EIS). The EIS shall provide an analysis of the geologic subsurface condition, the soil type, floodplains and wetlands, waterways, aquifers, general vegetation, and wildlife species known to exist on or above the land and contained within the planned unit development (PUD) site; as well as species that are known to exist within water and wetlands contained within the PUD site. The EIS shall also identify any sites or structures of historic significance located on the site of the PUD. The EIS shall review the impact of the proposed PUD on these environmental features and shall list measures which may be taken to ameliorate the impact of the development. The EIS shall be prepared by an appropriate licensed professional.
- (8) A schematic land use plan, which shall include:
 - (a) The general character of development proposed for each section.
 - (b) A key map showing the PUD in relation to the surrounding area and the names, addresses, lot and block numbers of all adjacent property owners within 200 feet of the boundary lines, as recorded in the latest records of the Township Tax Assessor.
 - (c) The underlying and adjacent zoning districts.
 - (d) The right-of-way and cartway widths and locations of all existing and proposed streets within the PUD and up to 300 feet from the PUD.
 - (e) All existing and proposed rail rights-of-way.
 - (f) The existing contours within the PUD based on the latest available U.S.G.S. Quadrangle Maps and shown at not more than ten-foot intervals.
 - (g) The total acreage of the entire PUD and of each section of the development shown at the nearest tenth of an acre.
 - (h) The proposed number of dwelling units to be constructed in each residential section.
 - (i) The proposed gross square feet of nonresidential floor area to be constructed in each nonresidential section.
 - (j) Common open space. The total amount of common open space and the approximate location of not less than 75% of the required common open space within the planned unit development (PUD) and the form(s) or organization proposed to own and maintain common open space.
 - (k) The substance of covenants, easements, restrictions or other agreements proposed to burden or benefit the use of the land, buildings and structures, including all easements, rights-of-way and open space to be granted or dedicated for public use, in the form of a

written statement.

- (l) A written statement by the landowner or any other entity having a cognizable interest in the land, setting forth the reasons why, in their opinion, a PUD would be in the public interest and would be consistent with guidelines of the Township Master Plan, and the Township statement of objectives for PUD as set forth in this article.
- (m) Community impact. An analysis of the projected population, estimated employee potential and usable gross floor area of commercial and industrial uses, and estimated costs of improvements expected to be generated by or for the development. This shall include an analysis and description of the type, location and cost of public facilities, including schools, on-tract, on-site, off-site and off-tract improvements and services, the need for which is created by the proposed PUD.
- (n) General landscaping and lighting. A single plan or multiple plans as necessary, which illustrates both lighting and landscaping along major roadways, entranceways and between uses must be submitted. The landscaping plans must contain a planting schedule, performance guaranties, general notes and details, and assurances that plantings which die within one year shall be replaced. Lighting details shall be shown and isolux lines to the 0.25 footcandle limit shall be illustrated on the plan.
- (o) Stormwater management plan. A general stormwater management plan shall be submitted for review by the Township Engineer. The minimum submission shall be a duplicate of what is being submitted to the Soil Conservation District. The Township Engineer may require additional information to document the PUDs availability to accommodate runoff.
- (p) Affordable housing obligation. Each planned unit development (PUD) shall be required to comply with the affordable housing provisions of the Master Plan Housing Element. Each application shall include:
 - [1] A written plan describing in detail the manner by which the applicant proposed to comply with its affordable housing obligation;
 - [2] A phasing schedule;
 - [3] A schedule of low-and moderate-income units estimated to be produced by income strata, bedroom size, and age restriction;
 - [4] An affirmative marketing plan; and
 - [5] Such other information as may be required by Elk Township and the regulations of the New Jersey Council on Affordable Housing and the Elk Township Housing Ordinance.⁵⁴
- (q) Off-site improvement plan. A detailed plan of all existing and proposed off-site improvements must be submitted for review. At a minimum, the plan shall include information on the size, type, slope and coverage of all proposed pipes and utilities. Roadway improvement details, including signalization and sidewalks, must also be provided.
- (r) Application form. The application for master development plan approval shall be in the

54. Editor's Note: See § 96-88E(6), Affordable housing requirements.

form of a petition by the applicant and landowner(s) to the Township Planning Board, and shall consist of a written statement(s) and plans, prepared at a scale of not less than one inch equals 400 feet and certified by an appropriately licensed professional.

H. Public hearing.

- (1) Within 65 days of filing of the completed application for master development plan approval of a PUD plan, a public hearing on the completed application shall be held by the Planning Board.
- (2) Upon the setting by the Board of a date, time and place for a public hearing on the preliminary plan, the applicant shall personally serve, by registered or certified mail, return mail, return receipt requested, notice of the hearing on the preliminary plan application at least 10 days prior thereto to the adjoining property owners and property owners directly across the street(s) from the property involved and all other property owners within 200 feet of the extreme limits of the property involved, each name as it appears on the Township tax records.
- (3) The notice of the hearing shall state the time and place of the hearing, contain a brief description of the property involved, a statement as to its location, a list of maps and other documents to be considered, and a summary statement of the matters to be heard. Copies of the maps and other documents to be considered at the hearing shall be filed in the office of the Township Clerk and made available at such office for public inspection.
- (4) The applicant shall also cause notice of the hearing to be published in the official newspaper of the Township at least 10 days prior to the hearing.
- (5) The applicant shall submit affidavits prior to the hearing stating that he or she has notified all such property owners as above required and that a notice of the hearing was properly published.
- (6) If the lands covered by the master development plan lie within 200 feet of a Township boundary or abut a state highway or county road, a copy of the plan notice of the hearing shall be sent by the applicant to the clerk of the adjoining municipality, and a copy of the notice shall be sent to the Commissioner of the Department of Transportation in the case of a state highway, and to the County Planning Board in the case of a county road, all such notices to be sent by registered or certified mail at least 10 days prior to the hearing. Said notice shall contain a brief description of the property involved, its location and a concise statement of matters to be heard. Any communications received prior to or at the hearing will be considered in relation to the approval or disapproval of the plan.
- (7) Notice shall be given by personal service or certified mail to the State Planning Office. The notice shall include a copy of any maps or documents required to be on file with the Municipal Clerk pursuant to N.J.S.A. 40:55D-10.

I. Filing of reports. Not less than five days prior to the public hearing, any reports prepared by the Gloucester County Planning Board, the Township Engineer, the Township Solicitor, the school board, the Municipal Utilities Authority serving the area, or the governing bodies of adjacent municipalities shall be made available for public inspection during regular business hours.

J. Testimony at the public hearing.

- (1) At the public hearing, the Chairperson or, in his or her absence, the Acting Chairperson, of the Township Planning Board may administer oaths and compel the attendance of all witnesses. All testimony by witnesses at any hearing shall be given under oath, and every party of record at a hearing shall have the right to cross examine adverse witnesses.

- (2) At the public hearing all parties having an interest herein shall be given opportunity to be heard.
- K. Hearing transcript. The Planning Board shall provide for the verbatim reporting of the proceeding by either stenographer, mechanical or electronic means. The Planning Board shall furnish a transcript, or duplicate recording in lieu thereof, on request to any interested party at his expense. In the event that a transcript is provided, the Planning Board may require a deposit upon an estimate of costs submitted to the Planning Board by the transcriber. The charge to the interested party shall not exceed the maximum permitted by N.J.S.A. 2A:11-15.⁵⁵
- L. Continuation of hearing. The Planning Board may continue the hearing from time to time; provided, however, that in any event, the public hearing(s) shall be concluded within 95 days from the date of filing (or acceptance) of the completed application unless the applicant shall consent, in writing, to an extension of time.
- M. Hearing resolution.
- (1) The Township Planning Board, within 95 days following the filing (or acceptance) of a completed application, unless an extension is consented to by the applicant, in writing, shall either:
- (a) Grant approval of the master development plan as submitted, with the condition that subdivision or site plan approval be required for each section of the planned unit development (PUD) prior to actual development of each section, subject to Article VI of this chapter;
 - (b) Grant approval of the master development plan, subject to specified conditions not included in the plan as submitted, with the additional condition that subdivision or site plan approval be required for each section of the PUD prior to actual development of each section, subject to Article VI of this chapter; or
 - (c) Deny master development plan approval.
- (2) A written resolution setting forth the Planning Board's decision shall be adopted at the meeting when the final decision is made, or a memorializing resolution shall adopted at a meeting held not later than 45 days after the date of the meeting at which the Planning Board rendered its decision.
- N. Acceptance or refusal of conditions.
- (1) Failure of the Township Planning Board to so act within said period of time shall be deemed to be a grant of master development plan approval of the plan submitted, subject to the plans as submitted. In the event that the master development plan approval is granted other than by lapse of time, either of the plan as submitted or of the plan with conditions, the Township Planning Board, as part of its resolution, shall specify the drawings, specifications and form of performance guaranty as provided by statute that shall accompany subsequent application(s) for site plan or subdivision approval. In the event that the master development plan approval is granted subject to conditions, the landowner shall, within 45 days after receiving a copy of the written approval of the Township Planning Board, notify the Board of their acceptance or refusal to accept all said conditions. In the event that the landowner refuses to accept all said conditions, the Township Planning Board shall be deemed to have denied master development

55. Editor's Note: N.J.S.A. 2A:11-15 was repealed by L. 1991, c. 119, § 4, effective 4-25-1991.

plan approval of the plan. In the event that the landowner does not within said period notify the Township Planning Board of their acceptance or refusal to accept all said conditions, the master development plan shall be deemed to be denied. The landowner may, during this forty-five-day period, request an extension of an additional 30 days for the purpose of reviewing and considering the conditions. Granting or denying of such extension shall be within the discretion of the Board. If such extension is granted, the provisions of this subsection will be extended for an additional thirty-day period.

- (2) The Township Planning Board may set forth those conditions which it deems necessary to protect the interests of the general public and the residents and occupants of the planned unit development (PUD). Such conditions may include but are not limited to the sequence and distribution of uses and densities, limitations of land areas to be developed within a given period, or provisions or physical means to address critical or unique environmental conditions. Such conditions will be predicted on the following criteria:
 - (a) That each phase of a PUD shall contain, within reasonable limits, a balance of uses, residential densities, unit types and community facilities to assure that the PUD is a viable self-sustaining community unit at any give phase in its growth, and that the commercial or industrial uses proposed or required to be constructed in the Township are sufficient to serve the economic and social base of the community to the greatest extent possible.
 - (b) That each stage of development will include a required open and recreation space plan in proportion to serve residents of units to be developed in that stage. Such open space and recreation facilities will be physically proximate and accessible to the residential use areas.
 - (c) That the size and timing of successive stages of a PUD will be conditioned upon the availability and provision of suitable capacity of facilities such as arterial highways, sewer, water, drainage and other services whose capacities must be expanded as a result of the development of the PUD and be consistent with this article.

O. Contents of written hearing resolutions.

- (1) The grant and denial of master development plan approval by written resolution of the Township Planning Board shall include not only conclusions, but also findings or fact related to the specific proposal; shall set forth the reasons for the grant, with or without conditions, or for the denial; and shall set forth particularly in what respect the plan would or would not be in the public interest, including but not limited to findings of fact and conclusions on the following:
 - (a) Whether the plan is in general conformity with the provisions of the Master Plan of the Township.
 - (b) In what respects the plan is or is not consistent with the Township's statement of objectives for planned unit development (PUD) set forth in community objectives.
 - (c) The extent to which the plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reason why such departures are or are not deemed to be in the public interest.
 - (d) The purpose, location and amount of the common open space, the reliability of the proposals for maintenance and conservation of the common open space and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of development.

- (e) The physical design of the plan and the manner in which said design does or does not make adequate provisions for public services, provide adequate control over vehicular traffic and further the amenities of light and air, recreation, landscaping and visual enjoyment.
 - (f) The relationship, beneficial or adverse, of the proposed PUD to the neighboring area in which it is proposed to be established.
 - (g) In the case of a plan that proposes development over a period of 10 or more years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents and owners of the PUD in the integrity of the plan, including the performance guaranties.
- P. Time requirements for application for site/subdivision approval for each section. In the event that a plan is granted master development plan approval, with or without conditions, the Planning Board shall set forth in the written resolution the time within which applications for subdivision or site plan approval(s) of each section thereof shall be filed. If application is not made within the stated period, the master development plan approval of the PUD plan shall be void. The time so established shall not be less than six months and may be for a longer period of time as shall be determined by the Planning Board to be reasonable, taking into consideration the number of dwelling units and nonresidential floor area permissible under the plan, economic conditions, and the comprehensiveness of the development.
- Q. Conditions of master development plan approval. A plan that has been given master development plan approval with conditions accepted by the landowner/applicant (and provided that the landowner/applicant has not defaulted under nor violated any of the conditions of the master development plan approval) shall not be modified, revoked or otherwise impaired by action of the Township or any of its present or future agencies or officers pending an application or applications for subdivision or site plan approvals for each section without the consent of the landowner/applicant, provided that an application for subdivision or site plan approval is filed within the time specified in the resolution granting master development plan approval.
- R. Failure to proceed beyond master development plan approval. In the event that a plan is given master development plan approval thereafter, but prior to subdivision or site plan approval, the landowner/applicant shall elect to abandon part or all of said plan and shall so notify the Township Planning Board in writing, or in the event that the landowner/applicant shall fail to file application for subdivision or site plan approval within the required period of time, the master development plan approval shall be deemed to be revoked, and all that portion of that area included in the plan for which subdivision or site plan approval has not been given shall be subject to those Township ordinances applicable thereto as they may be amended from time to time and noted in the records of the Township Clerk.
- S. Certificate of master development plan approval. Within 10 working days after the adoption of the written resolution provided in this article, it shall be certified by the Planning Board Secretary and shall be filed in their office, the office of the Township Clerk, and a certified copy shall be mailed to the applicant and to the Gloucester County Planning Board and to the governing body of any municipality within 200 feet of the proposed PUD.
- T. Recording of master development plan approval. When master development plan approval has been granted, the same shall be noted in the office of the Township Clerk and in the records of the Township.
- U. Abandonment of approved plan. In the event that a plan is given master development plan approval

and thereafter the landowner/applicant shall abandon said plan and shall so notify the Township Planning Board, in writing, or in the event that the landowner/applicant shall fail to begin development within 24 months after master development approval has been granted, then and in that event, such master development plan approval shall terminate and be deemed null and void, unless such time period is extended by the Township Planning Board upon written application by the landowner/applicant, and any performance guaranty shall be utilized by the Township to complete any unfinished public improvements on the site; any remaining portion of the performance guaranty after completion of unfinished public improvements shall be returned to the landowner/applicant.

- V. Judicial review. Any decision of the Township Planning Board granting or denying master development plan approval of a plan or authorizing or refusing to authorize a modification in a plan shall be deemed to be a final administrative decision and shall be subject to judicial review.
- W. Improvements or performance guaranty as a condition of final approval as per Article IV of this chapter.
- X. Required improvements on performance guaranty. Before final subdivision or site plan approval is granted for any section of a PUD, the landowner/developer shall either complete any improvements to be dedicated to the Township or improvements required to be made as a condition of approval within or in conjunction with the development or that section, or provide appropriate performance guaranties for the completion thereof. The required improvements shall be those required by this article and by the conditions of master development plan approval.
- Y. Performance guaranty.
 - (1) Before final subdivision and/or site plan approval is granted for any section of a PUD, the landowner/developer shall either complete any improvements to be dedicated to the Township or improvements to be made as a condition of approval within or in conjunction with the development of that section, or provide appropriate performance guaranties for the completion thereof. The required improvements shall be those required by this article and by the conditions of subdivision and/or site plan approval for each section.
 - (2) Furthermore, Article VI shall apply to those sections of the planned unit development (PUD) that require subdivision and/or site plan approval.
- Z. Notification and inspection of improvements.
 - (1) When a required improvement has been completed, the obligor shall notify the Township Planning Board, in writing, by certified or registered mail, of the completion of such improvement and shall send a copy thereof to the Township Engineer. The Township Planning Board shall direct and authorize the Township Engineer to certify completion of such improvements.
 - (2) The Township Engineer shall thereupon file a report, in writing, with the Township Planning Board, which report shall be detailed and shall indicate either approval, partial approval or rejection. If such improvements, or any portion thereof, shall not be approved or shall be rejected by the Township Engineer, the report shall contain a statement of reasons for such nonapproval or rejection. Where the report indicates partial approval of such improvement, it shall indicate the cost of the improvement for which approval is rejected or withheld.
- AA. Acceptance or rejection of improvements. The Township Planning Board shall accept or reject the improvement, grant partial approval or withhold approval on the basis of such report and shall certify

the obligor of the action of the Township Planning Board with relation thereto, in writing, and send one copy of said report by certified or registered mail not later than 65 days after receipt of notice from the obligor of the completion of the improvement. Where partial approval is granted, the obligor shall be released from all liability pursuant to its performance guaranty, except for that portion necessary to secure the improvement not yet approved.

- BB. Failure of Township to provide notification of approval. If the Township Planning Board fails to send such report and notification to the obligor within 65 days, the obligor may notify the Township Planning Board, in writing, by certified or registered mail, with a copy thereof send to the Township Engineer, that failure of the Township Planning Board to provide the obligor with such notification within 65 days shall constitute approval of the improvement. Within 60 days after receipt of this notice, the Township Planning Board shall send the report and notification of its action with relation thereto to the obligor by certified mail. Failure of the Township Planning Board to send or provide such report and notification to the obligor within 65 days shall be deemed to constitute approval of the improvement, and the obligor and surety, if any, shall be released from all liability pursuant to the performance guaranty.
- CC. Completion of improvements not approved. If any portion of such improvement is not approved or rejected by the Township Planning Board, the obligor shall cause the same to be completed or corrected, and, upon completion, the procedure set forth in this section shall be followed.
- DD. Right to contest. Nothing in this section, however, shall be construed to remit the obligor's right to contest or question, by legal proceedings or otherwise, any determination of the Township Planning Board or the Township Engineer.
- EE. Inspection fees. The obligor shall be responsible for all of the inspection fees of the Township Engineer incurred in making the inspections necessary to assure compliance and completion in accordance with the approved plans and specifications.
- FF. Maintenance guaranty. The Township shall require a maintenance guaranty for a period of two years after final acceptance of the improvement in an amount not to exceed 15% of the cost of the improvement.
- GG. Issuing of building permits. Subject to the exceptions stated below, no building permit shall be issued within any section of an approved PUD until final subdivision and site plan approval has been granted by the Township Planning Board. Approval will also be required from all private, county, state and federal agencies which have jurisdiction over the proposed development.
- HH. Improvement permits. After a plans has been given preliminary subdivision and site plan approval, building permits for improvements to be dedicated to the Township, or improvements required to be made as a condition of approval, may be issued subject to the posting of the performance guaranties outlined in this article and subject to approvals from all private, county, state and federal agencies which have jurisdiction over the proposed development.
- II. Model dwelling units.
 - (1) After a plan has been given preliminary subdivision and/or site plan approval, the landowner shall be entitled to permits for model dwelling units in single-family detached, townhouse or multifamily structures for purposes of marketing. Requirements for receiving permits for model dwelling units will include the submission of the following information by the landowner for review by the Township Planning Board:

- (a) Number and type of model dwelling units to be constructed;
 - (b) Site plan, grading plan, landscape plan, floor plan and elevations of the model dwelling units;
 - (c) Utilities plans indicating methods of water supply and sewage disposal; and
 - (d) A schedule indicating the period of time which the model dwelling units will be displayed for marketing purposes and the estimated dates they will be offered for sale.
- (2) Such structures will be permitted only if they pose no threat to health or safety, and provided further that the landowner agrees to demolish and remove the same to restore the land to its original condition in the event that the final approval is denied and that this performance thereunder is guaranteed in accordance with this section.

ARTICLE XI
Administration

§ 96-90. Enforcement.

- A. The Township Committee shall appoint a Zoning Administration Officer to enforce the provisions of this chapter. The term of appointment shall be for one calendar year. It shall be the Zoning Officer's duty to examine all applications for permits, issue permits only for construction and uses which are in accordance with the requirements of this chapter, record and file applications for permits with any accompanying plans and documents and make such reports as the Committee may require. Permits for construction and uses which are a conditional use or variance to requirements of this chapter shall be issued only upon order of the Planning Board or the Zoning Board. Nothing herein contained shall require any change in plans or construction of a lawful use, the construction of which is completed within one year of the effective date of this chapter.
- B. The Township Committee may also appoint a Deputy Zoning Administration officer who shall perform all of the duties of the Zoning Officer during absences, disability or unavailability, or when so directed by the Zoning Administration Officer. The terms of appointment shall be for the calendar year.

§ 96-91. Requirements of permits. [Amended 6-7-2007 by Ord. No. O-2007-7]

A zoning permit issued by the zoning officer stating that the project complies with township ordinance requirements shall be required prior to the erection or structural alteration of any building, structure, or portion thereof, and prior to the use or change in use of a building or land, or excavation thereof, and prior to the change or extension of a nonconforming use, and prior to the erection, creation or alteration of a sign. Structures and buildings for qualified farms must obtain a zoning permit for the purpose of confirming farm qualification status and assuring that the use proposed is related to generally accepted agricultural operations and recognized techniques of agricultural production, and that the proposed building is consistent with the Township's regulations.

§ 96-92. Application for permits. [Amended 8-3-2006 by Ord. No. O-2006-2; 5-3-2007 by Ord. No. O-2007-3]

Application for permits shall be in writing to the Zoning Administration Officer on such forms as may be furnished by the Township. All applications for new structures other than decks, sheds, swimming pools, etc., must include a sealed plan prepared by a New Jersey licensed architect, professional engineer, or land surveyor. All site plans submitted shall contain the limits of all wetlands and wetland buffers wherever present. All applications for building permits for single-family dwelling units shall include a topographical grading plan and apron detail for any driveway.

§ 96-93. Issuance of permits.

Permits shall be granted or refused within 14 days after the written application has been filed with the Zoning Administration Officer. Upon completion of the erection or alteration of any building or portion thereof authorized by any permit and prior to occupancy or use, the holder of such permit shall notify the Zoning Administration Officer of such completion. No permit shall be considered complete or permanently effective until the Zoning Administration Officer has certified that the work has been inspected and approved as being in conformity with the provisions of this chapter and other applicable ordinances. All applications with accompanying plans and documents shall become a public record.

§ 96-94. Fees.⁵⁶

- A. The Township is hereby authorized and directed to charge fees for services and materials extended and furnished to or for the benefit of any individual person or entity. The Township Committee shall adopt annually a schedule of fees by ordinance. Such fees and charges may be amended from time to time by the Township Committee. If any fee established by the Township Committee conflicts with a mandatory fee established by state or federal law, regulation, order, or rule, such state or federal fee will govern.
- B. Fees for permits shall be paid in accordance with a fee schedule adopted by the Township Committee and all such fees shall be paid into the Township Treasury.
- C. Each applicant shall, at the time of making application, pay a fee in accordance with the aforementioned fee schedule, for the cost of advertising and mailing notices as required by this and other Township ordinances and the rules of the Zoning or Planning Board.
- D. A municipality may by ordinance exempt, according to uniform standards, a disabled person, or a parent or sibling of a disabled person, from the payment of any fee charged under this act in connection with any application for development which promotes accessibility to their own living unit.
- E. For the purpose of this subsection, "disabled person" means a person who has the total and permanent inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness, and shall include, but not be limited to, any resident of this state who is disabled pursuant to the Federal Social Security Act (42 U.S.C. 416) or the Federal Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), or is rated as having a 60% disability or higher pursuant to any federal law administered by the United States Veterans' Act. For purposes of this subsection, "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a corrective lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20° shall be considered as having a central visual acuity of 20/200 or less.

§ 96-95. Returned check fee.

- A. If a check or other negotiable instrument delivered to the Township or any agency or instrumentality thereof in payment of any tax, fee, assessment, fine, interest, late charge escrow, judgment or other debt due and owing from such person or entity pursuant to any law, rule, regulation, ordinance, resolution or code provision of the state, county or the Township or pursuant to any contract or agreement to which the Township is a party is returned to the Township as uncollectible due to insufficient funds or other reasons, there shall be added to the amounts due from such person or entity to the Township a service charge as established by the Township Committee per check or other negotiable instrument per return.
- B. Service charges, which become due pursuant to Subsection A above, shall be collected in the same manner as the original tax, fee, assessment, fine, interest, late charge, escrow, judgment or other debt may be collected. Such service charges attributable to payment of taxes or special assessments shall be included on the list of delinquent accounts prepared for the enforcement of the lien of such tax or special assessment.
- C. Payment of the original tax, fee, assessment, fine, interest, late charge, escrow, judgment or other debt

56. Editor's Note: See also Ch. 70, Land Development Fees.

and all service charges due pursuant to this article after any check or other negotiable instrument for the original payment thereof is returned uncollected due to insufficient funds or other reasons shall only be accepted by the Tax Collector or other authorized officer if presented in the form of cash or a certified or cashier's check.

§ 96-96. Escrow fees.

- A. All fees other than application fees and miscellaneous fees shall be escrow fees to pay the services of any professional personnel employed by the Planning Board, Zoning Board or Township Committee to process, review, inspect, study or make recommendations to such Planning, Zoning Board or Township Committee concerning the nature and substance of the applicant's application and/or to pay the services of any such professional personnel and the costs and expenses incurred by such professional personnel and/or the Planning Board, Zoning Board and/or Township Committee to create, amend or modify, including but not limited to the costs and expenses to draft, finalize and publish the official Tax Map and/or Zoning Map⁵⁷ of the Township, which creation, amendment and/or modification is necessitated by the approval of the applicant's application.
- B. If during the existence of this escrow account the balance of funds held by the Township shall be insufficient to cover vouchers submitted by the professionals, the applicant shall deposit additional sums with the Township to cover the amount of the deficit and the anticipated amount to cover all remaining work within 10 days after receipt of written notice from the Township Finance Office in the amounts owed. In the event that an applicant fails to deposit the additional escrow monies as required within the time set forth in this division, the Township, through its agents and employees, shall take whatever action deemed necessary in order to compel the payment of the escrow amount. In addition, the professional personnel may take any action individually as they deem necessary to satisfy the vouchers submitted. Notwithstanding the foregoing, any applicant who does not deposit such additional escrow monies within 30 days after receipt of written notice from the Township Finance Office of the amounts owed shall be charged a late fee equal to 1 1/2% times the amounts owed from the date such sums were due pursuant to such notice until paid in full (including all accrued late fees). No permit, approval or certificate shall be issued to any applicant or property owner by any Board, Zoning Officer, Township Committee, Township Clerk or any other agency of the Township unless all amounts owed pursuant to this section by such applicant or owner or with respect to the subject property are paid in full.
- C. All excess monies in the escrow account will be returned at the time of final release of maintenance bonds for improvements to the applicant with a statement of money expended against the account. If at any time prior to final approval the applicant elects to withdraw his request for approval and abandon the project, any monies remaining in the escrow account, after all proper charges have been paid, will be returned to the applicant with a statement of money expended against the account.

§ 96-97. Return of fees paid upon withdrawal of application.

If an applicant for site plan approval, subdivision approval, a marriage, birth or death certificate or a zoning permit or certificate of conformance withdraws such application or request prior to action by the Planning Board or Zoning Board of Adjustment or issuance of the permit or certificate, the fees paid for such approval, permit or certification pursuant to this section shall be refunded to the applicant, except that the Township shall be permitted to retain such portion of such fees as shall pay for actual out-of-pocket expenses incurred by the Township in connection with such application (including but not limited to engineering and legal review charges) and an administrative charge equal to 25% of the fees paid by

57. Editor's Note: The Zoning Map is included at the end of this chapter.

such applicant.

§ 96-98. Violations and penalties.

- A. For each and every violation of any provision of this chapter, the owner, general agent or contractor of building or premises where such violation has been committed or shall exist, and the lessee or tenant of an entire building or entire premises where such violations have been committed or shall exist, and the owner, general agent, contractor, lessee or tenant of any part of a building or premises in which part such violations have been committed or shall exist, and the general agent, architect, building contractor or any other person who commits, takes part or assists in such violation or who maintains any building or premises in which any such violation shall exist, shall, for each and every day that such violation continues, be subject to one or more of the following: a fine of not more than \$1,250, a period of community service not to exceed 90 days, or imprisonment for a term not exceeding 90 days. Any remedy shall include the power to order removal of any offending structure, use or condition, and in default thereof, the power to assess penalties for each day the required removal is not completed. **[Amended 6-3-2004 by Ord. No. O-2004-5]**
- B. In addition to the remedy or remedies hereinbefore provided, any person, persons, company or corporation violating this chapter or any provision or section thereof may be proceeded against by the Township of Elk by appropriate action or by proceeding in equity or otherwise to enjoin any violation of this chapter or to prevent and enjoin any threatened violation of this chapter.

§ 96-99. Validity.

- A. If any article, section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this chapter.
- B. This chapter shall take effect upon the filing thereof with the County Planning Board after final passage, adoption and publication in the manner prescribed by law.